

**THE RECORD OF THE SEVENTH MEETING
OF THE
JUDICIAL GROUP ON
STRENGTHENING JUDICIAL INTEGRITY
(The Judicial Integrity Group)**

Garmisch-Partenkirchen, Germany

October 10 and 11, 2012

INTRODUCTION

1. On the invitation of The Hon. Dr. Rudolf Mellinghoff, President of the Federal Supreme Court of Finance of Germany, the Judicial Integrity Group (“the Group”) held its seventh meeting at Riessersee Hotel Resort in Garmisch-Partenkirchen, near Munich, in Germany, on October 10 and 11, 2012. The meeting was facilitated by Deutsche Gesellschaft fuer Internationale Zusammenarbeit (GIZ) on behalf of the German Federal Ministry for Economic Co-operation and Development (BMZ), in collaboration with the United Nations Office on Drugs and Crime, Vienna (UNODC). The principal purpose of the meeting was to consider the further implementation of the Bangalore Principles of Judicial Conduct, and the development of judicial integrity indicators.

PARTICIPATION

2. The Members present were: The Hon. M.L. Uwais (Nigeria), The Hon. Pius Langa (South Africa), The Hon. B.A. Samatta (Tanzania), The Hon. Dr Adel Omar Sherif (Egypt), The Rt. Hon. Lord Mance (United Kingdom), The Hon. Christine Chanet (France), and The Hon. Dr. Rudolf Mellinghoff (Germany). Dr Nihal Jayawickrama, Coordinator of the Group, also served as Rapporteur.

3. Present during some of the sessions were Mr Thomas Dittmann, Director-General of the German Federal Ministry of Justice (BMJ), and Ms. Ursula Muller, Director-General of the German Federal Ministry for Economic Cooperation and Development (BMZ).

3. Participating as Resource Persons were the following representatives of Governments and International Organizations: Ms. Gabriele Zoeller (BMZ), Ms Stefanie Teggemann (GIZ), Nicolas Stoetzel (GIZ), Philipp Jahn (GIZ), Ms Jana Schuhmann (GIZ), Dr Oliver Stolpe (UNODC) and Jason Reichelt (UNODC).

4. Apologies were received and noted from H.E. Judge Christopher Weeramantry, the Chair of the Group; The Hon. B. J. Odoki, Chief Justice of Uganda; and The Hon. Michael Kirby, the Rapporteur of the Group. All three of them had prior commitments which they had intimated when the dates of this meeting were fixed in April 2012. Dato’ Param Kumaraswamy, former UN Special Rapporteur on the Independence of Judges and Lawyers, who participates as an Observer, excused himself on the eve of the meeting on medical advice not to travel.

5. The Hon. Ricardo Luis Lorenzetti, President of the Supreme Court of Argentina, who had agreed to join the Group, regretted his inability to travel due to an urgent professional commitment. The Hon. Beverley McLachlin, Chief Justice of Canada, who was invited as a special guest, regretted her inability to attend due to a “long standing commitment” and expressed her best wishes for a successful meeting. The Hon. Willy Mutunga, Chief Justice

of Kenya, who was also invited as a special guest, regretted his inability to attend due to urgent matters that had arisen in his Court, but expressed his support and interest, and requested the report of the meeting “to inform the current transformation programs in the Kenyan judiciary”.

INAUGURAL SESSION

6. The inaugural session was chaired by **The Hon. Justice Pius Langa**.

7. At its commencement, the Chair called for the observance of two minutes silence in memory of Jeremy Pope whose untimely death had occurred on 28 August 2012. Mr Pope, a former Director of the Legal and Constitutional Affairs Division of the Commonwealth Secretariat and Managing Director of Transparency International, was instrumental in the formation of the Group, and had participated in several meetings of the Group as an Observer and Resource Person. The homepage of the Group’s website, which carried Mr Pope’s obituary, was displayed during the observance.

8. The Hon. Rudolf Mellinghoff associated himself with the tribute paid to Mr Pope by the Chair. He observed that when Mr Pope, together with Dr Jayawickrama, initiated the Judicial Integrity Group, neither would have anticipated the impact it would have globally. He then welcomed the Members of the Group to Germany, and to Bavaria where his Court held its sittings, and introduced the Mayor of Garmisch-Partenkirchen, a lawyer and former diplomat.

9. Mr Thomas Schmid, the Mayor of Garmisch-Partenkirchen, welcomed the Members of the Group, to the Bavarian mountain resort town. He explained that Garmisch, which was first mentioned in written documents in AD 802, and Partenkirchen, which originated as a Roman town on the trade route from Venice to Augsburg and which was first mentioned in AD 15, were separate towns for many centuries. In 1936, the two towns were forced by Adolf Hitler to combine in order to provide the site for the Winter Olympic Games of that year.

10. Dr Nihal Jayawickrama, Coordinator of the Group, thanked the Mayor of Garmisch-Partenkirchen for his warm welcome to the district, Mr Justice Mellinghoff for his initiative in convening the meeting, and the German Government for facilitating it. He observed that the Group had last met in Lusaka for the purpose of adopting Measures for the Effective Implementation of the Bangalore Principles. The challenge now was to secure the implementation of those measures, and that raised several issues which this meeting would need to address. While the Group was ready and willing to assist in that process, which would involve dissemination, intensive action at regional levels, and monitoring of progress, much of that work would require the involvement of partner agencies. Whatever the Group had been able to achieve in the past twelve years had been due to the support extended by UNODC, the Government of the United Kingdom through its Department for International

Development (DfID), and the German Government through GIZ. He acknowledged, in particular, the assistance he had received for several years from Dr Dedo Geinitz and Ms Johanna Beate Wysluch, both of GIZ.

However, there was also a downside to this dependence on partner agencies, which was that the Group's agenda had necessarily to coincide with the priorities of a partner agency. For example, when judicial reform ceased to be a priority at DfID, the Group's intention to move from principles to a commentary was suspended for some years until UNODC and GIZ offered to assist. Therefore, on the agenda was the important question of the Group acquiring a legal status that would enable it to secure its own financial resources. In conclusion, Dr Jayawickrama noted that if implementation and monitoring were to be realistic objectives, the Group would need to develop a mechanism for interacting with serving heads of judiciaries who were directly responsible for those tasks, and that might require the restructuring of the Group.

SESSION ONE

11. Session One was chaired by **The Hon. Justice Barnabas Samatta**.

Presentation by GIZ on recent and planned activities relating to the Bangalore Principles and the strengthening of judicial integrity.

12. Ms Stefanie Teggemann and Mr Philipp Jahn described the on-going and planned regional legal reform programmes of GIZ in the Southern Caucasus, Central Asia and Western Africa. Regional and national workshops were being planned in Latin America and Cote d'Ivoire, as well as judicial integrity scans in Kazakhstan, Cote d'Ivoire, and possibly Armenia. A pilot project on the development of a learning module was being planned in either the Southern Caucasus or Western Africa. Further translations of the Bangalore Principles and related documents including the Commentary might be undertaken, in addition to the development of a tool box. If funding from the Siemens Integrity Initiative were made available next year, additional activities would be formulated.

Presentation by UNODC on "Strengthening of judicial integrity: past achievements and perspectives for the future".

