

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 Denmark

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)

No, a code of ethics for judges does not exist. Nevertheless the Administration of Justice Act provides basic guidance. According to provisions in this act complaints regarding improper or unseemly behavior of a judge can be filed to the Special Court of Indictment and Revision consisting of 5 members – one Supreme Court judge, one High Court judge, one county court judge, one professor in law from the University and one practicing lawyer.

Furthermore the Courts of Denmark had enacted the following Values, Visions and Objectives:

“Values of the Courts of Denmark

- The right of the individual to a respectful treatment*
- Independence in the judiciary*
- Responsibility and reliability in all respects*
- Transparency, dialogue and cooperation”*

“Vision for the Courts of Denmark

- The Courts of Denmark is a highly respected organization, which inspires confidence and executes its objectives with the highest level of quality, service and efficiency*
- The Courts of Denmark secures the rule of law and is the contemporary and primary venue for dispute resolution”*

“Objectives of the Courts of Denmark

Services:

- The Courts of Denmark's procedures, decisions and other services meet the highest professional standards.*
- The Courts of Denmark's procedures are efficient, and they provide friendly and fast services.*
- The Courts of Denmark are open and obliging to the public, other authorities and collaborators.*

Organisation:

- The Courts of Denmark's organisation is efficient and flexible.*
- The Courts of Denmark act as a single organization.*

Staff:

- The Courts of Denmark offer attractive workplaces.*
- Executives and staff are developed and trained according to their own and to the requirements of the workplace.*

Results:

- The Courts of Denmark develop and operate a well-functioning legal system with efficient resource management.”*

(Development of the value statements etc. of the Courts of Denmark is an ongoing process. The text quoted above represents the previous formulation of the set of values, it is nevertheless the most recent representation that is

available in English. Please note that an updated set of values are available in Danish only at www.domstolsstyrelsen.dk.)

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

Yes, a 14 page code of ethics document exists for lawyers, entitled "De advokatetiske regler", in English: "Code of Conduct for the Danish Bar and Law Society", latest revision October 2011, available (in Danish and English) from The Danish Bar and Law Society, www.advokatsamfundet.dk. Additionally the Administration of Justice Act provides basic guidance. The Disciplinary Board, which hears complaints concerning lawyers, determines the particulars regarding good conduct for lawyers based on the Administration of Justice Act. The Board has 21 members. The chairmen of the Board are three judges: one Supreme Court judge, one High Court judge and one County Court judge.

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

No such joint codes, rules or regulations exist.

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 such plan.

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

Guidelines follow from the Administration of Justice Act and from common practice. Topics of common interest about inter alia this issue can be discussed in common fora. There are no plans for developing further instruments.

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

In very short:

The judge must be independent, impartial and highly esteemed in all aspects.

The lawyer has to assert and defend his client`s rights and freedoms and acts as their counsel, maintaining his independence and integrity, including in his conduct vis-à-vis the State.

Both the judge and the lawyer must be highly qualified and effective, showing responsibility and reliability in all respects.

B. Training of judges and lawyers

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

- for judges ?
- *The Danish Court Administration, www.domstolsstyrelsen.dk, but there are other offerings of relevant short courses for judges as well.*
- for lawyers?
- *The Danish Bar and Law Society, www.advokatsamfundet.dk but there are other offerings of relevant short courses for lawyers as well.*

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

- for judges ?
- *Initial as well as continuous training are part of the curriculum, although not mandatory for Danish judges.*

- for lawyers?
- *Initial as well as continuous training are part of the curriculum. The main training is mandatory for Danish lawyers, and is offered only by The Danish Bar and Law Society.*

9. What is the duration of the initial training:

- for judges ?
- *Approximately 15 years of post graduate practice, short introductory courses.*
- for lawyers?
- *3 years of post graduate practice, 20 days of training covering 8 different short courses are taken during the 3 years training period.*

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?

For judges: Yes, said topics are covered by the initial training for judges.

For Lawyers: Yes, said topics are covered by the initial training for lawyers

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

If yes:

- what is their content and duration?
- are they mandatory for judges and lawyers?
- how are these courses funded?

Yes although this is not the rule, there are courses accepting enrollment from judges as well as lawyers and other law candidates. The courses are typically of one day duration. Their content may vary, e.g. alternative dispute resolution, family law, criminal law etc.

There are no mandatory courses for judges at all. For lawyers such courses may count towards their minimum average requirement of 3 days of continuous training per year.

The courses are funded by participants' fees. For Judges such fees are covered by the Danish Court Administration.

If not, are they planned or discussed?

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.

Yes. The Administration of Justice Act lays down detailed rules for the interaction between judges and lawyers during a court proceeding.

13. If not, how are they planned?

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

Written communication is by the usual means of e-mails, telefaxes and letters.

All courts in Denmark have a homepage under www.domstol.dk, containing practical information for the court users, electronic web forms, information about the latest court decisions, and so on.

The Danish Court Administration is working on a further range of projects concerning e-justice, including inter alia electronic data exchanges in criminal cases and establishment of an online legal database with decisions from all first and appeal instance courts as well as the Supreme Court.

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

Yes. The Administration of Justice Act lays down detailed rules for the interaction between judges and lawyers during a court proceeding. E.g. according to section 268 in said act it is an obligation for the court in all civil

cases in the first instance to try to negotiate a settlement between the parties, unless it due to the circumstances is prejudged to be in vain. In case of appeal it is also possible for the court to try to negotiate a settlement between the parties.

16. If yes, is such agreement compulsory?

If the parties come to an agreement and the agreement is added to the court protocol, the agreement will be compulsory.

17. Do they negotiate certain phases of the procedure?

In first instance cases the court normally has an obligation to arrange a court meeting early in the proceeding to solve possible procedural problems and to make a plan for the proceedings. The court will normally look into the possibilities for coming to an agreement on this meeting, but negotiations about making a settlement can in principle take place at any time during the court proceedings if the judge so decides.

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?

Yes, The Administration of Justice Act gives judges such powers, e.g. if an objection has not been raised in due time.

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?

No.

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?

To a large extent and furthermore there are ongoing meetings between lawyers' organisations and The Danish Association of Judges in order to seek such improvements.

21. To what extent does such interaction depend 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.?

To a very limited extent only, but of course you can never eliminate the human factor.

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?

In Denmark we have a sound professional relationship, which the parties strive continuously to improve and cultivate.

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 cases (e.g. those ending in the peaceful settlement in civil claims).

Co-operation between judges and lawyers takes place in court as part of public court proceedings, which as already mentioned can include arbitration negotiations

Furthermore judges and lawyers are often represented in boards handling complaints or petitions in specific areas.

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

Yes, lawyers are encouraged to apply for a position as a judge. This is common.

Vice versa: Yes, but this happens infrequently.

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

No.

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.

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

Lawyers comment to a wide extent.

Judges comment in the media to a limited extent only. Each court has an appointed press contact judge, who makes himself available to the media.

The Administration of Justice Act (Chapter 92) lays down certain restrictions regarding comments in the media or public comments generally on pending criminal cases and judgements.

(Questionnaire filled in by the Danish delegation, January 2013)