

GUIDELINE FOR GOOD PRACTICES ON THE ACTIVITY OF JUDGES AND PROSECUTORS IN SOCIAL MEDIA/ONLINE PLATFORMS

The project "*TAEJ - Transparency, accessibility and legal education by improving public communication at the level of the judicial system*", SIPOCA 454 code/MySMIS 118765 code is co-financed from the European Social Fund, through the Operational Program Administrative Capacity 2014-2020.

BENEFICIARY:

The project is implemented by the Superior Council of Magistracy (leader), in partnership with the National School of Clerks, Judicial Inspection, Prosecutor's Office attached to the High Court of Cassation and Justice, National Institute of Magistracy and Ministry of Justice.

GENERAL OBJECTIVE:

The improvement and the unitary approach of public communication at the level of the judicial system in order to strengthen its image, ensuring a greater transparency inside and outside the system, as well as improving the access to justice by increasing the level of information, the awareness of the citizens' rights and the development of the legal culture.

EXPECTED RESULTS:

The project aims to achieve the following results:

1. Improved public communication and a unitary approach at the level of the judicial system;
2. High level of access to justice by facilitating access to information on the judicial system and on the services provided to the citizens;
3. High level of information, awareness of the rights and level of legal education of the public.

TOTAL VALUE OF THE PROJECT:

The total value of the project object of the financing contract is of 29.667.068 lei, out of which 24.915.549,67 lei (83.98%) represent non-reimbursable financing from the European Social Fund, and 4.751.518,33 lei represent the co-financing of the beneficiary and of the partners.

PROJECT START DATE AND END DATE:

The implementation period of the project started on 5.09.2018 and shall be carried out for a period for 36 months.

Website: www.sipoca454.csm1909.ro

SUPERIOR COUNCIL OF MAGISTRACY

GUIDELINES FOR GOOD PRACTICES ON THE ACTIVITY OF JUDGES AND PROSECUTORS IN SOCIAL MEDIA/ONLINE PLATFORMS

I. INTRODUCTION	3
Why do we need a <i>Guideline</i>	3
Judges and prosecutors, anchored in the age of digital technology	5
The objectives of the <i>Guideline</i> on Short, Medium and Long Term	6

PART ONE – WHAT IS SOCIAL MEDIA AND HOW DO WE USE IT

II. WHAT IS SOCIAL MEDIA	7
Features of Social media	7
The most popular social media channels	8
Social media in Romania. A few facts	12
III. THE USE OF SOCIAL MEDIA	13
Using privacy settings	14
Types of interactions in social media	14
Practical recommendations for using social media	15
Fake accounts	16
How to delete an account	16
IV. ADVANTAGES AND RISKS IN USING SOCIAL MEDIA	17
Advantages	17
Risks	18
Exploiting the attention	19
Social media and masked advertising	19
Profiling	20
Inflammation and radicalization	20
The echo rooms	21
Fake-news	21

PART TWO – DEONTOLOGICAL STANDARDS AND RECOMMENDATIONS

V. THE DEONTOLOGY OF JUDGES AND OF PROSECUTORS	23
The deontological code of judges and prosecutors in Romania	24
Social media and masked advertising	27
Avoiding legal advice by judges and prosecutors	27
Mediation between freedom of expression and the obligation of reserve	27
The responsibility of the judge and of the prosecutor on social media	29
Training judges and prosecutors in using social networks	30
VI. JUDGE AND PROSECUTOR AS FRIENDS ON SOCIAL MEDIA	31
How to moderate the comments	32
VII. THE INSTITUTIONS WITHIN THE JUDICIAL SYSTEM AND SOCIAL MEDIA	33
Moderating the malicious comments on the social media institutional pages	34
VIII. CONCLUSIONS	36

I. INTRODUCTION

Why do we need a Guideline

Through their work, judges and prosecutors, as legal professionals, influence and interest large categories of people.

This Guideline aims at outlining general recommendations regarding how to use social media and the online platforms in a way that will lead to the consolidation/improvement of the image of the judicial system. In this regard, a high degree of awareness is needed from judges and prosecutors regarding the effects of the individual use of social networks on their personal image, but also on how this awareness is reflected for the entire justice system, since for the public opinion every judge and prosecutor is an emissary of the judicial system.

However, the present *Guideline* does not remove the restraints provided by special laws, regulations or the code of ethics, therefore the use of imperative expressions is justified.

With the latest developments in technology, social networks have emerged and together with them a new way of communicating and networking, with fewer constraints than the traditional means of communication and information. The information is more easily transmitted and it reaches faster the audience.

Therefore, the judicial authorities from Romania are forced to adapt to the modern means of institutional communication, in the context of the evolution of the social journalism, a type of journalism that implies the readers' involvement.

The importance of a proper communication in the social media has become obvious also due to the fact that, recently, the number of Internet users has increased rapidly.