13. A document entitled "UNODC's Work on Strengthening Judicial Integrity: Mandates, Resources and Technical Assistance" was tabled.

14. Dr Oliver Stolpe and Mr Jason Reichelt made the presentation on behalf of UNODC. They explained that UNODC's work in advancing judicial integrity had included standard

setting, the development of tools and knowledge products to support the effective implementation of the standards, and technical assistance programmes to enable the use of these tools to promote integrity in the judicial sector. During the past ten years, UNODC had received several specific mandates from Member States in relation to judicial integrity. The key mandates in this field were:

(i) *ECOSOC Resolution 1989/60: Procedures for the effective implementation of the Basic Principles on the Independence of the Judiciary*. This resolution requires:

- The preparation of a report every five years on the implementation of the Principles;
- The dissemination of the Principles in as many languages as possible;
- The provision of technical assistance to States in setting up and strengthening independent and effective judicial systems; and
- Enhanced research and seminars to encourage the implementation of the Basic Principles.

However, the adoption by ECOSOC of the Bangalore Principles in 2006 had to some extent moved the focus away from the implementation of the UN Basic Principles.

(ii) *ECOSOC Resolution 2006/23: Strengthening basic principles of judicial conduct*. This resolution endorsed the Bangalore Principles on Judicial Integrity and mandated UNODC to:

- continue to support the work of the Judicial Integrity Group;
- convene an expert group, in cooperation with the Judicial Integrity Group, to develop a technical guide to be used in providing technical assistance aimed at strengthening judicial integrity and capacity, as well as a commentary on the Bangalore Principles of Judicial Conduct.

(iii) *ECOSOC Resolution 2007/22: Strengthening basic principles of judicial conduct*. This resolution provided a further endorsement of UNODC's work with the Group in furthering the dissemination and implementation of the Bangalore Principles. A broad mandate was provided regarding technical assistance projects for the furtherance of the Bangalore Principles. Specifically, UNODC was mandated to:

- translate the Commentary on the Bangalore Principles of Judicial Conduct into all official languages of the United Nations and to disseminate it to Member States, international and regional judicial forums and appropriate organizations;
- continue its work aimed at developing a *Guide on Strengthening Judicial Integrity and Capacity* and to circulate the *Guide* to Member States for comments;
- convene an Expert Group, involving the Judicial Integrity Group, to finalize the *Guide on Strengthening Judicial Integrity and Capacity*, taking into account comments received from Member States;
- develop and implement technical cooperation projects and activities aimed at supporting Member States, upon their request, in developing rules with respect to the professional and ethical conduct of the members of the judiciary, as well as in their implementation of the Bangalore Principles of Judicial Conduct; and

- explore the development of technical cooperation projects and activities aimed at strengthening the integrity and capacity of other criminal justice institutions, in particular prosecution services and the police, in cooperation with the initiatives of States and relevant international organizations.

15. For the purpose of implementing these mandates, the *UNODC 2012-2015 Strategy* had identified integrity in the criminal justice system among its core result areas. The Thematic Anti-Corruption Programme (2012-2013) and the Thematic Programme on Crime Prevention and Criminal Justice Reform (2012-2015) have among their key objectives the advancement of the “*implementation of the Bangalore Principles of Judicial Conduct*”. These mandates and strategic objectives, therefore, provide a strong basis of current and future programmes, projects and activities of UNODC aimed at strengthening judicial integrity.

16. Dr Stolpe suggested that it should be the aim of the Group to secure, through the German Government or any other Member State, the endorsement by the United Nations of *Measures for the Effective Implementation of the Bangalore Principles* adopted in Lusaka in 2010, as had been done in respect of the Bangalore Principles and the Commentary. One option that might be considered would be an ECOSOC resolution similar to the one adopted in 1989 in respect of Effective Procedures for the Implementation of the Basic Principles on the Independence of the Judiciary. Another option would be by the Conference of States Parties to the United Nations Convention Against Corruption in relation to Article 11 of that treaty.

The Judicial Integrity Group: its future work programme and priorities.

17. This session focused on **the partnership agenda**, collaboration with regional judicial integrity programmes, and regional and national workshops.

18. Justice Sherif observed that it was important to include representatives of the executive and the legislature in their regional programmes and workshops, since they too must understand the importance and significance of judicial integrity. Ms Gabriele Zoeller (BMZ) agreed on the need for such a multi-stakeholder approach.

19. Justice Langa noted that corrupt and inefficient judiciaries were the problem, and that such judiciaries could benefit from the assistance that the Group could provide. But since the Group did not advertise itself, the question was how to interest the heads of such judiciaries in the work of the Group. It was suggested that this issue could be resolved if partner agencies such as UNODC and GIZ were to invite the Group to be involved in their regional programmes and workshops. It was pointed out that since the Lusaka Meeting, GIZ had invited some Members of the Group to actively participate in regional workshops held in Zambia, Georgia, Azerbaijan and Indonesia.

20. Justice Sherif emphasized that there should be wider participation of Members in such events since every Member of the Group was able and willing to co-operate in regional workshops. Justice Chanet stated that the purpose of partnering was to move into areas where need existed. She suggested that at least one Member of the Group should be involved in a regional programme. For example, she was willing to assist in Francophone Africa. She identified Mexico, Latin America and West Africa as regions of the world where need existed and where the Group could make a contribution.

21. Justice Chanet also proposed collaboration with organizations such as the International Commission of Jurists, the European Court of Human Rights, and the Inter-American Court of Human Rights, since many of them still focused principally on judicial independence and impartiality, and not on judicial integrity. Dr Oliver Stolpe stressed the need for the Group to broaden its partnership base to include the World Bank and DfID. Justice Mellinghoff thought that a link-up with the Venice Commission, suggested by an Observer, was impractical because of its broad agenda.

22. Dr Stolpe suggested that a mechanism be devised to invite to meetings of the Group the Chief Justices of those countries in which UNODC or GIZ had judicial reform programmes. The Coordinator added that it might be mutually beneficial if these heads of judiciaries could be co-opted to the Group for a specified period.

SESSION TWO

23. Session Two was chaired by **The Hon. Justice Rudolf Mellinghoff**.

Keynote address by Director General Ms Ursula Muller on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ).

24. In her keynote address, Ms Ursula Muller stated that while she was not a lawyer, but one who had spent much of her working life as a diplomat, she understood the importance of the rule of law. She recognized that the Judicial Integrity Group had been the driving force behind the comprehensive foundation that had been laid for integrity based judicial reform. She pledged to uphold support to the Group, and stated that strengthening judicial integrity will be an integral part of the German Government's development programmes. In that regard, the Bangalore Principles will provide the necessary strategic direction. She referred to the regional workshops that BMZ had supported in Zambia, Georgia and Indonesia, and the recently concluded judicial integrity scan in Georgia, and sought the assistance of the Group in efforts to measure the level of judicial integrity and develop a reliable assessment tool. While the Group comprised outstanding judges from several regions, she suggested that it attract colleagues from regions not yet represented and increase the number of its female members.

