

**Code of Professional Conduct for a Judge-of the Residual Special Court for
Sierra Leone
Adopted on 29th February 2024**

PREAMBLE

NOTING the Statute of the Residual Special Court for Sierra Leone (“Statute”) as annexed to the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Residual Special Court for Sierra Leone (“Residual Special Court”) signed in Freetown on 11 August 2010, and in particular Article 11(2) providing, inter alia, that the judges ‘shall be persons of high moral character, impartiality, and integrity....’

FURTHER NOTING the Rules of Procedure and Evidence (“Rules”) in particular the solemn declaration required by Rule 14 and the provisions of Rule 15 and 15*bis*;

RECOGNISING that the independence and impartiality of a Judge is fundamental to the protection of the rights of the accused and to ensure public confidence in a fair and transparent judicial process;

RECOGNISING that a judge is a member of a collegial body, pursuing the same objective of ensuring the achievement of international criminal justice;

CONSIDERING the United Nations Basic Principles on the Independence of the Judiciary (1985), the Bangalore Principles of Judicial Conduct (2002), Recommendation CM/REC (2010) 12 of the Committee of Ministers to Members States on “Judges: Independence, Efficiency and Responsibilities”, and other international and domestic rules and standards relating to judicial conduct and the right to a fair trial;

RECOGNISING the need for guidelines of general application to contribute to promoting and guaranteeing judicial independence and impartiality and with a view to ensuring the legitimacy, integrity, effectiveness and transparency of the judicial process before the Residual Special Court;

CONSIDERING that the principles set forth in this Code shall contribute to judicial independence, impartiality and transparency of the judicial process and shall enhance the public confidence in the Residual Special Court;

THE JUDGES OF THE RESIDUAL SPECIAL COURT HAVE AGREED as follows:

Clause 1: Adoption of the Code

It has been adopted by the Judges pursuant to Rule 24 (D) of the Rules and shall be read subject to the Statute and the Rules. It shall apply immediately upon its adoption by the Judges. This Code shall not have a retrospective effect.

Clause 2: Definitions

Court staff: includes interns and the personal staff of a judge.

Judge: includes part-time and ad litem judges.

Judge's family: includes a judge's spouse, partner, parent, sibling, son, daughter, son-in-law, daughter-in-law, or any other close relative or a person who is a companion or a person who is an employee of the judge and who lives in the judge's household.

Judge's spouse: includes a domestic partner of the judge or any other person of either sex in a close personal relationship with the judge.

Party: for purposes of Clause 15 'Party' shall include Counsel appearing for a party before the Special Court, a witness, and a member of the staff retained by a party.

Clause 3: Principles

1. In the exercise of her/his judicial functions the judge adopts and upholds the following seven principles to establish standards of ethical conduct of: judicial independence, impartiality, integrity, propriety and confidentiality, competence, diligence and equality of treatment to all before the court.

Clause 4: Judicial independence

1. A Judge shall uphold the independence of her/his office and the authority of the Residual Special Court and shall conduct her/himself accordingly in carrying out her/his judicial functions.

2. A Judge shall be independent of all external authority or influence and shall be independent of judicial colleagues when making decisions which she/he is obliged to make independently.

3. A Judge shall not engage in any activity which is likely to interfere with her/his judicial functions or to affect confidence in her/his independence.

4. A Judge shall reject any attempt to influence her/his decisions in any matter before her/him for decision where such attempt arises outside the performance of judicial duties.

5. A Judge shall exhibit and promote high standards of personal and professional conduct to ensure public confidence in the judiciary.

Clause 5: Impartiality

1. A Judge shall be impartial and perform her/his duties without favour, bias or prejudice. A Judge shall ensure the appearance of impartiality in the discharge of her/his judicial functions.

2. A Judge shall avoid any conflict of interest, or being placed in a situation which might reasonably be perceived as giving rise to a conflict of interest.

3. A Judge shall disqualify her/himself from taking a part in any proceedings in which the judge is unable to decide the matter impartially or which may appear to a reasonable observer that she/he is unable to decide the matter impartially.

4. A Judge shall ensure that her/his conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.

5. A Judge shall not knowingly, while a proceeding is before her/him, or could come before her/him, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair or appear to impair the manifest fairness of the process. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person.

6. A Judge shall, so far as is reasonable, so conduct her/himself as to minimise the occasions on which it will be necessary for the judge to be disqualified from hearing or deciding cases.

Clause 6: Integrity

1. A Judge shall conduct her/himself with probity and integrity in accordance with her/his office and shall ensure that her/his conduct is above reproach in the view of a reasonable observer thereby enhancing public confidence in the judiciary.

2. Neither a Judge nor a member of a judge's family shall directly or indirectly accept any offer, gift, advantage, privilege or reward that can reasonably be perceived as being intended to influence the performance of her/his judicial functions or the independence of her/his office.

3. A Judge shall treat other judges and staff members with dignity and respect and in a spirit of collegiality and professionalism.

4. A Judge shall not engage in any form of discrimination, harassment, including sexual harassment, or abuse of authority.

5. A Judge shall be mindful at all times of her/his duty to uphold the standing and reputation of the Residual Special Court.

Clause 7: Propriety and Confidentiality

1. A Judge shall exercise utmost discretion and respect the confidentiality of consultations relating to her/his judicial functions, the secrecy of deliberations and the confidentiality of information acquired in the course of her/his duties, other than in public proceedings.

