COUNCIL OF EUROPE CONSEIL DE L'EUROPE

CCJE(2013)2
Bilingue/ bilingual

Strasbourg, 4 *mars* / March 2013

CONSEIL CONSULTATIF DE JUGES EUROPEENS

CONSULTATIVE COUNCIL OF EUROPEAN JUDGES

(CCJE)

sur la relation entre les juges et les avocats et les moyens concrets d'améliorer l'efficacité et la qualité des procédures judiciaires

on the relationship between judges and lawyers and the concrete means to improve the efficiency and quality of judicial proceedings

Compilation des réponses au questionnaire

Compilation of replies to the questionnaire

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Albania / Albanie

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. 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

Belgium / Belgique

A.	**L'étique professionnelle, la conduite et la responsabilité des juges et des avocats**

1. Votre pays dispose-t-il d'un code d'éthique ou équivalent pour les juges? (veuillez préciser).

   Le Conseil supérieur de la Justice et le Conseil consultatif de la magistrature ont adopté conjointement un « Guide pour les magistrats : principes, valeurs et qualités *». Ce guide reprend, à l'instar de guides ou de codes similaires dans les autres Etats-membres du Conseil de l'Europe, les principes déontologiques et les valeurs qui doivent présider à la mission des magistrats, c.-à-d. des juges et des procureurs.*
   Les règles énoncées dans ce guide ne sont pas à proprement parler « contraignantes », dès lors qu'elles n'ont pas force de loi. Elles n'en sont pas moins les meilleures pratiques que le juge doit adopter dans l'exercice de ses fonctions.

2. Votre pays dispose-t-il d'un code d'éthique ou équivalent pour les avocats? (veuillez préciser)

   *Il existe deux codes de déontologie pour avocats en Belgique, c.-à-d. un code pour les avocats francophones et germanophones (*Ordre des barreaux francophones et germanophones – OBFG*), et un code pour les avocats néerlandophones (*Orde van Vlaamse Balies – OVB*). Cette dualité de code est due à la répartition des compétences fondées sur l 'appartenance communautaire, spécifique aux particularités institutionnelles du pays. Ces deux codes contiennent l'ensemble des règlements adoptés par les ordres des avocats respectifs. La teneur de ces codes est similaire, les deux ordres trouvant leurs racines dans la même tradition judiciaire. Ceux-ci ont le projet d'unifier les deux codes.*
   Les règles déontologiques des avocats sont des règles professionnelles approuvées par arrêté royal pris en exécution des dispositions du Code judiciaire. Elles sont, partant, contraignantes.

3. Votre pays dispose-t-il de codes communs, de règles et/ou règlements concernant l'éthique des juges et des avocats? (veuillez préciser)

   IL n'y a pas de code éthique commun entre les juges et les avocats. Cela n'aurait d'ailleurs pas de raison d'être. En effet, même si les deux professions partagent certaines valeurs (indépendance, respect des droits fondamentaux, loyauté etc.), leur mission respective est fondamentalement différente.

4. Votre pays envisage-t-il de mettre en place des codes, des règles et/ou règlements concernant l'éthique professionnelle, la conduite et la responsabilité des juges et des avocats ou de développer ceux qui existent déjà?

   Il n'y a pas de projet concret, en dehors de ce qui existe déjà. Toutefois, les guides et codes existants sont toujours susceptible d'évolution. Chez les avocats, il existe des projets de règlement en fonction de l'évolution de la profession et, une fois adoptés, ces règlements seront intégrés dans les codes.

5. Votre pays envisage-t-il de mettre en place des codes, des règles et/ou règlements traitant d'une façon ou d'une autre les questions de relations entre les juges et les avocats ou est-il prévu de mettre en place ces instruments de manière conjointe pour les deux groupes (juges et avocats)? Si oui, veuillez préciser.

   Actuellement, rien n'existe dans ce sens. Toutefois, les principes d'indépendance et d'impartialité qui sont essentiels pour le juge, ont évidemment un impact sur les relations avec les avocats.

6. A votre avis, quels sont les grands principes qui doivent régir l'éthique :
   - des juges ?
   - des avocats?

   Pour les juges : indépendance, impartialité, l'intégrité, le devoir de réserve, la diligence, le respect du justiciable, les capacités d'écoute, la compétence, la disponibilité, la collégialité, la loyauté, le courage, l'ouverture d'esprit, la capacité de travail, la sagesse et l'humanité.

Pour les avocats : l'indépendance, la loyauté, le respect du secret professionnel, la règle interdisant les conflits d'intérêt, la dignité, la probité, la délicatesse, la confraternité, la diligence et la compétence.

B. Formation des juges et des avocats

7. Quelles sont, dans votre pays, les institutions de formation:

   - pour les juges?

   Il existe un Institut de formation judiciaire (IFJ).

   - pour les avocats?

   Le barreau belge ne dispose pas actuellement d'un institut de formation professionnelle. Les jeunes avocats doivent suivre les cours organisés dans le cadre du Certificat d'aptitude professionnelle pour avocats (CAPA). Ces cours sont organisés par le barreau.

8. Quels sont les types de programmes de formation (formation initiale et continue) que les établissements de formation possèdent (veuillez préciser brièvement) :

   - pour les juges?

   La formation initiale est bien entendu celle pourvue par les universités afin de permettre l'obtention du diplôme universitaire de maîtrise en droit. Mais cette formation est commune à tous les juristes et n'est pas propre aux magistrats.

   Pour les stagiaires judiciaires – qui sont nommés après avoir réussi un concours organisé par le Conseil supérieur de la justice et qui pourront accéder, après l'issue favorable de leur stage, à la fonction de juge ou de procureur – et les juges qui sont nommés sans passage par le stage judiciaire, après avoir réussi le concours d'aptitude professionnelle, l'IFJ organise des formations initiales, sur la déontologie, les règles professionnelles, la manière d'exercer la profession etc.

   L'IFJ organise également des cycles de formation pour les juges et les procureurs dans tous les domaines du droit : ces formations sont en général spécialisées par matière du droit et portent également sur l'évolution de la législation, tant nationale que supranationale. Ces formations s'inscrivent dans le cadre de la formation permanente du juge

   - pour les avocats?

   La formation professionnelle des avocats est prévue par la loi. Les jeunes avocats suivent un stage d'une durée de trois ans. Durant cette période, l'avocat stagiaire doit avoir un maître de stage auquel il est lié par un contrat de stage contenant des obligations spécifiques pour chacune des parties. A l'issue du stage, il est admis au tableau de l'ordre des avocats.
   Le maître de stage doit notamment former le stagiaire à tous les aspects de la profession.
   Le stagiaire suit les cours CAPA évoqués ci-dessus. Dans ce programme, il y a un tronc commun et des cours à option parmi lesquels le stagiaire doit faire des choix. Il doit présenter un examen et réussir celui-ci. Les barreaux organisent également des exercices de plaidoirie.

9. Quelle est la durée de la formation initiale :

   - pour les juges?

   Pour les juges qui accèdent à la profession à l'issue du stage judiciaire : trois ans, c.-à-d la durée du stage judiciaire.
   Pour les juges qui accèdent directement à la profession, soit après avoir avoir réussi l'examen d'aptitude (très sévère) et avoir suivi pendant cinq ans une activité professionnelle de nature juridique (avocat, notaire, administration, juriste d'entreprise, activité académique), soit après vingt ans d'activité au barreau et un entretien d'évaluation, il n'y a plus de formation initiale, même si ces juges doivent suivre la formation permanente (voir la réponse à la question 8) mais commencent à exercer leur fonctions dès leur nomination.

- pour les avocats?

La durée de la formation initiale est de trois ans (voir la réponse à la question 8).

10. La formation initiale inclut-elle les questions liées à l'éthique professionnelle, la conduite et la responsabilité des juges et des avocats, leurs relations les uns avec les autres ainsi que leur coopération en vue de la conclusion juste et efficace des procédures judicaires?

La formation comporte tous les aspects de la profession : déontologie, éthique, relations avec les parties et les avocats.

11. Existe-t-il des formations communes aux juges et aux avocats?

Aucune formation commune institutionnalisée n'existe entre juges et avocats.

Notons toutefois que certaines formations sont organisées par les universités ou d'autres institutions (groupements professionnels, instituts publics, centres d'études, etc.). Ces formations sont ouvertes à tous les praticiens du droit et donc également aux juges et avocats.

Si oui :

- Quel est leur contenu et leur durée?
- Sont-elles obligatoires pour les juges et pour les avocats?
- Comment sont financées ces formations?

Si non, sont-elles prévues ou en discussion?

Rien de tel n'est envisagé pour l'instant.

C. Efficacité et qualité des procédures judiciaires

12. Existe-t-il des instruments de procédure pour faciliter l'interaction entre les juges et les avocats au cours de la procédure? Si oui, veuillez préciser.

Le Code judiciaire (articles 747 et suivants) prévoit des règles pour la mise en état de la cause dès son introduction devant le juge. Ces dispositions règlent l'intervention du juge dans la mise en état de la cause. Soit les parties établissent elles-mêmes un calendrier de la mise en état, notamment du dépôt et de l'échange de conclusions, dont le juge prend acte, soit le juge fixe lui-même ce calendrier à la demande d'une ou de plusieurs parties. Il fixe également un calendrier des audiences en fonction de la mise en état. Ces règles visent à permettre un déroulement plus aisé de la procédure en concertation avec les parties et leurs avocats. Elles prévoient également des sanctions lorsque les parties et leurs avocats ne respectent pas le calendrier fixé (p.e. écartement des pièces et conclusions déposées ou échangées tardivement).

En matière répressive, le Code d'instruction criminelle ne prévoit pas de telles règles. Toutefois, il n'est pas rare que les juges, le ministère public et les avocats conviennent d'un calendrier de mise en état de la cause pour le dépôt et l'échange de conclusions et la fixation des audiences.

13. Dans le cas contraire, comment sont-elles envisagées?

Cette question n'appelle pas de réponse, compte tenu de la réponse à la question n° 12.

14. Comment est organisée la communication entre les juges et les avocats? Est-elle efficace? Existe-t-il des systèmes électroniques d'information à cette fin?

La demande de fixer le calendrier de mise en état de la cause se fait soit dans l'acte introductif d'instance, soit par requête déposée au greffe, soit à l'audience d'introduction. L'état actuel de la législation ne prévoit pas encore que ces demandes puissent se faire par voie électronique, même s'il existe des projets dans ce sens.

15. Existe-t-il des possibilités, procédures et mécanismes pour les juges et les avocats pour parvenir à un accord sur la résolution judiciaire d'une affaire?

Les possibilités suivantes existent :

- *la possibilité d'une procédure de conciliation préalablement à l'introduction d'une demande au juge ; cette procédure est actionnée par un ou plusieurs avocats des parties et suppose une intervention active du juge; elle aboutit à un accord sur la solution du litige.*
- *le jugement d'accord, par lequel le juge acte l'accord des parties tel qu'il a été négociée par celles-ci et leurs avocats ;*
- *le désistement d'action ou d'instance : les avocats se désistent de leur demande et le juge décrète le désistement ;*

16. Si oui, un tel accord est-t-il obligatoire?

    Un accord acté par le juge lie les parties.

17. Négocient-t-ils certaines phases de la procédure?

    Ainsi qu'il est exposé en réponse à la question n° 12, la fixation du calendrier de la mise en état et des audiences se fait soit par les parties et est alors actée par le juge, soit par le juge lui-même qui prend une ordonnance à cette fin. Même si on ne peut pas parler de « négociation », cette méthode suppose tout de même une concertation entre les juges et les avocats.
    La conciliation, le jugement d'accord et le désistement d'action ou d'instance requièrent l'intervention du juge, mais il n'implique pas davantage de « négociation » avec le juge.

18. Existe-t-il des instruments juridiques (de fond ou de procédure) qui pourraient être utilisés par les juges afin d'ignorer, d'écarter ou de tout autre manière d'éviter de prendre en considération les réclamations, demandes et arguments des avocats?

    Le juge doit en principe répondre à toute demande d'un avocat formulée au moyen d'un acte de procédure (citation, requête, conclusions, lettre). Si la demande est irrégulière (p.e. parce que ne répondant pas aux formes substantielles prescrites par la loi, tardive, ou émanant d'un avocat qui ne représente aucune partie, etc.), il la déclarera irrecevable. Si elle n'est pas fondée, il la rejettera. Il n'est toutefois pas question d'ignorer ces demandes.

19. Existe-t-il des instruments juridiques (de fond ou de procédure) qui pourraient être utilisés par les avocats afin de retarder l'examen de l'affaire ou d'affecter de quelque manière sa résolution juste et efficace?

    Il arrive fréquemment que les avocats demandent de reporter l'examen de la cause à une audience ultérieure. Le juge accordera ce report s'il l'estime utile à une bonne administration de la justice.

    L'avocat peut demander la réouverture des débats (article 772 du Code judiciaire) lorsqu'il veut soumettre au juge un élément nouveau et décisif, inconnu lors de la clôture des débats. Une telle réouverture retardera l'issue du litige, mais ne peut évidemment avoir pour effet qu'une solution juste de celui-ci.

    Par contre, toute demande (de report de l'examen de la cause ou de réouverture des débats) qui a un effet dilatoire, devra être rejetée par le juge.

20. Dans quelle mesure l'interaction réussie entre les juges et les avocats dépend de facteurs objectifs tels que la législation, les structures et les procédures? Y a-t-il des projets pour les améliorer?

    Le calendrier de la mise en état des causes, la conciliation, les jugements d'accord ne sont effectifs que parce qu'il existe un cadre légal qui les règle.

21. Dans quelle mesure cette interaction dépend de facteurs subjectifs tels que les schémas de comportement des juges et des avocats, leur compréhension de leur rôle et de leur responsabilité et/ou de leur volonté de travailler ensemble afin d'améliorer la procédure, etc.?

    Il n'en demeure pas moins que l'investissement personnel des juges et des avocats est nécessaire pour que leur interaction soit réellement efficace, ce qui suppose une culture juridique commune.

22. Comment évaluez-vous les relations entre les juges et les avocats dans votre pays? Y a-t-il des mesures à prévoir pour améliorer la culture juridique et favoriser la coopération entre les juges et les avocats?

Cela dépend fort des personnes ! Certains juges ont d'excellents rapports avec les avocats et fondent leurs relations sur le respect mutuel. Dans d'autres cas, les relations sont plus tendues. C'est surtout en matière pénale, en raison de la nature des causes, qu'il peut exister des tensions entre juges et avocats.

D. Rôle des juges et des avocats pour répondre aux besoins des parties

23. Veuillez donner quelques exemples de coopérations entre les juges et les avocats dans certaines catégories de cas (par exemple, dans les affaires civiles, les affaires réglées à l'amiable).

    - *les conciliations ;*
    - *les jugements d'accord ;*
    - *la fixation des calendriers de mise en état des causes.*

24. Dans votre pays, est-t-il possible pour les avocats de devenir juges et vice-versa? Si oui, est-ce fréquent?

    C'est le cas et ce fut très fréquent auparavant. Actuellement la majorité des juges accède à la profession par la voie du stage judiciaire, même si nombre de juges accèdent directement au siège après une carrière d'au moins dix ans au barreau.

25. Les avocats peuvent-ils agir, dans votre pays, en tant que juges suppléants et si oui, sous quelles conditions?

    C'est effectivement le cas. Ils doivent être nommés comme les autres juges, sur présentation du Conseil supérieur de la justice.

E. Juges, avocats et médias

26. Y a-t-il eu des réflexions dans les médias en ce qui concerne les relations entre les juges et les avocats et leur coopération?

    Pas particulièrement.

27. Dans quelle mesure les avocats et les juges font des commentaires dans les médias sur les affaires pendantes et les jugements?

    En principe, le juge n'a aucun contact avec les médias au sujet d'une affaire qu'il traite. Son devoir de réserve ne le lui permet pas. Les seuls contacts autorisés, sont ceux d'un « magistrat de presse » désigné au sein de chaque tribunal, qui donne des explications objectives et neutres au sujet d'une affaire ou d'une décision.

    Quant aux avocats, la réponse est différente. Même si les règles déontologiques prévoient que l'avocat ne peut communiquer avec les médias qu'en respectant les règles de dignité de sa profession et en préservant les intérêts de son client (respect du secret professionnel, retenue etc.), il arrive fréquemment que des avocats se répandent devant les médias au sujet d'une affaire qu'ils traitent et qui défraie la chronique, en plaidant la cause de leur client ou en critiquant la décision de justice dont celui-ci fait l'objet.

Bosnia Herzegovina / Bosnie Herzegovine

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, BiH has a Code of Ethics for judges.

2. Does your country have a Code of Ethics or equivalent for lawyers? (please specify)
   Yes, BiH has a Code of Ethics for lawyers of the Federation of Bosnia and Herzegovina and a Code of Ethics for lawyers of the Republika Srpska Bar Association.

3. Does your country have any joint codes, rules and/or regulations concerning ethics of judges and lawyers? (please specify)
   No. There are separate Codes of Ethics for 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?
   I am not aware of such plans.

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, not that I know of.

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

   The main principles that should govern judicial ethics are as follows: judge's independence in decision making, and impartiality in his/her work.
   The main principles that should govern the ethics of lawyers are as follows: representing the best interest of their clients and professional representation regardless of own interests or external pressures.