In today's digital society, it has become extremely important for all the individual public activities of judges and prosecutors to present the evidence of a permanent awareness of the role and position of justice within the society, knowing that *"all the value of the judiciary depends on the people who will exercise it."*¹

The reality of the world of justice is received by the public opinion according to the way it is reflected in the online media, because, generally, the public does not have direct access to the events that make up the world of justice.

In this regard, it is important to be aware that not only through courts' decisions, indictments or ordinances, judges and prosecutors have a less or more important impact on the whole society, but through any online or offline exercise, they may influence the general perception of the society on the office they fulfill.

Therefore, the manner public opinion perceives the reality of justice is influenced by the way judges, prosecutors and public institutions from the judiciary reflect this reality on social networks, bearing in mind that these represent an important source of information for media and for citizens.

The individual use of social media by judges and prosecutors in their private lives/privately is nowadays quite widespread in most states. Certainly, judges and prosecutors cannot be banned to use social media privately, when this activity concerns private matters or other social or professional aspects, within the limits of the deontological code, such a private use of social media falling under the right of freedom of expression.

¹Theoretical and practical treatise on civil procedure, vol. I, V. M. Ciobanu, Ed. National, 1997, p. 18-27.

However, the importance of the role played by judges and prosecutors necessarily implies content limits.

Judges and prosecutors, anchored in the age of digital technology

Nowadays, the role of the judges and of the prosecutors consists not only in updating and renewing their knowledge or in being aware of the current judicial practice of the European courts or of the relevant national jurisprudence.

A good/skillful judge or prosecutor should not remain locked in an ivory tower, alien to current problems of the society. On the contrary, nowadays, the public opinion needs to know that judges and prosecutors are above all people, well anchored in the everyday life.

The rapid globalization of any online information is the premise and at the same time the opportunity for the human face of justice to become well known for public.

Thus, social networks are the most accessed online communication tools, besides blogging, vlogging, podcasts etc.

Out of all these, statistically, Facebook is currently the most popular social network in our country, with significant impact in terms of networking.

Facebook activity of judges and prosecutors has become nowadays a well-known practice leading to a number of problems and questions directly related to the issue of building the identity and self-image and implicitly of those of the judicial system.

In order to be (active) on Facebook, the user judge or prosecutor has to create a profile and to decide on what and on how much personal information to distribute. Creating a profile opens the possibility to create a list of other profiles, the so-called "friends". The term "friendship" itself is misleading, due to the fact that virtual interaction, accepted by users, is not about real-life friendship.

Thus, Facebook activity involves interaction with other people, and each action targeting the general public or a restricted audience, implies the emergence of other information available on their own profile. Judges and prosecutors who decide to become social media users have additional responsibilities. When their data, opinions and preferences are being published, they must be aware that they no longer have control over the public perception of their posting.

It is important to underline that all the qualities of judges and prosecutors such as their conscience, balance, courage, objectivity, understanding, humanity and erudition, qualities necessary even for access to their profession, must be reflected in their activity in the social media.

The objectives of the Guideline on Short, Medium and Long Term

The Guideline aims, on a ***short term***, to contribute to the creation of a framework to facilitate institutional communication on social media platforms and to guide the behavior and activity of judges and prosecutors on these platforms, in accordance with the magistrate's code of ethics of the magistrate.

On a ***medium term***, the Guideline aims at improving the public perception of judges and prosecutors, at enhancing public communication in order to increase transparency of the activity in courts, prosecutor's offices and in other judicial institutions, as well as at increasing the level of legal education among the general public.

On a *long term*, the Guideline aims at increasing the level of information for citizens on the activity of the courts and of the institutions of the judicial system, to improve the public perception on the courts and of the institutions of the judicial system, to increase the citizens' confidence in justice, to increase the level of information, of the awareness about the rights and of the level of judicial education of the general public.

PART ONE WHAT IS SOCIAL MEDIA AND HOW DO WE USE IT

II. WHAT IS SOCIAL MEDIA

The features of Social media.

The most popular social media channels. Social media in Romania.

Few facts

About 45% of the world's population uses social media (3.4 billion users), an increase of 9% compared to last year, with the spread rate in 2018 of about 1 million new users every day.

There are several definitions of social media but, in summary, they gather the same essential elements: types of electronic communication (websites and applications) through which users create online communities to share information, personal messages, photo and video content in a fast, efficient and real-time manner of communication.

Features of Social media

The emergence of social networks has fundamentally and forever changed the way we communicate, and the new defining characteristics of social media have forced the readjustment of the way we share information:

- Instant communication – everything that is being posted on social networks is about "Now!" Therefore, a defining feature is the speed of posting;
- Multiple connectivity - social media networks offer access to a very large audience, of hundreds of millions of people;
- Complex communication - on all levels: text, audio, video, live video;
- Brevity - communication in social media involves dense yet brief information (text, audio, video), in order to be browsed quickly.

