

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 Georgia

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)

Yes, there is a Code of Ethics for Judges in Georgia.

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

Yes, there is a Code of Ethics for lawyers in Georgia.

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

There is no joint code or rules and/or regulations concerning ethics of judges and lawyers.

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?

There are no such plans so far.

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

According to Article 7 of the Code of Ethics of Judges it is prohibited for the judges to have communication with the party of any interested person about the case until the entrance into force of the judgment.

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

- judges? The main principles should include the guarantees for independence and impartiality.
- lawyers? The main principles should include the priority of the client interest within the limits of legislation.
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B. Training of judges and lawyers

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

- for judges ? High School of Justice
- for lawyers? Georgian Bar Association

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

- for judges ? Initial training includes all aspect of law – both material and procedural. Continuing training includes novelties as well as various issues of the legislation.
- for lawyers? Lawyers' training includes compulsory training on ethics. There are certain compulsory trainings on various aspects of law where the lawyers have to receive certain credits per year.

9. What is the duration of the initial training:

- for judges ? Judges initial training lasts for 12 months.
 - for lawyers? There is no official initial training for lawyers but they have to participate in compulsory trainings and receive certain number of credits per 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?

The training includes the issues of ethics, however, there is no special emphasize on relation between lawyers and judges.

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

Sometimes there are trainings with multiple participants which might include some judges and some lawyers.

If yes:

- what is their content and duration? It varies from training to training.
- are they mandatory for judges and lawyers? No, there are not mandatory.
- how are these courses funded? Mainly international organizations cover the expenses.

If not, are they planned or discussed?

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

There are articles in procedural codes which covers the frames of representation by lawyers, the sanctions for violation of the rules of conduct in court building and during litigation etc.

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?

There is no communication between judges and lawyers except during litigation itself. Any other communication is not allowed.

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

There is such possibility but during the litigation only, any other communication is not allowed.

16. If yes, is such agreement compulsory?

If the parties reach agreement in civil or administrative cases during litigation their agreement is approved by official resolution of the court and it becomes a resolution on settlement which can be enforced through execution writ if violated.

17. Do they negotiate certain phases of the procedure?

There are no phases for the procedure. In some cases the court may send the case for mediation.

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?

Of course there are procedural rules which require that the court's decision (either on merits or a procedural decision) should be argumentative. Therefore, if any demand of the lawyer is ignored the court motivates such decision.

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?

There are some provision of legislation which might be used by lawyers for delay, however, the court has enough procedural measures as well to avoid ungrounded delay.

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?

Legislation and procedure always have affect on everything, including the issue mentioned above. As for the plans, there are no such plans to improve legislation.

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.?

These issues are more individual factors rather than institutional. Such factors may be useful for some players only and not for institutions.

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?

The relationship is normal. The only issue is that lawyers tend to criticise the courts when they lose cases even when they had no chance to win it or when they lost it because of their own irresponsibility. There are no plans to have any legislative novelties in this regard. However, there is joint commission of judges, lawyers, NGO sector, international organizations etc. established recently to discuss the problematic issues of court practice.

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).

The procedural frames for judges to interfere in this regard is - a) to call the parties to end the case in peaceful settlement, b) to postpone a hearing in order to allow the parties reach a settlement, c) tell the parties the possible outcome of the case (which is not frequently used), d) to leave only parties (or only lawyers) in the courtroom (during litigation) and to talk with them about the settlement.

If the parties reach settlement at the preparatory hearing all the court fees shall be returned to them, if they reach settlement during main hearing the half of the court fees shall be returned to them. However, the parties may decide themselves the distribution of court fees in the settlement agreement.

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

Yes, it is possible for lawyers to become judges, they have pass special exams and then to attend the High School of Justice. The judges may become lawyers as well after expiration of the tenure when they become members of the Bar Association.

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

No, the lawyers cannot work in courts in any position.

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?

There are some articles in newspaper and TV programs about high profile cases when lawyers used to speak about the courts.

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

Lawyers comment any time when media approaches them because this is a step for advertisement of their activity. The judges make comments only through speaker judges – special judges who have been trained to have communication with media and to explain grounds for various decisions of the court in cases having high public interest.