B. Training of judges and lawyers

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

   The training of judges in BiH is carried out by Centres for the Education of Judges and Prosecutors (CEST), on the entity level: in the Federation of BiH there is CEST BiH, and in Republika Srpska CEST RS.
   The training of lawyers is carried out by entity bar associations and the Criminal Defence Section of the BiH Ministry of Justice (for lawyers who appear before the Court of BiH/State Court).

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

   There is continuous training for judges, which includes several days a year of mandatory training, focused on:
   - *keeping track of legal regulations in BiH and of novelties, as well as amendments to the laws,*
   - *enhancing judicial and prosecutorial skills,*
   - *getting acquainted with EU legislation,*
   - *discussing selected topics suggested by judges themselves, as well as prosecutors and the BiH High Judicial and Prosecutorial Council.*

9. What is the duration of the initial training:
   - for judges ?
     In BiH there is initial training for legal officers preparing for a judicial position (either as judges or prosecutors). The training lasts for 3 years and includes training in criminal, civil, administrative and executive procedure areas (training in substantive and procedural law), human rights, ECtHR case law, judicial ethics..
   - for lawyers?
     In order to become a defence counsel, after passing the bar exam a graduated lawyer must have a 2-year practical training in a law firm (as a judicial trainee/intern), which can be considered as mandatory initial training.

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, when it comes to the initial training of legal officers preparing for judicial positions. Every year during the 3 years of initial training, at least one seminar is dedicated to the mentioned issues.

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

No.

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?

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.
Unclear question.

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 are no computerised information systems for communication between judges and lawyers. Communication is taking place by way of filing written submissions with the court either by mail or by personal delivery, which is subsequently registered in the CMS (Court Management System), which is a computerised system, but still there is no possibility of direct referral of submissions via that system.

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 a possibility of a plea bargaining or judicial mediation in civil proceedings.
In criminal proceedings there exists an institution of admission of guilt agreement, which represents an agreement between the defendant and the prosecutor, submitted to the court for consideration, in order to speed up the proceedings.

16. If yes, is such agreement compulsory?
In civil proceedings it is mandatory to attempt to resolve the case in that manner, but the agreement as such is not compulsory.

17. Do they negotiate certain phases of the procedure?
In civil matters, there is a so-called preparatory hearing at which the judges and the parties discuss the mentioned organizational issues. Holding a preparatory hearing is mandatory, and only exceptionally may the court schedule a main trial hearing without the preparatory hearing. At the preparatory hearing the court may propose to the parties an alternative solution to the dispute (mediation or court settlement).
At the beginning of the proceedings in criminal matters, a status conference may be held, which is an opportunity for the judge and the parties to agree on the stages of the proceedings, the order of presentation of evidence and similar organizational issues. Holding the status conference in criminal matters is not mandatory.

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?
Not that I know of.

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?
Lawyers might abuse some legal hearing postponement mechanisms, even though the most recent reform in that area removed a lot of possible abuse mechanisms that the parties could have previously used to delay the proceedings. For instance, according to the latest legal provisions, respondent's failure to appear at a hearing is considered to be tantamount to a withdrawal of lawsuit, whereas the previous law stipulated that a "stay of proceedings" should take place in such a situation. Also, termination of the possibility (according to the latest Civil Procedure Code) for the presentation of new evidence and facts during the main trial effectively dismantled the mechanism for delaying the proceedings, which had been excessively used and abused in the past.
Also, in criminal matters, it is possible that a lawyer uses a legal possibility to postpone a hearing (for instance in case of disease or some other justifiable inability to attend the hearing etc.).

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?
This interaction to a large extent depends on the legally prescribed procedures, whether they to a sufficient extent and in sufficient detail define the duties of the judge in exercising interaction with lawyers during a proceeding he runs.

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 to a large extent depends on a subjective behaviour of the judge in running a court proceeding and his attitude towards the lawyers.

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 has been a good one. I do not know of any plans to strengthen their co-operation.

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).

24. Do you have any possibility in your country for lawyers to become judges, and vice versa? If yes, is it frequent ?
Yes. It does not happen too often, but it is quite possible, there are no obstacles for a lawyer to apply for a judicial position, providing he has 3 years of work experience in the justice system following a bar exam.
The opposite situation is much more common, that a judge should become a lawyer.

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?
The participation of lawyers in the BiH High Judicial and Prosecutorial Council has received negative comments by the local media. The HJPC is an independent body that appoints all judges and prosecutors in BiH, and consists mainly of distinguished judges and prosecutors, but also lawyers. The representation of lawyers through their representatives in the HJPC has been criticized as unacceptable, since with their votes they affect the selection of individuals and their appointment to judicial (and prosecutorial) positions.

27. To what extent lawyers and judges comment in the media on pending cases and on judgments?
Sometimes it happens that legal counsel should comment for the media on cases where no final and binding verdict has been delivered by the court, or criticize judicial decisions that have been made.

Bulgaria / Bulgarie

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:*** Code of Ethics for the Behaviour of Bulgarian Magistrates - unified code of ethics, applicable to judges, prosecutors, investigators, members of the Supreme Judicial Council and the Inspectorate at the Supreme Judicial Council

2. Does your country have a Code of Ethics or equivalent for lawyers? (please specify) - ***yes***: Lawyer Code of Ethics

3. Does your country have any joint codes, rules and/or regulations concerning ethics of judges and lawyers? (please specify) - ***no***

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***

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 – ***yes***: there are certain provisions in the Code of Civil Procedure, the Code of Penal Procedure, Bar Act, the Advocates Code of Ethics and the Code of Ethics for the Behaviour of Bulgarian Magistrates which regulate relationships between judges and lawyers during proceedings

ex. exercise of procedural rights by advocates
Art.3 Code of Civil Procedure

The persons participating in court proceedings and the representatives thereof, on pain of liability for damages, shall be obligated to exercise the procedural rights conferred thereon in good faith and in compliance with good morals. The said persons shall be obligated to present to the court nothing but the truth.

Art.23 Advocates Code of Ethics
Advocates shall not give knowingly untrue information to court.

Art.22 (1) Advocates Code of Ethics
The advocate shall not try to influence directly or indirectly the court in a way contradicting the laws and the ethical rules.

Art.24 Advocates Code of Ethics /Likewise Art.40 (4) Bar Act

On the occasion or in the course of handling cases the advocate shall not use means or methods which could aim creating unreasonable, unlawful or impermissible by the advocate's ethics obstacles to the normal development of the proceedings.

ex. fines in case of infringements during proceedings

Art.89 Code of Civil Procedure /Likewise Art.266 Code of Penal Procedure/
The court shall impose a fine for:
1. disorderly behaviour during a court hearing;
2. disobedience of the orders of the court;
3. insult of the court, a party, a representative, a witness or an expert witness.

ex. grounds for recusal

Article 22 Code of Civil Procedure/Likewise Art.29 Code of Penal Procedure
(1) Participation in a case as a judge shall be inadmissible for any person:
2. who is a spouse of or a lineal relative up to any degree of consanguinity, or a collateral relative up to the fourth degree of consanguinity, or an affine up to the third degree of affinity, to any of the parties or to any representative of any such party;

3. who is a de facto cohabitee with any party to the case or with any representative of any such party;

4. who has been a representative or an attorney-in-fact, as the case may be, of any party to the case;

(2) The judge shall be obligated to exclude himself or herself in the cases covered under Items 1 to 5 of Paragraph (1), and should he or she decline the recusal under Item 6 of Paragraph (1), to disclose the circumstances.

Article 43 (2) Bar Act
Attorneys-at-law or European Union lawyers shall not be defence counsels or mandataries in cases, with regard to which they have acted in the capacity of judges, court assessors, prosecutors, investigators, or are the spouse, relatives in a direct line of relation without limitation, in a collateral line of relation up to the fourth degree or through marriage up to the third degree, of a judge, court assessor, prosecutor or investigator in said case.

ex. respec to court
Article 21 Advocates Code of Ethics
The advocate owes respect to court

ex.respect to advocates
Article 29 Bar Act
Before court, pre-trial bodies, administrative authorities and other services inside the country attorneys-at-law or European Union lawyers shall be placed on equal footing with judges, in terms of respect, and assistance shall be provided to them as to a judge.

(2) Where an attorney-at-law or a European Union lawyer, on the occasion or in the course of exercising the profession of lawyer, has not received the required level of respect or assistance, upon his or her request or of its own motion the Bar Council shall authorise a member of the association to inspect the occurrence together with a representative of the court, pre-trial body, administrative authority or service.

(3) The Bar Council shall notify in writing the manager of the court, of the pre-trial body, administrative authority or service of the occurrence and of the representative appointed to take part in the inspection. Said manager shall be obligated, within 7 days, to appoint a representative.

(4) Where no representative has been appointed within the period under Paragraph 3, the Bar Council shall only make an inspection acting through its own representative.
Article 30 Bar Act

(1) Based on the report from the inspection, if the Bar Council decides that guilty conduct is found, it shall make a proposal for the institution of disciplinary proceedings against the judge, prosecutor, investigator, investigating police officer, investigating customs inspector or for the imposition of a disciplinary sanction on the respective official by the manager of the administrative authority or service.

(2) The imposition or refusal to impose a disciplinary sanction shall not be an obstacle for the attorney-at-law or European Union lawyer to seek enforcement of liability within general procedures.

Section 1/Main principles Code of Ethics for the Behaviour of Bulgarian Magistrates
Civil shall be a magistrate who through his/her actions and acts always expresses the respect he/she owes his/her colleagues, citizens, lawyers, parties and the other participants in the proceedings

In your opinion, what are the main principles which should govern the ethics of:
- judges? – independence, impartiality, fairness, transparency, respect, tolerance, honesty, restraint from actions, that might compromise the judge's honour in the profession and in society, competence and qualification, confidentiality, conflict of interests prevention, incompatibility with certain positions, activities or professions
- lawyers? – independence, trust, honesty, confidentiality, standing up for client's rights, non discrimination, incompatibility with certain positions and professions

B. Training of judges and lawyers

6. Which are, in your country, the training institutions:
- for judges? ***National Institute of Justice***
for lawyers?***Advocates Training Center "Krastyo Tzoncev" Foundation***

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

Initial Training
Civil Law and Procedure
Criminal Law and Procedure
Constitutional Basis of the Judiciary
Magistrate's Status. Disciplinary Liability.
Professional Ethics
Court Psychology and Psychiatry. Psychiatric Court Expertise
Medical Jurisprudence. Medical Court Expertise
Accountancy. Accounting Court Expertise
Other Court Expertises
European Law
European Convention of Human Rights
Hearing of Juvenile
Mediation

Magistrate's Image. Judiciary and Media
Classified Information
Criminology
Foreign Judicial Systems

Study visits /In the training curriculum are included also study visits to judicial system bodies with a view to gradual introduction of the junior magistrates to their future work environment/

Continuing Training
- organized though:
1/ centralized trainings, delivered in Sofia, at the National Institute of Justice, upon long term programme, and
2/ regional trainings – within the courts throughout the country; the subject matter of the regional trainings is defined by the courts themselves according to the respective region training needs

- covers three areas:
A. National Legislation Trainings
B. EU Law Trainings
C. Interdisciplinary Trainings

A. National Legislation Trainings
1. Criminal Law and Trial:
/ex. Seminar " Theoretical and Practical Aspects in the Investigation of Crimes, Committed by Organized Criminal Group"

- Seminar "Practical Issues on the Collateral Security Procedures in the Penal Process"
- Seminar "Money Laundering. Crimes against the Tax, Financial and Security Systems"
- Seminar " Environmental Crimes"
- Seminar „Healthcare Frauds"
- Seminar „Bank Fraud and Bankruptcy Fraud"
- Seminar "The Amendments in the Criminal Procedure Code"
- Seminar "Sexual Crimes. The child as victim and his rights in the Bulgarian Penal Process. Necessary Changes"

training course „Counteraction against Criminality, related to Illegal Trade, Encroachment on and Traffic of Cultural Valuables, part of the Cultural Heritage of the Republic of Bulgaria"

2. Commercial Law
/ex. Seminar "Company Law Disputes under the Commercial Register Act"
- Seminar "Insolvency"/

3. Administrative Law and Process
/ex. Seminar "Taxes, Duties and Excises. Last Amendments in the Spatial Development Act. Litigation of Acts under the Terms of Agricultural Land Ownership and Use Act. Application of the Public Procurement Act and Conflict of Interest Prevention and Disclosure Act"

Seminar "Discharge of Civil Servants under the Civil Servants Act. Practice on the Social Insurance Code and the Health Insurance Act"

4. Civil Proceedings
/ex. Seminar "Summons in Civil Proceedings"
Seminar "Burden of Proof in Civil Proceedings"
Seminar "Judicial Review of Enforcement Proceedings"
Seminar "Order of Payment Proceedings"
Seminar **"**First Instance Proceedings Problems"/

5. Family Law
/ex. Seminar "Property Relations Between Spouses under Family Code"
Seminar "Family Code Application and European Law"

6. Mediation
ex. Seminar "Mediation – Alternative Dispute Resolution Mean"/
7. Obligation Law
8. Real Estate Law

9. Patent Law
10. Labour Law

B. EU law training
1. EU Law
2. Protection of Human Rights

C. Interdisciplinary trainings
Financial and Accountancy Knowledge in Economic Crimes Investigation
Training for the Administrative Heads of the Judiciary
Court Expertise
Court Psychology. Interrogation of Minors
Ethical Challenges in Magistrates' Work (Court Ethics and Anticorruption was a very widespread seminar last years, now replaced by Ethical Challenges in Magistrates' Work)
Conflict of Interests

- for lawyers?

Advocates Training Center 2013 Curricula /available for the period 01.2013-04.2013/
Seminar "Real Estate Partition – Court and Notary Proceedings"
Seminar "Problems of Penal Proceedings, Instituted Upon Complaint of the Victim"
Seminar "Order for Payment Proceeding"
Seminar "Special Investigation Means"
Seminar "Proceedings upon Administrative Infringements and Punishments Act"
Seminar "Parental Rights and Obligations with International Element"
Seminar "Labour Cases Proceedings"
Seminar "Enforcement Proceedings"
Seminar "Article 24, Article 29 and Article 30 Family Code Proceedings"
Seminar "Code of Civil Procedure Appeal and Cassation Proceedings"
Seminar "Removal of Errors and Imperfection of Cadastre Plan"
Seminar "Real Estate Regulation under Cadastre and Land Register Act"
Seminar "Administrative Acts Appeal Proceedings"
Seminar "Penal Appeal Proceedings"
Seminar "Code of Penal Procedure Cassation Proceedings and Reopening"
Seminar "Public Procurement – Practical Questions"

8. What is the duration of the initial training:
- for judges ? 9 months
- for lawyers? no initial training

9. 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*** – professional ethics, magistrate's image, judiciary and media, disciplinary liability, civil/penal proceedings are part of the initial training curricula at the National Institute of Justice

10. Are there joint training courses for judges and lawyers? – ***yes,*** rarely
If yes:
- what is their content and duration? - one day/several days seminars on different subjects
ex." First Court Hearing Preparation. Preclusion. Appeal Proceedings";
ex. "European Arrest Warrant"
ex. "Computer Crimes Investigation"
- are they mandatory for judges and lawyers? - ***no***
- how are these courses funded? – the first two seminars are a result of the cooperation between the National Institute of Justice, two regional courts and a bar association; the third seminar is in the framework of European commission programme "Prevention and combating crimes".

If not, are they planned or discussed?

C. Efficiency and quality of judicial proceedings

11. Are there any procedural instruments to facilitate the interaction between judges and lawyers during the proceedings? If yes, please specify. - ***not specific***: The proceedings are formal. Their development shall

be in conformity with the strict regulations in the relevant codes of procedure. It's the procedural law which regulates what and when shall be done. Every obliquity from the conduct prescribed amounts to infringement of rules and invalidation. The judges and lawyers communicate only during hearings and through claims and orders/decisions/judgements. However, in each set of proceedings the judge shall listen and question when clarification is needed and respect the parties and their advocates.

12. If not, how are they planned? - ***not planned***

13. How is the communication between judges and lawyers organised? Is it efficient? – **yes**. Are there computerised information systems to that end? – **yes:** The Court communicates with parties and their advocates by traditional means (ex. summons served by a court official, by post or through a courier service, etc.; by means of telephone, telex, telefax, telegram; publications in State Gazette, etc.) and by using electronic communications (an electronic address named by a party). Judges and lawyers communicate formally during proceedings. Lawyers address the court lodging claims or orally during hearings. Judges grant or overrule them in written or orally during hearings and everything is put down in the minutes. The communication is efficient. Each court has internet website providing various information (map of the site, press centre, news, court administration, list of the judges/the experts, searching machine about cases/hearings fixed,/judgements delivered, information about cases of media interest, enforcement proceedings, forms, court bank accounts for taxes, laws, internal rules of the court, reports, useful links, questions/.

