



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 Montenegro

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 which was adopted at a Conference of judges on 26.07.2008.

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

Yes, there is a Code of Professional Ethics for lawyers, which was adopted in 1999.

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

No.

3. 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?

In the preparation is the Law on judges, which will regulate issues relating to the conduct and accountability of judges.

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

There are no common rules or stipulations regulating the relationship between judges and lawyers.

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

- judges ?
- lawyers?

For both of them: Legality, independence, impartiality, integrity, incorruptibility, dignity, working commitment. The same principles can apply to lawyers.

B. Training of judges and lawyers

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

- for judges ?
- for lawyers?

Center for Education of judicial function holders. Through the Centre representatives of the Bar Association are included in various seminars and professional conferences.

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

- for judges ?
- for lawyers?

There is a Law on education in judicial authorities, which was adopted and entered into force on 01.01.2007., which regulates in detail the manner and forms of education of judges and public prosecutors, as well as persons who are preparing for the administration of justice.

9. What is the duration of the initial training:

- for judges ?
- for lawyers?

Education is conducted through initial and continuing education, initial training lasts for 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?

Yes, the training program is determined according to the Annual program, depending on the allocated funds.

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?

If not, are they planned or discussed?

There is a common participation of judges and lawyers through organizing seminars and conferences, as well as the participation of representatives of Bar associations in the Committees which are working on the development of substantive and procedural laws.

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.

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?

Special communication does not exist, the court solely uses direct communication with written submissions by the lawyers, and during the trials immediately.

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

There are features which are defined the procedural laws in criminal proceedings, such as the Institute of the plea agreement.

16. If yes, is such agreement compulsory?

17. Do they negotiate certain phases of the procedure?

Criminal proceedings, therefore gives the possibility of a plea agreement, which may be initiated by the lawyer representing the defendant and which is submitted to the prosecutor.

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?

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?

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?

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.?

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?

Current cooperation is reflected in the participation of lawyers in drafting of normative acts concerning the judiciary as a branch of government.

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).

In civil cases disputes may be resolved through the mediation process.

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

Yes, but not often. More represented is the transition of Judges to lawyers, than lawyers to judges.

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?

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

There is no opportunity to comment the cases and ongoing judgments by the judge, while cases were recorded and very often, of commenting non-binding judgments and procedures that in progress, by lawyers who are parties to the proceedings.