

**CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)**

**Questionnaire for the preparation of the CCJE Opinion No. 16  
on the relationship between judges and lawyers  
and the concrete means to improve the efficiency and quality of judicial proceedings**

**Replies from Albania**

**A. Professional ethics, conduct and responsibility of judges and lawyers**

1. Does your country have a Code of Ethics or equivalent for judges? (please specify)

The Code of Judicial Ethics has been approved by the National Judicial Conference on 15/12/2000, in its plenary session of all the judges of first instance, appeal and those of High Court, exercising the judicial powers in the Republic of Albania.

The scope of application of this code extends over all the judges, who, in accordance with its Rule 26, shall abide to the rules of this Code of Judicial Ethics.

The Code of Judicial Ethics is an internal self-regulatory act, directly provided that, for the violation of its rules by the judges, the Judicial Conference may draw the attention to them.

2. Does your country have a Code of Ethics or equivalent for lawyers? (please specify)

Attorneys' Ethics Code has been approved by the General Council of the National Bar Association in 12.11.2005, with the decision no. 31. The aim of this code is to set up, respect and implement the rules of the lawyers' professional conduct and ethics in the defence of the rights and legitimate interests of the clients and in service of the interests of justice.

3. Does your country have any joint codes, rules and/or regulations concerning ethics of judges and lawyers? (please specify)

There are legal provision in the Albanian Civil Procedure Code and Criminal Procedure Code that regulate the relation between the lawyers and the judges during the court hearings. Attorney Ethics Code contains a special chapter providing the relation of the lawyers with the judges.

According to those provisions, in order for a lawyer to maintain his/her good reputation and the reputation of Bar Association must not permit incorrect behaviours which lack of respect toward the judges and everybody else towards him/herself, his assistant, student or client. He must demonstrate respect, honesty and integrity to the court in relation with the representation or defending of client's interests within the limits established by the law and ethics code. A lawyer shall not try to influence the judicial authorities by any means contrary to the law, and to undertake acts which try to corrupt (harm) the judgment's solemnity or the judgment. A lawyer shall never, knowingly, give false or misleading information during the judicial proceedings. A lawyer shall not entice a witness into committing a perjury or making false statements. A lawyer shall not cause an unnecessary delay in judicial proceedings.

4. Does your country plan to establish codes, rules and/or regulations concerning professional ethics, conduct and responsibility of both judges and lawyers, or to develop the existing ones?

No information

5. Does your country have any rules and/or regulations dealing in any manner with the issues of relations between judges and lawyers or is there any intention to establish such instruments in a joint manner for both groups (judges and lawyers)? If yes, please specify

NO

6. In your opinion, what are the main principles which should govern the ethics of judges?

Judges are expected to perform their work with competence and treat the litigants, witnesses and attorneys with courtesy and respect. They are, furthermore, expected to behave with honesty and propriety both on the bench and

in their private lives so as to inspire trust and confidence in the community, avoiding with care, behaviours that demean their high office. The main principles are articulated around six basic values: "independence", "impartiality", "integrity", "propriety", "equality", and "competence and diligence"

Lawyers?

The main principles which should govern lawyers during their work are: "Independence" "Trust and Personal Integrity" "Confidentiality" "Respect for the Rules of Other Bars and Law Societies" "Incompatible Occupations" "Personal Publicity" "The Client's Interest" and "Limitation of Lawyer's Liability towards his Client".

## **B. Training of judges and lawyers**

7. Which are, in your country, the training institutions:  
for judges ?

The education of judges in Albania is accomplished by the School of Magistrates. The School of Magistrates in the Republic of Albania is an independent public institution, with institutional, academic and administrative independence, established by the Law no 8136/1996 "On the School of Magistrates in the Republic of Albania", as amended. The main tasks of the School of Magistrates are:

- Initial professional training of candidates for judges and prosecutors in a three year program and
- Professional continuous training of judges and prosecutors in office;
- At the same time, based on specific provisions, the School of Magistrates provides professional training to the employees of the judicial administration relying on the bilateral agreements it has with such institutions as State Advocacy, Ministry of Justice etc.

for lawyers?

The Law No 9109/2003 "On legal profession in the Republic of Albania" as amended, regulates the establishment and functioning of the National Bar Association as a legal entity, exercising its activity independently of the state and is responsible for controlling and regulating the exercise of the legal profession in the Republic of Albania. In this context, the General Council of the Bar Association regulates the terms for the professional training of advocates.