The main purpose in social networks is given by the continuous increase of the audience, on how to draw others attention, on how to be read, seen, followed, by a wider audience.

The most popular social media channels

FACEBOOK

It is the most widespread social network in the world, launched in 2004. It has now reached about 2.3 billion users.

It is a closed network, access being allowed only after creating a personal account.

Facebook allows posting unlimited text, it allows posting photo and video content, links, live video broadcasts, text messages, voice and video calls, it contains a marketplace where for selling/buying things.

Facebook offers the opportunity for playing games with friends, for creating groups or joining already created groups in line with the topics of interest.

About 74% of Facebook users access the network at least once a day.

YOUTUBE

It is a video content site, created in 2005, currently being a subdivision of Google.

It is an open network. The videos can be viewed without being registered with a personal account, but only registered users are able to give likes, dislikes, to add comments, to share watched content, or to create their own YouTube channels.

It is the second social network in terms of popularity and number of users, registering approximately 1.9 billion accounts worldwide in January 2019.

INSTAGRAM

Instagram is an application for smart phones that allows users to upload and later on distribute photos and videos over a variety of networks such as Facebook, Twitter, Tumblr and Flickr.

It was created in 2010, and it is now part of Facebook. Similar to Facebook and Twitter, those creating an account automatically receive a profile and a news feed. Once registered anyone can choose to follow other users. Thereafter everything one posts will appear on their feed.

Users can give likes, comment, can use the "tag" option and access the private messaging.

There are about 1 billion Instagram users globally, out of which about 60% access the app at least once a day.

TWITTER

It is a micro-blogging platform that allows users to send and read short messages (at first of maximum 140 characters, currently the option has been extended to 280 characters) called "tweets".

Globally, Twitter gathers around 320 million users, but the use of the platform has experienced a slight decline lately.

LINKEDIN

Linkedin is a niche social network, oriented towards the professional environment that is being used specially to connect professionals with their potential employers.

It is now part of Microsoft and over 50% of those who have an account on this platform are graduates of higher education institutions, making public their CV for job offers. Materials or opinions can also be posted in the feed, as in any other social network. There are approximately 610 million users, with a growth rate of 2 new users per second.

PINTEREST

Pinterest is a visual discovery engine that enables finding various ideas for hobbies, such as recipes, home or style inspiration, and many more others.

It has about 250 million active users every month, being a popular platform especially among women.

REDDIT

It is a social-news network, where users can post content and vote for other posts that thus go up in the top of the views. The news on Reddit are organized thematically, in sub-reddits, which makes it easier to follow the news from a specific domain. This news aggregator network allows the user to stay informed on everything that is new and popular on the internet - about 500 million accounts.

TUMBLR

It is a Microblogging and socializing platform, owned by Yahoo!, which gathers about 500 million blogs on extremely diverse topics.

SKYPE

Skype is one of the most popular communication platforms. It is owned by Microsoft and it allows connecting with others through voice calls, video calls and text messages. It can allow group communication. Skype communication is free.

WHATSAPP

It is a free messaging application, currently owned by Facebook, which allows both voice and video calls and text, in fully encrypted mode.

SNAPCHAT

It is a social network created by a mobile application, which allows live socializing with friends and new users, through text messages, images and videos, being used especially by the young audience, with about 190 million users worldwide.

Messages have a short lifespan, for single use (they are called Snaps) and they are permanently deleted after they being viewed (except those that enter in My Story, which are available for 24 hours).

Social media in Romania. Few facts.

According to the monitoring data, in Romania, in January 2019, there were about 9.8 million user accounts created on Facebook, and the number of pages (another type of network use, different from the individual account) reached almost 84.000.

The total number of posts within a month was of 1.6 million, and the related number of comments was of 4.5 million, with an average of 3 comments per post. The figures for Romania in terms of other networks, according to the monitoring data, were the following:

- Instagram: about 700.000 users, who posted during a month more than 1.6 million photos and over 5 million comments;
- YouTube: approximately 860.000 subscribers, out of which about 45.000 were active;
- Twitter: approximately 377.000 subscribers, out of which only 24.000 were active, but who posted about 1.6 million tweets;

III. THE USE OF SOCIAL MEDIA

How to use the privacy settings. Types of interactions in social media.

***Practical recommendations for using social media.
Fake accounts. How to delete an account.***

A social media account is a part of our image online delivered, which provides relevant information about us and profiles us publicly.

Profiles

On the Facebook profile one can share information about her/his own person, such as interests, photos, videos, city of residence. To view someone's profile, one has to access the person's name or the profile photo at the top of any Facebook page.

Pages

An account is required in order to create a page or to help manage a page. The pages are places on Facebook that allow artists, public persons, businessmen, brands, organizations and non-profit entities to connect with their fans or customers. When someone "likes" or "follows" a Facebook page, he/she can follow the news of that page.

