

JUDGES AND PROSECUTORS ON SOCIAL MEDIA IN SERBIA: EXPLORING CONTROVERSIAL ETHICAL CONCERNS****

Summary

In the contemporary landscape, characterised by the ubiquitous integration of technology, artificial intelligence and social media into daily life, there is a pressing need to systematically investigate their use within the legal profession. The research process involved an analysis of relevant media channels, desk research, an online survey, and semi-structured group interviews with judges, prosecutors and other representatives of the judiciary. The paper aims to identify the ethical dilemmas arising from respondents' use of social media. It examines respondents' perception of the boundary between the private and public spheres, as well as freedom of expression and the need to regulate the use of social media. The paper concludes with recommendations regarding the use of social media by judges, prosecutors and other representatives of the judiciary, bearing in mind their role in society and the applicable regulations and standards by which they should be guided.

Keywords: Judges, Public Prosecutors, Social Media, Internet, Ethical Dilemmas.

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SUDIJE I TUŽIOCI NA DRUŠTVENIM MREŽAMA U SRBIJI – AKTUELNE ETIČKE DILEME

Sažetak

Tehnologija, veštačka inteligencija i društvene mreže postali su sastavni deo naše svakodnevnice, te se javila potreba za sistematičnim istraživanjem načina na koji se ti alati koriste u pravosudnim profesijama. Istraživanje je obuhvatalo analizu relevantnih društvenih mreža, pregled postojeće literature i dosadašnjih studija, onlajn upitnik, kao i polustrukturirane grupne intervju sa sudijama, tužiocima i drugim predstavnicima pravosuđa. Cilj rada je da, iz perspektive ispitanika, ukaže na moralne dileme koje proizilaze iz upotrebe društvenih mreža. Sa posebnom pažnjom diskutuje se o granici između privatne i javne sfere, slobodi izražavanja i načinima regulisanja korišćenja društvenih mreža. Rad se završava preporukama za sudije, tužioce i druge predstavnike pravosuđa, imajući u vidu njihovu društvenu ulogu, kao i propise i standarde koji bi trebalo da usmeravaju njihovo ponašanje.

Ključne reči: sudije, javni tužioci, društvene mreže, internet, etičke dileme.

1. Introduction

Technology and social media have become seamlessly woven into the fabric of daily life, connecting individuals with family, friends, colleagues and acquaintances through online communication channels. Furthermore, users actively engage in posting, commenting on, liking and sharing diverse content on social media platforms.¹ Judges, prosecutors and other representatives of the judiciary are not exempt from this trend, as they too use social media. Moreover, with regard to issues concerning the functioning of the judiciary, judges and prosecutors not only have the right to participate in such debates but, in certain circumstances, also have a duty to express their views (Matić Bošković & Novaković, 2025). Nevertheless,

¹ According to 2022 data, the average internet user spends approximately seven hours a day online, which is nearly 40 per cent of their waking time. Given the growing importance of the internet in contemporary social, economic and political life, and its potential to promote equality among individuals, there have been increasing calls to recognise internet access as an autonomous human right (Digitizer, 2023; Jelisavac Trošić & Gordanić, 2023, p. 377).

the involvement of judges and prosecutors in social media activities may give rise to ethical dilemmas and practical challenges.

First, the internet has evolved into 'a technological, social, media, political and legal phenomenon' that profoundly affects contemporary social relations (Petrović, 2022, p. 470). Consequently, the boundaries between the private and public spheres have become increasingly blurred in the digital environment. In the case of judges and public prosecutors, the question of professional ethics, therefore, extends beyond their official duties and encompasses both their private and public lives. This raises the fundamental question: where is the line between the professional and the private sphere? Is it even possible to draw such a line precisely, or is it ultimately unattainable? Second, although freedom of expression is guaranteed to everyone, in the case of judges and prosecutors this freedom is not absolute and it must be exercised in a manner consistent with professional ethics and the standards developed in the jurisprudence of the European Court of Human Rights. Accordingly, should there be limits on the freedom of expression of judges and prosecutors in the digital sphere and, if so, how are such limits perceived in the light of ethical obligations and existing national and international standards? Finally, the responsible use of social media is a prerequisite for judges and prosecutors to participate in online communication. How do they assess the need for (institutional) regulation and additional training in digital literacy? These research questions were examined through semi-structured group interviews and an online survey conducted among judges, public prosecutors and other representatives of the judiciary (Judicial Academy trainees and judge assistants) in Serbia (hereinafter: judicial office holders).

2. The Impact of Social Media Use by Judicial Office Holders

Certain challenging situations that have arisen in Serbian society have prompted further questions: Can judicial office holders participate in a television quiz show? (Petrović, 2018). Can they be writers, artists or bloggers? (Majić, 2023). Is it appropriate for judicial office holders to sing or dance to folk or jazz music? (Blic, 2019a). What types of photographs may judicial office holders take at private events? (Blic, 2019b). Under what circumstances may judicial office holders comment in the media on court decisions, judicial proceedings, or pending and concluded cases? (Živanović, 2017; KRIK/OCCRP, 2016). There are numerous scientific studies addressing cyberspace and data in general (Hendriks & Hansen, 2016), the influence of social media on sociability (Petrović, 2013; Nešić 2022), and communication through social media (Castells, 1996, 2009; Vuković, 2019). Furthermore, several empirical studies have analysed the impact of social media

on judicial decision-making and the relationship between social media and public perceptions of judicial impartiality and independence (Kwame, 2024). However, the specific issues identified above – which could serve as guidelines for online behaviour of judicial office holders – have rarely been examined empirically. To the authors' knowledge, only a survey conducted among Canadian judicial office holders on the use of social media (Taylor, 2019),² and preliminary findings from a survey of trainees (future judicial office holders) in Greece³ have addressed these issues. Interestingly, both studies reached similar conclusions: (a) judicial office holders may use social media, provided that they remain acutely aware of their professional limitations; (b) it is essential to maintain a clear distinction between private and public identities in the online environment; and (c) the principal risks are the perception of bias and the erosion of public trust, highlighting the need to develop ethical guidelines specifically tailored to the use of social media.

