

Strasbourg, 17 September 2013



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

CCJE-GT(2013)6

**WORKING GROUP
OF THE CONSULTATIVE COUNCIL
OF EUROPEAN JUDGES
(CCJE-GT)**

**Report of the 25th meeting
Rome, Italy, 12-14 June 2013**

Document prepared by the Secretariat
Directorate General I - Human Rights and Rule of Law

I. INTRODUCTION

1. The Working Group of the Consultative Council of European Judges (CCJE-GT) held its 25th meeting in Rome (Italy) from 12 to 14 June 2013, at the invitation of the Italian Supreme Council of Magistracy. The meeting was chaired by Mr Bart VAN LIEROP (the Netherlands), Vice-President of the CCJE.
2. The agenda and the list of participants are appended to this report (Appendices I and III respectively).

II. COMMUNICATION BY THE PRESIDENT, MEMBERS OF THE BUREAU AND WORKING GROUP OF THE CCJE

3. Mr Gerhard REISSNER (Austria), President of the CCJE, briefed the members of the CCJE-GT on the discussions held during the Bureau meeting. He emphasised in particular that the CCJE activities were increasing and the CCJE members were often invited to conferences, seminars and other events to present the CCJE standards. This was resulting in an additional work for the members, however it was rewarding to see the growing visibility of the CCJE and an increasing practical application of its standards.
4. Mr REISSNER went on to mention that at present, the CCJE had several requests for co-operation. He would participate in the 265th session of the European Committee of Social Rights on 1 July 2013, and the discussion of the cooperation between this Committee and the CCJE would take place. On 18 June 2013, he would take part in the launching ceremony of the project implemented in Ukraine by the Division for Legal Cooperation of the Justice and Legal Cooperation Department, DGI. He also mentioned the projects within the framework of the Council of Europe neighbourhood policy in Morocco and Tunisia, where the members of the CCJE Bureau participated in several events. As regards the legislative expertises, Mr REISSNER particularly referred to a very positive response from the Supreme Court of Georgia for the CCJE Opinion on the draft of the Law "On Establishing the Temporary State Commission on Studying the Miscarriages of Justice"¹.
5. The members of the Bureau also briefed the CCJE-GT on the process of preparation of the updated Situation Report on the judiciary and judges in member States. The meeting organised by the Association "Magistrats européens pour la démocratie et les libertés" (MEDEL) in Brussels on 23 May 2013, and its information as regards problems of the judiciary in Europe was mentioned. The updated version of the Situation Report would integrate relevant information from bilateral as well as multilateral sources like MEDEL and other European organisations. A special Bureau meeting dedicated to preparation of the Situation Report would take place in September 2013 in Strasbourg.
6. Mr VAN LIEROP mentioned the forthcoming establishment of the internal database within the framework of the CCJE website which would bring together all information received from various sources on the situation of the judiciary and judges in Europe.
7. The members of the Bureau informed that they planned to meet with Mr Philippe Boillat, Director General of Human Rights and Rule of Law, in order to discuss the activities of the CCJE and share their experience.

III. PREPARATION OF DRAFT OPINION NO. 16 ON RELATIONS BETWEEN JUDGES AND LAWYERS

8. The members of the CCJE-GT expressed their appreciation for the work of Ms Natalie FRICERO, scientific expert (who could not attend the present meeting), for having prepared the text for elaborating the draft Opinion No. 16 on relations between judges and lawyers and concrete means to improve the efficiency and quality of judicial proceedings (document CCJE-GT(2013)1rev4). The text integrated comments and conclusions resulting from the extensive discussions during the 24th meeting the CCJE-GT in April 2013².
9. The CCJE-GT members highly praised the organisation and discussions during the conference on relations between judges and lawyers (13 June 2013) in Rome organised by the CCJE in cooperation with the Italian Supreme Council of Magistracy and the National Bar Council. The conference brought together about 70 judges and lawyers and highlighted their cooperation and its institutional, professional, ethical, procedural aspects, common ethical principles for both professions, as well as their common training and many other

¹ For more details related to these activities, see the report on the 14th meeting of the CCJE Bureau in Rome, document CCJE-BU(2013)3).

² See the report on the 24th meeting of the CCJE-GT in Strasbourg, document CCJE-GT(2013)4. Detailed draft structure of the Opinion No. 16 is attached to that report.

relevant issues. Its timing allowed the CCJE-GT discussing the conference in advance as well as post-factum.