Groups

Groups are a space for communicating with people who share common interests. When people join a Facebook group, they will be able to view content in that group in the news feed.

Using the privacy settings

Facebook allows the selection of the audience for posts. Therefore, after creating a post and before sharing it, the audience selector is carefully used to determine the recipients of the post.

The PUBLIC setting allows any person to view the post, even if he/she is not in the friends' list.

The FRIENDS setting allows only friends from one's own list to view the post. If any of them share the post, it will be visible only to friends on his/her list, but only to those who are common friends. The post, therefore, remains only in the restrictive group initially set.

The audience selector is essential in the activity of the judges and prosecutors on social media, and its correct setting, according to the real interest, requires special attention before delivering the post on the social network.

Types of interactions in social media

A post will be visible (it will appear in newsfeed, news) only for about 2-3% of friends. In absolute special situations it can go up to 20% of the people in the list of friends.

The Facebook algorithm identifies two categories of user actions - passive interactions (such as like and passive click navigation) and active interactions (such

as comments, replies to comments, share, tags, live video broadcasts, link sharing in the mailbox).

Posts that do not create active interactions will have less visibility in the future. They will be seen by fewer friends. If the post receives something other than like (for example - heart, ha-ha, nervous emoji etc.), the post will be considered more interesting, it will increase in audience and it will help the next one to have a better visibility.

Judges and prosecutors are responsible for the obligations arising from the statute of the magistrate profession while interacting with users of social media networks.

Few institutions in the Romanian judicial system have Facebook pages, but the use of the check-in function in places such as district courts, tribunals and courts of appeal, by the lawmakers, has led to an automatic creation of pages with the names of the mentioned institutions. This often misleads users into believing that they are actually accessing the official website of the institution.

An advantage of creating a Facebook page is immediately given by the disappearance of the limit of 5000 fans/friends that a personal account has, as well as the elimination of the approval option for friend requests. This can track the number of visitors on the page and it offers the possibility to have multiple administrators, with various tasks in managing the page.

The page will be indexed by the search engines, which brings more visitors, and when someone searches for a topic similar to the page's activity, Google can redirect him/her to the Facebook page.

Practical recommendations in using social media

A useful list with some recommendations to avoid the most common mistakes that social media users make, is the following:

- The audience selector will be set correctly in order to have control over the content displayed (you can return to settings even after activating the post, except for tags);
- Check that there are no spelling errors. You can return to any post to edit it, correct it, and complete it. The post will retain these changes even in the shares already made;
 - It is advisable to quote the source when information is being retrieved;
 - It is not recommended to post a lot of information throughout one day, due to the risk for Facebook algorithm not to display them all, and assimilating them to a spam;
- If a message is to have the maximum impact, the intervals with high attention of Facebook users are between 9.00 - 11.00 and 19.00 - 22.00.

Fake accounts

In the first quarter of 2019, Facebook has eliminated about 2 billion fake accounts, detected by the automated tools, before being reported by users. These accounts were created mainly for commercial purposes.

There are several hints to detect fake accounts: the user does not have a real profile picture, he/she has not filled in the profile data, he/she does not have a large list of friends, he/she has no own posts. As a rule, those behind the fake accounts do commercial promotion, political promotion or trolling.

How to delete an account

An account can be temporarily suspended or deleted. If the account is temporarily suspended, it will no longer be visible to users who are not in the list of friends, but all archived posts, photos, videos etc. will be kept. The messenger can also be used.

If an account is deleted, all the activity will disappear together with the profile, but the messages exchanged with friends on the messenger tool will remain in their accounts. The account deletion order can be canceled within a maximum of 30 days.

IV. ADVANTAGES AND RISKS IN USING SOCIAL MEDIA

***Advantages. Risks. Exploitation of attention.
Social media and masked advertising.
Profiling. Inflammation and radicalization.
The echo rooms. Fake news.***

Judges and prosecutors need to be aware that the messages on social networks can influence society's perception of the judiciary system and of magistracy. They need to keep in mind that messages posted on social networks are and remain public, even if they are subject to confidentiality parameters.

Therefore, they must at all times analyze the potential danger when using social networks or social communication platforms.

Advantages

The following is a brief presentation of the advantages of responsibly, decently and consciously using of social networks:

- **CONNECTIVITY.** The most important advantage in using social media is connectivity. People from anywhere can connect with anyone at any time;
- **EDUCATION.** Social media has many benefits for those who want to educate themselves, especially for teachers and students;
- **MUTUAL ASSISTANCE.** You can get support and help on various topics from the community in which you are integrated in, sometimes from those whom you do not expect;
- **INFORMATION.** Social media has become the fastest information channel for many users. The ability of any user to broadcast live the events he/she witnesses has transformed social media into an instant information medium;
- **NOBLE CAUSES.** It can be used for civic activities, donations, mutual assistance;
- **AGAINST CRIMINALITY.** The social media advertisements of the authorities have frequently helped to quickly detect perpetrators of crimes;
- **CREATION OF COMMUNITIES.** Social media is a perfect tool for creating communities on various topics of interest, professional, hobby or other, and for bringing people together.