Similar concerns emerged from a survey conducted among Hungarian judges,⁴ which found strong support for judges' freedom of expression, particularly in relation to issues affecting the rule of law, judicial independence and the administration of justice. At the same time, respondents reported limited opportunities to express such views publicly and identified fear of retaliation (81 per cent), the widespread prevalence of a chilling effect (50 per cent), and potential professional consequences as significant obstacles to public engagement. Finally, CCJE Opinion No. 25 was also informed by empirical data collected through a questionnaire distributed among CCJE members.⁵ Although the responses and related materials have not been made publicly available, their use in the drafting process suggests that the Opinion was grounded not only in normative considerations but also in the experiences and views of members of the European judiciary.

Notably, several authors analysed some related topics, such as the freedom of expression of judges on social media. Focusing on the jurisprudence of the European Court of Human Rights and comparative guidelines concerning the use of

² An online survey was conducted in 2013 among Canadian judicial office holders. The sample consisted of 678 participants (Taylor, 2019).

³ As part of the Themis Competition, an initiative of the European Judicial Training Network (EJTN)), future judges and prosecutors conducted a preliminary quantitative study. The survey sample consisted of 67 of the 80 students enrolled at the National School of Judges (Blitsa, Papaathanasiou & Salmanli, 2015).

⁴ An online survey concerning certain aspects of the freedom of expression of Hungarian judges was conducted in 2023. A total of 285 judges, out of 2,692 serving in Hungary during that period, completed the questionnaire by the deadline, representing 11 per cent of Hungarian judges. For further details, see: Hungarian Association of Judges (MABIE), 2023.

⁵ CCJE. 2022. Op. N° 25. Available at: <https://rm.coe.int/opinion-no-25-2022-final/1680a973ef%0A%0A>, 22. 6. 2026.

social media, these authors concluded that judges, like any other citizens, are free to express their opinions online. Nevertheless, they must exercise additional caution and refrain from actions that could be subject to misinterpretation (Matić Bošković & Novaković, 2025). Another important question is whether judicial office holders refrain from expressing their views due to fear of adverse consequences (Somers, 2019). Following the sanctions imposed on Polish and Hungarian judges for publicly expressing opposition to judicial reforms (Wojtanowski, 2023; Elósegui, 2021; Hungarian Helsinki Committee, 2023),⁶ many judicial office holders have begun to suppress or modify their speech in order to avoid negative repercussions. This 'chilling effect' has negative implications on the judiciary as an institution and for the legal profession as an important 'agent' in safeguarding the rule of law (Fajdiga & Zagorc, 2023). Undoubtedly, online communication has enhanced transparency and public engagement among judicial office holders; however, at the same time, it has blurred the boundaries of private and public life and raised concerns regarding impartiality, independence and public confidence in the judiciary. Therefore, this paper examines a different aspect of freedom of expression, relying on the opinions and experiences of judicial office holders in Serbia.

Normatively speaking, the conduct of judicial office holders in Serbia is governed by a combination of binding legal rules and non-binding ethical standards. The binding framework includes the Constitution of the Republic of Serbia (2006),⁷ the Law on judges (2023),⁸ the Law on court organisation (2023),⁹ the Law on public prosecution (2023),¹⁰ and the Court Rules of Procedure (2015).¹¹ In addition, judicial and prosecutorial conduct is shaped by a number of soft-law instruments,

⁶ Hungarian Helsinki Committee, The Implementation of the *Baka v. Hungary* judgment: the freedom of expression of judges is at stake, 2 March 2023, https://helsinki.hu/en/wp-content/uploads/sites/2/2023/03/State_of_implementation_of_the_Baka_v_Hungary_judgment.pdf, 9. 11. 2025.

⁷ Constitution of the Republic of Serbia, *Official Gazette of the Republic of Serbia* no. 98/2006 and 115/2021. Available at: <http://www.ustavni.sud.rs/page/view/en-GB/235-100028/constitution>, 28. 8. 2023.

⁸ Law on Judges, *Official Gazette of the Republic of Serbia* no. 10/2023. Available at: https://www.paragraf.rs/propisi/zakon_o_sudijama.html, 28. 8. 2023.

⁹ Law on the Organisation of Courts, *Official Gazette of the Republic of Serbia* no. 10/2023. Available at: https://www.paragraf.rs/propisi/zakon_o_uredjenju_sudova.html, 22. 11. 2023.

¹⁰ Law on Public Prosecution, *Official Gazette of the Republic of Serbia* no. 10/2023. Available at: https://www.paragraf.rs/propisi/zakon_o_uredjenju_sudova.html, 22. 11. 2023.

¹¹ Court Rules of Procedure, *Official Gazette of the Republic of Serbia* no. 110/2009, 70/2011, 19/2012, 89/2013, 96/2015, 104/2015, 113/2015 - corr., 39/2016, 56/2016, 77/2016, 16/2018, 78/2018, 43/2019, 93/2019 and 18/2022. Available at: https://www.paragraf.rs/propisi/sudski_poslovnik.html, 22. 10. 2023.

including the Codes of Ethics for Judges and Public Prosecutors,¹² the Bangalore Principles of Judicial Conduct,¹³ Opinion No. 3 of the Consultative Council of European Judges,¹⁴ Opinion No. 25 of the Consultative Council of European Judges on the Freedom of Expression of Judges, Non-binding Guidelines on the Use of Social Media by Judges,¹⁵ Judicial Conduct and Ethics,¹⁶ and the Practical Guidelines on Use of Social Media by Judges.¹⁷

The Bangalore Principles of Judicial Conduct represent the most widely accepted international standard of judicial ethics. The core values enshrined in this document are independence, impartiality, integrity, equality, competence and diligence. They are intended to provide guidance to judges; however, they were drafted before the emergence of social media platforms and contain no specific provisions concerning digital conduct. Additionally, Opinion No. 3 of the Consultative Council of European Judges focuses on the principles and rules governing judges' professional conduct with particular emphasis on ethics, incompatible behaviour and impartiality; however, it does not address the specific challenge posed by digital platforms and online expression. More recently, CCJE Opinion No. 25 of the Freedom of Expression of Judges reaffirmed that judges enjoy the right to participate in public debate, particularly on matters concerning the administration of justice, the rule of law and judicial independence. At the same time, the Opinion emphasises that judges must exercise this freedom in a manner that preserves public confidence in their independence, impartiality and integrity, thereby directly addressing many of the dilemmas raised by social media communication. Finally, the UNODC Non-Binding Guidelines on the Use of Social Media by Judges were designed to provide guidance to judges and judiciaries on how to navigate social media platforms in a manner consistent with international and regional standards of judicial conduct and existing codes of ethics. This document is the most directly relevant

¹² This distinction is particularly relevant in the prosecutorial context, as the Serbian Code of Ethics for Public Prosecutors expressly refers to several international soft-law instruments and professional standards that should be considered when interpreting ethical obligations.