15. Are there possibilities, procedures and mechanisms for judges and lawyers to come to an agreement concerning the judicial resolution of the case? - In civil proceedings the judge shall direct the parties (represented by lawyers or not) to a settlement and shall explain thereto the advantages of the various procedures for voluntarily resolution of a dispute. In case they are willing to negotiate (not using mediation) their lawyers are usually the ones who play the decisive role in reaching the agreement. The judge may only approve it - if it does not contradict the law and good morals, and terminate the proceedings, not being entitled to negotiate. In penal proceedings negotiations on legal basis may be conducted between the prosecution and the accused (e.g. again between the parties to the proceedings). In case they come to an agreement (with certain prescribed by law content), the court shall approve it if it does not contravene the law or morality - but again the judge does not take part in the negotiations

16. If yes, is such agreement compulsory? - The abovementioned approved by the Court agreement on settlement of the case shall have the consequences of a judgement/verdict entered into force and could not be appealed against

17. Do they negotiate certain phases of the procedure? – ***no (***see answer 15)

a. 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*** - even if a claim or an appeal are time barred, the judge shall deliver a decision, stating that they are time barred, and the conformity with law of that decision could be examined by the upper instance upon appeal

b. 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? - ***yes*** - adjournment of case claims. This could amount to a length of proceedings and prescription problems in penal cases, where the accused could insist on being defended only by the chosen by them advocates and prolong the proceedings until criminal liability is prescribed.

c. 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 great extent; no plans for changes***: It's the legislation which gives the framework within which the judges could act during proceedings. The type of procedures prescribed by law and the judge's competence within them are the starting point for the results which could be expected. The proceedings (civil and especially penal) are formal – it's the procedural law which regulates what and when shall be done. Every obliquity of the conduct prescribed amounts to infringement of rules and invalidation (see answer 14,15)

d. 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.? – the subjective factor is also ***important***, but it's the objective factor which is the decisive one (see answer 19).

e. 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?- ***formal, respectful***

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 the judge directs the parties (including when they are represented by lawyers) to a settlement and explains thereto the advantages of the various procedures for voluntarily resolution of a dispute. In case they are willing to negotiate, upon their claim and by their consent, the judge suspends the proceedings for a six month period. The proceedings can be resumed on a motion of each party and will be terminated *ex officio* after the expiration of the six month period if none of the parties has moved for a resumption. The termination will put an end to the case if the parties have come to a settlement and do not want any further court's intervention in the dispute or if they have given up. In case an agreement is reached (with or without suspension asked) and the parties want to benefit from the consequences of the approved by the court agreement, they present it to court and the judge approves it (if it does not contradict the law and good morals). However, the judge is not entitled to negotiate, but that procedure gives opportunity to parties' advocates to be active in voluntarily settlement of the case and in proposing the court an agreement on the basis of mutual benefit.

24. Do you have any possibility in your country for lawyers to become judges, and vice versa? – ***yes.*** If yes, is it frequent? – ***no***.

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? – ***yes:*** ex. about joint trainings.

27. To what extent lawyers and judges comment in the media on pending cases and on judgments? – Each court has an official who corresponds with the media and issues periodically press releases (containing information about court reporters reflecting cases of media interest). Judges and lawyers avoid commenting on pending cases.

According to the Code of Ethics for the Behaviour of Bulgarian Magistrates the magistrate may not make public statements on cases pending before him/her through which the outcome of the case is prejudged or an impression is created of bias or prejudice. Outside the courtroom he/she may not discuss such cases in front of other participants in them, lawyers or third parties, save for the case provided for by law. The judge shall guarantee within the law publicity of his/her actions and decisions taking care at the same time not to infringe upon the legal rights and interests of the participants in the proceedings. He/she shall present to the public, personally or through the media, the grounds for her/his decisions on cases that represent public interest and at the same time he/she shall avoid behaviour and actions that may be interpreted as self-promotion or excessive quest for public recognition.

Croatia / Croatie

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)

A: *Yes. In Croatia first code of Ethic for Judges has been drafted and delivered by Association of Judges in 1999.*
After few years amendments to the Law on Courts introduced an obligation to deliver Code of Ethic (CE) which will be common for all judges, not only those who are members of Association.
CE has been delivered in 2005 by body composed of presidents of Councils of Judges (body of self-government existing at every court of appeal elected by judges and with a duty to evaluate work of judges)

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

A: *Yes. CE is delivered by Assembly of the Bar Association and it establishes the principles and rules of conduct that attorneys shall at all times follow in fulfilling their professional responsibilities and in order to preserve the dignity of, and respect for, the legal profession*.

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

A: *No*

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?

   A: *No. Roles, responsibilities and authority between judges and lawyers in Croatia in judicial process are strictly separated so at this time having same CE is not likely to happen.*

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

   A: *No.*

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

A: *For judges main questions where principles which should govern their ethics should lay are:*

Legality,
Humanity and Ethic
Independence,
Impartiality,
Equity,
Knowledge and expertise,
Dignity of the profession,
Responsibility,
Diligence,
Freedom of Association
Relation to the public and media,
Relations towards other judges and court staff.

For lawyers main questions where principles which govern their conduct should lay are:

Relations with their clients,
Appearance in general and in court,
Responsibility,
Humanity,
Dignity,
Legality,
Independence,
Knowledge and diligence,
Confidentiality,
Free legal assistance,
Relations to a client, adverse party, Bar Association, courts and other authorities and other lawyers

B. Training of judges and lawyers

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

A: *For judges[1] training of judges is primarily organized through Judicial Academy an independent agency funded by the State.*
for lawyers training is organized through Lawyers Academy funded by Bar Association.

As in Croatia some seminars, workshops and similar forms of legal education are organized by consulting and publishing enterprises it is common that judges and lawyers attend such forms of training jointly and so far it has not been an issue in Croatia but of course each group is funding it form their own resources.

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

A: *Candidates for judges in Croatia are those persons with bar exam and at least with two years of working experience after passing bar exam as court advisors, lawyers etc.*
In that respect training for candidates for judges is organized by Judicial Academy to prepare those candidates for the bench.
Candidates are accepted in such program if they are selected by Council for Judiciary after public announcement for the vacant post.

Training for judges is mainly organized according to the principle: Education for judges by judges" where topics are chosen on yearly basis by Steering Committee of the Academy composed from judges and public prosecutors. Their role is to define needs of judges and to give main frame for programs which will be implemented in for coming year.

Candidates for lowers have initial training before attending bar exam (same for all legal professionals conducted by Ministry of Justice) and after that mainly training is conducted through practical work within lawyer's office where they work as trainees.

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

A: *For judges initial training after bar exam lasts two years. Any lawyer after passing bar exam can become attorney at law if he/she is accepted by Bar Association as member of the Bar.*

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?

A: *Yes.*

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?

A: *No. there is no join trainings and they are not planed in the near future.*

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.

A: *Basically lawyers in proceedings before a court act as representatives of the parties. So rules governing rights and position of the parties govern and regulate positions of lawyers.*

[1] Public prosecutors are also part of training organized through Judicial Academy

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?

A: *Communication between judges and lawyers could be divided in three aspects.*

1. *Communication between judge and lawyer in particular case assigned to a judge. That communication is regulated by procedural rules and is not particularly diverse from communication between judge and a party not represented by lawyer.*
2. *Communication between president of courts representing court and local Bar. Such communication takes place in solving particular problems in organization of work of a court and needs of lawyers with ultimate goal to assist role and duties of judges and lawyers equally*
3. *Communication between Bar Association and Association of Judges in order to promote same interests and rule of law..*

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

A: *Only in way that peaceful settlement is reached before a court between the parties. Nevertheless it is duty of a judge to try to reach peaceful solution in a case during the trial. if such settlement is reached it is compulsory because it has same strength as judgement.*
This procedural provision in civil matters stays beside the system of ADR which can take place before a court or outside the court system.

16. If yes, is such agreement compulsory?

A: *YES*

17. Do they negotiate certain phases of the procedure?

    A: NO

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?

    A: *Judge is "dominus litis" in Croatian procedural system. In that respect any request of the party can be disregarded or rejected but in a judgement court (judge) has to give reasons why he/she did so.*

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?

    A: *Objectively speaking any rule or legal provision can be used for purpose of delay if it suites the interests of lawyers or parties they are representing. It is to the judge to use tools he/she has to protect the process from unnecessary and undue 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?

A: *Successful interaction between judge and lawyers has its reason of existence mainly if it can serve interest of citizens and if if such interaction will follow the principles of Article 6. of the ECHR.*
Other kinds or models if interaction could be seen by general public as infringement of principle of independent and impartial judge. In that respect any reform should take this in mind, and of course particular circumstances in each country and general opinion of general public which can divert from country to country. In Croatia public and media are very sensitive about these issues and very critical when there are any "to close" relations between members of the Bar and judges on institutional or no institutional level.

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.?

    A: *Pretty much so. Please refer to answer under 20.*

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?

B: *In Croatia even lawyers are organized in the Bar Association and there is only one Bar and none can act as a lawyer if he/she is not member of a Bar lawyers are very individual profession where there is not necessary for them to be involved in activates of Bar Association and its bodies. So regarding cooperation between institutions of judiciary (Courts, Supreme Court, Attorney's Office, Ministry of justice) in general matters cooperation is traditionally good.*

When we speak of individual relationships between judges and lawyers there is not possible to give general remark common to all because there are too many factors which have determinative role on this issue.

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).

A: *Please refer to answer under 15.*

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

A: *There is such possibility but it is not very frequent that lawyers apply for vacant post as judges and consequence is that many lawyers do not become judges. It is much more frequent that judges become lawyers.*

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

A: *Yes but not much on topics regarding institutional relationships but more when there is appearance of undue interactions between judges and lawyers.*

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

A: *Judges in general do not comment pending cases and judgments. This rule does not appall to speak persons of the courts who have duty to give necessary comments and clarifications to the media about ongoing cases.*
In some extent Association of Judges could also make some cements but only and when there are undue comments given previously by the press, politicians or other members of society which could be seen as influential.

Majority of lawyers also follow the rule not to make comments on pending cases and judgments but especially in criminal cases some lawyers are taking liberty to "cooperate" with the press more closely.

Final remark:

In all our future work we should take close look to our previous opinions especially Opinion No. 3.

Czech Republic / République Tchèque

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**

2. Does your country have a Code of Ethics or equivalent for lawyers? (please specify) **No**

3. Does your country have any joint codes, rules and/or regulations concerning ethics of judges and lawyers? (please specify) **No**

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? **Itś hard to say but I do not know about any such plans.**

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 ?
   - lawyers?

   Moral quality, experience,

B. Training of judges and lawyers

7. Which are, in your country, the training institutions:
   - for judges ? **Academy of Justice**
   - for lawyers? **BAR**

8. Which kind of training curricula (initial and continuous training), in brief, do these training institutions have:
   - for judges ? **Academical and practical training.**
   - for lawyers? **The same**

9. What is the duration of the initial training:
   - for judges ? **3 years**
   - for lawyers?**3 years**

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**

11. Are there joint training courses for judges and lawyers? **No**

    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? **Unfortunately no.**

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. **Civil procedure code and Criminal procedure code.**

13. If not, how are they planned? **Union of judges is preparing it, but it is lasting more than ten years and I don't belive in a success.**

14. How is the communication between judges and lawyers organised? Is it efficient? Are there computerised information systems to that end? **No communication is organised.**

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

16. If yes, is such agreement compulsory? **No it is only voluntary**.

17. Do they negotiate certain phases of the procedure? **Yes, in some minor civil cases and in some not very dangerous criminal cases.**

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, but only when the agreement is unlawful.**

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? **Lawyers have a lot of legal instruments to delay the proceeding and they use it.**

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? **The objective factors are not very important**.

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 most important are these subjective factors as experience, moral factors and tolerance of parties and judges.**

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? **I don't see any great problems in relations between lawyers and judges and I don't know any way to improve it.**

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). **Attempt for a peaceful settlement is sometimes condition of some civil actions.**

24. Do you have any possibility in your country for lawyers to become judges, and vice versa? If yes, is it frequent ? **They have the same qualification, but now the changes are not very often. About twenty years ago these changes were massive, because of clearing justice from communist 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**? I don't know about any.**

27. To what extent lawyers and judges comment in the media on pending cases and on judgments? **Judges are instructed that these comments are not ethical. Comments of lawyers are without any restriction.**

Denmark / Danemark

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

a. The right of the individual to a respectful treatment
b. Independence in the judiciary
c. Responsibility and reliability in all respects
d. Transparency, dialogue and cooperation"

"Vision for the Courts of Denmark

e. 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
f. 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:

g. The Courts of Denmarks procedures, decisions and other services meet the highest professional standards.
h. The Courts of Denmarks procedures are efficient, and they provide friendly and fast services.
i. The Courts of Denmark are open and obliging to the public, other authorities and collaborators.

Organisation:

- *The Courts of Denmarks 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-á-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.

Finland / Finlande

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. The Finnish Union of Judges has, in May 2012, adopted a document including 15 paragraphs entitled Judge's Ethical Principles.

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

   Yes. The Finnish Bar Association has, on 15 January 2009, adopted a Code of Ethics for Lawyers which replaced the old Code from 1972. Compared to the Judges' Code, the Lawyers' Code is quite comprehensive. It consists of 12 Chapters and 17 printed pages.

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

   No, there are no such joint codes, rules or regulations.

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, there is no such project going on or planned.

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

   Chapter 8 of the Lawyers' Code deals with the relations between lawyers and authorities. Otherwise there exist no such rules or regulations and for the time being there is no intention to establish such instruments.

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

     - Independence, impartiality and rule of law and fundamental rights

   - lawyers?

     - Loyalty towards the client, independence and keeping himself unchallengeable.

B. Training of judges and lawyers

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

     There is no "Richterakademie" or any corresponding institution in Finland. After the LL.M. university degree, future judges are given in service training, in most cases as a referendary in a Court of appeal. After having served in different positions in District courts and in Courts of appeal (maybe 10 years time), a young lawyer can be appointed to a permanent judge's position.

     As there is no Council of Judiciary in Finland, the Ministry of Justice has the responsibility for updating and further training of judges. Questions relating to new legislation and to court management are dealt with in this training. Also young persons who do not yet have a position of a permanent judge can take part in this training. However, this participation is not obligatory.

     See also below nr. 11.

   - for lawyers?

     The Finnish Bar Association arranges Bar examination for those LL.M. degree holders who wish to start a career as a lawyer. Bar examination consists of a written examination and two courses both taking two days. The first course is concentrated on ethical and practical questions of the profession, while the second one deals with skills needed in practical proceedings. Four years' working experience is needed before admission to the Bar, and two years of these four have to be served in a law office.

     The Finnish Bar Association also arranges updating and further training for lawyers. The focus of this training is on different questions of substantive law and new legislation.

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

     See above nr 7.

   - for lawyers?
     See above nr. 7.

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

     See above nr. 7.

   - for lawyers?

     See above nr. 7.

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?

    Issues related to professional ethics are dealt with in the professional training for lawyers and, to some extent, in the training of judges. The relations between judges and lawyers or their co-operation are not tackled in the training.

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

    Some Courts of appeal have arranged such courses in co-operation with the local Bar association and with the local university units.

    If yes:

    - what is their content and duration?

      The subject of these joint courses has been different aspects of Court of appeal proceedings and new substantive legislation. Courses have often been short, taking 2 or 3 days, but also one year joined training programs have been carried out.

    - are they mandatory for judges and lawyers?

      No, they have not been mandatory.

    - how are these courses funded?

      At least some courses have been supported by the Ministry of Justice. The participants may have paid fees.

    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.

    No, there exist no such instruments.

13. If not, how are they planned?

    Neither have they been planned.

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

Normal methods of communication, such as telephone and e-mail, are used also for this purpose. The way of handling and time-table, especially in complicated cases, is nowadays planned in co-operation with the judge, the prosecutor and the lawyer. Preliminary sessions are arranged for this purpose.

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

    Discussions during the official preparatory meetings and during other preparation of the case are the most important method (see above).

    As far as peaceful settlement of the case is concerned, there are new regulations included in the Code of procedure in 2011. The settlement proceedings can take place at Court led by the judge, or outside the Court led by a trained specialist. In a civil case the judge has the obligation to explain to the parties the possibilities of a peaceful settlement.

16. If yes, is such agreement compulsory?

    If no agreement is reached concerning the time table or other procedural questions, the judge makes the necessary decisions.

17. Do they negotiate certain phases of the procedure?

    If necessary, they can negotiate.

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, any claim, demand, argument or evidence has to be presented and pleaded within the time-limits set by the Code of proceedings. Also an individual judge may set time-limits when he or she deems it necessary to get the proceedings go on smoothly. In criminal cases the parties have a larger room to make their decisions on this respect compared to civil cases.

    Such cases where a judge would have misused this power are encountered only very seldom.

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?

    This kind of problems have not been encountered in practice.

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?

    In my opinion, legislation is not the decisive factor in this matter. What is important, is the personal attitude and willingness to co-operation on the both sides of table.

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.?

    All these subjective factors are highly important, see above nr. 20.

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?

    Although there is no organized or structured co-operation, the working relations are good and, in general, both civil and criminal proceedings can be carried out smoothly.

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).

See above under #15. Nowadays the Finnish Code of proceedings includes rules regarding the peaceful settlement of cases led by the judge, and this settlement is carried out in co-operation with the lawyer.

In cases concerning custody of children there has been a pilot project in certain District courts, where also a psychologist and/or a social worker take part in the proceedings trying to facilitate a peaceful settlement.

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

    To some extent lawyers have been appointed to judges, but the number of such appointments *per annum* is quite low. There are hardly any cases where a judge would have left his office to become a lawyer, but sometimes a retired judge has started a career as a lawyer.

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

    This kind of system of deputy judges is not in use in Finland.

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, there have not been such reflections.