There are several benefits for an institution within the judicial system to have an official Facebook page:

- The advertisements have a much higher visibility than on the institution's website;

- Feedback can be received immediately;
- Information will be disseminated faster online;
- It is easy to administer;
- Live video broadcasts can be made.

Risks

Social media is not a technology we just use, but we are, to some extent, influenced by it. It influences our behavior independently of the way we use it, so that we become conditioned by the technological environment in which we act and think. In order us controlling this technology, and not the technology controlling us, we need to be aware of the pitfalls and risks it may bring.

Exploitation of attention

The instant access and the abundance of information put pressure on an important resource of the human mind. Information uses attention, which is a limited resource. This means that the social media technologies will join a competition to drag our attention.

Therefore, digital technologies will integrate in their design attention-gripping mechanisms. The attention-gripping mechanisms have the form of social rewards such as like-s, comments, shares and the expectation to find new information whenever accessing them. Thus, daily tasks are constantly interrupted for checking on those who have liked the posts and pictures, on what others may say or on what else happened in the meantime.

From here, the risk of social media addiction may appear. The social networks should not become the only form of networking/socialization.

Social media and masked advertising

Social media has become a hybrid element in marketing strategies. Traditionally, the companies addressed the consumers directly, and the promotional message was an explicit one.

Companies currently use social media as a non-traditional tool. They are no longer part of the promotion, but consumers address each other, the promotional message being more implicit. In order to eliminate the suspicion of masked advertising, judges and prosecutors need to pay more attention when promoting an event, product or service.

Profiling

It is advisable not to create a continuous story about one's own person (through all actions and interactions with others, through everything that is being posted, followed, liked or not liked) on social media. All these because everything that is posted can be "trackable", it can be identified, it can be tracked in time and it stays in the online space. Out of this partial information, information about other areas of private life can be extrapolated, creating vulnerabilities.

Inflammation and radicalization

The lack of direct contact leads to another risk that arises from the nature of digital social networks.

As digital social networks compete to grip our attention, the algorithms they work with will promote a content that is more likely to receive "like-s" and be shared. Recent research has shown that people are more likely to share content that causes moral outrage since it draws users' attention.

Therefore, social media shall favor the selection of a content that generates strong reactions of moral outrage. Since it is easier to express in online, moral outrage also extends to what is just unpleasant from our point of view. Thus, whatever seems negative to us can give rise to indignation.

The harmful effect of escalation is the radicalization of the critical attitude towards what is different than us, leading to deepening of social divisions.

If two individuals are considered to be members of different groups, social media will favor the share of content that can create the image that the two groups are irreconcilable. In other words, it will emphasize not only the differences, but also the impression that dialogue is impossible. If social media exacerbates moral outrage, then social polarization will increase by dehumanizing members belonging to different groups. Polarization is a dangerous phenomenon as it undermines trust and social cooperation.

The echo rooms

Despite the free access to knowledge, social media risks creating what is called the echo rooms. They appear as a result of users being selectively exposed to what they watch online.

When individuals have the opportunity to remove information that does not conform to their own preferences and values, they will create virtual bubbles in which they interact only with those who share the same opinions.

The echo room effect of the digital world creates the impression that only some hold the ultimate truth, while those in the opposing group are deeply mistaken. If we choose to interact online only with those we like, then we will hardly overcome our own prejudices and idiosyncrasies. We must acknowledge that we can always fail in our reasoning, which will make us more tolerant and open to the perspectives of others.

In order to promote freedom of thought we must avoid isolation from different points of view and accept our own weakness. It is advisable for judges and prosecutors to follow a variety of views from social media networks in order not to get into these virtual bubbles.

Fake news

Fake information and fake news spread faster and reach a larger audience than the true ones, because fake news claim to provide newer information than the true news bring. This indicates that people are more inclined to share information that looks a novelty.

There are two motivations for spreading fake information online. The first one: news that go viral can bring financial resources from advertising if the number of

readers reaching the site is big enough. The second one is of a ideological nature: some fake news providers aim to benefit for a candidate, a situation or an event.

Some elements that help identify fake news are as follows:

- Usually, fake news comes with a bombastic, shocking title;
- Checks should be made to verify whether the title is related to the text (fake-news is also based on the fact that only the title is being read);
- There is no signature, or it has been signed only under the initials of the name or there are no concrete elements in the content (statements of persons with name and surname, names of real institutions, etc.);
- The original source of the news must be checked, such as on which website it has the source in, what that website looks like, what else it contains;
- The accompanying photos are usually from another context, which can be easily verified with Google Images.

It is advisable for judges and prosecutors to pay close attention to the fake news phenomenon, because the fake catchy information is not obviously untrue.