¹³ UNODC, 2018. The Bangalore Principles of Judicial Conduct. Available at: <https://www.unodc.org/documents/ji/training/bangaloreprinciples.pdf>, 28. 8. 2023.

¹⁴ CCJE. 2002. Op. N° 3. Available at: <https://rm.coe.int/168070098d>, 28. 8. 2023.

¹⁵ UNODC, 2019. Non-binding Guidelines on the Use of Social Media by Judges. Available at: https://www.unodc.org/res/ji/import/international_standards/social_media_guidelines/social_media_guidelines_final.pdf, 28. 8. 2023.

¹⁶ UNODC, 2019. Judicial Conduct and Ethics – Self-directed Course. Available at: https://www.unodc.org/documents/ji/training/self_directed_ebook2.pdf, 28. 8. 2023.

¹⁷ CEELI Institute. 2019. *Practical Guidelines on Use of Social Media by Judges*. Available at: https://ceeliinstitute.org/wp-content/uploads/2022/01/CEELI_SoMe_Guidelines_ENG_Upd2021.pdf, 28. 8. 2023.

instrument to the subject matter of the present study. The Guidelines address the identification of judges on social media, the types of content judges should post and their behaviour in commenting on various topics, the concept of online friendships and relationships, and privacy and security concerns. These existing documents range from general ethical principles to social-media-specific guidance. All these instruments converge around the same core values – independence, impartiality and integrity – and recognise that online conduct is not exempt from these requirements. However, if so many rules exist, why do controversial ethical issues related to the use of social media by judicial office holders continue to arise? Why do judicial office holders have different understandings of these rules?

Initially, legal rules are silent in specific situations and cannot (and should not) regulate all possible activities of those to whom they apply; therefore, one enters the realm of professional legal ethics (Schwartz *et al.*, 2020). Within the judiciary, ethical codes play an important role in bridging the gap between legal regulation and professional conduct, providing guidance in situations where formal legal rules offer limited direction. Although they are not legally binding in the same manner as statutory provisions, the professional values and standards prescribed by judicial codes of ethics contribute to the development of a shared judicial culture and help articulate the standards of integrity, impartiality and propriety expected from judicial office holders (Mak, 2018a; Mak, Graaf & Jackson, 2018). Ethical codes are particularly relevant in addressing emerging challenges, such as judicial office holders' use of social media, where legal regulation is often absent or intentionally limited, leaving greater scope for professional self-regulation and ethical judgment. It is, therefore, imperative to recognise that laws serve as powerful regulatory tools for social relations; nonetheless, they may exhibit deficiencies and do not invariably produce the intended outcomes (Stojanović, 2021, p. 55). One reason for their potential (in)effectiveness lies in the social context, as 'isolating the effects of a law from contextual effects is troublesome: a "laboratory setting" can hardly ever be created' (Haarhuis & Niemeijer, 2009, p. 406). Furthermore, ethical guidelines evolve across temporal and spatial dimensions, reflecting variations in moral values from one era to another. While moral norms generally align with legislative frameworks, they are intricately intertwined with the specific social contexts of a particular locality (Trilling, 1972, pp. 1-2).

Second, the use of the internet is shaped by the broader social context in which it occurs. In societies characterised by different cultural patterns and forms of sociability, online communication practices also differ, as Petrović suggests (Petrović, 2013). Although contemporary Serbian society can no longer be described as culturally homogeneous in the traditional sense, each new era of communication tends to preserve elements of the value system inherited from previous periods (Šešić &

Nikolić, 2021, p. 16). This helps explain why judicial office holders' culture often differs from the dominant cultural paradigm. Judicial culture is not determined solely by formal legal rules but also by shared professional values, ethical expectations and institutional traditions that shape judicial office holders' behaviour and reinforce a distinct professional identity. Consequently, their professional 'mental software' shapes perceptions of appropriate conduct and communication, both within and outside the courtroom (Mak, Graaf & Jackson, 2018; Knežević Bojović, 2025; Dabetić, 2023).

Finally, online communication differs depending on who uses the internet, which needs are satisfied through its use, the life habits of a specific user, and their material and educational status, among other factors (Petrović, 2013, p. 12.). Considering judges as internet users, their professional lives are permeated by a form of 'symbolic dictation', i.e., the manner in which the institution influences their behaviour in order to preserve judicial reputation as a form of 'institutional capital' (Garoupa & Ginsbourg, 2015). Hence, there are numerous institutional requests that judges must incorporate into both their professional and private lives. Most importantly, judges must genuinely embrace common institutional values and refrain from conduct that could undermine public trust in their dignity, impartiality and independence (Greenberg & Haley, 1986, p. 417).¹⁸ The primary rationale behind this behavioural norm is rooted in the notion that citizens or society should not differentiate between a judge's virtual and real-world personas. For them, a judge retains a consistent identity irrespective of the context. Consequently, the judge's institutional identity becomes inherently intertwined with their social identity and personal activities.

Social media have been defined as 'any cell phone or internet-based tools and applications that are used to share and distribute information' (The Law Dictionary, 2023). They have also been described as 'digital services that connect participants in multisided markets, set the rules for such interactions and make use of algorithmic systems to collect and analyse data and personalise their services',¹⁹ as well as 'technology-based applications, including without limitation one or more pages of information published on the internet by a natural or juridical person' (Fisher,

¹⁸ As Greenberg and Haley (1986) argue, 'in most occupations, there typically exists an external monitor that, coupled with the threat of dismissal, functions as a disciplinary mechanism on the behavior of employees. In contrast, the independence of the judiciary removes any such disciplinary mechanisms. The only effective constraint on judicial behavior, therefore, is that which is internally imposed by the judges themselves' (p. 417).