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

    Trial by newspaper was earlier strictly forbidden by the lawyers' ethical rules but nowadays lawyers are even encouraged to an objective discussion of this kind. Judges hardly ever take part in the discussion.

France

A. **L'éthique professionnelle, la conduite et la responsabilité des juges et des avocats**

1. Votre pays dispose-t-il d'un code d'éthique ou équivalent pour les juges? (veuillez préciser).

Oui : il existe un « recueil des obligations déontologiques des magistrats », publié en 2010.

2. Votre pays dispose-t-il d'un code d'éthique ou équivalent pour les avocats? (veuillez préciser)

Les avocats sont soumis à des règles déontologiques qui leur sont propres, prévues par le décret n° 2005-790 du 12 juillet 2005.

3. Votre pays dispose-t-il de codes communs, de règles et/ou règlements concernant l'éthique des juges et des avocats? (veuillez préciser)

Non : il n'existe pas de code de déontologie commun aux magistrats et aux avocats.

4. Votre pays envisage-t-il de mettre en place des codes, des règles et/ou règlements concernant l'éthique professionnelle, la conduite et la responsabilité des juges et des avocats ou de développer ceux qui existent déjà?

Sans objet, compte tenu des précédentes réponses 1 et 2.

5. Votre pays envisage-t-il de mettre en place des codes, des règles et/ou règlements traitant d'une façon ou d'une autre les questions de relations entre les juges et les avocats ou est-il prévu de mettre en place ces instruments de manière conjointe pour les deux groupes (juges et avocats)? Si oui, veuillez préciser.

En l'état, de telles dispositions ne sont pas prévues

6. A votre avis, quels sont les grands principes qui doivent régir l'éthique :
   - des juges ? Indépendance, impartialité, probité et compétence
   - des avocats? Indépendance, probité, loyauté et compétence

B. Formation des juges et des avocats

7. Quelles sont, dans votre pays, les institutions de formation:
   - pour les juges? L'école nationale de la magistrature
   - pour les avocats? Centres régionaux de formation du barreau

8. Quels sont les types de programmes de formation (formation initiale et continue) que les établissements de formation possèdent (veuillez préciser brièvement) :
   - pour les juges? Apprentissage des différentes fonctions, ouverture sur les grands sujets de société….
   - pour les avocats? Règles de techniques professionnelles, rédaction des actes, déontologie…

9. Quelle est la durée de la formation initiale :
   - pour les juges? 31 mois
   - pour les avocats? 18 mois

10. La formation initiale inclut-elle les questions liées à l'éthique professionnelle, la conduite et la responsabilité des juges et des avocats, leurs relations les uns avec les autres ainsi que leur coopération en vue de la conclusion juste et efficace des procédures judicaires?

Oui.

11. Existe-t-il des formations communes aux juges et aux avocats?

    Si oui :
    - Quel est leur contenu et leur durée?
    - Sont-elles obligatoires pour les juges et pour les avocats?
    - Comment sont financées ces formations?

    Si non, sont-elles prévues ou en discussion?

Il existe des formations communes prenant la forme de l'ouverture des certaines formations de l'ENM aux avocats.

Des formations continues communes peuvent aussi être organisées, notamment dans le cadre des programmes de formation proposés par l'ENM.

Un rapprochement des deux professions a été amorcé et prend une double forme :

Le 13 janvier 2011, l'ENM et le Conseil national des Barreaux ont signé une convention de partenariat formalisant la mise en place d'actions de formation commune ouvertes aux deux professions.

Par ailleurs, les auditeurs de justice (futurs magistrats) en formation à l'ENM effectuent un stage obligatoire de six mois dans un cabinet d'avocat, tandis que les avocats en formation peuvent demander à effectuer un stage pouvant aller jusqu'à six mois dans une juridiction.

C. Efficacité et qualité des procédures judiciaires

12. Existe-t-il des instruments de procédure pour faciliter l'interaction entre les juges et les avocats au cours de la procédure? Si oui, veuillez préciser.

Le code de procédure civile prévoit la possibilité pour le juge de fixer des calendriers de procédure après avis ou accord des parties. Le juge veille au respect du principe de la contradiction entre les parties, aussi bien pour l'échange de leurs conclusions exposant leurs demandes et argumentations que pour la communication des éléments de preuve. Il peut aussi demander aux parties toutes précisions utiles sur les éléments de fait et de droit du procès.

13. Dans le cas contraire, comment sont-elles envisagées?

14. Comment est organisée la communication entre les juges et les avocats? Est-elle efficace? Existe-t-il des systèmes électroniques d'information à cette fin?

La procédure en matière civile devant la Cour de cassation est entièrement dématérialisée.
La dématérialisation des procédures civiles est en cours devant les tribunaux et cours d'appel

15. Existe-t-il des possibilités, procédures et mécanismes pour les juges et les avocats pour parvenir à un accord sur la résolution judiciaire d'une affaire?

Le code de procédure civile a instauré des procédures de médiation et de conciliation qui peuvent être mises en œuvre si les parties en sont d'accord et déboucher, en cas de succès et à la demande des parties, sur une homologation judiciaire.

16. Si oui, un tel accord est-t-il obligatoire?

Ces procédures supposent l'accord des parties pour leur mise en oeuvre

17. Négocient-t-ils certaines phases de la procédure?

En matière pénale, existe une procédure dite de « comparution sur reconnaissance préalable de culpabilité » (articles 495-7 et suivants du code de procédure pénale) qui permet au procureur de la République de proposer à la personne poursuivie d'exécuter une peine inférieure à celle qu'elle pourrait subir, si elle reconnaît sa responsabilité dans la réalisation de l'infraction pénale en cause (cette procédure ne concerne que certaines catégories d'infractions).
L'accord doit être donné en présence d'un avocat.
L'accord suppose encore une homologation par un juge, qui doit au préalable entendre la personne poursuivie et son avocat.

18. Existe-t-il des instruments juridiques (de fond ou de procédure) qui pourraient être utilisés par les juges afin d'ignorer, d'écarter ou de tout autre manière d'éviter de prendre en considération les réclamations, demandes et arguments des avocats?

En matière civile, dans les procédures soumises à la représentation obligatoire par avocat, aucune argumentation ne peut être prise en considération si elle est développée dans des conclusions déposées après l'ordonnance de clôture prononcée par le juge de la mise en état des affaires.
Le juge peut aussi toujours écarter des débats les éléments de preuve qui ne sont pas communiqués à la partie adverse en temps utile, pour assurer la loyauté du débat judiciaire.
De telles limites n'existent pas en matière pénale où la procédure est orale et permet aux parties poursuivies de faire valoir, même à l'audience de jugement, les arguments et preuves utiles à leur défense.

19. Existe-t-il des instruments juridiques (de fond ou de procédure) qui pourraient être utilisés par les avocats afin de retarder l'examen de l'affaire ou d'affecter de quelque manière sa résolution juste et efficace?

Il n'y a pas de réponse évidente à cette question : les règles de procédure civile et pénale peuvent évidemment être invoquées dans des conditions qui, parfois, le sont dans un esprit dilatoire, mais il est impossible de donner des indications précises sur le nombre de cas où des « détournements de finalités » sont constatés.

20. Dans quelle mesure l'interaction réussie entre les juges et les avocats dépend de facteurs objectifs tels que la législation, les structures et les procédures? Y a-t-il des projets pour les améliorer?

Des améliorations visant à assurer une meilleure efficacité de la procédure sont prises par le législateur, spécialement en matière civile, pour contraindre les parties à communiquer leurs conclusions et éléments de preuve en temps utiles et respecter le rythme des procédures fixé par les juges, l'objectif étant d'aboutir au prononcé d'un jugement dans un délai raisonnable.

21. Dans quelle mesure cette interaction dépend de facteurs subjectifs tels que les schémas de comportement des juges et des avocats, leur compréhension de leur rôle et de leur responsabilité et/ou de leur volonté de travailler ensemble afin d'améliorer la procédure, etc.?

La volonté commune des juges et avocats est un facteur essentiel de réussite des projets visant à assurer l'efficacité des procédures.
Beaucoup de juridictions concluent à cette fin des conventions dites « contrats de procédure » avec les avocats, pour fixer les règles de bon fonctionnement des relations entre les deux professions.

22. Comment évaluez-vous les relations entre les juges et les avocats dans votre pays? Y a-t-il des mesures à prévoir pour améliorer la culture juridique et favoriser la coopération entre les juges et les avocats?

Des efforts importants doivent accomplis pour améliorer les relations entre juges et avocats.
Une période de formation initiale commune serait à cette fin une mesure utile, de même que la généralisation de sessions de formation communes.
Un dialogue constant doit en outre être instauré au sein de chaque tribunal entre les représentants des deux professions.

D. Rôle des juges et des avocats pour répondre aux besoins des parties

23. Veuillez donner quelques exemples de coopérations entre les juges et les avocats dans certaines catégories de cas (par exemple, dans les affaires civiles, les affaires réglées à l'amiable).

Procédure civile de droit commun : conférence préalable au cours de laquelle le juge et les avocats des parties discutent de la difficulté de l'affaire, du calendrier de communications des conclusions et des pièces, de la date prévisible de l'audience au cours de laquelle l'affaire sera jugée.
Procédure de médiation judiciaire : le juge propose aux parties de tenter une médiation sous l'égide d'un médiateur.
Si les parties l'acceptent, la médiation est réalisée sous le contrôle du juge auquel les parties peuvent s'adresser en cas de difficultés, les négociations elles-mêmes demeurant néanmoins confidentielles.
En cas d'accord, les parties peuvent demander au juge une homologation de l'accord.

24. Dans votre pays, est-t-il possible pour les avocats de devenir juges et vice-versa? Si oui, est-ce fréquent?

Les avocats peuvent devenir juges, soit, pour les plus jeunes, en passant l'un des concours d'entrée dans la magistrature, soit pour les avocats plus anciens en demandant leur intégration directe dans la magistrature, ces demandes d'intégration étant soumises à l'appréciation de la commission d'avancement, présidée par le président de chambre le plus ancien de la Cour de cassation et composée de magistrats représentant l'ensemble du corps judiciaire.
Les juges peuvent également devenir avocats, leur intégration au barreau étant soumise à l'appréciation du conseil de l'ordre de chaque barreau.

25. Les avocats peuvent-ils agir, dans votre pays, en tant que juges suppléants et si oui, sous quelles conditions?

Les avocats peuvent parfois agir comme juge, soit de manière occasionnelle
(possibilité de compléter une formation de jugement en cas d'impossibilité pour la juridiction de réunir trois juges (article L212-4 du code de l'organisation judiciaire), soit en étant nommé « juge de proximité » pour une durée de sept ans, la juridiction de proximité ayant en charge notamment le règlement des petits litiges en matière civile et en matière pénale.

E. Juges, avocats et médias

26. Y a-t-il eu des réflexions dans les médias en ce qui concerne les relations entre les juges et les avocats et leur coopération?

Non.

27. Dans quelle mesure les avocats et les juges font des commentaires dans les médias sur les affaires pendantes et les jugements?

En principe, les juges ne doivent pas s'exprimer sur les affaires qu'ils traitent. Les procureurs ont néanmoins le pouvoir de publier des communiqués ou de s'exprimer lors conférences de presse pour donner des informations sur l'état des investigations dans des instances pénales en cours, en respectant le principe de la présomption d'innocence.
Les avocats ont l'habitude de s'exprimer publiquement sur les affaires dans lesquelles ils interviennent, soit dans la phase préliminaire des investigations, soit pendant les procès, soit pour commenter les jugements rendus.

Georgia / Géorgie

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.

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

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 in 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.

Germany / Allemagne

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)

Specific codes of ethics for judges do not exist. In Germany, the judiciary of the supreme courts is governed by federal law, the judiciary of the lower courts (including courts of appeal) is governed by law of the Lander. Generally speaking, professional duties are governed by the law of the civil service which also provides for disciplinary sanctions in case of breach of such duties. For further reference to the legal framework cf. the material quoted at the end of this paragraph.

Regardless of this legal framework, in recent years there have been several initiatives at the regional level of the judiciary in some of the Lander, beginning with the judges association in Schleswig-Holstein, cf. http://www.richterverband-sh.de/info/info1-2006.pdf. Since 2007, in several networks and judges associations ethical questions have been discussed in seminars and conferences with an aim not so much to pass ethical codes and/or rules but rather to identify core values of judicial work; cf. Titz, Deutsche Richterzeitung 12/2009; Kretz, Deutsche Richterzeitung 7/2009. The German Judges Association (Deutscher Richterbund) has also covered the subject, cf. http://www.drb.de/cms/index.php?id=459. – For reference to similar discussions among the members of the bar, see the answer to question 6, below.

For further reference to the legal framework cf. Johannes Riedel, Recruitment, Professional Evaluation and Career of Judges and Prosecutors in Germany, in: Recruitment, Professional Evaluation and Career of Judges and Prosecutors in Europe, Bologna 2005, p. 69, 109, where the following paragraph is taken from:.

> **"The German law concerning judges and prosecutors is laid down in the German Judiciary Act which also sets certain requirements for the relevant laws of the Länder. Technically, the law concerning judges is constructed as a special field of the general law concerning civil servants. Civil servants in the strict sense (Beamte), under German law, have a special status of employment. They are not partners of a contract of employment but are being appointed to their office, usually for life or for a specific period of time. Their law of employment is not part of the labour law but a specific field of administrative law, with the result that disputes concerning their employment, their status et cetera come before the administrative courts and not before the labour courts. Civil servants are under a special duty of loyalty to the state, they are not allowed to go on strike, they can be transferred to another post against their will if this lies in the interest of the administration2 and, as a rule, they cannot be dismissed except by way of disciplinary proceedings. In the traditional concept of civil service, their salary was not considered a remuneration for work done but rather maintenance pay to enable the civil servant to maintain himself and his family according to the status of the office he had been appointed to. When looking at the law concerning the status of judges (and prosecutors), it is therefore essential to bear in mind that it is not only governed by special statutes of federal law and Länder law but in addition also by the law of civil servants.**
>
> **Accordingly, the law of disciplinary actions concerning judges (and prosecutors) has to be seen in the context of the wider scope of the law of disciplinary actions concerning civil servants. These statutes are in general mere regulations of disciplinary proceedings but do not entail a code of ethics. The duties of a civil servant - and likewise of a judge - are to a certain extent described in the relevant statutes for civil servants. Specific duties are to act impartially and just, to keep regard of the welfare of the general public, to exercise office with full enthusiasm, to be careful in political activities. Central duties are to keep official information confidential, not to take on any other employment or activities without specific permission, not to accept presents or bribes and to act according to the law and to accept responsibility for the actions while on duty. The general clause covering all these specific duties and going beyond them is that a civil servant, at all times, should act in and outside of his office in a way which justifies the respect and the confidence of the public. In addition to these rather wide descriptions of duties, a detailed catalogue of duties and their possible violations has been developed through case law of disciplinary proceedings. Generally speaking, a distinction has to be made between wrongs done while on duty (disobeying orders or instructions, violating internal rules et cetera) and wrongs done elsewhere (traffic violations, misdemeanours, crimes). In all such cases, disciplinary actions may be taken, even in addition to criminal proceedings if the criminal conviction does not compensate the aspect that the crime had been committed by a civil servant.**

[2] This, of course does not apply to judges. Because of judicial independence, they cannot be transferred to another post without their consent. Judges appointed for life can only be transferred to another post after a final decision of the Judicial Service Court and only if this measure is absolutely necessary to avoid severe impediments of the functioning of the judiciary.

Most of the duties laid out above do also apply to judges and therefore their violation by judges may result in disciplinary action. The limitations with respect to judges are twofold and come with the principle of judicial independence. First, due to their independent position, in their judicial capacity judges are not subject to instructions or orders and hence cannot be held accountable for disobeying orders. The second aspect is that the functioning of the courts has to be safeguarded against any intervention from outside. Therefore, even in severe cases, e.g. when a judge has committed a crime, he cannot (not even temporarily) be removed from his duties by a mere administrative decision of a court president or the Minister of Justice. Instead, a decision of the Judicial Service Court, at least a preliminary ruling, is required."

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

The legal framework is governed by federal law, especially by the Lawyers (Barristers) Act (Bundesrechtsanwaltsordnung - BRAO) and by Professional Rules for Barristers (Berufsordnung fuer Rechtsanwaelte, BORA) which have been set into force by the Federal Bar Association under the power of section 59 b BRAO. Sections 43 to 59 b BRAO set down a number of duties and obligations for lawyers (in relation to their clients, in relation to other lawyers, in relation to the courts). These general duties and obligations are specified in the Berufsordnung (BORA), covering such subjects as independence, trust and dignity, professional secrets, advertising, liability, respect of the courts, behavior towards other lawyers.

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

No. Procedural law, however, provides for certain rules, e.g. in cases of incompatibility or (suspected) bias.

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.

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. See, however, the answers to questions 1 and 2.

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

There is a fairly widespread opinion in Germany among both the members of the judiciary and the members of the bar that traditional legal and professional rules and traditional ways of disciplinary enforcement of these rules are sufficient to meet modern requirements. Nevertheless there is also continuing discussion on the matter of identifying (additional) ethical rules, cf. the answer to question 1 with respect to the judiciary. Similar discussions have been going on among the members of the bar, having resulted in a first draft paper of the German Bar (Bundesrechtsanwaltskammer) on ethics, cf. http://drschmitz.info/wp-content/uploads/Positionspapier-Pr%C3%A4sidium_-brak_mitt_02_2011.pdf and also http://www.brak.de/fuer-journalisten/pressemitteilungen-archiv/2011/presseerklaerung-6-2011/.