2. A Judge shall avoid impropriety and the appearance of impropriety in all of her/his professional and personal dealings and shall refrain from engaging in any conduct that would bring the judge or the Residual Special Court into disrepute.

3. A Judge shall, in her/his personal relations with individual members of the legal profession who practise regularly in the judge's court, avoid situations that might reasonably give rise to the suspicion or appearance of favouritism or partiality.

Clause 8: Equality of Treatment

1. A Judge shall perform judicial duties without favour, bias or prejudice and in doing so shall make her/himself aware of the societal issues that may give rise to allegations of prejudice or bias,
2. A Judge shall be impartial and shall not discriminate on grounds of ethnicity, race, colour, religion, age, sex, sexual orientation, national origin, language, marital status, social origin, status or disability.
3. A Judge shall carry out her/his judicial functions with courtesy and with appropriate consideration for all persons appearing before her/him in proceedings and persons working or attending in court premises in a manner consistent with her/his obligation to promote efficiency and comply with her/his duties set out in Clause 10.
4. A Judge shall ensure that lawyers appearing before her/him in proceedings shall treat witnesses, staff and other persons in the court with dignity and respect.
5. A Judge shall not knowingly permit court staff or other persons under her/his control to treat any person or group in a manner that shows bias or prejudice or disrespect for the inherent dignity of the human person.

Clause 9: Competence and Diligence

1. A Judge assigned to a Chamber shall give precedence to her/his judicial duties over all other activities.
2. A Judge shall act diligently in the exercise of her/his judicial duties and shall devote her/his professional activities to those duties.
3. A Judge shall take reasonable steps to maintain and enhance her/his knowledge, skills and personal qualities necessary for judicial office.
4. A Judge shall perform all judicial duties properly, efficiently and expeditiously and shall not engage in conduct which undermines trust in the integrity of the Residual Special Court.
5. A Judge shall deliver her/his decisions and any other rulings fairly, with reasonable promptness and without undue delay.
6. A Judge shall act at all times with the view of ensuring the effectiveness of the Residual Special Court.
7. A Judge shall not be influenced or swayed by fear of criticism, public clamour or partisan interest in the discharge of her/his judicial duties.

Clause 10: Conduct During Proceedings

1. In conducting judicial proceedings, a Judge shall maintain order and to that end act in accordance with commonly accepted decorum, remain attentive, patient, dignified, and respectful towards all participants in the proceedings and members of the public present, and require participants and members of the public present to act likewise.
2. A Judge shall exercise vigilance in controlling the manner of questioning of witnesses or victims in accordance with the Rules and shall give special attention to the rights and interests of participants in the proceedings. A Judge shall exercise particular vigilance in respect of vulnerable witnesses, including victims of sexual and gender based violence and children.

3. A Judge shall, to the extent possible, ensure that any person participating in proceedings refrains from comments or conduct which are degrading or derogatory.

Clause 11: Public Expression and Association

1. A Judge shall exercise her/his freedom of expression and association in a manner that is compatible with her/his office and in a manner that does not affect or appear to affect judicial independence or impartiality or undermine confidence in the court

2. While a Judge is free to participate in public debate on matters pertaining to legal subjects, including academic publications, the Residual Special Court or the administration of justice she/he shall not comment on pending cases, shall ensure that nothing in her/his conduct evidences disrespect for the views of another Judge or staff member and shall avoid expressing views which may undermine the standing and integrity of the Residual Special Court.

3. A Judge shall avoid public statements or comments that may undermine the authority of the Residual Special Court or the Special Court of Sierra Leone or give rise to reasonable doubt about her/his impartiality.

4. A Judge shall seek prior approval of the President for any communication with press or media on any matters related to the Residual Special Court.

Clause 12: Other Activity

1. Any activity undertaken by a Judge other than that before the Residual Special Court shall be compatible with her/his judicial functions and the efficient and timely functioning of the Residual Special Court.

2. A Judge shall refrain from membership of groups or organisations or participation in public discussion which, in the mind of a reasonable, fair-minded and informed person, might undermine confidence of a judge's impartiality with respect to any issue that may come before the courts.

Clause 13: Decorations and Honours

A Judge may accept decorations and honours only where such acceptance does not give rise to a reasonable doubt as to her/his independence or impartiality.

Clause 14: Observance of the Code

1. A Judge shall observe the principles embodied in this Code, which shall serve as guidelines on the essential ethical standards required of judges in the performance of her/his duties.

2. Nothing in this Code is intended in any way to limit or restrict the judicial independence of judges.

Clause 15: Complaints

1. Complaints concerning the conduct of a judge may be submitted to the President by another judge, a party in proceedings before the Residual Special Court, the Registrar, a staff member or any person alleging that their rights or interests have been affected by an alleged misconduct.
2. The President may also initiate the complaint procedure *proprio motu*.
3. A complaint shall be submitted not more than six months after the complainant should have reasonably known of the existence or occurrence of the alleged misconduct.
4. Any Judge who is the subject of any disciplinary or workplace investigation, procedure or sanction relating to possible or alleged misconduct before any other jurisdiction shall immediately provide full disclosure thereof to the President. If such a case is still at the investigatory stage, the Judge shall inform the President of any development in a timely fashion.

Clause 16: Disciplinary Procedure

1. Any complaints alleging a breach of this Code of Ethics shall be made to the President and shall be dealt with in accordance with the provisions of Rule 15*bis* of the Rules.



Justice Pierre G. Boutet

President