¹⁹ CM/Rec(2022)11 – Recommendation of the Committee of Ministers to member States on principles for media and communication governance (Adopted by the Committee of Ministers on 6 April 2022 at the 1431st meeting of the Ministers' Deputies). Available at: <https://search.coe.int/cm?i=0900001680a61712>, 23. 6. 2026.

2019). Some authors emphasise the functions of these platforms, highlighting the ability to create personal profiles, construct online identities, establish relationships, build reputations and participate in communities (Wolf, Sims & Yang, 2018). Focusing specifically on judicial ethics in the digital era, Keith R. Fisher described judges 'new wine in old bottles', and social media as 'ultimately an extension of public fora that already exists' (Fisher, 2019). For the purposes of this research, social media are considered bidirectional communication channels through which users can have their own accounts, become members of communities, and participate in public spaces. The most relevant social media platforms considered were Facebook, Twitter (renamed X in 2023), Instagram, LinkedIn and YouTube, each serving a different purpose.

3. Understanding the Methodology: the Use of Semi-Structured Group Interviews and an Online Survey

In order to identify critical issues, common positions and practices related to the use of social media by judicial office holders, semi-structured group interviews were conducted with several representatives of judicial organisations and associations, including the Judges' Association of Serbia, the Prosecutors' Association, the Association of Judges and Prosecutors, the Alumni Club of the Judicial Academy, the Forum of Judges of Serbia, CEPRIS, Judicial Base South and the Judicial Academy (listed according to the interview schedule). The semi-structured online group interviews – with two to three participants per interview – were conducted in June 2020 via the Zoom platform. The authors of the paper possess the audio recordings of the interviews, and transcripts were also prepared. The objective of the interviews was to assess the understanding and awareness of the potential opportunities and risks associated with the use of social media within the judicial community. The interviews covered the following nine topics: (1) social media accounts; (2) virtual friendships and possible conflicts of interest; (3) participation in the digital public sphere; (4) (in)appropriate content on social media; (5) justice-related content; (6) limits to freedom of expression; (7) regulatory approaches – law or ethics; (8) cybersecurity and verbal attacks; and (9) digital skills.

Based on the findings and thematic structure of the interviews, a corresponding online survey was subsequently developed to enable the quantitative validation and comparison of attitudes identified during the qualitative phase. The survey was divided into nine sections, corresponding to those covered in the interviews, with one additional section on socio-demographic characteristics. It consisted of a total of 56 questions. Although the topics mirrored those addressed in the interviews,

the wording of the questions was adapted to the survey format by transforming open-ended, reflective questions into closed five-point Likert-scale statements (ranging from 1 – strongly disagree to 5 – strongly agree) that measured the degree of respondents' agreement with particular positions or practices. In this way, the survey instrument retained the conceptual framework of the interviews while enabling the collection of comparable quantitative data.

Table 1a: Distribution of survey respondents by profession and gender

Socio-demographic characteristics of respondents – profession, gender and years of professional experience			
Variable/Profession	Gender/Category	Number of respondents	%
Judge	Female	34	39%
	Male	16	
Public Prosecutor	Female	18	25%
	Male	15	
Other representatives of the Judiciary (Judicial Academy Trainee, Judge Assistants and Public Sector Employee)	Female	29	26%
	Male	18	
Total	Female + Male	130	100%

Table 1b: Distribution of survey respondents by years of professional experience

Variable/Years of professional experience	Other representatives of the Judiciary	Judge	Public Prosecutor	Total (%)
up to 5	24	/	/	24 (19%)
6 to 10	18	8	7	33 (25%)
11 to 20	4	19	15	38 (29%)
21 to 29	/	12	9	22 (17%)
30 and more	/	11	2	13 (10%)

The online survey was open to judges, judicial trainees and prosecutors from all courts of general jurisdiction in Serbia in August and September 2020. The online survey was completed by 130 respondents, of whom judges represented the largest group (50), followed by Judicial Academy trainees (41), public prosecutors (33), judge assistants (4) and public sector employees (2). It was essential to encompass all demographic categories, including the younger participants. For this reason, participants from the Judicial Academy were included as respondents, given the likelihood that most of them will eventually assume positions as judges or public prosecutors. More than half (62.6 per cent) of the respondents were women. The respondents were also segmented according to years of professional experience: up

to five years, five to ten years, eleven to twenty years, twenty-one to twenty-nine years, and more than thirty years of experience. Interestingly, most judges and public prosecutors among the respondents had between eleven and twenty years of professional experience, while Judicial Academy trainees, as expected, generally had between one and ten years of experience. Overall, the sample was well balanced, which enabled the authors to analyse the data according to the respondents' gender, profession and years of experience.²⁰

In conclusion, it is necessary to underline that, although the main data were collected in 2020, the phenomenon of social media has gained increasing significance in recent years, and the findings of this analysis make a meaningful contribution to contemporary scholarly literature. Evidently, the use of social media by legal professionals and its consequences are not static phenomena. However, the COVID-19 pandemic accelerated the use of technology in both private and professional contexts, while the use of social media became even more relevant. This makes the period of data collecting a particularly important point of analysis, as 2020 represented a critical baseline year during which digital transformation accelerated. A particularly strong indicator of the study's enduring relevance is that the real-world situations and concrete examples involving specific types of social media conduct and ethical dilemmas faced by judicial office holders remain relevant today. Namely, the underlying tensions between judicial independence, public accountability, freedom of expression and institutional impartiality continue to exist, making the standards developed in the paper, based on those examples, fully applicable to situations encountered by judicial office holders today. Moreover, unlike the broader field of legal ethics, where normative and doctrinal analyses are abundant, empirical studies and survey-based examinations of actual online conduct and the social media behaviour of judicial office holders remain exceptionally rare in the scholarly literature. Therefore, the present study, by providing systematic empirical evidence on how judicial office holders use these platforms and how such behaviour should be regulated, arrives at a time when regulators most need data to support policymaking.