10. The members of the CCJE-GT discussed in-depth the prepared text for the Opinion and, first of all, tried to further refine its structure to make more straightforward and practical. They have made many comments focusing on the equality of arms, the European dimension of both professions, missions of judges and lawyers, substantive and procedural issues. The questions related to loyalty and fair trial under the European Convention on Human Rights (ECHR) and the respective case law of the European Court of Human Rights were examined.
11. The issue of a concrete cooperation between judges and lawyers during specific procedures resulted in a lively debate. The paragraphs related to the improvement of procedural relations, dialogue and communication during proceedings were carefully considered and revised.
12. The members of the CCJE-GT underlined that the Opinion should not create an impression of somewhat being imposed on the lawyers by judges. Constructive cooperation in the spirit of the rule of law should be the main message of the Opinion. The autonomy of the Bar should always be respected.
13. The discussion went on the issue of the relations with media, considered as a delicate subject. In this regard, it seemed advisable to stress in the text the judges' duties and obligations during criminal procedure and resulting restrictions in their communications with media.
14. On the basis of the discussions, the CCJE-GT made substantial revisions of the draft text, including the structure. In addition, it was agreed that a number of the CCJE-GT members would send their written proposals after the meeting to be included in the draft. The draft text resulting from the meeting appears in Appendix II to this report (document CCJE-GT(2013)1rev7).
15. It was agreed that once the members of the CCJE-GT would have sent, within several weeks, their written proposals to the Secretariat, the latter would proceed to preparing the consolidated text, which would be sent to the CCJE-GT for further comments and approval, then circulated again. After final approval, it would be sent to all members of the CCJE for their comments in view of the forthcoming plenary meeting on 13-15 November 2013.
16. The input by the Council of Bars and Law Societies of Europe (CCBE) into the process of drafting the Opinion was also discussed. Mr REISSNER, at the request of the CCBE, drafted a concept paper on the Opinion. He informed that at the end of June 2013, the CCBE would have a Board meeting where the concept paper and the corresponding input by the CCBE into the drafting process of the Opinion would be discussed.

IV. OTHER BUSINESS

17. The CCJE plenary meeting would take place on 13-15 November 2013 in Strasbourg.

APPENDIX I**AGENDA / ORDRE DU JOUR**

1. Opening of the meeting / *Ouverture de la réunion*
2. Adoption of the agenda / *Adoption de l'ordre du jour*
3. Communication by the President, members of the Bureau and the Secretariat / *Communication du Président, des membres du Bureau et du Secrétariat*
4. Preparation of the CCJE Opinion No. 16 on relations between judges and lawyers and concrete means to improve the efficiency and quality of judicial proceedings / *Préparation de l'Avis n° 16 sur les relations entre juges et avocats et les moyens concrets d'améliorer l'efficacité et la qualité des procédures judiciaires*
5. Other work of the CCJE / *Autres travaux du CCJE*
 - Participation of the CCJE in other meetings in and outside the Council of Europe / *Participation du CCJE à d'autres réunions au sein ou à l'extérieur du Conseil de l'Europe*
6. Any other business / *Divers*

14 June 2013

**WORKING GROUP OF THE
CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE-GT)**

DRAFT OPINION NO. (2013) 16

**ON RELATIONS BETWEEN JUDGES AND LAWYERS
FOR THE EFFICIENCY AND QUALITY OF JUSTICE**

I. INTRODUCTION

1. In accordance with the terms of reference entrusted to it by the Committee of Ministers, the Consultative Council of European Judges (CCJE) decided to prepare, in 2013, an Opinion on the relationships between judges and lawyers and the means to improve the efficiency and quality of judicial proceedings.

2. The Opinion has been prepared on the basis of previous CCJE Opinions and the relevant instruments of the Council of Europe, the 1998 European Charter on the Statute for Judges, the 2010 Magna Carta of Judges, Recommendation CM/Rec(2010)12 of the Committee of Ministers on judges: independence, efficiency and responsibilities; the 2002 Bangalore Principles of Judicial Conduct, and the Basic Principles on the Independence of the Judiciary, adopted by the 7th Congress of the United Nations in 1985.

It also draws on the work of the Council of Bars and Law Societies of Europe (CCBE), notably the 2006 Charter of Core Principles of the European Legal Profession, and the Code of Conduct for European Lawyers adopted in 1998 and amended in 2002 and 2006, and the Basic Principles on the Role of Lawyers, adopted by the 8th Congress of the United Nations in 1990.