The recommendation is for judges and prosecutors to show restraint against the widely circulated news on social media and to wait a while until the truth of the information is being either confirmed or denied, to be properly and fully informed.

PART TWO DEONTOLOGICAL STANDARDS AND RECOMENDATIONS

V. THE DEONTOLOGY OF JUDGES AND PROSECUTORS

The deontological code of judges and prosecutors in Romania. Social media and masked advertising. Avoiding legal advice by judges and prosecutors. Mediation between freedom of expression and the obligation of reserve. The responsibility of the judge and of the prosecutor on social media. Training judges and prosecutors in using social networks.

The rapid growth of digital social networks puts pressure and raises new challenges for judges and prosecutors both in guaranteeing impartiality and in exercising freedom of expression.

Prior to the emergence and mass use of social media, judges and prosecutors did not have much means of violating professional ethics standards in the public space. Statements released in the traditional press were the classic way of becoming visible. Currently, judges and prosecutors can instantly send messages to the general public, without the help of journalists or media institutions.

The communication of judges and prosecutors in social media has many specificities, resulting both from the social profile of the magistrate and from the normative restrictions that accompany his/her professional activity.

For example, the Arkansas Supreme Court overturned a death sentence because a judge posted information on Twitter during deliberations.

In France, sanctions were imposed against a judge and a prosecutor who posted live comments on Twitter about the trial they were involved in. On this occasion, the Superior Council of Magistracy (CSM) of France considered that "the use of social networks during a hearing is obviously incompatible with the obligations related to the statute of magistrate".

In Canada, a judge retired in advance because of the comments she made on Facebook about two fellow judges. In an online posting, she identified two judges by their initials, saying about them that the small sentence they gave in a case was ridiculous.

In addition to the high degree of responsibility and balance that is required/expected from judges and prosecutors the institutions evaluating their activity should take into account the fact that magistrates' adapting to social media is a complicated and long-term process.

The deontological code of judges and prosecutors in Romania

The deontological code of judges and prosecutors in Romania promotes a clear delimitation of their activity from commitments aimed at political parties, political competition, interference with an ongoing case or expressing the opinion on the professional and moral probity of a magistrate. Therefore, the activity of judges and prosecutors on social platforms is subject to specific rigor. The virtue of balance is the ethical standard guiding the judges and prosecutors in online. This virtue captures the professional identity set by the values of impartiality and objectivity.

However, the virtue of balance should not be confused with the lack of any reaction or with the lack of firmness. In some contexts, a balanced attitude, which allows keeping a distance from current practices, will lead to identifying the importance of values that others start to ignore.

1. The mere fact of creating an account on social media does not contravene the deontological code of judges and prosecutors in Romania. The account shall be used taking into consideration the obligations deriving from the statute of their profession of judge and prosecutor.

2. Judges and prosecutors may publish texts, photos and videos about their private life, personal preferences, professional interests, about hobbies, according to the deontological norms of the statute of judge and prosecutor.

3. Judges and prosecutors can use social media platforms to follow topics of their interest.

4. Judges and prosecutors can participate and promote on social media sports, cultural, social and historical events, but not politics.

5. Judges and prosecutors can promote on social media their articles and books, scientific events, debates, seminars, as well as any other academic and cultural resource that is professionally relevant.

6. Judges and prosecutors can use social media to disseminate information available online and in the public interest to help lawmakers orient themselves in their relationships with the judicial institutions.

7. In the dialogue with the users of social networks, it is recommended that judges and prosecutors limit themselves to providing information on the general principles guiding the judicial system, the content of the normative acts, as well as the rules for conducting civil or criminal proceedings, for the exclusive purpose of educating the public.

8. Judges and prosecutors must use social networks without expressing their opinion on a pending case.

9. On social media judges and prosecutors will not interfere in the activity of other judges and prosecutors or of other judicial institutions and will not express

negative opinions, directly or indirectly, regarding the professional and moral probity of their colleagues.

10. The publication and dissemination of information in support of a political party or a candidate for elections or posting of photos on a social network or on a social media profile that may create a direct and clear connection of a judge or a prosecutor with a political party is forbidden. Moreover, any political initiative or direct or indirect promotion of strategies, ideas or measures of any political parties, which may create such a connection, is forbidden.

11. In order not to affect the image of impartiality and independence of justice, it is recommended that judges and prosecutors be selective in presenting themselves in photos published on the occasion for their participation in cultural, social and historical events, where politicians, local leaders or diplomats do participate in official group photos, along with all categories of guests being preferable to be posted in such situations.

12. It is forbidden for judges and prosecutors to support, promote or give likes to pages and posts of campaigns or activist groups, if any association with them can undermine the prestige of judges and prosecutors, as well as of the judicial system.

13. Photos and video recordings showing nudity, as well as episodes of personal life with a degree of intimacy and undermining the dignity of the judicial office are forbidden.