²⁰ Some preliminary results of this research were presented in the publication *Ethical Aspects of the Use of Social Media - Guidelines for Judges and Prosecutors* (Krivokapić et al., 2021). For the purposes of further and more in-depth scholarly analysis, these results were subsequently discussed at the academic conference *Law, Society and Digital Pasts, Presents and Futures* at Lund University in 2023. The present paper focuses on selected findings that are re-examined through a broader socio-legal and theoretical framework. The results were systematically compared with domestic and international standards governing judicial office holders' freedom of expression, including relevant soft-law instruments and the case law of the European Court of Human Rights, thereby moving beyond the descriptive presentation of empirical data.

4. Findings and Discussion

4.1. *Where is the Boundary Between the Professional and Private Spheres?*

Social media accounts – The vast majority of respondents (83.2 per cent) use social media, while 61.8 per cent use social media several times a day. Most respondents have a personal account on Facebook (57.7 per cent), which appears to be the most popular social media platform, followed by Instagram (41.5 per cent), Twitter (14.6 per cent), LinkedIn (20 per cent) and YouTube (23.8 per cent). A noteworthy share of respondents reported not having any social media accounts (24.6 per cent). As many as 68 per cent of respondents believe that judicial office holders should use social media and that opening accounts on social media should not be subject to prior restrictions (46.1 per cent). The narratives below provide insight into how respondents perceive the use of different social media platforms:

‘LinkedIn is a social media platform for the professional exchange of opinions, updates on professional achievements and the exchange of expert knowledge, while Facebook and Instagram are primarily used for leisure and social connections, and judicial office holders should use them in accordance with their intended purposes. Professional networking is at the core of the profession. Any form of prohibition on professional connections, networking and sharing experiences does more harm than good to the profession.’

Interviewees agree that social media should be freely accessible provided that online activities do not harm the reputation of the account holder, the judicial profession or the judicial system as a whole. However, they are of the opinion that certain restrictions may be imposed in relation to specific situations, which will be addressed in greater detail in the following section. In any case, there is a consensus that judicial office holders should refrain from using social media during working hours. The following statement illustrates the participants’ perspectives on this issue:

‘When used wisely, social media can serve as a valuable indicator of intellectual breadth and versatility. Information shared on personal profiles may reveal a person’s capacity for reflection and openness – qualities that are essential for those entrusted with making decisions concerning the rights and lives of others.’

Online friendships – Factors that should be taken into consideration when assessing the relevance of an online friendship include the nature of the particular social media page, the number of friends a judicial office holder has (for example, a lower number may suggest a closer relationship), the judicial office holder’s practice of accepting friend requests, the degree of online or offline interaction, and the frequency with which an online friend or contact is a party to the proceedings in

which the judicial office holder is involved. As noted by several interviewees, social media accounts underscore the complexity of maintaining an online identity:

'They are useful for informational purposes and for maintaining contact with friends and relatives, but they should not contain content from one's private life... Social networks have often been exploited by outsiders from various, including criminal, circles, and that is why judicial office holders must exercise particular caution in their use.'

There is a consensus among the interviewees that individuals on social media can be regarded as close friends with their online contacts if they have restricted public access to their profiles through privacy settings (a feature commonly available on Facebook). Nevertheless, it may be surprising that similar shares of survey respondents agree (40.3 per cent – options 4 and 5 – agree and strongly agree) and disagree (47.3 per cent – options 1 and 2 – disagree and strongly disagree) that friendships on social media should be treated in the same manner as real-life friendships when deciding on the recusal of a judicial office holder from proceedings. The following excerpts reveals this discrepancy:

'Behaviour online is the same as behaviour in any other public place (street, cinema, restaurant, etc.)... We must certainly be more responsible than people out of office.'

Consequently, social media friendships and connections may represent a particularly sensitive issue, especially those involving connections between judicial office holders and lawyers or parties to proceedings. Those issues may raise questions concerning impartiality, prompt requests for recusal, cause delays and create other procedural challenges. However, there is a consensus among survey respondents (80.8 per cent – options 4 and 5) that judicial office holders may friend each other on social media. The respondents also agree, although to a lesser extent (67.9 per cent – options 4 and 5), that they may friend lawyers. While online friendships with lawyers²¹ may generally be accepted, interviewees favour the position that judicial office holders should avoid friending lawyers who regularly appear before them, as this could lead to repeated requests for recusals. Additionally, judicial office holders should avoid sending or accepting friend requests from lawyers involved in cases currently pending before them. The quotations below provide insight into how the respondents perceive online friendships between colleagues:

'It should not be forgotten that fellow lawyers, judges and prosecutors may have been colleagues at university or even friends before the judicial office holder was elected to the position. They know each other from university and from real life; they are connected in real life, so why should this not also be reflected also on social media?'

²¹ For the purposes of this paper, the term 'lawyer' refers to attorneys-at-law (advocates) and is used as the closest functional equivalent to legal practitioners representing clients in different legal systems, including barristers and solicitors.

Interviewees are of the opinion that the mere fact that a judicial office holder's online account is connected as a 'friend' with a party, prosecutor or defence counsel is not, in itself, a reason for recusal. However, this must be assessed in each individual case, depending on the circumstances of the case and in accordance with the general rules governing recusal. Judicial office holders should adopt a proactive approach and openly disclose friendships on social media and/or in their private lives to the court president and other involved parties, thereby enabling the consideration of potential recusal.

Participation in the digital public sphere – The survey included several questions examining respondents' perspectives on expressing an intention to attend various types of events through the 'Attend an Event' option on Facebook. The respondents were almost evenly divided on whether judicial office holders should be permitted to indicate their intention to attend an event that promotes a critical forum on the state of media freedom in the Republic of Serbia. Specifically, 42.3 per cent of the respondents indicated that sharing such information is appropriate, whereas 34.6 per cent disagreed and 23.1 per cent were undecided. By contrast, the respondents expressed a slight tendency to disagree with the proposition that judicial office holders should be permitted to indicate their intention to attend a Pride parade and the accompanying series of seminars on discrimination against LGBT people in the public sector. In particular, 51.2 per cent of the respondents considered sharing such information to be inappropriate, whereas 28.3 per cent considered it appropriate and 20.5 per cent were undecided. Nearly half of the respondents (47.3 per cent) considered it appropriate for judicial office holders to invite their friends to a Facebook event promoting organic cosmetics produced by domestic manufacturers, while 21.4 per cent were undecided.