***Report by UNODC on the outcome of the Rule of Law side event
in New York in September 2012.***

25. Mr Jason Reichelt reported briefly on the High Level Meeting of the 67th Session of the General Assembly on the Rule of Law at the National and International Levels, held at UN Headquarters in New York on 24 September 2012. He referred to the following paragraphs of the 42-paragraph Declaration adopted at the conclusion of that meeting:

- (13). We are convinced that the independence of the judicial system, together with its impartiality and integrity, is an essential prerequisite for upholding the rule of law and ensuring that there is no discrimination in the administration of justice.
- (14). We emphasize the right of equal access to justice for all, including members of vulnerable groups, and the importance of awareness-raising concerning legal rights, and in this regard we commit to taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid.
- (15). We acknowledge that informal justice mechanisms, when in accordance with international human rights law, play a positive role in dispute resolution, and that everyone, particularly women and those belonging to vulnerable groups, should enjoy full and equal access to these justice mechanisms.

***The Judicial Integrity Group: its future work programme and priorities
(continued).***

26. This session focused on **the Dissemination Strategy** adopted in Lusaka, including the dissemination, translation and publication of the Bangalore Principles, the Commentary and the Implementation Measures. It also focused on the recently established Website.

27. The Coordinator reported that item one of the dissemination strategy adopted in Lusaka had been accomplished with the establishment by GIZ of the Group's website: www.judicialintegritygroup.org. Mr Nicolas Stoetzel, who was responsible for designing and creating the website and for maintaining it thereafter, displayed the website and its contents on the screen. The Group expressed its appreciation of his contribution to the promotion of its work. Mr Stoetzel suggested that the best practice section be expanded, and that more judicial decisions be included. Other suggestions made during the discussion were that organizations of judges and other judicial bodies be informed of the website, and that ministries of justice and superior courts be requested to establish links to it.

28. In regard to the translation of the Bangalore Principles and related documents, it was noted that the website contained translations of the Bangalore Principles in French, Spanish, Arabic, Russian, Chinese, Italian and Azerbaijani languages. It also contained translations of the Commentary in Arabic, Azerbaijani, Portuguese and Russian languages, and a translation of the Implementation Measures in the Russian language. The Coordinator informed the Group that a Judge from Taiwan, Dr Jeong Duen Tsai, had begun translating the Commentary into Chinese after the Taiwanese judiciary had promulgated its own code of judicial conduct based on the Chinese version of the Bangalore Principles.

29. In regard to the distribution of the Group's products, the Coordinator recalled that GIZ had agreed, in principle, to publish the Bangalore Principles, the Commentary, the Implementation Measures and the Principles of Conduct for Court Personnel. He said that while all these documents were on the website, they were not easily accessible to many judges and lawyers in developing countries. A printed version was an easy reference guide. For example, the Judicial Training Academy of Kenya, with assistance from UNODC, had published the three principal documents in a special volume of its Bulletin, and provided copies to every judicial officer in the country. Mr Thomas Dittmann (BMJ) emphasized the importance of making these documents available to the media, while Justice Mellinghoff suggested that a folder be published containing the essence of the Bangalore Principles for distribution to court users and the public. Ms Gabriele Zoeller (BMZ) considered it useful to place such folder or leaflets on the website as well. Justice Uwais referred to the positive impact that leaflets relating to court procedures had had in Nigeria.

30. In regard to promoting awareness and application of the Bangalore Principles, Justice Chanet noted that Bar Associations and even some members in institutions such as the UN Human Rights Committee were still unaware of the Bangalore Principles and related documents. The Coordinator conceded that there had been no systematic effort so far to publicise them, although the Bangalore Principles had been annexed to ECOSOC resolutions that probably reached every government but not the judiciaries. Apart from Justice Chanet's use of the Bangalore Principles in the decision-making processes of the UN Human Rights Committee, there had been very few references to them in regular courts. Lord Mance mentioned that in a recent appeal from the Cayman Islands that came before the Judicial Committee of the Privy Council, reference was made to the Bangalore Principles.

31. The Coordinator submitted that the task of raising awareness and securing the implementation of the Bangalore Principles could only be accomplished with the support, or through initiatives, of partner agencies. These would include integrity-based judicial reform projects, either on a national or regional basis. The Members of the Group were always available to assist or participate in such projects. Dr Oliver Stolpe (UNODC) noted that UNODC had designed and implemented a range of technical assistance projects aimed at strengthening judicial integrity over the past ten years, in Indonesia, Kenya, and in Nigeria.

32. Describing these projects in some detail, Dr Stolpe stated that they adopted a systematic, evidence based multi-stakeholder and impact oriented approach to justice sector reform. In the main, reforms were based on an initial comprehensive assessment of justice sector integrity and capacity. The survey tools were reviewed and adjusted to the specificities of the respective justice sector through multi-stakeholder consultations, and then administered to judges, court staff, prosecutors and police as well as lawyers, court users and prisoners awaiting trial. The emerging data was analysed by a broad based group of stakeholders, facilitating shared understanding of gaps and reform priorities. Based on this shared problem analysis, action plans for strengthening justice sector integrity and capacity were elaborated by the multi-stakeholder meeting. These action plans were then implemented by the justice sector institutions, with the support of UNODC and other international development partners, under the overall coordination and guidance of a multi-agency working group, including the judiciary, the Attorney General's office, legal aid, prison authority, police, the Bar as well as specialized NGOs, and where applicable traditional and community leaders, provided they engaged systematically in dispute resolution and informal justice delivery.

33. Specific measures under past projects which had been implemented with the technical assistance of UNODC included, for example, the development of ADR standards for traditional rulers; training programmes on ADR for judicial officers, NGOs, and community leaders; the design and deployment of judicial training facilities; the development of specific training programmes for various justice sector stakeholders on subjects such as case and court management, professional ethics, corruption case work, the establishment of complaints committees, the review and/or development of codes of conduct, and the design of basic principles for the development of a system of performance evaluation for the judiciary.

SESSION THREE

34. Session Three was chaired by **The Hon. Justice Christine Chanut**.

Brief introduction of index assessments, including GIZ experience with the Georgia Integrity Scan.

35. Ms Gabriele Zoeller (BMZ) suggested that it was now time for the Group to move from principles to indices; from awareness-raising to actionable governance indicators. She referred to the success of Transparency International's annual Corruption Perception Index (CPI) in motivating governments to improve their performance. She said that the Bangalore Principles provided an excellent foundation for actionable indicators, and could form a comprehensive basis for justice reform. She mentioned that her own department, BMZ, used a "catalogue of criteria" to inform support to partner countries, and that support was thereafter tailored to country realities.

36. Mr Nicolas Stoetzel (GIZ) described how his organization had used the Bangalore Principles to inform reform in Georgia. He tabled the Draft Report of the Integrity Scan conducted in Georgia in July-September 2012. That Integrity Scan was the first of its kind, and had been conducted to obtain an overview of the legal and institutional framework for judicial integrity in the Georgian judiciary based on the Implementation Measures prepared by the Group. It also sought to review the Georgian judiciary's compliance with the six judicial values articulated in the Bangalore Principles. The results of the scan were based on the views of stakeholders from the Georgian judiciary and civil society. The primary aim of that scan was to identify major gaps and to provide entry points for integrity based reform efforts.

***The Judicial Integrity Group: its future work programme and priorities
(continued).***

37. The focus of this session was on **the development of judicial integrity indicators:** objectives, expected outcomes, methodology, expertise and resources required, pre-existing tools and surveys and the potential for duplication, and the role of the Judicial Integrity Group and its partners.