According to the latest amendments of law 9109/2003 approved by Albanian Assembly, on July 2012, National Bar Association is in charge to establish the National School of Advocates within one year of the entry into force of this law. In this context National Bar Association is dealing with the preparation of training programs, organization and management of candidates for initial training and continuing training of lawyers. With this regard, the establishment of the National School of Advocates is still in process.

8. Which kind of training curricula (initial and continuous training), in brief, do these training institutions have:  
for judges ?

1. The Initial Training Program is a three year program out of which the first is theoretical, the second is passive practise in courts and the third year is the professional internship, where the candidates for magistrates exercise the tasks of the judge or prosecutor.

The first year is of theoretical-practical character, divided into two semesters of 16 weeks each. The total of subjects taught in this academic year are 19, out of which 11 main subjects are annual while 8 are semester based. The total of teaching hours in an academic year is 1280 hours, divided into two semesters. The teaching subjects conducted at school are: Civil Law, Criminal Law, Civil Procedure, Criminal Procedure, Commercial Law, Bankruptcy, Competition, Constitutional Law, EU Law, Administrative Law, Family Law, Labour Law and Social Insurance Law, Human rights, Professional Ethics, Legal Writing and Reasoning, Courts and Case Management, Prosecution Office Administration, International Private Law, Taxation and Customs Law, Intellectual Property Law, Mediation and Arbitration. Foreign Language: English (Basic Level and Advanced).

2. The continuous training for judges organised by the School of Magistrates is designed program for judges in the new fields of the law. The continuous training shall not exceed 20 days in a year or 60 days in 5 years. The Steering Council demonstrates the appropriate attention to include in the curricula of the continuous training topics from new fields such as that in the commercial companies law, cyberspace crime, administrative law, community law, judicial practice in the European Court of Human Rights, ethics, as well as various issues surrounding the human rights.

- for lawyers?

Due to the latest amendments of the law 9109/2003 "On legal profession in the Republic of Albania" the design of the training program and curricula for lawyers are in process of reviewing by the National Bar aiming to prepare candidates with specific professional knowledge, theoretical and practical.

The main subject of the Bar exam program are: Constitutional Law, Civil Law, Criminal Law, Civil Procedure, Criminal Procedure, Commercial Law, Bankruptcy, Competition, Constitutional Law, Administrative Law, Family Law, The legal profession in Albanian.

9. What is the duration of the initial training:  
for judges ?

The Initial Training Program is a three year program out of which the first is theoretical, the second is passive

practise in courts and the third year is the professional internship, where the candidates for magistrates exercise the tasks of the judge or prosecutor.

for lawyers?

The period of professional internship for the candidates lasts one year.

10. Does the initial training include issues related to the professional ethics, conduct and responsibility of judges and lawyers, their relations with each other, as well as their co-operation with a view of fair and efficient conclusion of judicial proceedings?

NO

11. Are there joint training courses for judges and lawyers?

If yes:

1. what is their content and duration?
2. are they mandatory for judges and lawyers?
3. how are these courses funded?
4. If not, are they planned or discussed?

The School of Magistrates carries out, in addition to the professional training of magistrate's, activities for the professional training of employees in the judicial administration, as well as other legal professions, bearing a connection to justice. In this context the School has provided joint trainings of lawyers and judges on different topics. These trainings are not mandatory, and are funded by donors.

### **C Efficiency and quality of judicial proceedings**

12. Are there any procedural instruments to facilitate the interaction between judges and lawyers during the proceedings? If yes, please specify.

No, there is no any additional or specific procedure according to Albanian legislation to facilitate the interaction between judges and lawyers.

13. If not, how are they planned?

No information

14. How is the communication between judges and lawyers organised? Is it efficient? Are there computerised information systems to that end?

The communication between judges and lawyers is formal, based on the Codes of Civil and Criminal Procedure, respectively. It depends on subjective factors of the judges or lawyers.

15. Are there possibilities, procedures and mechanisms for judges and lawyers to come to an agreement concerning the judicial resolution of the case?

According the Albanian legislation (the law 10385/2011"On mediation"), for cases on family law, minors, labour cases, small civil cases, the parties could opt for the mediations as mean of resolution of their dispute. In such cases (circumstances) the judge may refer the case to mediation. If the parties reach an agreement, this agreement should be approved/validate by the judge.