Overall, the findings presented are largely consistent with contemporary international standards and the current Serbian legal and ethical framework governing judicial office holders' use of social media. Soft-law instruments, including the Bangalore Principles of Judicial Conduct, the UNODC Non-binding Guidelines on the Use of Social Media by Judges and the CEELI Practical Guidelines recognise that judicial office holders may maintain personal social media accounts, establish online connections and participate in digital communication. At the same time, they emphasise that private online activities cannot be entirely separated from professional responsibilities where they may affect public confidence in judicial independence, impartiality, integrity or propriety. In this respect, the respondents' views largely reflect the existing international ethical framework, while the remaining disagreements concern the assessment of specific situations rather than the underlying ethical principles themselves. The findings further suggest that the principal challenge does not lie in drawing a strict boundary between the private and professional spheres, but in determining when private online conduct acquires professional relevance because of its potential impact on public confidence in the judiciary.

4.2. Where is the Boundary of Freedom of Expression for Judicial Office Holders in the Digital Sphere?

(In)appropriate content on social media – When asked about photographs that individuals may share on social media as a form of personal expression, most respondents agree that judicial office holders should not post content depicting alcohol consumption (64.1 per cent – options 1 and 2) or nudity (76.6 per cent – options 1 and 2). The respondents also considered that judicial office holders should refrain from posting photographs or other content that conveys ostentation, such as the purchase of luxury items or the display of a privileged lifestyle (62.3 per cent). While the majority of interviewees agreed that these types of photographs are incompatible with judicial ethics, others argued that social media merely increase the visibility of behaviour that already exists offline, and should therefore not be regarded as the source of ethical problem itself:

‘It is considered inappropriate for a judicial office holder to post a photograph wearing expensive jewellery, yet it is acceptable for the same person to wear such jewellery at work every day. Social media are not the problem in themselves; they merely make certain patterns of behaviour more visible. Therefore, attention should be directed to the underlying issue – namely, the behaviour – if, indeed, a problem exists.’

Almost half of the respondents (45 per cent) considered that judicial office holders should not post entertainment-related content on their social media accounts, whereas 24.5 per cent took the opposing view. The respondents were equally divided on whether judicial office holders should be permitted to use satire and irony to express their personal views on social media. Specifically, 36.9 per cent disagreed and an equal proportion (36.9 per cent) agreed with this proposition. Furthermore, almost half of the respondents (38.9%) indicated that, by liking posts on social media, judicial office holders express their sympathy for the user who posted the content. The interview narratives point to an underlying concern about maintaining judicial integrity in digital spaces:

‘... noting that the same social media platforms should be used with caution to ensure that judicial office holders do not compromise their integrity in the eyes of the public through their posts.’

Consistent with existing soft-law guidance (UNODC, 2019a; CEELI Institute, 2019), online posts by judicial office holders should serve a legitimate educational or informational purpose, and they should avoid content that could create an appearance of predisposition or bias. They should also exercise caution when following or liking advocacy groups, campaigns or commentators where such associations could undermine public confidence in their impartiality or in the impartiality of the judiciary in general. In this respect, it is important to consider not only what judicial office

holders post but also where they post it. It is not advisable to post on platforms that, by their nature, foster controversies or sensationalism or that are publically associated with specific ideological or political positions to the detriment of neutrality and pluralism.²² These reflections indicate a broader uncertainty surrounding professional boundaries online:

Not every social media platform serves the same purpose or targets the same audience. Facebook, Twitter and LinkedIn profiles provide users with greater opportunities to engage with topics related to their profession. By contrast, Instagram is primarily associated with content characteristic of private life rather than professional activity.'

Justice-related content – Interviewees agree that judicial office holders may comment on proposed reforms of procedural laws, speak publically on matters directly affecting the operation of the courts, and express their views on issues concerning or judicial office holders' independence. With regard to posts concerning shortcomings or malfunctions within the judiciary, the interviewees consider that judicial office holders may speak publicly about such issues, particularly where concerns raised through appropriate internal channels have not resulted in an adequate institutional response. This approach is consistent with contemporary European standards on judicial office holders' freedom of expression;²³ which recognise the legitimacy of public interventions by judicial office holders on matters affecting the administration of justice, judicial independence and the rule of law. In such cases, even where an issue has political implications, this alone is not sufficient to prevent judicial office holders from making public statements on the matter, as many interviewees emphasised:

'The prudent use of personal social media accounts with limited visibility, together with the use of professional profiles aimed at explaining the work of the judiciary and promoting public understanding of its role, is consistent with contemporary international standards governing judicial office holders' use of social media.'

According to the interviewees, comments on draft legislation may be helpful and appropriate, provided that judicial office holders avoid offering informal interpretations or expressing controversial views on constitutionality. Generally, judicial commentary on proposed legislation or other matters of government policy should focus on practical implications or drafting deficiencies and avoid issues of political controversy. Nevertheless, the interviewees expressed the view that judicial office holders may, in certain circumstances, have a moral duty to speak out publicly, for

²² It is important to note that the survey was conducted in 2020, before significant changes were introduced to the governance of the Twitter platform. Therefore, the respondents' views should be interpreted in the context of the platform as it existed at the time of data collection.

²³ ECtHR. *Baka v. Hungary*, app. no. 20261/12, 23 June 2016. Available at: <https://hudoc.echr.coe.int/fre?i=001-163113>, 23. 6. 2026; ECtHR, *Žurek v. Poland*, 2022; CCJE, 2022.

example by joining a vigil or signing a petition in favour of energy conservation and environmental protection. According to these participants, such forms of engagement do not necessarily compromise judicial impartiality but rather express concern for the local and global community. However, if any of these issues were to come before a judge in their professional capacity and their impartiality were called into question, the judge should recuse themselves from the proceedings.