Personally, the undersigned believes that traditionally accepted principles are, e.g.:
For judges: Independence, openness, fairness, respect towards litigants, witnesses, experts and lawyers, thoroughness, timeliness, good time management, careful behavior in out-of-office activities.
For lawyers: Independence, engagement for the interests of clients, respect towards the court, following procedural rules, good time management.

B. Training of judges and lawyers

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

Initial training in Germany is common for judges and lawyers. This is the peculiarity of the German "uniform" legal education where even after university practical training is organized by the state, i.e. the judicial administration, and the final qualification (the so-called second state exam in law) is the pre-requisite both for the appointment to the judiciary (as a career judge) and to being admitted to the bar. For further details cf. Johannes Riedel, Recruitment, Professional Evaluation and Career of Judges and Prosecutors in Germany, in: Recruitment, Professional Evaluation and Career of Judges and Prosecutors in Europe, Bologna 2005, p. 74, where the following paragraph is taken from:.

"After the first exam there is a period of practical training, literally called preparatory service, followed by the second state examination. It is the rather unique concept of the German legal education system that it is essential for all future lawyers (i.e. judges, prosecutors, barristers / solicitors) to do this preparatory service and to pass the second state exam. The reason for this is that the professional qualification to hold the office of a judge as laid down in s. 5 of the German Judiciary Act, a qualification which is finally acquired by passing the second state exam, is at the same time the professional qualification necessary to be admitted to the Bar or to be employed as a lawyer in the civil service.

The duration of preparatory service is 2 years, and it entails various different stages of training. Students are employed by the state (the judicial administration) as civil servants in training and are paid a small monthly allowance while in preparatory service. They have to spend a few months each in a court for civil law suits, in a criminal court or a prosecutor's office, in a local or government administration, with a practising lawyer (barrister/solicitor) and at other places of their choice. In North-Rhine/Westphalia, trainees have to spend

a) **5 months with a court for civil law suits at first instance,**
b) **3 months with a prosecutor or in a criminal court,**
c) **3 months with an administrative office (usually on the local level),**
d) **10 months with a practising lawyer (solicitor, barrister),**
e) **3 months at a place of choice - where training is offered in a special subject of his or her choice.**

The aim of education in these various stages is to instruct trainees in the practical skills concerning the application of the law. Students are supposed to learn how to draft judgements, to weigh and evaluate evidence, to write indictments, to produce written pleadings. The idea also is that a trainee should accompany the lawyer who is instructing him during daily work as often as possible. He should work under the instructor's supervision and take over some of the workload so that he can, for example, learn how to examine witnesses (which under German procedural rules is mostly done by the judges), how to plead in court (an art which is rarely exercised) and how to meet clients.

Practical training in these stages is accompanied by courses which are given by experienced practitioners (mostly judges but also prosecutors and other lawyers). These courses cover practical questions. Their purpose is to make students familiar with the methods of analysing and deciding court cases, especially teaching them to find the issues of fact which are relevant to the decision of the case. In future, courses will have to bring more emphasis on a lawyer's practical skills in private practice, in order to take account of the goals of the reform of 2002 / 2003. Courses also serve the purpose of preparing students for the final state examination and to ensure an equal standard of practical training because the quality of individual instruction during practical stages may differ a lot.

The second and final examination is again held before a state office that is usually attached to the Ministry of Justice of the Land. In contrast to the first examination, mostly practising lawyers and only few law professors serve as examiners, the overwhelming majority being judges of all courts (civil courts, administrative courts, labour courts, even tax courts), but increasingly members of the Bar are volunteering to sit as examiners. The importance which is attached to this examination may be shown by the fact that a large number of court presidents regularly serve as chairpersons of the panels of examiners. Again, examiners are usually appointed by the Ministry of Justice on the basis of a proposal of the director of the examination office.

The subjects of this examination are by and large identical with those of the first exam, they include however procedural law at a much deeper level. Papers and questions are usually set not from the abstract point of view of a legal scholar but almost invariably from the point of view of the court that has to give the decision in a case or of the practising lawyer who

has to deal with a given situation for his client. Again there are written (supervised) tests and an oral examination. Written tests usually require the drafting of a judgement, of an indictment and, to an increasing extent, of a pleading or application - given from the barrister's point of view. Oral examinations (five to six candidates being examined by a panel of three examiners, selected by the director of the examination office) begin with a short speech which the candidate has to give on a simple practical case, again mostly from a practising lawyer's point of view. The candidate is presented with the case on the morning of the examination and is allowed one hour of preparation; the speech should not last more than ten minutes and should end in a proposal for a practical decision. After every candidate has given his speech, the following oral examination takes place in the form of a discussion covering everyday practical situations, for example, simulating the visit of a client to a solicitor, a procedural situation during a trial in court, a factual or legal problem that may arise in local administration. In short, in all phases of this examination, candidates do not only have to show their abstract knowledge of the law but also their ability to work with the law in a practical situation and to weigh and choose between a number of options which seem to be open to them.

At the end of all this, those who are successful are qualified to hold any position as a lawyer (i.e. judge, prosecutor, barrister). By that time, the average age of a student is about 28 to 30 years. Their chance of being appointed as a judge or employed as a lawyer in the civil service, however, depends not only on their passing these two law examinations but also on how well they have passed them. Only a better than "average" performance in the examinations, for example, may open the opportunity to becoming a judge; in spite of the meaning of the word "average", only about 15 % of all students receive marks that are called "above average". The rate of failure in the final exam lies around 15 % with an additional rate of failure of about 30 % in the first exam. The remaining 70 % "average" lawyers have to look for jobs in industry or go into private practice. With the number of successful law students rising steadily (in former West Germany from 4653 in 1981 to 7522 in 1991 and to about 10,800 in the whole of Germany in 2002) there is an ever-increasing number of self-employed lawyers in private practice who have a hard time earning their living. At the end of 2004, nearly 130,000 lawyers were admitted to private practice in Germany."

There is no specific or prescribed additional initial training for judges and/or lawyers when they are first appointed or admitted.

Despite this, many judicial administrations offer intensive continuous training for junior judges, in seminars, conferences, local networks and mentoring programs where senior judges or retired judges give advice to newly appointed colleagues. Especially in cases where a newly appointed judge would have to act not just as a member of a panel but as a presiding judge (e.g. in labour courts, in social security courts), it is quite common that appointees accompany a senior judge for a few weeks or months before they themselves will sit on the bench.

Similarly, regional bars and lawyers' associations (Anwaltvereine) offer continuous training for lawyers who have just been admitted to the bar. The offer comprises seminars and personal advice, especially for those who set themselves up as single practitioners. In addition, large law firms have in-house programs for their newly admitted colleagues.

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

With respect to initial training, see answer to question 7.

Continuous training for judges covers a wide variety. For details cf. Johannes Riedel, Recruitment, Professional Evaluation and Career of Judges and Prosecutors in Germany, in: Recruitment, Professional Evaluation and Career of Judges and Prosecutors in Europe, Bologna 2005, p. 113, where the following paragraph is taken from:.

"In Germany, continuing education is organised on the national level, on the level of the Länder and also on the regional level.

On the national level, the German judges' academy (Deutsche Richterakadamie) was created some thirty years ago. This institution with academy buildings in Trier (close to the European Rights Academy) and in Wustrau (Land Brandenburg) is run jointly by the Federal Ministry of Justice and by the judicial administrations of the Länder. The Federation and the Länder each pay half of the costs of the academy. The program of seminars offered by the academy is decided upon by a committee consisting of representatives of all the Länder, of the Federal Ministry of Justice and of the professional associations of judges and prosecutors. This committee meets twice a year and decides on the basis of proposals which have been collected in advance by its members. A decision is also made on the distribution of the work-load concerning the organisation of the seminars among the judicial administrations (ministries of justice). This includes finding speakers, collecting the applications of those who want to take part and admitting participants. In practice, this means that over hundred seminars per year are being organised by persons in at least 17 different offices (of the ministries of the Federation and of the Länder). The substantial organisation of the seminars is not done by the staff of the academy. The staff of the academy is only responsible for the clerical work involving the actual running of the academy and of the seminars once they have commenced (e.g. travel arrangements, payments of travelling costs to speakers et cetera). The seminar program is published well in advance before the beginning of each year, and generally participation is possible on a quota basis whereby a certain number of openings is allotted to each participating judicial administration. As a result, each administration has to collect applications and to decide whom to nominate for the available space.

…..

Continuing education is also offered by the Länder. Many ministries of justice have created programs of seminars with a view of adding further themes to those offered by the Deutsche Richterakademie and/or with a view of enabling a greater number of their judicial staff to participate in continuing education. Many of these seminars are on technical topics concerning new developments of the law but an increasing number deal also with information technology, organisation of the work flow, interaction between judges and other court staff et cetera. North-Rhine/Westphalia has its own academy building with a permanent staff that have the task of creating a program of continuing education (which is then to be approved by the Ministry of Justice) and also of organising the respective seminars. In addition, the academy building is used for conferences, assessment centres and seminars for other court staff including seminars for those who are involved as trainers and/or examiners in legal education and in initial training. Other judicial administrations with no academy organise such seminars in hotels or in academy buildings of other government administrations. The advantage of this system is that specific needs for further training (e.g. where new legislation is being enacted) can be met more quickly than by the Deutsche Richterakademie.

On top of this, at least in North-Rhine/Westphalia, some of the money available for continuing education has been allotted to the higher regional courts and the prosecutor generals in order to enable them to meet further needs for continuing education which may have surfaced on the regional level. The ratio behind this is that such measures can be designed more precisely and that they may be more cost-efficient, e.g. by saving time and costs of travelling to an academy. This system faces problems caused by reduction of funds for continuing education, because only rather small sums which cannot be effectively used can be allotted.

Computer based training and distant learning models have, so far, been used only in a few cases and it seems too early to try to assess the results. Apparently, judges and prosecutors consider it very difficult to follow such measures of further education concurrently with trying to deal with the high work load of their daily work. Instead, they seem to prefer to leave their office for a few days and attend a seminar not only in order to enhance their knowledge but also to exchange experience and ideas with their colleagues. They seem to take into account that after their return to their office they have to work away the backlog that has piled up during their absence.

… Programs

Continuing education programs on the federal, the Länder and the regional level can basically be divided in four pillars.

- **Law**
  Traditionally, continuing education has had its emphasis on technical fields of substantive and of procedural law, taking into account both an exchange of experience as well as new developments. Therefore, a large number of seminars still deals with these either more general or rather special fields of the law. The variety of seminars is huge. Examples may be „new developments in the of law of contract", „insurance law", „trials in traffic accident cases", „introduction to tax law", „recent decisions of the European Court of Justice", „appeals in civil proceedings".

- **Skills**
  Another group of seminars deals with the improvement of professional skills and the way in which judges and prosecutors conduct their work. This may cover fields like „rhetoric skills", „examining witnesses", „relations to advocates", „organising criminal trials", „video examinations", „courts and court experts", „courts and the media" et cetera, but also more self-reflecting areas like „organising one's work flow" or „stress management".

- **Organisation, Information Technology**
  A substantial increase in work load, more complicated cases and, at the same time, in most cases a reduction in staff have created the necessity to completely review the tasks of courts and the way these tasks are being met. This process is under way in all judicial administrations. It coincides with the introduction of modern information technology, not only in the form of general office computer programs for the court staff but also in development and introduction of very special programs for, e.g., registration and management of trials, the land registry, the company register, uncontested proceedings et cetera. This process of re-structuring the organisation of the courts necessitates a substantial volume of further training for all personnel of the courts (and the prosecution). Seminars on information technology and re-organisation do not only deal with training in new computer programs but also with fields like the interaction of judges and other court staff, internal mediation, setting goals in the process of re-organisation, „corporate identity" within the courts, staff development plans, gender mainstreaming et cetera.

- **General topics**
  Seminars of the fourth pillar of continuing education concern fields of a more general interest like, e.g., the role of the judiciary between the years 1933 and 1945 and in the German Democratic Republic, developments in society, legal and ethical problems of cloning, of the internet et cetera.

  Exact data as to available funds for continuing education and as to the proportion of activities of further education in these four pillars do not exist. It appears, however, that seminars are more or less evenly distributed over these four fields with a certain emphasis on organisation and information technology and, perhaps, the general topics being covered less often. In North-Rhine/Westphalia with about 25 percent of the judicial staff of Germany, about 2 million Euros per year are available, the sums however being subject to budget reductions."

Continuous training for lawyers is equally manifold. Many private institutions offer seminars and conferences. Two institutions are run by the legal profession, i.e. Deutsche Anwaltsinstitut (DAI), run by the regional bar associations, and Deutsche Anwaltsakadamie (DAA), run by Deutsche Anwaltverein, i.e. the (voluntary) association of lawyers.

Section 43 subsection 6 of the barristers act (Bundesrechtsanwaltsordnung, BRAO) establishes a duty of practising lawyers to have continuous training. This, however, is not enforceable by disciplinary measures. Lawyers are allowed to hold themselves out as expert lawyers in specific fields (Fachanwalt), e.g. in construction law, estate law, insolvency law, criminal law, labor law etcetera. In all, 20 such specialisations have been established by the Federal Bar Association. The respective rules of the bar (Fachanwaltsordnung) contain specific requirements of continuous training (seminars of about 120 hours, written exams, practical experience) which have to be met before the lawyer may hold him- or herself out as such specialist.

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

- for lawyers?

Cf. the answer to question 7. Practical training for both judges and lawyers in the unified system is 2 years.

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?

Curricula for courses in the unified practical training cover these aspects but with a low priority.

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?

See answer to question 7. The whole phase of initial practical training (prior to the final exam) is "joint".
In continuous training, both the judges' academy (Deutsche Richterakademie) and the relevant institutions of the bar (cf. answer to question 8) do offer joint seminars. There is a limited number of such seminars, duration is usually not more than a week. Fields covered may be general aspects of interaction between lawyers and judges but also special subjects like proceedings in criminal trials or in construction cases etcetera. Participation is not mandatory, funding is by the judicial administration and/or the bar association and by fees paid by the participants.

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.

Procedural law provides for a number of rules concerning the interaction of judges and lawyers. It is impossible to specify the wide variety of these rules which also differ to some extent according to the variety of proceedings. As a rule, once proceedings are initiated, it is the judge or the court who decide how proceedings will be conducted – in the framework of procedural law. Perhaps it could be said that procedural law governing the interaction of judges and lawyers covers four fields:

- *Formalities of exchange of papers (service of court orders, initiating proceedings, subpoenas etcetera)*
- *Rules concerning contents and time limits for applications, pleadings, evidence etcetera*
- *Rules for setting a hearing or a trial, for adjourning hearings etcetera*
- *Settlements.*

The following explanations refer to the law of civil procedure. By and large, these rules are also applicable in administrative, labour, social and tax court proceedings. Criminal procedure has its own peculiarities, especially allowing the defendant to bring applications at a later stage of the trial than in the other proceedings. With respect to all German proceedings it has to be borne in mind that, in Germany, judges play a very active role in management of the cases, most of the proceedings are somewhat inquisitorial and even in civil cases the judge decides which evidence is to be heard, he interrogates the witnesses and experts before the lawyers get their turn.

With respect to the first point above, procedural law provides for formal service of court orders. Lawyers have to observe certain formalities when initiating proceedings or sending pleadings to the court. Usually, copies of the pleadings will be sent from lawyer to lawyer. Lawyers are under a professional duty to acknowledge receipt of papers received by the court. At present, no regulations concerning electronic service of formal court orders are in force. It is expected that such legislation will be passed in the near future.

With respect to the second point, procedural law prescribes the necessary content of filing a case, an application, an appeal etcetera (e.g. s. 253 Code of Civil Procedure – CCP). In addition, procedural law provides that the court may set time limits for (written) pleadings, e.g. for enlarging or supporting the claim, for defending the claim, for replying to the defence. If these time limits are exceeded, the court has power to

reject any further allegations, evidence or other means of attack or defence which has been offered to the court after the time limit, unless the resolution of the case will not be delayed (cf. s. 296 CCP). Details of these rules and their application are very complicated and cannot be elaborated here. Allegations rightly rejected because of delay may not be brought up again in appeal proceedings. – These duties bring some pressure on lawyers and their clients. On the other hand, they have turned out to be an important tool to guarantee timely resolution of cases.

The third point concerns hearings. It is the court who decides on the date and the extent of a hearing (cf. s. 216 CCP). The time limit between the date of the service of the relevant court order (summons) and the hearing has to be at least one week. Section 227 CCP provides that dates fixed for a hearing may only be changed on important grounds. The parties, e.g., would have to show substantial reasons for being unable to attend the hearing. Lacking sufficient preparation may not be acceptable unless substantial excuse can be provided. If a party does not appear in court, they may be fined if the court has ordered their appearance in order to clarify the issues. They may also run the risk of a default judgment against them. Similar rules apply for adjournments of hearings. – In practice, in smaller cases management of hearings is routine. In larger cases, quite often dates and extent of hearings are discussed beforehand between the presiding judge and the lawyers because constitutional law demands that neither party's constitutional right to be heard should be reduced unnecessarily.