16. If yes, is such agreement compulsory?

Yes

17. Do they negotiate certain phases of the procedure?

Yes

18. Are there any legal instruments (substantive or procedural) which potentially could be used by judges to ignore, to disregard or in any manner to avoid taking into consideration the claims, demands and arguments of lawyers?

NO

19. Are there any legal instruments (substantive or procedural) which potentially could be used by lawyers to delay the consideration of the case, or to affect in any way its fair and efficient resolution?

Regarding the criminal procedure was find out that legal defenders (lawyers) often cause situation on postponing the court case that has input on delaying (trial as a way of dependence, profiting towards pre-detention calculation

on the amount of punishment, as well as towards annulling pre-detention deadlines. To avoid this situation, Albanian Government recently has been taken the legal initiative to review the law "On legal profession in the Republic of Albania" with scope to increase the fine for those lawyers who impede the due process.

20.To what extent does the successful interaction between judges and lawyers depend on objective factors such as legislation, structures and procedures? Are there any plans to improve them?

No information.

21.To what extent does such interaction depends on subjective factors such as the patterns of behaviour of individual judges and lawyers, their understanding of their role and responsibility, and/or their wish to work together in order to improve the procedure, etc.?

The interaction between lawyers and judges seems to be not at satisfactory level in Albania. The main factors that could influence are the mentality, culture, training and the level of corruption.

22..How would you assess the relationship between judges and lawyers in your country? Are there any plans to take steps to improve the legal culture and to foster co-operation between judges and lawyers?

Currently, in Albania, the situation of the cooperation between judges and lawyers is delicate. The communication between them is not based in an institutional cooperation, but individual behaviours. In a society founded on respect for the rule of law the lawyer and the judges fulfil a special role. They both aim to ensure the parties their rights and interest through a lawful fair trial and within reasonable time. A lawyer as well as the judge must serve to the interest of justice through their performance. With this regard, I consider, building foster cooperation between judges and lawyers as indispensable to improve the quality of justice.

#### **D Role of judges and lawyers in responding to the needs of parties**

23.Please give some examples of co-operation between judges and lawyers in specific categories of case (e.g. those ending in the peaceful settlement in civil claims).

Often, alternative ways of the resolution of the dispute can be pursued: a compromise between the parties that makes an end to the proceedings or a suspension of the proceedings and referral to mediation, family law, labour law, and disputes between neighbours.

24.Do you have any possibility in your country for lawyers to become judges, and vice versa? If yes, is it frequent?

The criteria and procedure for appointing the first instance and appeal judges are determined in the Law No 9877/2008 "On organisation of the judicial power in the Republic of Albania" The law determines general criteria for each judge to be appointed as such and shall exercise his functions according to the law of the Republic of Albania. While, with regard to the appointment of the judges with the appeal courts or courts of serious crimes of two levels, the law determines some additional criteria and competitive procedures with CV's. The general criteria for being appointed as a judge are: Albanian citizenship, capacity to act, higher basic legal education, completion of School of Magistrates, not being convicted by final court decision due to the commission of a criminal offence, high moral qualities and professional skills. These criteria have to be met cumulatively.

The Law no 9190/2003 provides for the general conditions to be appointed as lawyer. These conditions are connected to the Albanian citizenship, capacity to act, higher basic legal education, completion of professional internship, not being convicted by final court decisions due to the commission of a criminal offence, having received more than 50 percentage points in the bar examination, high moral qualities and professional skills. These criteria shall be met cumulatively.

In Article 25, of the same law, exempt from the criterion of completion of the professional internship shall the persons having previously worked at least 2 years as judges, prosecutors, notary etc. Another exemption, according to art.27 of law 9190/2003 the Steering Committee of the National Chamber, on its own initiative or upon the request of the person who require to practice as lawyer, has the right to exclude from the obligation of participation in bar exam, if the committee decided by a majority vote

As result, the possibility of a judge to become lawyer is more accessible than a lawyer to become a judge.

No data regarding the frequency

25.Can lawyers act, in your country, as deputy judges and if so, under what conditions?

No, because Albanian legislation do not provide for the concept of deputy judges.

#### **E. Judges, lawyers and media**

26. Have there been any reflections in the mass media as regards the relations between judges and lawyers and their co-operation?

No information

27. To what extent lawyers and judges comment in the media on pending cases and on judgments?

28. No information