It takes account of the states' replies to the questionnaire and the report drawn up by the scientific expert Ms Natalie FRICERO (France), as well as the contributions of the participants in the conferences in Paris on 7 November 2012, organised jointly by the CCJE and the Paris Bar Association, and in Rome on 13 June 2013 with the High Council for the Judiciary and National Bar Council of Italy.

The CCJE has also consulted the Council of Bars and Law Societies of Europe (CCBE) in the course of preparation of this Opinion.

II. RESPECTIVE ROLES OF JUDGES AND LAWYERS IN THE FUNCTIONING OF JUSTICE

3. States governed by the rule of law shall organise their judicial systems in such a way that the supremacy of law and respect for fundamental rights and freedoms are guaranteed in conformity with the European Convention on Human Rights (hereafter the Convention), as well as the case-law of the European Court of Human Rights (hereafter the Court).

The CCJE already acknowledged the essential role of cooperation among the various players in the proper functioning of justice and of interaction among these players. Thus, in paragraph 10 of its Opinion No. (2009)12 on the relationships between judges and prosecutors in a democratic society, the CCJE affirmed that *"the sharing of common legal principles and ethical values by all the professionals involved in the legal process is essential for the proper administration of justice"*.

4. Judges and lawyers have different roles to play, but contribution of both is necessary in order to arrive at a fair and efficient solution to the litigation.

The judge is in charge of conducting the proceedings and rendering a judicial decision before the parties during a trial. In the light of the Convention as well as the case-law of the Court, the judge decides, according to the law and following organised proceedings, on any issue within his/her jurisdiction. Paragraph 2 of the Basic Principles on the Independence of the Judiciary as adopted by the UN General Assembly in 1985 stipulates that *"the judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any*

restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason". The different CCJE Opinions adopt the same definition of a judge's role: "The function of judging implies the responsibility for making binding decisions for the persons concerned and for deciding litigation on the basis of the law" (Opinion No. (2009)12, § 23). "Their independence is not a prerogative or privilege in their own interests, but in the interests of the rule of law and of those seeking and expecting justice" (CCJE Opinion No. (2001)1, § 10).

Within the framework of their mission consisting in defending the interests of their clients, lawyers also participate in the system for the administration of justice and promoting the proper and fair running of proceedings. Paragraph 6 of the introductory commentary to the Charter of Core Principles of the European Legal Profession (adopted on 25 November 2006 by the Council of Bars and Law Societies of Europe), defines the lawyer's role as follows: "The lawyer's role, whether retained by an individual, a corporation or the state, is as the client's trusted adviser and representative, as a professional respected by third parties, and as an indispensable participant in the fair administration of justice. By embodying all these elements, the lawyer, who faithfully serves his or her own client's interests and protects the client's rights, also fulfils the functions of the lawyer in Society - which are to forestall and prevent conflicts, to ensure that conflicts are resolved in accordance with recognised principles of civil, public or criminal law and with due account of rights and interests, to further the development of the law, and to defend liberty, justice and the rule of law". The Basic Principles on the Role of Lawyers adopted by the 8th United Nations Congress in September 1990 state that: "(whereas) adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession"; Principle 12 stipulates that "lawyers shall at all times maintain the honour and dignity of their profession as essential agents of the administration of justice".

5. Judges and lawyers must be independent in the exercise of their duties, and must also be, and be seen to be, independent from each other. This independence is affirmed by the Codes of Conduct for each profession, and the CCJE considers such independence vital for the proper functioning of justice.

6. The CCJE re-affirms the paragraph 12 of Recommendation CM/Rec(2010)12 of the Committee of Ministers on judges: independence, efficiency and responsibilities which states that "without prejudice to their independence, judges and the judiciary should maintain constructive working relations with institutions and public authorities involved in the management and administration of the courts, as well as professionals whose tasks are related to the work of judges in order to facilitate an effective and efficient administration of justice". Such constructive relations are equally necessary for judges and lawyers when conducting proceedings with a view of obtaining a solution to the litigation with efficiency and quality.

