

### **EJTN ROL webinar for judges HFR-2021-01**

The case presents three different situations in which a judge from an Appeal Court in Madrid, Judge Ulpiano, is confronted to situations that may influence on his independence/impartiality. The participants are asked to discuss the points for consideration mentioned after each of these situations and draw some conclusions.

- In December 2013 a murder was committed in a small town near Madrid. The offender was captured, judged and condemned to a very low punishment. The family of the victim appealed. The case gave raised to a huge debate in the media. Judge Ulpiano, one of the judges in the chamber who had to deal in future with the appeal, participated in a seminar on criminal justice organized by the Bar Association of Madrid and during the debates expressed his view that the punishment had been too low. Some of the lawyers attending this seminar had been involved in this particular case.

Points for consideration

- In what sense may a judge consider that the media may influence his/her independence?
- Freedom of speech: what are the limits to freedom of speech of a judge regarding his/her interventions in certain conferences, seminars etc.?
- Do certain situations in which the judge publicly appears as a judge oblige him or her to refrain from commenting on legal issues?
- In which way should a judge behave vis á vis lawyers in public?

- After several weeks the case was discussed in court. The appeal court decided to raise the punishment. Although the deliberation had to be kept in secret, the press published the outcome of the deliberation before the judgement was formally delivered. In an interview with a journalist Judge Ulpiano expressed his concerns with this situation and blamed the court management of this situation. As a result of this the Secretary of State of Justice made a statement defending the public servants working in the court administration and suggesting the possibility that the judges had broken their duty of reserve regarding the deliberations in court. The judges' association to which Judge Ulpiano is a member expressed its support to him. The Council for the Judiciary examined a request of protection of his independence, but finally decided that, since the case was already ruled, his independence as a judge was not disturbed by this situation.

Points for consideration

- Extension of the obligation of reserve regarding the deliberation of a case
  - Are there any limits to the views expressed by a judge in an interview by the media?
  - Conflicts between judges and the Executive
  - What is the role of judges' associations and of Councils for the Judiciary in defending the judge's independence?
- Later on the press and the social media kept on commenting on the outcome of the case. Judge Ulpiano joined this debate and twittered on some of the evidences of the case examined by the court. He attracted the attention of a citizen linked to the victim's family, who accused him of having disregarded some aspects of these evidences. The President of his Court asked Judge Ulpiano to avoid making these comments on twitter. The Disciplinary Committee of the Council for the Judiciary examined his twitter account and found out that in several occasions Judge Ulpiano had spread information on pending cases. The question is raised whether this is an infringement of the Disciplinary Code or of the Code on Judicial Ethics.

#### Points for consideration

- Influence of the press and social media on the judges' independence
- The role of Court Presidents in regard to freedom of speech of other judges in their courts
- The use of twitter and other social media by judges: dos and don'ts
- Disciplinary versus ethical reaction in cases of infringements of the limits of the freedom of speech