

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**

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)
Despite the fact that there are some disciplinary provisions establishing the rules which judges & prosecutors have to follow, there is no codex regulating codes of professional ethics. There are some continuing works on establishing a code of ethics. Bangalore principles were declared to the organization after adopted with the decision of HCJP dated 27.06.2006 and numbered 315. Furthermore, a resolution was adopted setting up that any conduct or action contradicting Bangalore principles of judicial conduct shall be a matter of disciplinary investigation.
2. Does your country have a Code of Ethics or equivalent for lawyers? (please specify)
The disciplinary rules for lawyers were adopted in the IVth General Assembly in 8-9 January 1971 by the Union of Turkish Bar Associations and were issued in the Bulletin of the Union of Turkish Bar Associations. There are also regulations on disciplinary rules for lawyers. Code of professional ethics for lawyers, however, has not yet been established.
3. Does your country have any joint codes, rules and/or regulations concerning ethics of judges and lawyers? (please specify)
There are no joint codes, rules and/or regulations concerning ethics of judges and lawyers in our country.
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?
One of the objectives and goals in the Strategic Plan 2012-2016 of High Council of Judges & Prosecutors is to establish codes of ethics.

There are on-going studies on setting up codes of professional ethics for judges & prosecutors in our country. In order to achieve this goal, a symposium was held during November 15-16, 2012, with the participation of Turkish & foreign experts and all judicial actors. Moreover, "project on judicial ethics" will be started by our Council in 2013 with a budget of €3,500,000.00 from IPA funds and in collaboration with European Union and Council of Europe.
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 rules on relations between judges and lawyers should be within the framework of mutual respect both in the Law of Judges and Prosecutors No.2802 and in the Disciplinary Rules for Lawyers. In addition, this matter will be evaluated in the abovementioned "project on judicial ethics".
6. In your opinion, what are the main principles which should govern the ethics of:
 - judges? ***Independence, impartiality, honesty & consistency, integrity, equality, merit***
 - lawyers? ***honesty & consistency, integrity, capacity & merit***

B. Training of judges and lawyers

7. Which are, in your country, the training institutions:
- for judges ? **Turkish Justice Academy**
 - for lawyers? **Turkish Justice Academy, Turkish Bar Association Training Center**
8. Which kind of training curricula (initial and continuous training), in brief, do these training institutions have:
- for judges ?
 - 1) Compulsory Pre-Service Training (8 months in total)**
 - 2) In-Service Training: As stated in Law 2802, in-service training is a right & duty, and in-service trainings on topics that need training are held in accordance with the calendar planned by High Council of Judges & Prosecutors.**
 - for lawyers? **Each law apprentice must take course at least 120 hours during their training.**
9. What is the duration of the initial training:
- for judges ? **8 months**
 - for lawyers? **2 months**
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?
- These trainings include issues related to the professional ethics, conduct and responsibility of judges and lawyers, yet, they do not include any curriculum on their relations with each other and their co-operation**
11. Are there joint training courses for judges and lawyers?
- None**
- 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?
- **This matter will be evaluated in the abovementioned "project on judicial ethics".**

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.
- None**
13. If not, how are they planned?
- This matter will be evaluated in the abovementioned "project on judicial ethics".**
14. How is the communication between judges and lawyers organised? Is it efficient? Are there computerised information systems to that end?
- UYAP (National Judiciary Informatics System) is also used by lawyers, through which they are able to carry out all processes concerning a case online.**
15. Are there possibilities, procedures and mechanisms for judges and lawyers to come to an agreement concerning the judicial resolution of the case?
- None**
16. If yes, is such agreement compulsory?
17. Do they negotiate certain phases of the procedure?
- None**
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?
- Judges must consider the claims and demands of lawyers. A judge must explain the reason for ignoring the demands in the 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?

They are allowed to ask for extension of time in order to submit a document or for defense, and to postpone the hearing to a further date presenting a valid excuse.

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?

Legal regulations are thought to contribute positively on this matter.

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 pre-condition for a successful interaction is mutual fine opinions by judges & lawyers for one another.

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 between judges and lawyers in our country is currently assessed as below the expectations. However, there is no work and plan to improve the present situation.

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 our country, it is only possible for the parties to reconcile and to reach a peaceful settlement. Judges cannot function as one of the parties in a settlement or reconciliation, whatsoever.

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

Yes. Those judges who have 5 years of experience can directly become lawyers once they have resigned from their posts. Those lawyers who have 5 years of experience can become judges provided that they are no older than 45, and that they have to pass the exam.

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

No, they cannot.

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?

It is possible to see various examples of both positive and negative on media on the relations and cooperation of judges and prosecutors during the judiciary activities they carry out.

27. To what extent lawyers and judges comment in the media on pending cases and on judgments?***The circular No. 33 on "The privacy of investigation and informing media" which determines the procedures and principals of the press releases regarding to the processes of judiciary was issued by HCJP. In accordance with the Circular, the press agents among judges and prosecutors were determined by HCJP and they were received training related to the matter. They issue press statement on the circumstances that the public needs to be informed. Judges are not allowed to issue any statements to the press on on-going or finalized cases without the permission by HCJP.***

There are no limitations for lawyers except for the actions to influence the trial and for the confidential cases.