Limits to freedom of expression – In principle, the interviewees considered that there should be no barriers to participating in online debates on local and social issues and other professional matters. However, with regard to the political engagement of judicial office holders on social media, the requirement of impartiality entails that they must refrain from publicly disclosing their political views, except on matters relating to the functioning of the justice system. Indeed, if judicial office holders express their political views on social media, they may rightly be accused of bias where they are called upon to decide a case involving a political organisation or political issues. Against this background, it is not surprising that a substantial proportion of the respondents considered that expressing opinions or ideological positions directly related to political issues (49.6 per cent), as well as expressing support for political organisations, should be prohibited:

‘...the content must be such that it does not call into question the dignity of the judicial function. The same applies to content relating to topics or statements that could call into question the appearance of independence and impartiality, as well as the obligation to refrain from expressing political views.’

These reflections should also be interpreted in the light of the Serbian legal framework, which explicitly prohibits political engagement of judicial office holders. Accordingly, the sensitivity of the issue appears to stem less from disagreement with the restriction itself than from uncertainty regarding its application to various forms of online activity and expression. In general, the perception of impartiality is measured by the standard of a reasonable observer (UNODC, 2018). At the same time, the assessment of a judicial office holder’s online activity must be based on its impact on the independent and impartial performance of their judicial duties. Judicial office holders should not be penalised for conduct when there is no indication that it has affected the performance of their judicial office, particularly in relation to concluded, pending or imminent proceedings.

Both the respondents and interviewees expressed the general view, with which the authors agree, that judicial office holders should be free to use social media to follow topics of interest. While it would be disproportionate and unreasonable to require judicial office holders to follow a broad range of content solely to avoid any appearance of bias, they should nevertheless be aware of the ‘echo chamber’ effect (Arguedas *et al.*, 2022), which may result from following exclusively sources of information that

reflect a specific political or social perspective, or politicians representing a particular political orientation. Judicial office holders should also be aware that search engines may create a filter bubble by selectively presenting information based on a user's location, previous searches and browsing history. Similar effects are produced by the algorithms embedded in social media platforms, which curate news feeds, recommendations and suggested content according to users' previous interactions and preferences. Judicial office holders should therefore remain aware of the risks of bias, selective views and ideological reinforcement that may be fostered by both search engines and social media platforms.

The findings presented in this section are largely consistent with contemporary international standards and the current Serbian legal and ethical framework governing judicial office holders' freedom of expression. This guaranteed right is accompanied by specific professional responsibilities aimed at safeguarding public confidence in judicial independence, impartiality and integrity. Accordingly, the respondents' views concerning political engagement, public commentary and online conduct largely correspond to the principles reflected in the Bangalore Principles of Judicial Conduct, the UNODC Non-binding Guidelines on the Use of Social Media by Judges and CCJE Opinion No. 25. They also align with the approach adopted by the European Court of Human Rights, particularly in *Baka v. Hungary* and *Zurek v. Poland*, which recognises both judges' right – and, in matters concerning the administration of justice, their duty – to participate in public debate, while protecting them against measures that produce a chilling effect on judicial freedom of expression.

4.3. How do Judges and Public Prosecutors Assess the Need for Institutional Regulation and Additional Training in Digital Literacy?²⁴

Regulatory approach – law or ethics – There was a consensus among the respondents that the use of social media should be regulated through a soft-law

²⁴ It is noteworthy that, since the research was conducted, several developments have taken place in the field of judicial office holders' ethics in Serbia. New Codes of Ethics for Judges and Public Prosecutors were adopted in 2021 and 2024, respectively, while institutional mechanisms for the interpretation and application of ethical standards have been further strengthened (Code of Ethics for Judges, *Official Gazette of the Republic of Serbia* no. 96/2010 and 90/2021. Available at: <https://www.paragraf.rs/propisi/eticki-kodeks-principi-i-pravila-ponasanja-sudija.html>, 22. 10. 2025; Code of Ethics for Public Prosecutors, *Official Gazette of the Republic of Serbia* no. 33/2024. Available at: https://www.paragraf.rs/propisi/eticki_kodeks_javnih_tuzilaca_i_zamenika_javnih_tuzilaca_republike_srbije.html, 15. 10. 2025; In addition, the Rules of Procedure of the High Judicial Council's Ethics Board introduced the possibility of appointing confidential ethics advisors, enabling judges to seek guidance when faced with ethical dilemmas (EU for Serbia – Support to the High Judicial Council, 2021. Available at: <https://www.euza-tebe.rs/rs/vesti/usvojen-pravilnik-o-radu-etickog-odbora-visokog-saveta-sudstva>, 25. 6. 2026);

instrument. The respondents considered that the Code of Ethics should not be extensively detailed or burdened with provisions governing the use of social media (69.2 per cent), but that the relevant standards should instead be elaborated in a separate instrument, such as ethical guidelines (37.7 per cent). By contrast, only 10 per cent of the respondents considered hard-law regulations to be necessary. It is noteworthy that 46.1 per cent of the respondents agreed that judicial office holders should not be subject to prior restrictions when creating a social media account, whereas 29.3 per cent disagreed with this position. A quarter of the respondents (24.6 per cent) were undecided as to how this issue should be regulated. Judges and public prosecutors with more than 11 years of professional experience were generally of the view that no prior approval should be required for social media use. Many interviewees emphasised that maintaining judicial integrity in the digital sphere is of paramount importance:

‘One should not impose limitations or introduce prohibitions; rather, one should take care to preserve one’s integrity. A judicial office holder, as a user of social media, should be aware of and responsible for every photograph, comment, “like” or other content that they publish on a social media and thereby protect the reputation and dignity of their office, just as they should behave in every other aspect of their professional and private life.’

Digital skills – More than half of the respondents (55 per cent) considered that there is no need to establish a special commission within the High Judicial Council or the High Prosecutorial Council to approve the use of social media by judicial office holders. However, such a commission was considered necessary when confidential consultations are required, particularly in situations involving the interpretation of ethical dilemmas (42.6 per cent). Considering the potential forms of misuse, the findings suggest that a majority of respondents recognise the need for education regarding the use of social media (49.2 per cent), as well as further training in digital skills (60.5 per cent).