38. The Coordinator reiterated that the principal challenge that now faced the Group was to secure the effective implementation of the Bangalore Principles through a credible mechanism that would monitor such implementation. He agreed with Ms Zoeller that the CPI, despite its many flaws, had spurred several governments to initiate programmes that would improve their position in that index. He was not advocating the replication of that corruption perception index in the field of judicial integrity, but a mechanism that was capable of monitoring progress in the implementation of the Bangalore Principles needed to be devised. Apart from the CPI, there were other models that could be examined, such as, for example, the periodic review mechanism adopted by the UN Human Rights Council.

39. Mr Jason Reichelt (UNODC) referred to the self-assessment mechanism provided for in respect of the United Nations Convention Against Corruption (UNCAC), and suggested that internal self-assessment, validated by the Group, might be an effective mechanism. Dr Oliver Stolpe (UNODC) said that, based on the initial work of the Judicial Integrity Group, UNODC had developed a range of survey tools for the purpose of assessing access to justice, timeliness and quality of justice delivery, integrity, accountability and transparency of the courts, and coordination across the justice system. These survey tools had been used in the context of technical assistance projects aimed at strengthening judicial integrity and capacity in Indonesia, Montenegro, Nigeria and South Africa. The purpose of these assessments was to (i) identify regulatory, institutional as well as capacity gaps in the various areas of justice sector covered by the assessments, (ii) forge a shared understanding among stakeholders around priority areas of reform, (iii) facilitate the development of specific plans of action for strengthening integrity and capacity of the justice sector, and (iv) to provide a baseline and

benchmark for monitoring progress and impact of reform measures through the conduct of subsequent assessments. Such follow up assessments were conducted in Indonesia and Nigeria.

40. As part of a Criminal Justice Assessment Toolkit, UNODC had also developed a specific tool aimed at guiding qualitative assessments of the judiciary, with a focus on integrity, independence, and impartiality, and their impact on access to justice. Dr Stolpe also tabled the *Resource Guide on Strengthening Judicial Integrity and Capacity*, which had been produced following two expert group meetings in Vienna and Bologna and published by UNODC. The Guide addressed the issues of (i) recruitment, professional evaluation and training of judges; (ii) function and management of court personnel; (iii) case and court management; (iv) access to justice and legal services; (v) court transparency; (vi) assessment and evaluation of courts and court performance; and (vii) codes of conduct and disciplinary mechanisms.

41. Justice Sherif cautioned that developing countries were deeply suspicious of monitoring by outsiders, especially from the West. Justice Langa argued that the Group should not be too cautious. He said the Group should look for ways and means of influencing situations where there was no compliance. A monitoring mechanism that was fair and reasonable, and which did not create the impression that it was being imposed by one group of countries on another should be developed. Justice Samatta observed that there was a system whereby countries subjected themselves to assessment on good governance.

42. Dr Stolpe observed that there was already a World Justice Project carried out by an NGO, and a Rule of Law Project of UN-DPKO. These and similar assessments should be reviewed with a view to determining the extent to which they applied indicators relevant to the Bangalore Principles, their geographical coverage, and the soundness of the methodology applied. He also noted that shortly states parties to UNCAC will be called upon to undertake a self-assessment of their compliance with Article 11 which required them to take measures to strengthen “integrity” among members of the judiciary. He said that the term “integrity” was not defined in the Convention. (The Coordinator observed that the *Technical Guide to UNCAC* defined that expression by reference to the six judicial values articulated in the Bangalore Principles.) He suggested that another option would be for the Group to monitor compliance only upon the request of a national judiciary.

43. The Coordinator submitted that the mechanism that would monitor compliance by national judiciaries should be created in collaboration with national judiciaries so that they “owned” the mechanism and voluntarily agreed to its application in their jurisdictions. He referred to the experience of the Group in conducting surveys in respect of corruption in the judicial system. The Chief Justices of Uganda, Sri Lanka and Nigeria participated in developing the survey instruments together with other Members of the Group before agreeing to the surveys being conducted by independent bodies in their respective jurisdictions. Similarly, the Bangalore Principles were not prepared solely by the Group, but in consultation with heads of judiciaries and senior justices from over 75 countries and after

discussion at several gatherings of judges, spread out over a period of about twenty months. That was what gave it legitimacy, and also created a sense of shared ownership. He, therefore, suggested that, in the first instance, about 20 Chief Justices – four from each of five regions: Asia, Africa, Eastern and Central Europe, Latin America, and the Caribbean and Pacific – be invited to a workshop at which they would be invited to undertake the implementation of the Bangalore Principles (if necessary, with assistance from partner agencies) and to devise a mechanism that would measure the degree of success of such implementation. The Group may develop the mechanism and recommend it for their consideration.

44. Ms Stefanie Teggemann (GIZ) offered to commission a desk study of existing assessment tools in order to commence the process. Ms Gabriele Zoeller (BMZ) offered to engage a researcher to undertake preliminary work on a monitoring mechanism. She also stated that BMZ will be able to convene a meeting of a few members of the Group and a few Chief Justices from selected regions.

SESSION FOUR

45. Session Four was chaired by **The Hon. Justice Dr. Adel Omar Sherif**.

46. At the commencement of the session, Mr Justice Mellinghoff suggested that the Coordinator read out two emails that had been received from Mr Justice Kirby and Mr Justice Odoki. That was duly done. In them, the two Members had stated that they would accept the decisions made in their absence by the participating Members of the Group.

The Judicial Integrity Group: its future work programme and priorities (continued).

47. This session focused on **the development of an ethics curriculum and manual**, and the development of tools and training materials on judicial integrity. The issues to be addressed were the intended audience; whether general or country/region specific; the format of the manual and use of modern training tools; the dissemination of materials to relevant legal and judicial training institutions; and their integration into the curriculum of such institutions.

48. Dr Oliver Stolpe (UNODC) informed the Group that, as part of a technical cooperation project with the Nigerian Judiciary, UNODC had developed a training programme on judicial ethics, including the preparation of a training manual, and a series of workshops for the training of trainers. “The Judicial Ethics Training Manual for the Nigerian Judiciary” had since been published by UNODC and was available on its website.

49. The Coordinator, who was one of the authors of the UNODC Ethics Training Manual and had conducted some of the training of trainers sessions for Nigerian judges, explained the format of the manual. He said it had been prepared before the Commentary on the Bangalore Principles had been adopted, and contained a training curriculum, explanatory notes on the six judicial values articulated in the Bangalore Principles, the relevant international standards, a small selection of edited advisory opinions drawn from different jurisdictions, and case studies relevant to the Nigerian context. The training sessions were interactive in nature and provided a forum for judges to consider a variety of ethical problems and to discuss appropriate responses. It was his view that the Commentary could form the basis for ethics training, supplemented with country-specific case studies. He added that a large number of advisory opinions on ethical issues provided by ethics review commissions, especially in the United States of America, appropriately edited, might also be useful material for ethics training purposes.

50. Dr Stolpe suggested that a data base of ethics cases decided in different jurisdictions be developed, perhaps by the proposed JIG Secretariat, with a view to identifying examples of universally relevant ethical challenges faced by judges across legal systems and regions.