7. In view of these observations, two areas of relationships between judges and lawyers may be distinguished:

- on the one hand, the relationships between judges and lawyers which stem from procedural principles, and which have a direct impact on the efficiency and quality of judicial proceedings. In the conclusions and recommendations set out in its Opinion No. (2008)11 on the quality of judicial decisions, the CCJE pointed out that "(e) the standard of quality of judicial decisions is clearly the result of interactions between the numerous actors in the judicial system";
- on the other hand, those which result from the professional conduct of the judges and lawyers and which require mutual respect for the roles played by each side and constructive dialogue.

III. IMPROVEMENT OF PROCEDURAL RELATIONS, DIALOGUE AND COMMUNICATION DURING PROCEEDINGS

8. Judges and lawyers both share an essential obligation, namely compliance with the procedural rules and the basic principles of just proceedings, which enables to guarantee final result with efficiency and quality.

Constructive relations between judges and lawyers ensure that proceedings will be concluded within reasonable time-limits, guarantee the rights of defence and adversarial proceedings, and improve the conduct of the hearing. They also help in meeting the parties' various needs: litigants expect to be heard and also expect judges and lawyers to contribute together to a fair settlement of their case within a reasonable time.

9. States must establish appropriate procedural legislation in accordance with Article 6 of the Convention. The drafting process for adequate procedural rules should include consultation with both judges and lawyers, not in the interest of judges and lawyers but to safeguard the rule of law.

10. In practice, the procedural rules, be it in civil, criminal or administrative cases, are often complex and allow a variety of procedural "incidents" and intermediate appeals. This may cause unreasonable delays and high costs for the parties. The CCJE strongly supports attempts to analyse and evaluate the existing procedural rules in the

member States and to develop, where necessary, more transparent and adequate rules. Exchange of international experience, also by judges and lawyers, may foster the development of “best practices”. Social and cultural differences between the member States should be taken into account, however. Consultation of the court users is particularly relevant in the process of developing adequate procedural rules.

11. The CCJE considers that legislation should provide judges with effective procedural tools to implement the principles of a fair hearing and to prevent undue delays and delaying tactics.

Such legislation should be sufficiently firm, and it should provide for clear and fair time-limits, while also permitting the necessary flexibility if required. The CCJE refers to the work of the CEPEJ, particularly the Guidelines of the SATURN Centre for judicial time management³, which state that *“the normative setting of time-limits by legislation or other general acts should be used cautiously, having regard to possible differences in concrete cases”*.

12. Where both judges and lawyers have sufficient professional command of procedural rules, they can engage in a fruitful dialogue, each side contributing to the final result according to their role in the proceedings.

13. An equal access to information on procedural and substantive laws, and also to landmark case-law, should be provided as broadly as possible both for judges and lawyers, *“available on the internet i) free of charge, ii) in an easily accessible form, and iii) taking account of personal data protection. The CCJE welcomes initiatives to introduce international case-law identifiers (like the European Union case-law identifier ECLI) which will improve access to foreign case-law”* (CCJE Opinion No. (2011)14 § 24).

14. The Basic Principles on the Independence of the Judiciary, adopted by the 7th Congress of the United Nations in 1985, stated in the Principle No. 6 that *“the principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected”*. The role played by lawyers in defending the rights of the parties implies their active co-operation in managing the caseload (agreeing on procedural calendars⁴, scheduling the interlocutory hearings, cooperation in the area of production of evidence and outcome of proceedings).

15. The CCJE considers it important to develop hearings for facilitating an effective co-operation between judges and lawyers in identifying the evidence, witness statements and expert opinions. This dialogue may also be held in the presence of the parties.

16. Judges and lawyers must co-operate in meeting the needs of the parties, including through amicable settlements. In its Opinion No. 6(2004) on “fair trial within a reasonable time and the judge’s role in trials taking into account alternative means of dispute settlement”, the CCJE recommended encouraging the development of arrangements for amicable settlement of cases. The CCJE considers that, for example, joint training sessions could improve mutual understanding of the respective roles of judges and lawyers in the context of amicable settlements of disputes by conciliation or mediation.

17. Willingness to co-operate and dialogue may also take the form of procedural guidelines agreed upon at an institutional level. The CCJE considers that courts should encourage the establishment of good practices resulting from agreements between the courts and the Bar. Agreements concerning the management and the conduct of proceedings have been established in many judicial systems, taking a variety of forms (CEPEJ Studies No. 16, Contractualisation and judicial process in Europe, p. 46 ff.). Involving lawyers in management of proceedings also has the advantage of increasing their motivation. The CCJE considers that such general procedural agreements should comply with procedural law and be made public in order to ensure transparency for lawyers and litigants.

