

Extrait du Association des Jeunes Magistrats (AJM)

<http://jeunesmagistrats.fr/v2/THE-ETHICAL-CHALLENGES-OF-INTERNET.html>

Magistrats et réseaux sociaux - "The ethical challenges of internet use by judges"

- Nos activités - Réflexions/Débats -



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Association des Jeunes Magistrats (AJM)

Le Réseau européen de formation judiciaire (REFJ) est la plateforme et le promoteur principal du développement, de la formation et de l'échange des savoirs et des compétences de la magistrature de l'Union européenne. Créé en 2000, le REFJ élabore des normes et des programmes de formation, coordonne les échanges et les programmes de formation judiciaire et renforce la coopération entre les organismes de formation nationaux de l'UE. Le REFJ élabore des normes et des programmes de formation, coordonne les échanges et les programmes de formation judiciaire et renforce la coopération entre les organismes de formation nationaux de l'UE. **Le concours THEMIS** rassemble de futurs magistrats issus de différents pays européens au moment où ils effectuent leur formation initiale afin de leur permettre de partager des valeurs communes, d'échanger de nouvelles expériences et de discuter de questions d'intérêt commun.

A titre d'exemple, Julien GOLDSZLAGIER, Hugues JULIE et Florence LARDET avaient eu l'occasion de traiter en 2012 de la question de la présence des magistrats sur internet : "THE ETHICAL CHALLENGES OF INTERNET USE BY JUDGES"... Pour en savoir plus, il suffit de consulter l'article ci-joint, dont l'introduction est reprise ci-dessous.

"In February 2012, Facebook announced that it had 845 million users worldwide. Among Europeans, 27.5% of the population are Facebook users. As underlined by Daniel Smith, "it is apparent now more than ever that Facebook, like the Internet, is here to stay. It is not a fad or niche, but rather something that is becoming increasingly ubiquitous, in all spheres of society, including one of our more revered institutions : the judiciary". The Internet offers all citizens - including judges - a new outlook for expression (blogs, forums) and communication (personal or professional social networks).

Judges, because they represent the Judiciary, are bound by specific constraints - their ethical rules - such as the obligation of reserve, the obligation of discretion, the duty of impartiality or propriety. These standards aim at preserving the image of the Judiciary by creating a climate of confidence among citizens towards the judicial system. As stated in the preamble of the Bangalore Principles of Judicial Conduct, "public confidence in the judicial system and in the moral authority and integrity of the judiciary is of the utmost importance in a modern democratic society".

With the advent of the Internet, questions have arisen with regards judges being present in this media. Can the image of the Judiciary be harmed by awkward use of the Internet by judges ? There are few materials on this subject. The international and European principles of judicial conduct do not specifically tackle this question, nor do national rules. This issue does not seem to be subject of much prospective analysis. Should they exist, they are not publicly disclosed. The question of the presence of judges on the Internet nevertheless occurs when a judge is publicly involved in a specific case that jeopardizes his/her propriety or impartiality. In the United States, several cases have already emerged and therefore have led to specific thoughts about the presence of judges on the Internet with regards to ethical rules, especially at a disciplinary level. Yet it is important to underline that the American situation is a specific one, since judges are elected. Due to this fact, the Internet is frequently used as a communication tool for campaigns and American judges are more inclined to use this media than judges who are not elected.

Despite the lack of materials, it may be noted that, in many countries, judges do not stay totally away from the Internet. On the one hand, means of expression (such as blogs, forums) are used by some judges. Among these tools, Twitter seems to be favoured in particular and several judges have Twitter accounts. This is the case for the Spanish judge Baltasar Garzon or for the Swiss judge Laurent Kasper-Ansermet. On the other hand, means of communication (personal and professional social networks) are also used by judges. South Korean judge Benedic Seo Gi-Ho and Maltese Magistrate Scerri Herrera have become famous because of their use of such tools.

From an ethical point of view, the presence of judges on the Internet has raised different questions. Some are traditional ones, which are amplified by the Internet phenomenon (for instance, freedom of expression versus obligation of reserve and obligation of discretion or duty of propriety). Other questions are more original, and appear

due to the specific nature of the Internet itself. This is the case for the Facebook discussion regarding the duty of impartiality, which raises a further question : should a judge use social networks ? If so, is it acceptable that a judge, who has a public profile, should befriend with a lawyer or will this jeopardize the public confidence ? In the Internet age, what is expected from a judge by the citizens ? If the Internet is considered as a place of vitality for democratic debate, should a judge stay away from it (in other words should he/she remain in his/her "ivory tower") or contribute to this debate ?

This paper will try to make a contribution to the question "what can a judge do or do not on the Internet with regards ethical principles ?". In order to reach this goal, the first part of this paper will describe how judges are present on the Internet by making a distinction between the use of the Internet as a means of communication and of expression with regards ethical principles (I). The second part will reflect on the relevance of the presence of judges on the Internet and upholds that the choice of the "ivory tower", that is to say the desertion of the Internet by judges would not be the right solution to promote. Therefore, after justifying that the presence of judges on the Internet is relevant, some recommendations for this presence will be made (II). "

Consultable en pièce jointe : "THE ETHICAL CHALLENGES OF INTERNET USE BY JUDGES" (Magistrates' Ethics and Deontology), par Julien GOLDSZLAGIER, Hugues JULIÉ & Florence LARDET

<http://www.ejtn.eu/Documents/Themis...>