51. Justice Samatta proposed that the Coordinator develop a general manual capable of being adapted for use in different jurisdictions, and containing ethics issues of general application. Information for the preparation of this manual should be sought from members of the Group as well as from heads of judiciaries. He expressed the hope that GIZ would support this initiative.

SESSION FIVE

52. Session Five was chaired by **The Rt. Hon. Lord Mance**.

The Judicial Integrity Group: its future work programme and priorities (continued).

53. This session focused on **the legal status of the Judicial Integrity Group**: different options, and the future funding of its activities. On the proposal of the Chair, it was agreed to focus on **the future structure of the Group** (scheduled to be discussed in the next session) prior to the discussion on the legal status. On the subject of the structure of the Group, the Coordinator had prior to the meeting addressed a memo to the Members. In response to that memo, several Members had shared their views, and there did not appear to be a consensus on this matter.

54. Justice Mellinghoff stated that the Group ought not to be a body of “elder statesmen”, but of serving judges. The Coordinator reminded the Group that Justice Kirby had made the

same point very strenuously in several emails exchanged with members of the Group prior to the meeting, but that there was no agreement on that issue among them. He said that the membership of the Group should depend on the role that the Group expected to play in the future. The current Members of the Group were held in high respect in their respective continents, if not elsewhere too, and it was their presence that had provided the Group with credibility on a global basis. The fact that some of them might not sit in court on a daily basis was unlikely to detract in any way from the respect they had earned through their professional careers. Since its inception, 13 new Members had joined the Group and 11 Members, including 5 who might be termed “Founding Members” had retired.

55. Justice Sherif stated that the Founder Members were pioneers who should have membership for life unless they wished otherwise. When asked by the Chair whether that meant that the understanding that not more than one-third (i.e. five) of the Members shall be judges who have retired from judicial office was no longer operative, he replied in the affirmative.

56. Justice Mellinghoff suggested that instead of inviting a potential new member to a meeting as a “special guest”, he or she should be invited directly to participate in the work of the Group. Justice Sherif preferred the existing practice that had been followed since the inception which was without commitment, and therefore enabled the invitee to decide whether to be a Member, and the Group to decide whether the invitee would be a suitable Member.

57. After discussion, it was agreed that efforts should be made to secure the participation in the Group of at least four or five respected senior justices from South America, Canada (preferably French-speaking), Asia, Pacific and Eastern Europe. Several names were suggested, and these were noted. There should be an equitable gender balance as well as a good mixture of developed and developing jurisdictions represented. Justice Mellinghoff reiterated that these new Justices should be involved in the work of the Group and named on the website.

58. On the legal status of the Group, a memorandum prepared by GIZ was tabled. The proposal was to establish the Group, under United Kingdom law, either as a charitable company limited by guarantee, or as a Charitable Incorporated Organization. The principal advantage of this new status would be the ability to receive funds for its activities. The members had been previously consulted on this matter, and there was no agreement. Support was divided between remaining an independent group of judges without a legal personality, and acquiring a more formal structure than at present. The Chair ruled that this matter could be deferred.

59. Dr Oliver Stolpe (UNODC) stated that the Group should have the capacity to implement its decisions. Hence, the need for the establishment of a properly resourced secretariat. Ms Gabriele Zoeller (BMZ) stated that if the grant from Siemens was received

next year, BMZ would be able to support the work of the Group on a more extensive basis. She also offered to support the establishment of a secretariat at GIZ for the Group.

SESSION SIX

60. Session Six was chaired by **The Hon. Mr Justice M.L. Uwais.**

61. This was the concluding session of the meeting. Since the subject assigned to this session had been discussed in the previous session, the focus was only on **any other business.**

62. The Coordinator, with permission from Justice Sherif, referred to the correspondence he had previously had with Members of the Group in regard to his Court. The Chair invited Justice Sherif to make a statement if he wished. In his statement, Justice Sherif explained the origin of the Supreme Constitutional Court of Egypt, its well-established jurisprudential tradition, and the high respect with which it was held by the people of his country. However, according to reports, the body drafting a new constitution for his country, which was not fully representative of political thought in the country, was seeking either the abolition of the Court or the diminution of its power of judicial review. Nevertheless, he remained confident that ultimately the fundamental constitutional principles, including judicial independence and the separation of powers, would prevail.

63. The Coordinator informed the Group that he had, shortly before the meeting commenced, received an email from Mr Fredrik Galtung, Chief Executive of “Integrity Action” (formerly TIRI), inquiring whether it might be possible to organize a special meeting of the Judicial Integrity Group and the Electoral Integrity Group (EIG) for an in-depth discussion of the state of electoral integrity and how electoral authorities and judicial authorities could more effectively address problems that were of mutual interest. It would be a review of the “Accra Principles for Electoral Justice” to which both Justice Kirby and Justice Odoki had contributed as members of the EIG. Justice Mellinghoff and Lord Mance were both of the view that the Group should not venture into the area of elections, but should continue to focus on judicial integrity. The former mentioned that he had already informed Justice Kirby, who had invited him to join the EIG, that he did not have the time to do so.

64. Lord Mance proposed the establishment of an Executive Committee of the Group, consisting of about three Members, to liaise with the secretariat that was proposed to be established at GIZ. He said that when decisions were required to be made, the secretariat would contact the Executive Committee and seek its advice. Therefore, the members of the Executive Committee should be easily accessible to the secretariat at GIZ. If a meeting with the Group was required for any purpose, it would be more convenient and practical to convene the Executive Committee rather than a meeting of the whole Group. The secretariat at GIZ would, of course, keep the Members and the Coordinator informed of all such matters.

He cited the examples of the Bureau of the Consultative Council of European Judges (CCJE) which met more regularly than the CCEJ itself, and the International Law Association (ILA) whose executive committee he currently chaired as president. This proposal was supported by Justice Mellinghoff who submitted that a small bureau of the Group could effectively act on behalf of the Group whenever the secretariat at GIZ required urgent instructions or assistance. Dr Oliver Stolpe (UNODC) also saw some virtue in a bureau.

65. The Coordinator pointed out that this proposal was not the subject of a memorandum, nor had it been placed on the agenda at the request of any Member or other person. It was quite inappropriate to raise a matter of such far-reaching consequences under “any other business” at the concluding stage of the meeting. He said that the proposal, if accepted, would effectively exclude seven Members of the Group from its ordinary decision-making processes. The examples of the CCJE (a 47-member advisory body established by the Council of Europe) and the ILA (whose members exceeded several thousand across the globe) were not relevant since the Group was not similar to either. The Group was a small knowledge and experience resource body. It was an entirely voluntary group that came together due to their belief in, and commitment to, the vital importance of preserving judiciaries inviolate from corruption. The Group was not one that could be constrained and shackled into a rigid bureaucratic framework. That was completely counter to the ethos of the Group. He added that the Group had never been called upon to take “administrative” decisions other than on matters such as the nature of the projects to be undertaken, the dates and venues of meetings, and on potential new members. Every Member of the Group was consulted by the Coordinator on such matters by email and responses immediately obtained. He thought this proposal was based on a misunderstanding of the origin, functions and ethos of the Group.