The fourth point is the duty of the court to seek a settlement or any other kind of resolution of the case except by judgment. Section 278 CCP provides that, in all phases of the proceedings, the court shall consider and act towards an amicable settlement of the case or some of its issues. To this end, the court may set an extra hearing before the full panel or one of its members, the court may refer the parties to mediation, or the court may suggest a specific settlement etcetera. In practice, this involves rather intensive interaction between the court on one side and the lawyers and their clients on the other side. In these discussions, quite often preliminary views of the court on the law and/or on chances and risks with respect to the evidence may be expressed, a delicate procedure because the court must not allow the impression of being biased or having formed a final opinion before having seen the evidence. Intensity of these contacts and discussions varies a great deal from judiciary to judiciary and from region to region. In some regions, less than 20 per cent of civil cases are eventually decided by judgment, in other regions it is more than 80 per cent. Professional competence on both sides and trust between judges and lawyers is vital in this process.

As has been pointed out, criminal proceedings follow different rules. In large cases, quite often the dates for trials will be discussed between the court and defence lawyers. Time limits for applications, especially with respect to evidence, do not exist in practice. Such applications can only be rejected on substantial grounds or if the court is convinced that they are brought solely for the purpose of delaying the proceedings. Quite frequently, even in criminal cases, discussions between court, prosecution and defence take place. This is not plea bargaining in the strict sense but an exchange of preliminary views which may induce the defendant to confess or admit some of the charges (thereby shortening the proceedings because hearing evidence may be avoided) in exchange for a milder sentence. Procedural law providing this process (which in Germany is termed with the English word "deal") is complicated and highly controversial. In practice, again professional competence and trust on all sides is necessary.

13. If not, how are they planned?

No further plans do exist.

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

Generally, formal communication is still in paper. With ejustice projects increasing, this will change in the next few years. Lawyers, notaries and public authorities as well as citizens will be enabled to transmit pleadings by electronic systems. Informal communication is by telephone and/or email. Some courts have listed all their hearings (including time and room) in a closed forum in the internet, open to lawyers. As has been pointed out above, on the regional and local level forums for general exchange of views between judges and lawyers (e.g. on family law, on juvenile law) are quite frequent.

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

Yes, cf. the answer to question 12 (settlement)

16. If yes, is such agreement compulsory?

Yes, once it is agreed by all the parties. It is then also a formal title for execution equalling a judgment. The court, however, has no power to "order" a settlement.

17. Do they negotiate certain phases of the procedure?

Cf. the answer to question 12 (third point). A practice like pre-trial conferences is not widespread but advisable in large cases.

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?

All arguments have to be taken into consideration; this is a necessity of constitutional law. Applications, allegations and any other demands may be rejected on procedural grounds only if procedural law expressly prescribes their inadmissibility or if rightly set time limits have been disregarded without sufficient excuse.

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?

Judges sometimes feel that some lawyers, esp. defence lawyers in criminal cases but also debtors' lawyers in civil cases try to stall proceedings. Procedural law does, as a rule, not offer legal instruments to this effect because the court can and is under a duty to set time limits for pleadings, applications etcetera. For criminal cases, there is a discussion if procedural law should be changed so as to allow the court to set a date for (final) applications concerning evidence.

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?

Procedural law is the framework. Regional customs and quite often good personal and professional relations provide efficiency and improvement.

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 great extent. Mutual understanding and acceptance of the different roles of judges and lawyers are the key to productive case management and to transparent, reliable and thorough proceedings as the best guarantee for just decisions and/or settlements.

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?

Generally and institutionally, the relationship between the judiciary and the bar is good and professional. In individual relationships between judges and lawyers, challenges and conflicts occasionally do arise. The reasons for this may lie in the person of the judge or of the lawyer or of both. Awareness of and mutual understanding of the respective role are necessary. Judges must try to see the lawyers' duty to serve the interests of their clients; they must also see the lawyers' dilemma of sometimes having to present an unfounded case. Lawyers, on the other hand, should see that they have a duty to serve within the system, maybe to test the system but not to obstruct the system. – In this context it is worth noting that German courts have no power to fine a lawyer (in contempt of court). If a lawyer misbehaves in court, sanctions can only be imposed by the bar association.

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 takes place in individual cases where settlements are sought. All information exchanged during such discussions will, however, have to be disclosed to the parties. There are no discussions "behind the scene".

On the general level, now and then both the bar and the judges associations start coordinated attempts to improve procedural law considering the interests of lawyers and judges. Sometimes, however, the interests of lawyers (e.g. as to time limits for pleadings) are contrary to those of the judiciary.

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

In principle, yes. Qualified lawyers, however, earn about twice as much as judges of equal professional qualification. Therefore, in practice, only young lawyers after a few years in private practice apply to become career 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?

General reflections on the relations between judges and lawyers are rare. On the other hand, individual court cases, specific trials and judgments are quite often covered widely and are discussed intensively in the media. In this context, comments on the role and behavior of judges as well as prosecutors and lawyers are manifold. Tabloids sometimes tend to overstate the weight of the individual actors and to personalize the outcome accordingly (the "harsh" judge, the "lenient" judge, the obstructing lawyer etcetera). The serious media, in general, maintain quite a substantial and true picture of the relevant role of different actors in court proceedings.

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

Litigation p.r. is becoming increasingly known in Germany. In this context, it is quite common that even while proceedings are still pending, lawyers seek the media. In criminal cases, this is sometimes also done by the prosecution. Judgments are often openly criticized by lawyers who have lost the case and equally often praised by those who have won.
Judges usually refrain from commenting their own proceedings and decisions. Many jurisdictions have internal rules providing that contacts to the media should be only through the press spokesperson or the president of the court. This is a wise rule because it helps transporting the perception that the judge acts as the holder of an office and not so much as a person from the street.
Occasionally, higher judges (Supreme Court, Constitutional Court) feel that they should explain or interpret decisions of their courts in seminars, conferences or in academic juridical discussions. Others are of opinion that judges should speak through their decisions – only.

Greece / Grèce

1. There is the Courts' Organisation Code (Law 1756/1988).
In Articles 57 and following, 90 and following of the Courts' Organisation Code the rules of conduct for judicial officers are determined. Thus, in case of (irrevocable) criminal conviction by which the judicial officer was deprived of his political rights or irrevocably sentenced to imprisonment of more than three months, for an offence that was committed by deceit or on the basis of thief, fraud, forgery, perjury, rustling, extortion, false certificate, false denouncement, service related infidelity, bribery, neglect of duty, slanderous defamation, crime against sexual freedom, infringement of law on gambling, drugs, issuing of bounced check, subtraction of documents, violation of official secrecy, the judicial officer is permanently dismissed for incompetence. He is subject to disciplinary proceedings if he has no devotion to the country, to democracy, or commits acts that undermine the democratic legality. Moreover, he should not participate in an organisation, whose purposes are hidden or he should not seek selfish purposes. Still, he should not be unduly delayed in the exercise of his duties, or silence a speech of exemption and he should not have an improper behaviour inside and outside the service.

2. Lawyers may be permanently dismissed (art.81 of Code for Lawyers, L.D. 3026/1954) in case of irrevocable conviction of theft, embezzlement, fraud, extortion, forgery, bribery, infidelity, service related infidelity, counterfeiting or for felony that incurs life imprisonment or other sentence. They should not engage

in trade or in other work that does not conform to the dignity or independence of lawyers (art.63). They should not defend illegal cases, not delay trials, not neglect their duty (art. 46). They should be decent, they should display good behaviour and solidarity, they should be discreet as far as their clients' cases are concerned and they are not heard as witnesses for their cases, without the permission of the Bar Association they belong to (art. 48-49).

3. There is no common Code for Judges and Lawyers. But in both codes, there are common points/features, such as violation of duty, protection of personal data, duty of confidentiality etc.

4. The institutionalization of rules or regulations concerning professional ethics, conduct and responsibility of both judges and lawyers is under consideration.

5. There are rules on the aforementioned Codes that refer to the relations between judges and lawyers, such as the official and social relations e.g. if there is social contact between lawyer and judge, if there is reason for the abstention of the judge from the case or reason for his exception from the case which the lawyer is dealing with.

6. The main principles concerning judges and lawyers are honesty, dignity, legal training, belief in justice, confidence and additionally for lawyers the duty of true.

7. The training institution for judges is the National School of Judicial Officers in Thessaloniki. There is no specific training institution for lawyers. However, during the period of their exercise, there is the possibility of term in judicial formations.

8. The training of judges in the National School of Judicial Officers lasts for a year. The training is at theoretical and practical level. The courses (that) are thought are purely/only legal e.g. judicial ethics, history of justice etc. During their traineeship, they visit courts, penitentiary institutions, Parliament, laboratories of police etc. Trainees lawyers practice themselves in older lawyers or in important judicial formations. For judges that are already in the service and for lawyers as well, recurrent training courses are organized by the Ministry of Justice, the National School of Judicial Officers and courts in big regions of our country. Similar courses are organized by Bar Associations.

9. The initial training lasts for a year for judges and two years for lawyers.

10. During the training related to the professional ethics, the relations between lawyers and judges as well as the mutual rights and obligations are referred, as they are defined by the above Codes and the provisions of Constitution and Codes of Civil and Criminal Procedure.

11. There are training courses, in which judges and lawyers have the capability of joint participation, without, however, this participation to be mandatory. Their duration varies, it is not strictly defined, their content refers to public interest legal issues, as for example protection of individual rights, fair trial etc. and their cost is covered by the organizers.

12. The Codes of Civil and Criminal Procedure form the legal framework of lawyers-judges in the respective trials e.g. lawyers have the right to course unhindered and unrestrictedly their duties, the judge has the right to direct the process.

14. The relation between lawyers and judges in civil and criminal cases is restricted in completely official frames. Where, however, it is possible, e.g. completion of formal shortages, the contact is always through the Secretariat of the Court. The administrative Courts, because of the ex officio investigation of the case, have the ability of relevant communication. An electronic communication has been planned and is in operation.

15. There is no process in order that lawyers and judges agree reciprocally on the judicial resolution of the case. The Court may make a compromise proposal to the litigants but it depends on them if they accept it or not. There may be a court settlement between the litigants, which is certified by the Court.

16. The Court is not obliged, in each case, to accept compromise, or to propose one.

17. There is no negotiation between judges and lawyers.

18. The judge may request the completion of formal failings and if the litigant ignores it, he should face the consequences (art.227 of Code of Civil Procedure). The judge may revoke the right of speech from persons who participated in the debate, if these persons violated the regulatory provisions or his instructions (art.233

par.1 of Code of Civil Procedure). The judge has the right to ban a question or reading of documents. The litigant, however, has the right to appeal to court in order for this to adjudicate on (art.235 of Code of Civil Procedure). The judge should be composed and impassive (art. 333 of Code of Civil Procedure). He may ban pointless or off topic questions or interrupt the litigants when they keep no measure on their expressions (art 334 of Code of Civil Procedure). He may also call to order the advocates who use indecent expressions or attempt personal attacks and if they insist on, the judge may cut them off.

19. 1) A criminal trial may be delayed if the lawyer is ill and the trial cannot be interrupted, but it should be postponed (art.349 of Code of Penal Procedure). 2) Moreover, the abstention of lawyers from their duties is reason of force majeure 3) Force majeure still occurs when the lawyer is parallelly engaged in other trial. 4) In civil proceedings (art.241 of Code of Civil Procedure) a lawyer may request for a trial postponement, only once, for important reason, which will be determined by the court.

20. The relation between lawyers and judges is regulated by the aforementioned rules. There is no personal contact or cooperation during a case, except of the strictly official duties.

21. The Bar Associations and the respective judicial Associations have regular contacts in order to express thoughts and opinions for the improvement of the administration of justice and the relations of these two parts.

22. There are always rooms for improvement of cooperation between lawyers and judges. In Greece, the relations between these two parties are excellent, based on mutual respect, in order to improve the administration of justice.

23. 1) Art. 214A of Code f Civil Procedure. Litigants may come to a compromise, drawing up minutes in civil proceedings, which are certified by the court. 2) In County Courts, the judge, attempts to reconcile the litigants and their lawyers (art.208-214 of Code of Civil Procedure). 3) The same applies to higher Courts.

24. In Greece, the judges are admitted to the Judiciary after examination, provided they are lawyers beforehand. The judge may practice only if he resigns or he leaves form the Judiciary for other reasons.

25. In Greece lawyers can not act as deputy judges.

26. In media, there are often debates as for as the relation of these two parts are concerned, especially on the occasion of serious cases that concern the public opinion.

27. The judges never comment in the media on pending cases and on judgments. The lawyers have this capability and it occurs in many occasions. Sometimes, however, representatives of judicial Associations appear in media, not commenting on cases, but providing declarations for specific judicial actions, providing in this way formal information to the public opinion, in case there is an incorrect. Moreover, representatives of Judicial Associations may appear in the media on other issues such as the economics of judges.

Hungary / Hongrie

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, we have.
The Code of Ethics for judges regulates how a judge should behave in the courtroom or outside the courtroom as a judge and also as a private person. It establishes an Ethic Counsel, which consists of 12 members, all of them are judges. The Counsel brings statements on request of any judge. It decides whether the described behavior of a judge was ethical or not. Its statements are published in an anonymous manner in a newspaper for judges, and on the intranet.

2. Does your country have a Code of Ethics or equivalent for lawyers? (please specify)
Yes, we have separate Codes of Ethics: There is a Code for solicitors, a Code for prosecutors and another for notaries.
The Code for solicitors regulates among others the following topics:
- the relationship between the solicitor and his or her client,
- the duties of solicitors toward his or her clients,

- activities which are incompatible with the profession.
It prohibits for example the promotion activities of the solicitor's office.

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

No, we don't have such regulation.

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?

We plan to develop our Code of Ethics for judges. The existing code is from 2005 consisting of 26 points. Out of these 26 points, in 7 points there are procedural rules of the Ethic Counsel. We would like to have more detailed code. It is not planed to establish a jogint Code of Ethics.

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

The Code of Ethics for judges regulates that the judge should be polite, not superior towards the parties, and their representatives. In the Code of Ethics for solicitors there is no regulation how a solicitor should behave towards the judges.

6. **I**n your opinion, what are the main principles which should govern the ethics of:
   judges ?
   lawyers?

Respecting the work of the other professions, each legal profession has its rules and these are all required for the proper function of the justice. Both the judges' and lawyers' duties and interests are to take into consideration the interests of the parties.

B. Training of judges and lawyers

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

There is a judicial Academy which from this year offers courses not only for judges or for those who want to become a judge but also for prosecutors.
The solicitors and notaries are trained separately.
The law schools offer courses where judges, solicitors, prosecutors can participate together. The subjects of these courses are usually about substantive law questions.

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

The judicial Academy for judges and prosecutors offers some courses, for both of them, but usually the courses are either for judges, or for prosecutors. The Bar organizes courses for the solicitors but the judges usually don't have information about these courses.
The judicial Academy also offers courses, for those, who are just preparing themselves to be a judge, or a prosecutor. These people, who are already working on the court, have to accomplish a special training program of 4 weeks within a 2 years period. Following the final exam there is an additional 1 week educational program organized for them.
There are also trainings for verdant judges that are organized centrally. These are usually one, two or three days long. The Courts have also separate training courses, for those who work at that court.

13. What is the duration of the initial training:
14. for judges ?
15. for lawyers?

Answered already under question 8.

16. 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, for those who have passed the final exam, but they are still not qualified as a judge there is a course, where the questions of ethics, behavior rules are discussed.

17. Are there joint training courses for judges and lawyers?
No, there are not except of those which are offered by the law schools.

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?
I don't think so.

C. Efficiency and quality of judicial proceedings

18. Are there any procedural instruments to facilitate the interaction between judges and lawyers during the proceedings? If yes, please specify.
There aren't.

19. If not, how are they planned?
I don't know about it.

20. How is the communication between judges and lawyers organised? Is it efficient? Are there computerised information systems to that end?
They communicate in writing, or in oral in the courtroom. There is also a possibility to use the internet as communication channel. On the internet lots of useful information can be found.

21. Are there possibilities, procedures and mechanisms for judges and lawyers to come to an agreement concerning the judicial resolution of the case?
The judge can suggest that it would be useful for the parties to make an agreement, but the judge can not take part in the negations. When there is an agreement between the parties the judge has the duty to examine whether it is according to the law.

22. If yes, is such agreement compulsory?
If the court validates the agreement it has the same status as a final judgment.

23. Do they negotiate certain phases of the procedure?
No.

24. 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, there are some. These are mostly procedural rules which regulate deadlines for the submission of new claims, demands and arguments. The objective of these rules is to conclude the procedure within a reasonable timeframe. It is the responsibility of the parties to bring the evidence to the court within reasonable time.

25. 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?
Yes, there are some. If the procedural rules, mentioned in question 18, are not respected that can lead to delay, or to an unfair resolution.

26. 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?
I think the objective factors have a significant role. Our procedurals rules are being contiguously modified.

27. 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.?
I think the subjective factors have also role to some extent with regards to how a judge, a prosecutor or a solicitor behaves in the court-room. For example: the style of the judgment or the claims, or other petitions.

28. 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?

I think their relationship nowadays is better than it was 20 years ago. On one hand everybody who has the qualification can become an advocate, while it was not the case before. On the other hand, the financial remuneration and the respect of the judges have increased.
It is planed to improve the legal culture. Several steps have been made already to increase the legal culture of the population. Students get more and more information about the justice system, about its operation, about the rights and duties of the natural or legal persons.