18. It is necessary to establish proper communication between courts and lawyers in order to ensure the speed and efficiency of proceedings. The CCJE considers that states should introduce systems facilitating computer communication between the courts and the lawyers, so as to improve services for lawyers and enable them to easily consult the procedural situation of their files. In its Opinion No. (2011)14 on “justice and information technologies”, the CCJE recommends that *“IT plays a central role in the provision of information to judges, lawyers and other stakeholders in the justice system as well as to the public and the media”*.

IV. DEVELOPMENT OF MUTUAL UNDERSTANDING AND RESPECT FOR EACH OTHER’S ROLE - ETHICAL PRINCIPLES

19. Judges and lawyers have each their own set of ethical principles.

³ See CEPEJ(2008)8Rev on www.coe.int/cepej.

⁴ The SATURN Guidelines of the CEPEJ (CEPEJ(2008)8rev) recall the need for *“loyal collaboration by all stakeholders”*. *“Where possible, the judge should attempt to reach agreement with all participants in the procedure regarding the procedural calendar. For this purpose, he should also be assisted by appropriate court personnel (clerks) and information technology”*.

The Code of Conduct for European Lawyers adopted on 28 November 1998 identified these principles in relations between lawyers and judges. Article 4 of the Code lays down the main rules in this area: *“A lawyer who appears, or takes part in a case, before a court or tribunal must comply with the rules of conduct applied before that court or tribunal. A lawyer must always have due regard for the inter partes nature of the proceedings. A lawyer shall while maintaining due respect and courtesy towards the court defend the interests of the client honourably and fearlessly without regard to the lawyer’s own interests or to any consequences to him- or herself or to any other person. A lawyer shall never knowingly give false or misleading information to the court”*.

Moreover, as regards judges, [principles to be developed by the CCJE + Bangalore principles].

20. However, several ethical principles are common to both judges and lawyers, namely compliance with law, professional secrecy, integrity and dignity, respect for the litigant, competence, fairness and mutual respect.

21. The CCJE considers that relations between judges and lawyers should be based on the understanding of each other’s role, respect and independence vis-à-vis each other⁵.

The CCJE accordingly considers it necessary to develop dialogue and the possibilities for exchanges between judges and lawyers at (national and European) institutional level on the issue of their mutual relations. Both lawyers’ and judges’ codes of ethics should be taken into account. In this regard, the CCJE encourages identification of at least some common ethical principles, such as the duty of independence, the cooperation for the fair and swift conduct of the proceedings and permanent professional training. Professional associations and independent bodies governing judges and lawyers should be responsible for this process.

22. Mutual understanding and respect can also result from improving knowledge of the powers of each side⁶. Training colloquies or conferences for judges and lawyers should deal with their mutual roles and the importance of the relationship between them, with the general aim of promoting the fair and efficient settlement of disputes, whilst respecting the independence of both sides.

23. In the member States of the Council of Europe, there is a wide variety in the ways in which judges are recruited. The CCJE refers to the CEPEJ report “Evaluation of European Judicial Systems”, 2012 Edition, Chapter 11.1. There are some countries (e.g. the United Kingdom, Switzerland, Norway), in which judges are mainly recruited among experienced lawyers. In other countries, judges and lawyers do not share a common career. In these countries, the development of mutual understanding between the two professions is particularly relevant. One of the possibilities to foster such understanding is an establishment of internships for trainee-judges in law firms and for trainee-lawyers in courts.

24. Relations between judges and lawyers shall always preserve the court’s impartiality and image of impartiality. Judges and lawyers should both be fully conscious of this, and adequate procedural and ethical rules should safeguard this impartiality.

25. Both judges and lawyers enjoy freedom of expression under Article 10 of the Convention. However, while exercising this freedom, they should behave in line with their ethical rules, respect dignity of each other, refrain from personal attacks and avoid any action that may undermine the independence and essential role of both professions. The Court expressly held that freedom of expression may not be used in order to lead to the destruction of the rights and freedoms granted by the Convention⁷.