66. Justice Samatta inquired what the role of the Coordinator would be in the event of such an Executive Committee being established. A representative of GIZ stated that the secretariat would keep the Coordinator and other Members informed of all decisions that were taken in consultation with the Executive Committee.

67. Justice Sherif stated that this matter should not have been brought up in this manner under “any other business” at the end of the meeting. The Group had been able to achieve a great deal during the past twelve years by its Members acting together, after discussing with each other, freely and in confidence. Correspondence between Members was not copied to anyone else. Consultation had never been a problem, and if there had been any necessity for an urgent decision, he was sure the Coordinator would have, in consultation with the Chairperson, dealt with that. This proposal had serious consequences for the future of the Group, and he was not in a position to take a decision at that stage. The proposal was accordingly not proceeded with.

68. Concluding the meeting, the Chair thanked the German Government, and especially BMZ and GIZ for facilitating this very productive meeting, and the excellent arrangements made for it; Ms. Ursula Muller, the Director-General of the German Federal Ministry for

Economic Co-operation and Development and Mr Thomas Dittmann, Director-General of the German Federal Ministry of Justice, for their keynote addresses; and Mr Justice Mellinghoff for having chosen a most conducive venue. He thanked the Members of the Group, and representatives of UNODC, BMZ and GIZ for their participation and the contributions they had made. After he had adjourned the meeting, Mr Justice Langa moved that it be resumed to enable the appreciation of the Group to the Coordinator to be recorded, and that was duly done.

CONCLUSIONS AND RECOMMENDATIONS

- 1. The Group agreed that it should aim to secure, through the German Government or any other Member State, the endorsement by the United Nations of *Measures for the Effective Implementation of the Bangalore Principles of Judicial Conduct* adopted in Lusaka in 2010.**
- 2. The Group agreed that it was important to include representatives of the Executive and the Legislature in regional programmes and workshops.**
- 3. The Group agreed that at least one Member of the Group should be included in a regional programme or workshop.**
- 4. The Group agreed that collaboration with organizations such as the International Commission of Jurists, the European Court of Human Rights and the Inter-American Court of Human Rights would be mutually beneficial. Similarly, the Group agreed that the partnership base should be broadened to include institutions such as the World Bank and the Department for International Development of the United Kingdom.**
- 5. The Group agreed that the best practice section on the website should be expanded, and that more judicial decisions should be included.**
- 6. The Group agreed that a folder containing the essence of the Bangalore Principles be prepared and published for distribution to court users, the media and the public, and also placed on the website.**
- 7. The Group agreed that a mechanism that would monitor compliance by national judiciaries with the provisions of the Bangalore Principles should be developed. Such mechanism should be fair and reasonable and should not create the impression that it was being imposed by one group of countries on another, The Group also agreed that such mechanism should be developed in collaboration with national judiciaries so that they “owned” the mechanism and would voluntarily agree to its application in their jurisdictions.**

8. The Group accepted with appreciation the offer by GIZ to commission a desk study of existing assessment tools in order to commence the process of developing a monitoring mechanism. The Group also noted with appreciation the offer by BMZ to support a meeting of a few Members of the Group and a few Chief Justices from selected regions to continue the process of developing a monitoring mechanism.

9. The Group recommended that a data base of ethics cases decided in different jurisdictions be developed with a view to identifying examples of universally relevant ethical challenges faced by judges across legal systems and regions. The Group also requested the Coordinator to develop a general ethics curriculum and manual capable of being adapted for use by different jurisdictions, and containing ethics issues of general application.

10. The Group agreed that efforts should be made to secure the participation in the Group of at least four or five respected senior Justices from South America, Canada, Eastern Europe, and Asia-Pacific, and stressed the importance of an equitable gender balance as well as a good mixture of representation from developed and developing jurisdictions.

11. The Group accepted with gratitude the offer of BMZ to support the work of the Group on a more extensive basis, including support for the establishment of a secretariat for the Group based at GIZ.

Annextures:

- A. Agenda
- B. List of Participants
- C. Address of Ms Ursula Muller, Director-General of the German Federal Ministry for Economic Cooperation and Development (BMZ).
- D. Address of Mr Thomas Dittmann, Director-General of the German Federal Ministry of Justice (BMJ).

THE JUDICIAL INTEGRITY GROUP**SEVENTH MEETING**

Riessersee Hotel Ressort
82467 Garmisch-Partenkirchen
Munich, Germany
October 10 and 11, 2012

*Hosted by the President of the Federal Supreme Court of Finance, Germany
and*

*Facilitated by Deutsche Gesellschaft fuer Internationale Zusammenarbeit (GIZ) on behalf of the
German Federal Ministry for Economic Co-operation and Development (BMZ), in collaboration with
the United Nations Office on Drugs and Crime, Vienna (UNODC).*

AGENDA

TUESDAY 9 OCTOBER

Arrival of Participants
19.30 – 22.00 : Informal get-together at Hotel Riessersee

WEDNESDAY 10 OCTOBER

09.00 – 10.00 : **INAUGURAL SESSION**
Chair: The Hon. Pius Langa

- Welcome Address by the Hon. Justice Rudolf Mellinghoff, President of the Federal Supreme Court of Finance, Germany.
- Welcome Address by the Mayor of Garmisch-Partenkirchen
- Introductory Statement by the Coordinator, Judicial Integrity Group.
- Adoption of the Agenda

10.00 – 10.30 : Tea/Coffee break and formal photograph

10.30 – 12.30 : **SESSION ONE**
Chair: The Hon. B. A. Samatta

- Presentation by GIZ on recent and planned activities relating to the Bangalore Principles and the strengthening of judicial integrity.
- Presentation by UNODC on “Strengthening of judicial integrity: past achievements and perspectives for the future”.
- Discussion: The Judicial Integrity Group – its future work programme and priorities
 - Partnership Agenda
 - Which key partners?
 - For which purposes?
 - Collaboration with regional judicial integrity programmes
 - Regional and national workshops

12.30 – 14.00 : Lunch

14.00 – 16.00 : **SESSION TWO**
Chair: The Hon. Rudolf Mellinghoff

- Keynote address by Director General Ms. Ursula Müller on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ).
- Report by UNODC on the outcome of the Rule of Law side event in New York in September 2012.
- Discussion: The Judicial Integrity Group – its future work programme and priorities (continued).
 - The Dissemination Strategy adopted in Lusaka
 - Dissemination of the Bangalore Principles, the Commentary and Implementation Measures
 - Translation and publication of the Bangalore Principles, the Commentary and Implementation Measures
 - The Website
 - What other materials should be included?

16.00 – 16.30 : Tea/Coffee break

16.30 – 18.00 : **SESSION THREE**
Chair: The Hon. Christine Chanet

- Brief introduction on index assessments, including GIZ experience with the Georgia Integrity Scan.
- Discussion: The Judicial Integrity Group - its future work programme and priorities (continued).
 - Development of judicial integrity indicators
 - Objectives
 - Expected outcomes (reports – country/regional/global?)
 - Methodology
 - Expertise and resources required
 - Pre-existing tools and surveys – potential for duplication
 - Role of the Judicial Integrity Group and partners

EVENING: 19.00

Dinner at Hotel Riessersee with Folklore.

- Dinner Speech by Director General Mr. Thomas Dittmann on behalf of the German Federal Ministry of Justice (BMJ).