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

29. 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).
It can happen in the way as I subscribed in the answer for the question 15.

30. 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 a lawyer to become a judge, and for a judge to become a lawyer but it is nowadays not too frequent.

31. Can lawyers act, in your country, as deputy judges and if so, under what conditions ?
No, it is impossible for a lawyer to act as a deputy judge.

E. Judges, lawyers and media

32. Have there been any reflections in the mass media as regards the relations between judges and lawyers and their co-operation?
I don't remember any reflection in the mass media as regards the relations between judges and lawyers and their co-operation.

33. To what extent lawyers and judges comment in the media on pending cases and on judgments?
The judges are not allowed to comment on a case in the media, but there are appointed spokesman in the courts who are entitled to speak about the case in the media. For lawyers there aren't such rules. It is very frequent that the solicitor comments on the case. For example he criticizes the work or the decision of the court.

Iceland / Islande

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)** In Iceland we don´t have Code of Ethics for judges. On the other hand there are legal provisions regarding judges´ behavior outside office. In that case the chief judge can recommend improvements verbally or writing. If not successful or if the offense is more serious than it is appropriate to recommend improvements the chief judge can direct the case to a commission on judicial work where the alleged offense is reasoned. In that case the judge has the possibility to promulgate his answers in written report. The commission shall finish the case with written and reasoned decision whether the judge is to receive a written warning or not. In the case warning is given the judge may take legal action against the minister of justice on behalf of the state to invalidate the decision. There are also legal provisions about what kind of side jobs are compatible to judge´s job and also about at what extent a judge can be a shareholder in a company or any other enterprises. If a judge doesn´t adapt to a warning in a reasonable time and is considered guilty of offense within three years which is a basis to another warning it is a source for temporarily release from office following a legal action against the judge to be released permanently from office.

2. **Does your country have a Code of Ethics or equivalent for lawyers? (please specify)** The country does not have Code of Ethics but The Icelandic Bar Association does.

3. **Does your country have any joint codes, rules and/or regulations concerning ethics of judges and lawyers? (please specify)**
No.

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?**

Not that I am aware of. The reason for this is that the communication between judges and lawyer has mainly been very successful.

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** Not that I am aware of.

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

Judges. Good behavior whether it is inside or outside the job. Good manner and respect for lawyers, witnesses, pats and others who judges have to communicate with.
Lawyers. Appropriate behavior (manner) against judges and courts both in speech and writing (verbally and written).

B. Training of judges and lawyers

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

There are no such institutions in Iceland. After five years learning in law school the student graduates with a master test (MA) and at the age of 30 the lawyer can be appointed as a District Court Judge and a Supreme Court Judge at the age of 35 if he or her fulfills otherwise specified qualifications.

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

I refer to answer to question No. 7.

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

The same referance.

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?**
At the Law Faculty of the University of Iceland there is a training course where these matters are considered.

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

The answer is negative.

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?

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.**

In Icelandic law of procedure there are no such provisions.

13. If not, how are they planned?

Not that I am aware of.

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

The communication is mostly written in form of letters and an e-mail but sometimes verbal as well.

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

Yes both in the law of procedure and with mediation.

16. If yes, is such agreement compulsory?

No.

17. Do they negotiate certain phases of the procedure?

Yes, it is possible.

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?

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?

It only exists on a basis of the Code of Ethics of the Icelandic Bar Association.

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.?

In my opinion such interaction depends completely on aforementioned subjective factors.

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 Iceland has been very good in general and therefore no discussion has taken place to improve it insofar.

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).

At the beginning of a civil case procedure the judge always endeavors to achieve a settlement and succeeds in about 25% cases in average in different categories of cases. It is of course different between judges and lawyers how enthusiastic they are to settle cases but if the interest is substantial the results are more likely to be good.

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

There is such a possibility for both parts but it is not frequent that a lawyer in praxis becomes a judge and almost unknown that an employed judge becomes a lawyer.

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?

Judges neither comment in the media on pending cases nor judgments but lawyers sometimes do both on pending cases and judgments but it is not frequent and bound to a limited group of lawyers.

Italy / Italie

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)

Italy was the first, among European countries, to have a code of ethics for judges (and prosecutors). Reference to it is contained in Opinion no. 3 of the CCJE. For the background to the adoption of the ethical code, please see Italy's answer to the questionnaire in preparation of Opinion no. 3. The code was amended in November 2010, and the new version is available on the CCJE's website as an appendix to an article (http://www.coe.int/t/dghl/cooperation/CCJE/Onenparle/Foro_italiano_Magna_Carta.pdf).

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

The movement in Italy for the adoption of ethical codes extended to lawyers. The original text was approved by the National Council of the Bar Organization during the session of April 17th 1997; several modifications were approved thereafter. The text in force may be found here:

http://www.consiglionazionaleforense.it/site/home/area-cittadino/codice-deontologico-forense.html

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

No. Please note that, due to the fact that judges and prosecutors belong to the same career in Italy, the ethical code for judges also applies to prosecutors; some specific rules apply to judges, and some apply to prosecutors.

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.

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. Please note that both ethical codes of judges and lawyers contain rules governing relationships with the other profession.

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

Independence and impartiality.
Integrity.
Diligence and obligation to keep professionally updated.
Social sensitivity.

   - lawyers?

Independence from the interests of clients.
Integrity.
Diligence and obligation to keep professionally updated.

B. Training of judges and lawyers

7. Which are, in your country, the training institutions:
   - judges ?
     The Italian School for the Judiciary

   - lawyers?
     The National Bar Association

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

      Initial and continuous training.
      Complementary training for newly recruited judges and prosecutors.
      Common training with other professions (including lawyers); most courses are open to lawyers.

   b. lawyers?

      Training of candidates to the Bar examination (in local Bar Schools)
      Some complementary training for newly recruited lawyers (in local Bar Schools)
      A limited number of national events (please consider that lawyers in Italy are more than 240.000, so that a true continuous training for all is impossible); a system of "credits" (i.e. recognition of training offered by qualified Bar associations) has been used so far to guarantee access of lawyers to training; a new law has kept obligation of training, but has abolished the "credits" system.

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

      18 months.

   b. lawyers?

      There is no initial training as such (i.e. training after recruitment); before recruitment, an "apprenticeship" period is mandatory in a lawyers' firm.

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. However, the issue of the obligation of lawyers to co-operate with a view of fair and efficient conclusion of judicial proceedings is a debated issue, especially in criminal proceedings.

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

    If yes:

- what is their content and duration?

See above for what concerns "opening" of courses for judges also to a limited number of lawyers.

- are they mandatory for judges and lawyers?

No.

- how are these courses funded?

Budget of the Italian School for the Judiciary.

If not, are they planned or discussed?

N/A.

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 judge-laywers conferences are provided in the criminal proceeding. In the civil proceeding, a recent law has established the introduction of a calendar of hearings discussed with the parties.

13. If not, how are they planned?

N/A

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

N/A

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

N/A

16. If yes, is such agreement compulsory?

N/A

17. Do they negotiate certain phases of the procedure?

N/A. See above as for the calendar of hearings. Practice of calendars also exists in criminal hearings.

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. As a matter of fact, judges are obliged to give reasoning on almost all arguments and requests of the parties.

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?

Unfortunately there are abuses of the following: disqualification of judges; coexisting need of lawyer to appear in other cases; refusal to agree on use of evidence gathered before other judges; submission of excessive lists of witnesses; changes of lawyers in order to obtain a delay to prepare defence; delay in presenting some procedural exceptions that could have been raised before, so as to have declaration of voidness of long procedural phases; etc. Many of the

obstructing behaviours could be avoided by reforming the statute of limitations, as prescription of crime now runs also during the trial.

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?

Successful interaction between judges and lawyers depends on objective factors such as legislation, structures and procedures. E.g., changes in procedures, not allowing obstructive behaviours, could improve relationships as both judges and lawyers would not discuss any longer on "debatable" issues. Also, existence of an "office of the judge", where lawyers could apply, would improve contacts between the two categories.

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.?

Very little. E.g., if legislation allows obstructive behaviours, competition with the lawyers profession will oblige lawyers to adopt such behaviours in the interests of clients.

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 relationships is good in general. However, especially in the past, there have been tensions between some associations of criminal lawyers and the judges' association.

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 peaceful settlement in civil claims is the main example of this co-operation.

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

It is very frequent that judges have been attorneys at the beginning of their legal experience; some return to the Bar after retirement. The law provides that experienced lawyers are admitted as judges to the Court of Cassation.

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

Yes. No specific limitations, other than the duty of abstention in cases to which they are associated. Justices of the peace are also frequently practising law at the same time, but not in the area in which they administer justice.

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?

Yes. The media have been often involved in spreading conflicts, when existing. Co-operation, instead, does not seem to be a matter of interest.

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

Unfortunately it is very frequent that lawyers comment even pending cases, and even in talk shows which sometimes provide alternative views and ask witnesses etc. In some cases prosecutors have made personal declarations to the press (the law providing that press conferences are given by chief prosecutors or their delegates).

Liechtenstein

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, but the Code of employment of judges (Richterdienstgesetz) includes some provisions in this respect.

2. Does your country have a Code of Ethics or equivalent for lawyers? (please specify)
   No, but the Code of Lawjers (Rechtsanwaltsgesetz) includes some provisions in this respect. There exist also guidelines of the Liechtenstein Bar Association.

3. Does your country have any joint codes, rules and/or regulations concerning ethics of judges and lawyers? (please specify)
   No.

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?
   Not to my knowledge.

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 ?
   - lawyers?

B. Training of judges and lawyers

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

8. Which kind of training curricula (initial and continuous training), in brief, do these training institutions have:
   - for judges ?
     After the academic studies and a practical training at the Court of Justice and at the Office of Public Prosecutor: 3 years of formation first at the Court of Justice then at other Courts, the Office of Public Prosecutor and/or administrative authorities.
   - for lawyers?
     After the academic studies: 2 years of practical training in a lawyers' office and at the Court of Justice, the Office of Public Prosecutor and/or an administrative authority.

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

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?
    To some extend.

11. Are there joint training courses for judges and lawyers?
    There are no institutional and mandatory trainings. Some conferences or trainings are organized e.g. by the university, the association of judges, the office of public prosecutor or private institutions. The participation is voluntarily 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?
Not to my knowledge.

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.

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?
The communication is in so far efficient as Liechtenstein is a very small country and the judges and lawyers know each other.

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

16. If yes, is such agreement compulsory?
That depends on the law field and the standing of the procedure.

17. Do they negotiate certain phases of the procedure?

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?
We have generally a good relationship with respect and mutual comprehension. There exist a quite regular exchange and some common training.
To my knowledge, at present, there aren't any plans to take further steps.

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).

24. Do you have any possibility in your country for lawyers to become judges, and vice versa? If yes, is it frequent ?
Yes, but more often a judge becomes a lawyer then a a lawyer becomes a judge.

25. Can lawyers act, in your country, as deputy judges and if so, under what conditions?
In several courts there are lay-judges and some of them are lawyers, especially in the superior courts (Court of Appeal, Supreme Court and Constitutional Court). The president of the Constitutional Court is a lawyer!

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?
Not to my knowledge.

27. To what extent lawyers and judges comment in the media on pending cases and on judgments?
Normally neither judges nor lawyers comment pending cases, but of course there are exceptions. Responsible for responding questions of the media is a

Lithuania / Lituanie

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 the Code of Ethics for judges in Lithuania.

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

Yes, there is the Code of Ethics for lawyers in Lithuania as well.

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

No, common rules concerning ethics for judges and lawyers are foreseen.

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 real plans concerning rules of ethics for judges and lawyers to be revised.

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, relations between judges and lawyers are mostly regulated by principals of law, established in legal acts.

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

Principle of independence and impartiality as well as impeccable behavior;

   - lawyers?

avoidance of conflict of interest; loyalty to the client; non-disclosure of clients confidentiality

B. Training of judges and lawyers

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

The Training Centre of the National Courts Administration

   - for lawyers?

There is a training division within the BAR.

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

There are both initial and continuous training for judges.

- for lawyers?

There is no structured training scheme for lawyers

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

From few weeks to a month.

- for lawyers?

No initial training foreseen

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?

Initial trainings are used to ensure the harmonious integration of newly appointed judges to the judicial system. In pursuance of providing the systemic information required for the work of newly appointed judges, the programme of initial training is formulated. It involves improvement of different abilities in the spheres of law, ethics, psychology and other areas needed for the judges. Continuous trainings are used to ensure the continuous improvement of judges' legal abilities different fields of law: civil law and civil procedure, criminal law and criminal procedure, constitutional law, family law, labour law, administrative law and forensics as well as judicial ethics, sociology, psychology etc.

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?

No, there are no joint courses for judges and lawyers.

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.

The lawyers in the interests of their clients (parties) act according to the procedural rules. Judges always have procedural instruments (i.e. to set up the time limits for submit ion of certain procedural documents 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?

Currently the e-justice system is under the implementation. It is supposed that after that the lawyers will have better access to the relevant procedural documents.

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

If the peaceful agreement is meant in civil cases, yes. For instance, in the civil procedure judges are supposed to arrange so called conciliation meetings before the court hearing. During this procedural step the role of lawyers seems to be important as well as the communication between judges and lawyers. If the plea bargaining in criminal cases is meant, the answer would be "no".

16. If yes, is such agreement compulsory?

N/a

17. Do they negotiate certain phases of the procedure?

No, they do not.

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, there are such mechanisms. The demands of the lawyers should follow the procedural provisions. The arguments of the lawyers have never obligatory effect to a judge. Judge is supposed to reflect in the decision/judgement all main demands raised by the interested party in the claim/counter claim. The lawyer cannot request more than his/her client unless he/she is authorised to do so.

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?

The lawyers always have such possibilities even though the procedural rules usually do not allow it. It depends on the concrete procedural situation whether a judge takes an action against such delays and declares it as an abuse of procedural rights.

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?

In most case the legislation (substantial and procedural) is correct. Mostly it depends on subjective factors.

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.?

As it has been stated above it mostly depends on subjective factors such as professionalism, responsibility and understanding the goals of the procedure (not only the given case in the narrow sense).

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 general there are no problems between the relations between judges and lawyers. Nevertheless the legal culture should always be developed for the building up the mutual understanding and co-operation between judges and lawyers.

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).

As it was mentioned before in Lithuania it is only possible in civil procedure in conciliation meeting before court hearing. Conciliation meetings should be called in all sorts of civil cases.

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

Yes, there is such possibility. It is not that frequent judges become lawyers.

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?

No, there have not been any reflections in the mass media concerning relations between judges and lawyers.

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

Lawyers usually comment from the scope of their clients, but they usually do not disclosure case material. Judges usually keep off commenting about pending cases or judgements. Both lawyers and judges ussualy refrain commenting on each other.

Luxembourg

A. L'éthique professionnelle, la conduite et la responsabilité des juges et des avocats

1. Votre pays dispose-t-il d'un code d'éthique ou équivalent pour les juges? (veuillez préciser).

   Non

2. Votre pays dispose-t-il d'un code d'éthique ou équivalent pour les avocats? (veuillez préciser)

Le règlement intérieur de l'ordre des avocats du barreau de Luxembourg du 12 septembre 2007 prévoit des principes essentiels de la profession d'avocat (cf. art.1.2. ; ex : dignité, probité, loyauté, délicatesse, courtoisie, etc)

De même des règles sont prévues quant aux relations de l'avocat avec ses mandants (ex : opposition d'intérêts, cf. art. 2.4.1), quant à son comportement à l'audience (ex ponctualité, cf. art. 3.2.1), quant à sa publicité personnelle (cf. art. 6.2.) ou quant à certaines incompatibilités (cf. art. 8.2.).

3. Votre pays dispose-t-il de codes communs, de règles et/ou règlements concernant l'éthique des juges et des avocats? (veuillez préciser)

   Non

4. Votre pays envisage-t-il de mettre en place des codes, des règles et/ou règlements concernant l'éthique professionnelle, la conduite et la responsabilité des juges et des avocats ou de développer ceux qui existent déjà?

Un groupe de travail composé de hauts magistrats est en train d'élaborer un recueil de règles déontologiques pour l'ensemble de la magistrature, judiciaire et adminsitrative.

5. Votre pays envisage-t-il de mettre en place des codes, des règles et/ou règlements traitant d'une façon ou d'une autre les questions de relations entre les juges et les avocats ou est-il prévu de mettre en place ces instruments de manière conjointe pour les deux groupes (juges et avocats)? Si oui, veuillez préciser.

   Non

6. A votre avis, quels sont les grands principes qui doivent régir l'éthique :
   - des juges ?

     Indépendance, impartialité, intégrité, dignité, probité, loyauté, diligence, efficacité,…
   - des avocats?

   Les mêmes.

B. Formation des juges et des avocats

7. Quelles sont, dans votre pays, les institutions de formation:

- pour les juges?

Même si le Luxembourg ne dispose pas d'une institution de formation proprement dit, une formation initiale de 18 mois est, cependant, offerte et imposée aux attachés de justice (futurs magistrats). L'article 6 de la loi du 7 juin 2012 sur les attachés de justice dispose que la formation professionnelle est organisée et surveillée par une commission spéciale. Celle-ci peut avoir recours, pour l'organisation de l'enseignement et des épreuves aux
services: 1) d'organismes de formation judiciaire, d'universités ou d'experts du secteur privé, avec lesquels le ministre de la Justice a conclu une convention; 2) de magistrats ou d'autres experts du secteur public. En pratique, la formation initiale est dispensée partiellement au Luxembourg par des professionnels (juges, notaires, avocats, huissiers de justice, assistants sociaux, etc) nationaux et étrangers et partiellement à l'Ecole nationale de magistrature française à Bordeaux.