14. It is recommended to pay a special attention to photos from social events, such as: parties/cocktails/social meetings and other similar gatherings, posted on social media, due to the exposure of other people who may not want to be publicly exposed.

15. It is recommended that judges and prosecutors do not publicly share on social media information that would create the appearance that the purpose of the posting is to express opulence.

Social media and masked advertising

16. The use of the statute of judge or prosecutor is not appropriate to promote on social media economic interests of another person, as well as any action related to a marketing activity.

17. It is recommended for judges and prosecutors to avoid posting photos or texts presenting/promoting products and services, even if they have been used for personal purposes.

Avoiding legal advice from judges and prosecutors

18. Judges and prosecutors cannot use social media networks or media to provide legal advice.

Mediation between freedom of expression and the obligation of reserve

19. The obligation of reserve does not invalidate the freedom of expression of judges and prosecutors.

20. For purpose of legal education, judges and prosecutors can exchange professional opinions on social media.

21. When exercising their freedom of expression on social media, judges and prosecutors must respect the obligation to refrain from breaching dignity and prestige of the judicial office, as well as the impartiality and independence of the judicial system.

22. Judges and prosecutors may exercise their freedom of expression for assessing fundamental issues related to the administration of justice, or to promote and protect universally granted human rights, fundamental freedoms and the rule of law.

23. Judges and prosecutors may exercise their freedom of expression in order to professionally evaluate legislative and constitutional reforms and normative acts regarding the judicial system, in a decent, technical, scientific and argued language.

24. In exercising their freedom of expression, judges and prosecutors must formulate their opinions in a balanced manner in order not to affect not even the appearance of impartiality.

25. Regarding matters of general interest within the justice system, it is recommended that judges and prosecutors exercise their freedom of expression with priority in professional debates, collegial consultations or institutional initiatives, accessing their professional mechanisms developed for this purpose, such as committees for examining the draft normative acts or other similar bodies.

26. It is recommended for judges and prosecutors to be cautious and vigilant when expressing their opinions on social media in order not to show any favoritism.

27. Judges and prosecutors shall not initiate and shall not engage in debates on social networks where insults, personal attacks are being uttered as well as any other direct or indirect form of manifestation that may undermine the dignity of the person.

28. Nor discriminatory comments, neither jokes referring to such type of comments shall be used on social media platforms.

29. The language used by judges and prosecutors should be respectful and should invite to dialogue, without antagonizing the parties involved in a debate.

30. Judges and prosecutors should not minimize and nor ridicule opinions and concerns expressed by others.

31. It is recommended for judges and prosecutors to express well-funded opinions, taking into account a variety of perspectives and admitting the possibility of their own error.

32. Judges and prosecutors are encouraged to take into account a variety of views in social media.

33. It is recommended for judges and prosecutors to avoid getting involved on social media in any causes, not even in humanitarian, causes, in a manner that may undermine the prestige of the office and their impartiality.

34. It is recommended for judges and prosecutors to be very careful when expressing their outrage in order to avoid polarization and radicalization fueled by social media.

35. It is recommended for judges and prosecutors not to overuse social media, with multiple daily posts or to have a quasi-permanent online presence.

36. Judges and prosecutors can immediately react to properly inform the public in the event of fake/confusing information on the personal social media account.

The responsibility of judges and of prosecutors on social media

37. If discriminatory, offensive, threatening or political comments are being posted to their own posts, judges and prosecutors shall moderate the discussions and disavow these attitudes, including by deleting these types of comments.

38. It is recommended for judges and prosecutors to anticipate, as far as it is reasonable, the ways in which their posts may be distorted and misinterpreted and to take this into account when communicating online.

39. It is recommended that the messages posted by judges and prosecutors to be explicit, clear, and argued, avoiding allusions.

40. It is recommended that, in their private discussions on social media messenger, judges and prosecutors shall not make comments that, if made public, would undermine the dignity of the judicial office.

Training judges and prosecutors in using social networks

41. It is recommended that institutions representing judges and prosecutors regularly provide training on risks, professional difficulties and ethical dilemmas in using social media.

VI. THE JUDGE AND THE PROSECUTOR AS A FRIEND ON SOCIAL MEDIA

42. Judges and prosecutors can accept lawyers in their friends list. Being friends on a social network with the lawyer who later pleads before the judge or prosecutor, or with a person who will later hold the status of party in a trial, does not by itself represent a circumstance that can cast doubt on judge / prosecutor's impartiality in settling / investigating that case.

43. Judges and prosecutors can accept journalists in their friends list. Being friends on a social network with journalists is not in itself a circumstance that can be interpreted for judges and prosecutors as expressing or belonging to the politics or any other views of a newspaper, tv channel, information site, media trust etc.

44. Being friends on a social network with a politician is not in itself a circumstance that can be interpreted for judges and prosecutors as expressing any political affiliation or sympathy. However, the judge and prosecutor must be cautious when dealing with politicians in social media.