THURSDAY 11 OCTOBER

09.00 – 10.30 : **SESSION FOUR**
Chair: The Hon. Dr Adel Omar Sherif

- Discussion: The Judicial Integrity Group - its future work programme and priorities (continued).
 - Development of an ethics curriculum and manual
 - Development of tools and training materials on judicial integrity
 - Intended audience
 - general or country/region specific (to cater for the diversity of ethical challenges)
 - Format of the manual and use of modern training tools
 - How to disseminate the materials to relevant legal and judicial training institutions
 - How to integrate it into the curriculum of such institutions

10.30 – 11.00 : Tea/Coffee break

11.00 – 12.30 : **SESSION FIVE**
 Chair: The Rt. Hon. Lord Mance

- Discussion: The Judicial Integrity Group - its future work programme and priorities (continued).
 - The legal status of the Judicial Integrity Group - options
 - Future funding of its activities

12.30 – 13.30 : Lunch

13.30 – 15.00 : **SESSION SIX**
 Chair: The Hon. M. L. Uwais

- Discussion: The Judicial Integrity Group - its future work programme and priorities (continued).
 - The future structure and membership of the Judicial Integrity Group
 - Any other business
 - Conclusion

EVENING: 15.30

15.30 – 16.45 : Transfer to Munich.
17.00 – 17.45 : Reception at the Bavarian Staatskanzlei in Munich.
17.45 - 19.00 : Cultural Programme in Munich.
19.00 – 21.00 : Dinner in Munich (Spatenhaus an der Oper).
21.00 – 22.15 : Return to Garmisch-Partenkirchen.

FRIDAY 12 OCTOBER

Optional trip to Oberammergau
Departure of participants.

THE JUDICIAL INTEGRITY GROUP**SEVENTH MEETING**

Riessersee Hotel Ressort
82467 Garmisch-Partenkirchen
Munich, Germany
October 10 and 11, 2012

List of Participants

*Members***The Hon. Muhammad Lawal Uwais**

Chief Justice of Nigeria and Chairman, National Judicial Council (1995-2006).

The Hon. Pius Nkonzo Langa

Chief Justice of South Africa, President of the Constitutional Court, and Chairperson of the Judicial Service Commission (2005-2009); Justice of the Court of Appeal of Namibia (2010-)

The Hon. Barnabas Albert Samatta

Chief Justice of Tanzania and Chairman of the Judicial Service Commission (2000-2007)

The Hon. Dr. Adel Omar Sherif

Deputy Chief Justice of the Supreme Constitutional Court of Egypt (2002-)

The Rt. Hon. The Lord Mance

Judge of the Supreme Court of the United Kingdom (2009-)

The Hon. Christine Chanet

Judge of the Court of Cassation of France (1996-)

The Hon. Prof. Dr. Rudolf Mellinghoff

President of the Federal Supreme Court of Finance of Germany (2011-)

Co-ordinator

Dr Nihal Jayawickrama

Representatives of Governments and International Organizations

Mr Thomas Dittmann

Director-General of the German Federal Ministry of Justice (BMJ)

Ms Ursula Muller

Director-General of the German Federal Ministry for Economic Cooperation and Development
(BMZ)

Ms Gabriele Zoeller

BMZ

Ms Stefanie Teggermann

GIZ

Mr Nicolas Stoetzel

GIZ

Mr Philipp Jahn

GIZ

Dr Oliver Stolpe

UNODC

Mr Jason Reichelt

UNODC

In Attendance

Mr Bernard Mpopo

Resident Magistrate

Personal Assistant to Justice Samatta

Keynote Address**Ms Ursula Muller****Director-General of the German Federal Ministry for Economic Cooperation and Development
(BMZ)****10. October 2012****Hotel Riessersee, Garmisch Partenkirchen**

Honourable Justices,
Ladies and Gentlemen,

It is a great pleasure and honour for me to welcome you here in Garmisch-Partenkirchen on behalf of the German Government. Our special thanks go to the honourable Justice Mellinghoff, our host today and Dr. Nihal Jayawickrama, the Coordinator of the Judicial Integrity Group. Most of you have come a long way here to Garmisch-Partenkirchen and we really appreciate your participation.

Anticorruption, integrity and the rule of law are essential building blocks of good governance in any country around the world. Without anticorruption there is no prospering economy. Without judicial integrity, a court system cannot function properly; and without the rule of law people will not trust the state and its institutions.

The Judicial Integrity Group has been the driving force behind the development of the most widely recognized standard for judicial integrity worldwide, the Bangalore Principles. Together with the subsequent documents, in particular the Commentary on the Bangalore Principles and the Measures for the Effective Implementation of the Bangalore Principles, the Group has laid a comprehensive foundation for integrity based judicial reforms.

That is why the German Government, in cooperation with UNODC, has been supporting the Judicial Integrity Group as well as the dissemination of the Bangalore Principles for the past seven years. We have organized regional conferences on judicial integrity in Zambia and Georgia and financed a regional conference organized by our partners from UNODC in Indonesia at the beginning of this year. As you will hear later this afternoon, we started work on improving the measurability of judicial

integrity, using the Bangalore Principles as a basis by developing a so-called Judicial Integrity Scan. We are ready to go further.

Our new strategy on anticorruption and integrity for German development policy, which the State Secretary launched in June this year, calls on us to do more to further anticorruption and integrity reforms in our cooperation countries. The promotion of judicial integrity is an important element of our support. The Bangalore Principles provide us with the necessary strategic direction. And the Judicial Integrity Group with the leadership we need to move forward. We therefore intend to uphold our support to the Group and to intensify our efforts to make judicial integrity an integral part of the judicial reform programs in our partner countries.

We intend to uphold this support and to intensify our efforts to make judicial integrity an integral part of the judicial reform programs in our partner countries. We are especially delighted to support the meeting today here in Bavaria in the South of Germany, following the invitation of Justice Mellinghoff.

We understand that this meeting is of high importance to the Judicial Integrity Group, its future mission, role and composition. The Group is at a juncture: the foundations are laid - you have developed a comprehensive framework that provides excellent guidance to national judiciaries and governments in their efforts to raise the performance of the judiciary in general and the level of integrity in particular. The question now is where to turn next to foster the implementation of the Bangalore Principles and the promotion of judicial integrity worldwide? This is certainly a noble question to wrestle with but not an easy one. We very much look forward to learning more about your plans over the course of these two days. My commitment is that we will leave this meeting tomorrow with a clear idea of what the valuable contribution of the Judicial Integrity Group will look like in the future. And what the steps are that need to be taken.

Allow me to share a few of our modest thoughts and wishes for this process which I have gathered from my colleagues' deliberations with you.

While the Judicial Integrity Group already comprises some of the most outstanding judges we hope that you will find a way to attract further colleagues from the judiciary to join your efforts and the Group. We encourage you to also invite judges from regions that are currently not represented in the Group and increase the number of female members to enhance the acceptance of the Bangalore Principles even more.

It is our sincere wish that the Judicial Integrity Group will find a structure that allows you to continue your important work for a long time to come.

We furthermore hope that you will support our efforts to measure and to raise the level of judicial integrity as part of the judicial reform programmes in our partner countries. It would be highly appreciated if we could draw on your expertise to advise partner governments around the world on improving the integrity of their judiciaries.