26. Judges are required to preserve the confidentiality of the court’s deliberations and their impartiality, which means, *inter alia*, that they must refrain from commenting on proceedings. In particular, the presumption of innocence (Article 6(2) of the Convention) *“requires that members of a court should not start with the preconceived idea that the accused has committed the offence charged”*⁸. This also applies to all other actors and persons concerned. The national authorities should provide guarantees, through appropriate legislation or case-law, on the

⁵ Judges *“should show the consideration due to all persons (parties, witnesses, counsel, for example) with no distinction based on unlawful grounds or incompatible with the appropriate discharge of their functions. They should also ensure that their professional competence is evident in the discharge of their duties”* (CCJE Opinion No. (2002)3 § 23). *“Judges should also discharge their functions with due respect for the principle of equal treatment of parties, by avoiding any bias and any discrimination, maintaining a balance between the parties and ensuring that each receives a fair hearing”* (CCJE Opinion No. (2002)3 § 24).

⁶ In paragraph 10 of its Opinion No. (2009)12 on the relationships between judges and prosecutors in a democratic society, the CCJE stated that *“Where appropriate, joint training for judges, public prosecutors and lawyers on themes of common interest can contribute to the achievement of a justice of the highest quality”*.

⁷ See Kühnen v. the Federal Republic of Germany, 1988; D.I. v. Germany, 1996.

⁸ See Barberà, Messegué and Jabardo v. Spain, 1989.

presumption of innocence⁹. Judges should also be careful to comment on the performance of lawyers, taking into account that lawyers' primary duty is to act in the interests of their clients.

27. The freedom of expression of lawyers has also its limits, according to the Court's case-law, "*in order to guarantee the authority and impartiality of the judiciary*"¹⁰. The Court recognised that it is of fundamental importance in a democratic society that the courts inspire confidence to the public¹¹, therefore judges must be protected against destructive attacks without factual basis. Moreover, since they have a duty of discretion, judges cannot respond in public to various attacks, as, for instance, politicians are able to do¹².

28. Respect towards professional colleagues and respect for the rule of law and the fair administration of justice¹³ demand abstention from abusive criticism of professional colleagues, of individual judges and of court procedures and decisions. In particular, especially in delicate cases, involving public figures, if commenting on judges' decisions, lawyers should ensure avoiding criticism that would undermine the independence of or public confidence in the judiciary, as well as actions which may call into question the willingness of their clients to abide by judges' decisions, other than stating their intention to appeal¹⁴.

The CCJE considers that, where appropriate, discussions on this matter should be held between the Bar and the courts.

V. RECOMMENDATIONS

The CCJE reaffirms that "*the sharing of common legal principles and ethical values by all the professionals involved in the legal process is essential for the proper administration of justice*", and sets out the following recommendations:

I. The CCJE recommends that states establish appropriate procedural legislation, which must define the activities of judges and lawyers and empower judges to effectively implement the principles of a fair trial and to prevent delaying tactics on the part of the parties.

II. The CCJE considers that the competence on the part of judges and lawyers as provided for by substantive and procedural laws should facilitate a fruitful dialogue, with each actor contributing to the final outcome according to his role in proceedings.

III. The CCJE recommends that judges develop hearings in the framework of the procedural laws, and establish, in consultation with lawyers, timetables for proceedings specifying the procedural stages, setting out reasonable and appropriate timeframes and structuring the presentation of documentary and other evidence.

IV. The CCJE recommends that courts engage in dialogue with Bar representatives in establishing good practices, with respect for the procedural laws. In the case of need, in order to guarantee the certainty of the law, procedural contracts may be adopted.

V. The CCJE recommends developing lines of communication between courts and lawyers. Judges and lawyers must be in a position to communicate at all stages in proceedings. The CCJE considers that states should introduce systems facilitating computer communication between the courts and the lawyers.

VI. In order to meet the needs of the parties, the CCJE recommends developing arrangements for the amicable settlement of disputes. It considers that understanding the respective roles of judges and lawyers in the framework of amicable settlements by conciliation or mediation is a vital factor for developing this approach and that, as far as possible, joint training sessions on the various modes of amicable settlement should be provided.

VII. The CCJE recommends the development of dialogue and opportunities for exchanges between judges and lawyers at an institutional level on the issue of their mutual relations, whilst taking full account of the Codes of Ethics of both lawyers and judges. Such dialogue should facilitate mutual understanding of and respect for the role of each side, with respect for the independence of both judges and lawyers.

⁹ Presumption of innocence and freedom of information: two competing rights? - Statement by Dean Spielmann, 30 September 2002.

¹⁰ See *Kyprianou v. Cyprus*, 15 December 2005, No. 73797/01; *Alenka Pecnik v. Slovenia*, 27 September 2012, No. 44901/05.