45. Judges and prosecutors should pay greater attention to avoiding situations where interaction on a social network with a politician could be used in political struggles and controversies.

46. It is forbidden for judges and prosecutors to accept in the friends list witnesses, lawyers of the parties or other persons who are parties in a trial, while being aware of their quality. Situations where having friendship in the social media reflects a similar relationship in real life, are to be solved according to the procedural rules in terms of incompatibility.

47. It is recommended for judges and prosecutors not to add whoever on their social networks, simply justified by their wish to enlarge the friends list.

48. It is recommended for judges and prosecutors not to accept the friendship request of those believed to access fake accounts.

49. It is recommended for judges and prosecutors to constantly check their friends list to ensure that the interactions and profiles of the contacts do not affect the dignity of the office.

How to moderate comments

50. Judges and prosecutors are not responsible for the postings added by their family members and by their close friends on their personal social media accounts. However, judges and prosecutors shall do their best to inform their family members and close friends, with social media accounts, about the ethical and professional obligations of the magistrates.

51. Judges and prosecutors shall make sure that they are the only ones having access to their personal social media account.

52. Whether fake information about judges or prosecutors may occur, they can promptly react to correctly inform the public opinion, on the personal social media account.

53. It is recommended to delete indecent comments or to use the hide option.

VII. INSTITUTIONS WITHIN THE JUDICIAL SYSTEM AND SOCIAL MEDIA

54. It is recommended for judicial institutions to post information containing a description of the judicial system and of the judicial procedures.

55. It is recommended for judicial institutions to post models of procedural documents taken over from the websites of the SCM and NIM.

56. It is recommended for judicial institutions to post information on public debates, interviews or podcasts on topics of public interest in the judicial field.

57. It is recommended for judicial institutions to disseminate information regarding access to justice (periodic reports, guides for citizens elaborated by SCM, NIM or NSC, internet facilities, information offices etc.).

58. It is recommended for judicial institutions to post information related to the payment of court judicial fees, expertise fees, the payment of bails and their payment methods.

59. It is recommended for judicial institutions to post information on alternative dispute resolution proceedings available for the parties.

60. It is recommended for judicial institutions to post information on the relevant case law of the courts.

61. It is recommended for judicial institutions to post information on organizing open door visits for pupils and students

62. It is recommended for the judicial institutions to post information on events such as the taking oath by judges and prosecutors.

63. The institutions in the judicial system are encouraged to post information on the participation of judges and prosecutors in events organized by schools, high schools or faculties in order to promote legal education.

Moderate malicious comments on the social media institutional pages

64. It is recommended for the unofficial Facebook pages of the institutions to be made public (or from other social media platforms).

65. It is recommended for a person to be appointed for monitoring the social network and aspects communicated to the institution by the general public on the agreed social network and for properly responding a to comments, if required.

66. It is recommended for the posts to be approved prior to their posting, as this is a more effective method than deleting inappropriate comments, as these messages can in the meanwhile generate reactions and other messages.

67. The use of the "confidentiality" option is recommended so any Comment can be approved before displaying a comment.

68. It is recommended for a message to be displayed for clarifying the conditions for the third parties participating in networking on the web page (disclaimer). In this context, it is important to give awareness to the message according to which tolerance of ideas does not mean tolerance of insult. Attention will be drawn on disapproving biased speech and its consequences.

69. Mocking, offensive, threatening, accusatory, repetitive or hateful comments should always be deleted or hidden.

70. The representative/spokesperson of the institution should not enter in debates with those who comment; it is advisable to answer through guidelines or to facilitate access to information that is already public.

71. It is recommended to answer with a communication/information/right of reply to fake news, as soon as possible, in order to properly inform the public in case fake/misleading information occurs.

72. It is recommended that the answer given to the question type comments be polite and understandable for the public.

VIII. CONCLUSIONS

Judges and prosecutors cannot be isolated from the rapid development of digital social networks. However, judges and prosecutors are the first ones responsible for their image and for the image when accessing social media platforms. They will be directly and indirectly affected by social media technologies in both their private and professional life.

Social media is not an ordinary technology. It affects our way of acting and thinking. To safely navigate in this online space, it is necessary to understand the specific challenges social media technologies arise. This guideline provides a comprehensive framework to guide the way judges and prosecutors can act while using social media.

Judges and prosecutors need to be aware that while social media has the great benefit of connecting people in an unprecedented way, this technology may reveal new ways to undermine the profession of judge and prosecutor. For this reason, a guideline that aims at guiding judges and prosecutors' activity in social media must be continuously updated.

CIP description of the National Library of Romania
Romania. The Superior Council of Magistracy

Good practice guideline regarding the activity of judges and prosecutors in social media-online platforms / The Superior Council of Magistracy. - Tîrgu-Jiu: Măiastra, 2019