We believe that the thorough analysis of integrity related circumstances is a necessary prerequisite to effective legal reform.

We hope that this meeting will also be the starting point for the development of a reliable assessment tool that will finally result in judicial integrity indicators which also allow the comparison between different countries.

As we all know there are plenty of issues on the table – I look forward to hearing your thoughts and plans and to engaging with you on these as we go through the programme.

Please let me once again express my special thanks to the honourable Justice Mellinghoff for the hosting of this important meeting and Dr. Jayawickrama for organizing this event.

Thank you very much.

DINNER SPEECH**Mr Thomas Dittmann****Director-General of the German Federal Ministry of Justice (BMJ)****10 October 2012****Hotel Riessersee, Garmisch Partenkirchen**

Mr. Mellinghoff, Ladies and Gentlemen,

It is a great honour and pleasure to be able to attend this dinner. I have known and highly valued the work of the Judicial Integrity Group for a long time, and am pleased to be able to meet you in person today and talk about what you do for the Group. Before I go any further, however, I would also like to say that – as a representative of the Federal Ministry of Justice – my first and foremost aim in being here is to pass on the Ministry's appreciation and gratitude for the work of the Judicial Integrity Group.

The judicial system plays a very central role in fighting corruption. It is the judicial system to which citizens turn when they want to defend themselves against corruption – whether they are reporting corrupt officials or taking action against a decision by a corrupt official. It is the judicial system which, in a State governed by the rule of law, oversees the government and administration. And it can only do these functions if it is upright and free from corruption itself. Nothing brings so much frustration and disillusionment to those who stand up to corruption than the realisation that the institutions which are often their last hope – from which they quite rightly expect protection against corruption – are corrupt themselves. Where the beams of justice are rotten and unsound, they can no longer build a bulwark against corruption.

With the foundation of the Judicial Integrity Group in 2000, the international judicial community demonstrated that it is very much aware of its special role and responsibility and wants to do this role and responsibility justice. People's expectations of the justice system are high – and, I believe, quite rightly so. The justice system is independent and its decisions are final. This gives judges the power to preside over the legality of State action, to condemn corruption and to guarantee integrity and transparency. But this is also what entails such huge responsibility, above all the responsibility to ensure that its own integrity cannot be called into question. First and foremost, this requires high standards of professional ethics, but also includes a whole range of institutional provisions and

personal modes of conduct to which adherence must be assured. With its Bangalore Principles, the Judicial Integrity Group has achieved some outstanding, pioneering work in this field. The Bangalore Principles have created a common understanding of the founding principles of the judicial system and, in doing so, have earned global recognition and set a standard to which all judges and courts, if these take their work and their functions seriously, have to adhere.

Independence, impartiality, efficiency, transparency, competence and rigour – these words bring me to my next point: what makes a functioning judiciary and what do citizens expect of judges and courts? The Bangalore Principles spell this out in specific terms. Standards and stipulations have thus been set, and it is important and proper that the Judicial Integrity Group is now focusing more intensively on the implementation of their principles in the field. It will come as no surprise to you when I say that this will be far from easy. Two factors are determinative of whether standards such as the Bangalore Principles will be respected in practice: First, the legal framework must be right – that is: the law must match the Bangalore Principles. Second, the legal provisions must also be put into practice and applied – action must be taken against all violations. This second factor is a lot more difficult to get to grips with. Ultimately, the challenge is to determine whether the Bangalore Principles are reality in a particular country or whether they exist only on paper. It is rather difficult to measure the actual degree to which they have been implemented. In your work, however, you can utilise the experience gathered by other organisations. These include the OECD, which for many years has been very meticulously evaluating whether its Member States have applied the OECD Convention on Combating Bribery of Foreign Public Officials in practice and whether they are taking a hard line on the bribery of foreign officials as required. The United Nations, too, have established a mechanism for their Convention against Corruption which assesses implementation and provides assistance where necessary. Finally, I should also mention the Group of States against Corruption (GRECO), which is part of the Council of Europe, brings together over forty Member States and this year has initiated its 4th evaluation round. One of the two topics of the latest evaluation round is corruption prevention in the judicial system, and GRECO has identified the Bangalore Principles as key criteria for assessment in this field.

In fighting corruption, Germany has always advocated an approach by which monitoring mechanisms not only scrutinise the legal and legislative framework, but also evaluate the practice of application and implementation. We believe that closing the implementation gap should be our primary aim, now that international rules and standards are in place.

Even where monitoring mechanisms quite rightly stipulate that a State is not to evaluate itself (and should not really praise itself either), I think it is safe for me to say that in the fight against corruption and especially in the field of justice, Germany can show a rather a good record. We have strict

criminal provisions which prohibit almost without exception the acceptance of any sort of benefits by judicial staff. Close attention is paid as well to ensuring that the judicial impartiality and lack of bias are at no point called into question. Under circumstances that justify *doubts* as to the impartiality or independence of a judge, the judge can be rejected. Doubts are sufficient – there does not have to be proof of a conflict of interests or that the judge is actually biased. Our court proceedings are usually open and are also often followed by the media. A further assessment takes place in the appeal instance.

The fact that there are pretty much no occurrences of corruption in Germany's judicial system is also down to our judges' consistently high level of personal integrity. I think it is safe to say that the strict rules which apply to judges match their professional ethos and the standards they set themselves. The rules are not perceived as a cap on judicial freedom, but are respected by judges out of personal conviction.

After so much self-praise I'd now like to turn my attention briefly to another matter, in which Germany is unfortunately the subject of some criticism: Germany's outstanding ratification of the UN Convention against Corruption. Germany has signed the Convention, but is still one of the few States not to have ratified it. The Federal Government continues to work to make sure Germany will be able to ratify the Convention. According to our legal system, however, ratification is only possible if Germany has implemented all the Convention's binding provisions in its domestic law. This is mostly the case already. However, a certain amount of implementation is required with regard to criminal liability vis-à-vis the bribery of parliamentarians. The applicable law already stipulates that the latter is a punishable offence. I would also like to emphasise that German rules on parliamentary immunity only provide a relatively low level of protection in practice. This means that it is already possible to prosecute and punish those who bribe parliamentarians or accept bribes as parliamentarians. The scope of this criminal liability is, however, relative narrow and only covers cases where a parliamentarian's vote is bought or sold in an election or ballot. The UN Convention requires a broader scope. In this matter it is up to our parliament to find a solution. Parliament has already examined the issue on a number of occasions and will also hold an expert hearing in the matter in the near future. But I would once again like to emphasise that Germany has already implemented the binding provisions of the UN Convention against Corruption almost in their entirety, and that ratification has not come to pass due to the rather more technical issue of how the offence of bribery of parliamentarians should be redrafted and broadened. Because we have largely implemented the provisions already, it would of course be nice to be able to ratify the Convention straight away, and not have to wait for the necessary reforms. However, for legal reasons we are unfortunately unable to do this. I can assure you that this problem will not jeopardise Germany's

commitment to international cooperation and such important and valuable organisations such as the Judicial Integrity Group.

On that note I would like to end my speech. Thank you for your work and dedication. I wish you all the best for a truly successful conference.