Professional associations have also developed mechanisms for ethical guidance. The Council for Ethical Issues within the Judges Association of Serbia issued an opinion concerning activities on social media (Judges’ Association of Serbia – JAS. Council for Ethical Issues. 2018. Available at: <https://docs.google.com/document/d/1kecJFLPC3eRaRVqBbIohJQ-qebW9S3iV/edit>, 25. 6. 2026, while CEPRIS organised an Intensive Course on Judicial Ethics and Legal Skills (CEPRIS, 2026. Available at: <https://www.cepris.org/strucni-skupovi/pravni-fakultet-u-beogradu-organizuje-intenzivni-kurs-o-pravosudnoj-etici-i-pravnim-vestinama/>, 25. 6. 2026); Furthermore, the guide *Ethical Aspects of Social Media Use – A Guide for Judges and Prosecutors* has become an important reference tool for addressing ethical dilemmas arising from online activity (Krivokapić *et al.*, 2021). Despite the clear preference expressed by the respondents for a dedicated soft-law instrument, Serbia has not yet adopted specific guidelines governing the use of social media by judicial office holders. Consequently, the regulatory gap identified during the research largely persists.

'Would judicial office holders be discriminated against if significant restrictions on the use of social media were introduced for them, but not for other employees within the judiciary, other public sector employees or citizens?'

When discussing the preceding narrative, it is important to emphasise that judicial office holders, as a professional group, constitute a specific category of public officials. As such, they are subject not only to the general rules of conduct applicable to all employees but also to specific ethical codes, which impose a higher standard of responsibility than that applicable to ordinary citizens. Any potential discrimination should be understood as reflecting the inherent tension between the requirements of integrity and impartiality, on the one hand, and every individual's right to freedom of expression, on the other. More broadly, it is imperative for individuals holding judicial office to recognise that their social media activities may be perceived as reflecting the position of the judiciary and the institution they represent, even when they express personal opinions. Judicial office holders must, therefore, exercise caution in their online activities, given the continuous public scrutiny to which they are subject. The online reputation of these professionals has the potential to influence public perceptions offline and, consequently, may pose a risk to the independence and impartiality that are fundamental to their roles.

Regarding the above findings, they are fully consistent with current international and Serbian approaches to regulating judicial office holders' use of social media. Rather than advocating detailed legal regulation and broad prohibitions, international soft-law instruments, including the UNODC Guidelines, the CEELI Practical Guidelines and CCJE Opinion No. 25, emphasise ethical guidance, education and individual professional responsibility. The respondents' preference for a dedicated soft-law instrument, combined with their recognition of the need for greater digital literacy and ethical counselling, therefore reflects the broader international trend towards supporting judicial office holders in navigating ethical dilemmas in the digital environment rather than restricting their participation in it.

5. Conclusion

Based on the analysis of the data collected during this research, several conclusions can be drawn. Firstly, some ethical issues may be regarded as relatively 'non-controversial', as the respondents demonstrated a high level of consensus regarding well-established principles of judicial ethics. These include the freedom to maintain a personal social media account while avoiding the disclosure of overly personal information; refraining from displaying luxury, nudity, or alcohol consumption; avoiding political engagement on social media; recognising the need

for additional education and digital literacy; and favouring the regulation of social media use through a dedicated soft-law instrument. These findings confirm that, with regard to non-controversial issues, the existing ethical framework governing judicial conduct remains largely applicable in the digital environment. The challenge, therefore, lies not in developing entirely new ethical principles, but in interpreting established standards in the context of social media.

Furthermore, considering that many ethical questions fall into a 'grey area', it is understandable that there are issues on which the respondents did not reach a consensus. Accordingly, the most controversial issues identified in this study concern the assessment of online friendships and potential conflicts of interest, participation in the digital public sphere, the distinction between appropriate and inappropriate online content, the limits of freedom of expression, as well as the influence of social media algorithms on access to information and the need for additional soft-law guidance. The divergence of opinions on these issues appears to stem from three main reasons: (a) respondents interpret the existing legal and ethical regulations differently – while younger respondents tend to interpret existing ethical standards more broadly, older respondents demonstrate a more reserved understanding (for example, younger respondents are more likely to consider that an online friendships should be treated in the same manner as offline friendships);²⁵ (b) a lack of information literacy, namely a lack of understanding of the specific modes of communication within the digital environment – the internet is a multi-dimensional phenomenon that enables different forms of communication among highly heterogeneous users (Petrović, 2013, pp. 12-13); or (c) the absence of regulation concerning certain controversial issues which suggests a need for further guidance. Although the gap between the real and digital worlds has reduced, online activities may have tangible consequences in the offline world.

Furthermore, social media users, including judicial office holders, possess a specific understanding of their institutional and social identities. Different social contexts and dominant cultural paradigms require an appropriate regulatory response. Therefore, the authors believe that the existing normative framework is generally capable of governing judicial conduct in the digital sphere, as the fundamental principles of judicial ethics remain equally applicable online. However, the controversial issues identified in this study demonstrate that additional guidance is needed to clarify how these established principles should be interpreted and applied

²⁵ An illustrative example of the distinction between these two types of 'friendships' is provided by one of the first social networking services, MySpace. The first friend of each user was Tom Anderson, one of the platform's founders. At the peak of its expansion, Tom had a total of 221,036,100. It is difficult to believe that Tom could have had a close personal relationship with each of these users (Gere, 2011, pp. 209–210).

in the context of social media. Rather than creating a new ethical standard, the findings support the development of specific soft-law guidance addressing those aspects of online conduct that remain insufficiently regulated.

Ultimately, the findings suggest that the central ethical challenge posed by social media lies not in the technology itself, but in the increasingly blurred boundary between the private and institutional identities of judicial office holders. The controversies identified in this study demonstrate that online activities that may appear purely personal can nevertheless affect perceptions of impartiality, integrity and public confidence in the judiciary. Therefore, the key task for future ethical guidance is not to redefine judicial values, but to clarify how long-established principles of judicial ethics should be interpreted and applied in an evolving digital environment.

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