¹¹ See *Olujic v. Croatia*, 2009.

¹² See *De Haes and Gijssels v. Belgium*, 1997.

¹³ See principles (h) and (i) of the Charter of the Core Principles of the European Legal Profession of the CCBE.

¹⁴ See principle 18 of the Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities.

VIII. Such mutual understanding can be created by improving knowledge of the role of each participant and the importance of their relationships, while endeavouring to promote the fair and efficient settlement of disputes. The CCJE considers that where appropriate, joint training for judges and lawyers on the themes of common interest can contribute to developing a system for the administration of justice of the highest quality.

APPENDIX III

LIST OF PARTICIPANTS

Members of CCJE-GT / Membres du CCJE-GT**CROATIA/CROATIE (apologized/excusé):**

Mr Duro SESSA, Judge, Supreme Court of Croatia, ZAGREB

GERMANY/ALLEMAGNE

Mr Johannes RIEDEL, President of the Court of Appeal, KÖLN, Vice-President of the Constitutional Court of North Rhine-Westphalia

ITALY/ITALIE

Mr Raffaele SABATO, Counsellor, Supreme Court of Cassation, Member, Board of Directors, School for the Judiciary, ROME

LITHUANIA/LITUANIE

Mr Virgilijus VALANČIUS, President of the Supreme Administrative Court of Lithuania, VILNIUS

LUXEMBOURG

M. Jean-Claude WIWINIUS, Président de Chambre, Cour Supérieure de Justice, LUXEMBOURG

NORWAY/NORVEGE (apologized/excusé):

Mr Nils ENGSTAD, Judge, Halogaland Court of Appeal, TROMSØ

PORTUGAL (apologized/excusé)

Mr Orlando AFONSO, Judge, Supreme Court of Portugal, LISBONNE

SPAIN/ESPAGNE (apologized/excusé):

Mr José Francisco COBO SÀENZ, Judge, Chair of the Section. 2a, Provincial de Navarra, PAMPLONA

SWITZERLAND / SUISSE

M. Bernard CORBOZ, Juge fédéral, Tribunal fédéral, LAUSANNE

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”/“L’EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE” (apologized/excusé):

Ms Aneta ARNAUDOVSKA, Judge, Director of the Academy for training of judges and prosecutors, SKOPJE

Members of the CCJE-BU / Membres du CCJE-BU**AUSTRIA/AUTRICHE (President of the CCJE/ Président du CCJE):**

Mr Gerhard REISSNER, President of the International Association of Judges, President of the District Court of Floridsdorf, VIENNA

THE NETHERLANDS/PAYS BAS (Vice-President of the CCJE/ Vice-Président du CCJE):

Mr Bart VAN LIEROP, Senior Justice, Administrative High Court for Trade and Industry, THE HAGUE

SLOVENIA/SLOVENIE :

Ms Nina BETETTO, Judge, Supreme Court of Slovenia, LJUBLJANA

UNITED KINGDOM/ ROYAUME-UNI (apologized/excusé):

Lord Justice Richard AIKENS, Royal Courts of Justice, Strand, LONDON

**COUNCIL OF EUROPE'S SECRETARIAT /
SECRETARIAT DU CONSEIL DE L'EUROPE**

**Directorate General of Human Rights and Rule of Law/
Direction Générale des droits de l'homme et de l'état de droit**

**Division for the independence and efficiency of justice /
Division pour l'indépendance et l'efficacité de la justice**

E-mail: ccje@coe.int

Fax: + 33 (0) 88 41 37 43

Mr Stephane LEYENBERGER, Secretary of the CCJE / *Secrétaire du CCJE*, tel: + 33 (0)3 88 41 34 12; e-mail: stephane.leyenberger@coe.int

Mr Artashes MELIKYAN, Co-Secretary of the CCJE / *Co-Secrétaire du CCJE*, tel: + 33 (0)3 90 21 47 60; e-mail: artashes.melikyan@coe.int

Mr Jean-Pierre GEILLER, Administration and Finances / *Administration et Finances*, tel: + 33 (0)3 88 41 22 27; e-mail: jean-pierre.geiller@coe.int

Ms Annette SATTEL, Administration and Networks / *Administration et réseaux*, tel: + 33 (0)3 88 41 39 04; e-mail: annette.sattel@coe.int

Ms Emily WALKER, Assistant / *Assistant*; tel: + 33 (0)3 90 21 48 39, e-mail: emily.walker@coe.int