De même, le magistrat luxembourgeois peut assister (et il y est fermement invité) aux conférences et séminaires organisés, au titre de la formation permanente par l ?ENM à Paris, à la Deutsche Richterakademie à Trèves ou à la Europäische Rechtsakademie à Trèves.

- pour les avocats?

Il n'existe pas non plus d'institution de formation pour les avocats. Néanmoins, l'Université du Luxembourg et le Barreau des avocats organisent régulièrement des conférences et séminaires qui visent entre autres les avocats stagiaires de même que les avocats inscrits au tableau des avocats.

Il convient de préciser encore que pour les deux professions, un accent particulier est mis sur la formation pratique, au parquet ou en juridiction, et dans un cabinet d'avocat, suivant les cas. Ainsi, l'article 8 de la loi du 7 juin 2012, précitée, dispose que la deuxième partie de la formation professionnelle des attachés de justice consiste dans un service pratique auprès d'une juridiction ou d'un parquet. L'encadrement des attachés de justice pendant le service pratique est assuré par des magistrats référents, désignés par la commission mentionnée ci-dessus. Les magistrats référents veillent à un apprentissage utile des attachés de justice dont ils sont en charge, leur prodiguent des conseils et leur adressent les observations ou les reproches qu'ils jugent nécessaires.

8. Quels sont les types de programmes de formation (formation initiale et continue) que les établissements de formation possèdent (veuillez préciser brièvement) :
   - pour les juges?

L'article 7 de la loi précitée du 7 juin 2012 sur les attachés de justice dispose que la première partie de la formation professionnelle porte sur une durée minimale de six mois.
L'enseignement destiné aux attachés de justice comporte sept modules, à savoir:
1) le processus de décision du juge civil et la rédaction d'actes de procédure en matière civile;
2) le processus de décision du juge pénal et la rédaction d'actes de procédure en matière pénale;
3) le processus de décision du juge administratif et la rédaction d'actes de procédure en matière administrative;
4) la dimension européenne et internationale de la justice;
5) la communication judiciaire;
6) l'environnement judiciaire;
7) le statut et la déontologie des magistrats.

   - pour les avocats?

Il n'y a pas de restriction quant aux types de programmes offerts aux avocats.

9. Quelle est la durée de la formation initiale :
   - pour les juges?

La durée initiale du « service provisoire » est de 18 mois, étant entendu que pour postuler à un poste dans la magistrature luxembourgeoise, il faut avoir accompli avec succès le stage judiciaire des avocats et avoir réussi ensuite un examen d'admission à la magistrature, Cette durée peut être prorogée pour une durée qui ne peut dépasser une période de 18 mois.

   - pour les avocats?

   Stage judiciaire de 2 ans

10. La formation initiale inclut-elle les questions liées à l'éthique professionnelle, la conduite et la responsabilité des juges et des avocats, leurs relations les uns avec les autres ainsi que leur coopération en vue de la conclusion juste et efficace des procédures judicaires?

Pour les juges, oui (cf. réponses à la question sub 8).

11. Existe-t-il des formations communes aux juges et aux avocats?

Non.

Il faut, cependant, ajouter que la majorité des conférences et séminaires organisés par l'Université et par le Barreau sont ouverts aux magistrats.

Si non, sont-elles prévues ou en discussion?

Non.

C. Efficacité et qualité des procédures judiciaires

12. Existe-t-il des instruments de procédure pour faciliter l'interaction entre les juges et les avocats au cours de la procédure? Si oui, veuillez préciser.

En matière civile, la procédure de la mise en état est destinée à faciliter l'interaction des juges et des avocats, dans l'intérêt d'une meilleure et prompte évacuation des affaires. Un pouvoir accru est, dans ce contexte, dévolu au juge pour « mettre en état » la procédure.
En matière pénale, un projet de loi récent envisage la possibilité aux parties (ministère public, défense et demandeurs au civil) de transiger.

13. Dans le cas contraire, comment sont-elles envisagées?

14. Comment est organisée la communication entre les juges et les avocats? Est-elle efficace? Existe-t-il des systèmes électroniques d'information à cette fin?

En vérité, la communication entre juges et avocats n'est pas efficace, étant donné, entre autres, qu'elle repose toujours sur un échange de « papier ».

15. Existe-t-il des possibilités, procédures et mécanismes pour les juges et les avocats pour parvenir à un accord sur la résolution judiciaire d'une affaire?

En matière pénale et en matière de droit de la famille, la Médiation rencontre un certain succès, à l'initiative du juge ou sur proposition de l'avocat.
Le juge a toujours la possibilité de procéder à des comparutions personnelles des parties ou à des visites des lieux, destinées entre autres à trouver un arrangement entre parties.

16. Si oui, un tel accord est-t-il obligatoire?

Non.

17. Négocient-t-ils certaines phases de la procédure?

Non.

18. Existe-t-il des instruments juridiques (de fond ou de procédure) qui pourraient être utilisés par les juges afin d'ignorer, d'écarter ou de tout autre manière d'éviter de prendre en considération les réclamations, demandes et arguments des avocats?

Non.

19. Existe-t-il des instruments juridiques (de fond ou de procédure) qui pourraient être utilisés par les avocats afin de retarder l'examen de l'affaire ou d'affecter de quelque manière sa résolution juste et efficace?

Non (Evidemment, l'avocat a toujours la possibilité de ne pas répondre ou de tarder à répondre aux conclusions de son adversaire, ce qui lui permettra, le cas échéant, si le juge n'intervient pas à temps, de gagner du temps ; on parle alors de moyens dilatoires).

20. Dans quelle mesure l'interaction réussie entre les juges et les avocats dépend de facteurs objectifs tels que la législation, les structures et les procédures? Y a-t-il des projets pour les améliorer?

Rien à signaler.

21. Dans quelle mesure cette interaction dépend de facteurs subjectifs tels que les schémas de comportement des juges et des avocats, leur compréhension de leur rôle et de leur responsabilité et/ou de leur volonté de travailler ensemble afin d'améliorer la procédure, etc.?

Evidemment, la force de persuasion et le savoir-faire du juge à l'égard des litigants, mais également de l'avocat à l'égard de son mandant, ont une incidence sur le déroulement convenable du procès.

22. Comment évaluez-vous les relations entre les juges et les avocats dans votre pays? Y a-t-il des mesures à prévoir pour améliorer la culture juridique et favoriser la coopération entre les juges et les avocats?

Ces relations pourraient être meilleures, mais elles sont loin d'être vraiment mauvaises. La taille du Barreau et de la magistrature (le nombre des avocats mais également des juges étant en constante croissance depuis quelques années) y joue un rôle non négligeable. Aucune mesure concrète n'est envisagée dans ce contexte.

D. Rôle des juges et des avocats pour répondre aux besoins des parties

23. Veuillez donner quelques exemples de coopérations entre les juges et les avocats dans certaines catégories de cas (par exemple, dans les affaires civiles, les affaires réglées à l'amiable).

Voir réponse sous C.12.

24. Dans votre pays, est-t-il possible pour les avocats de devenir juges et vice-versa? Si oui, est-ce fréquent?

Oui, au Luxembourg tous les futurs juges exercent plusieurs années comme avocat avant de devenir juge.

Il arrive, mais très, très rarement, qu'un juge retourne au barreau comme avocat après avoir exercé plusieurs années comme juge.

25. Les avocats peuvent-ils agir, dans votre pays, en tant que juges suppléants et si oui, sous quelles conditions?

Jusqu'en 2012 les avocats pouvaient exercer, sans autres conditions que celles d'être inscrit comme avocat à la Cour au barreau et d'avoir la nationalité luxembourgeoise, en tant que juges suppléants aux tribunaux d'arrondissement et en tant que juges de paix suppléants.

La loi du 7 juin 2012 sur les attachés de justice a aboli les fonctions de juge suppléant au tribunal d'arrondissement et de juge de paix suppléant, le législateur ayant estimé qu'il serait malsain qu'une même personne exerce à la fois comme avocat et comme juge.

E. Juges, avocats et médias

26. Y a-t-il eu des réflexions dans les médias en ce qui concerne les relations entre les juges et les avocats et leur coopération?

Non.

27. Dans quelle mesure les avocats et les juges font des commentaires dans les médias sur les affaires pendantes et les jugements?

Il arrive, en matière pénale surtout, que des avocats font un commentaire dans les médias pour y exposer la thèse de leur mandant.

Les juges ne font jamais de commentaires dans les médias sur les affaires pendantes et les jugements.

Le cas échéant, le porte-parole des services judiciaires, qui est un fonctionnaire sous les ordres du Procureur Général d'Etat du Grand-Duché de Luxembourg, fait un commentaire.

Monaco

A. L'étique professionnelle, la conduite et la responsabilité des juges et des avocats

1. Votre pays dispose-t-il d'un code d'éthique ou équivalent pour les juges? (veuillez préciser). **NON**

2. Votre pays dispose-t-il d'un code d'éthique ou équivalent pour les avocats? (veuillez préciser) **NON**

3. Votre pays dispose-t-il de codes communs, de règles et/ou règlements concernant l'éthique des juges et des avocats? (veuillez préciser) **NON**

4. Votre pays envisage-t-il de mettre en place des codes, des règles et/ou règlements concernant l'éthique professionnelle, la conduite et la responsabilité des juges et des avocats ou de développer ceux qui existent déjà? **NON**

5. Votre pays envisage-t-il de mettre en place des codes, des règles et/ou règlements traitant d'une façon ou d'une autre les questions de relations entre les juges et les avocats ou est-il prévu de mettre en place ces instruments de manière conjointe pour les deux groupes (juges et avocats)? Si oui, veuillez préciser. **NON**

6. A votre avis, quels sont les grands principes qui doivent régir l'éthique :
   - des juges ? **L'indépendance et l'impartialité**
   - des avocats? **La loyauté envers leurs clients, la partie adverse et les juges.**

B. Formation des juges et des avocats

7. Quelles sont, dans votre pays, les institutions de formation:
   - pour les juges? **Les juges monégasques sont formés par l'Ecole de la Magistrature française.**
   - pour les avocats? **Les avocats monégasques passent un examen organisé par la Direction des Services Judiciaires de Monaco.**

8. Quels sont les types de programmes de formation (formation initiale et continue) que les établissements de formation possèdent (veuillez préciser brièvement) :
   - pour les juges? **Cf réponse précédente**
   - pour les avocats? **Les avocats qui ont réussi l'examen sont nommés dans un premier temps avocats stagiaires pendant 3 ans. Durant cette période, des conférences de stage leur sont proposées lors lesquelles les juges leur expliquent leurs différentes fonctions.**

9. Quelle est la durée de la formation initiale :
   - pour les juges? **La formation à l'ENM française dure environ deux ans.**
   - pour les avocats? **trois ans.**

10. La formation initiale inclut-elle les questions liées à l'éthique professionnelle, la conduite et la responsabilité des juges et des avocats, leurs relations les uns avec les autres ainsi que leur coopération en vue de la conclusion juste et efficace des procédures judicaires? **Oui s'agissant de la formation des juges.**

11. Existe-t-il des formations communes aux juges et aux avocats? **NON**

    Si oui :
    - Quel est leur contenu et leur durée?
    - Sont-elles obligatoires pour les juges et pour les avocats?

- Comment sont financées ces formations?

Si non, sont-elles prévues ou en discussion? **Pas à ma connaissance**

C. Efficacité et qualité des procédures judiciaires

12. Existe-t-il des instruments de procédure pour faciliter l'interaction entre les juges et les avocats au cours de la procédure? Si oui, veuillez préciser. **NON** ; **En revanche des pourparlers sont en cours entre les chefs de juridiction et le barreau pour permettre l'instauration d'un « contrat judiciaire » pour accélérer la mise en état des procédures en matière civile.**

13. Dans le cas contraire, comment sont-elles envisagées? **Cf réponse précédente**

14. Comment est organisée la communication entre les juges et les avocats? Est-elle efficace? Existe-t-il des systèmes électroniques d'information à cette fin? **Les avocats transmettent aux juges leurs conclusions écrites qu'ils peuvent ensuite soutenir à l'audience lors d'une plaidoirie. Les juges et les avocats ne peuvent communiquer officiellement par mail .En revanche les demandes urgentes peuvent être transmises par télécopie**

15. Existe-t-il des possibilités, procédures et mécanismes pour les juges et les avocats pour parvenir à un accord sur la résolution judiciaire d'une affaire? **NON**

16. Si oui, un tel accord est-t-il obligatoire?

17. Négocient-t-ils certaines phases de la procédure? **NON**

18. Existe-t-il des instruments juridiques (de fond ou de procédure) qui pourraient être utilisés par les juges afin d'ignorer, d'écarter ou de tout autre manière d'éviter de prendre en considération les réclamations, demandes et arguments des avocats?
Non. Les juges ont l'obligation de statuer sur toutes les demandes qui leur sont soumise. Ainsi ils pourront faire droit à ces demandes ou bien les débouter ou encore les déclarer irrecevables.

19. Existe-t-il des instruments juridiques (de fond ou de procédure) qui pourraient être utilisés par les avocats afin de retarder l'examen de l'affaire ou d'affecter de quelque manière sa résolution juste et efficace? **Les avocats peuvent en effet demander aux juges des renvois de l'examen de l'affaire mais les juges peuvent ne pas y faire droit s'ils estiment que le délai de traitement de ladite affaire n'est pas raisonnable.**

20. Dans quelle mesure l'interaction réussie entre les juges et les avocats dépend de facteurs objectifs tels que la législation, les structures et les procédures? Y a-t-il des projets pour les améliorer? **Compte tenu des réponses développées supra, je n'ai pas d'éléments à apporter à cette question.**

21. Dans quelle mesure cette interaction dépend de facteurs subjectifs tels que les schémas de comportement des juges et des avocats, leur compréhension de leur rôle et de leur responsabilité et/ou de leur volonté de travailler ensemble afin d'améliorer la procédure, etc.? **Compte tenu des réponses développées supra, je n'ai pas d'éléments à apporter à cette question.**

22. Comment évaluez-vous les relations entre les juges et les avocats dans votre pays? Y a-t-il des mesures à prévoir pour améliorer la culture juridique et favoriser la coopération entre les juges et les avocats? **Les relations entre les juges et les avocats sont bonnes et ce en raison notamment de la petite « taille » des juridictions et du barreau qui permet une certaine proximité.**

D. Rôle des juges et des avocats pour répondre aux besoins des parties

23. Veuillez donner quelques exemples de coopérations entre les juges et les avocats dans certaines catégories de cas (par exemple, dans les affaires civiles, les affaires réglées à l'amiable). **Compte tenu des réponses développées supra, je n'ai pas d'éléments à apporter à cette question.**

24. Dans votre pays, est-t-il possible pour les avocats de devenir juges et vice-versa? Si oui, est-ce fréquent? **Il n'existe pas de système de « passerelle » entre les deux professions.**

25. Les avocats peuvent-ils agir, dans votre pays, en tant que juges suppléants et si oui, sous quelles conditions? **Oui un avocat peut en effet compléter une juridiction si celle ci ne peut être composée exclusivement de juges qui se trouveraient légitimement empêchés (connaissance de l'affaire, de l'une des parties ou encore une absence pour raisons médicales).**

E. Juges, avocats et médias

26. Y a-t-il eu des réflexions dans les médias en ce qui concerne les relations entre les juges et les avocats et leur coopération? **NON**

27. Dans quelle mesure les avocats et les juges font des commentaires dans les médias sur les affaires pendantes et les jugements? **Les juges ne peuvent faire de commentaires dans la presse en raison de leur devoir de réserve. En revanche rien n'interdit aux avocats de s'adresser aux journalistes.**

Montenegro / Montenégro

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.

Netherlands / Pays Bas

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. The Council for the Judiciary drafted in 2010 a Code of Conduct for Judicial Personnel, that applies to all the persons working within the Judiciary (not only judges). The Dutch Association of Magistrates issued in 2011 a more elaborate Guide to Judicial Conduct, that applies only to judges. Moreover, there are two documents that contain deontological rules for more specific issues: the Guidelines on Judicial Impartiality (2004) and the Guidelines on Ancillary Positions (2009). At present, discussions are going on to consider the possibility to integrate these four documents in one text.

These codes are all inspired by the existing international documents, like the UN Basic Principles on the Independence of the Judiciary, the Bangalore Principles of Judicial Conduct, Recommendation CM/Rec (2010) of the Committee of Ministers to Member States on Judges, the ENCJ Working Group Judicial Ethics Report 2009-2010 and the CCJE Magna Carta of Judges.
The oath of the judge also contains deontological rules (integrity, secrecy and impartiality).

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

Yes, The Rules of Conduct for lawyers (1992), issued by the Netherlands Bar Association (*Nederlandse Orde van Advocaten (NOvA*). In cross-border activities, the Code of Conduct for European Lawyers, issued by the CCBE, applies.

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

No. Each profession has its own codes of conduct.

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, but the two professions share some core deontological principles, like independence, professionalism, the rule of law.

At present, a legislative proposal is submitted to Parliament, that conduces to insert the core values of the legal profession in the Law on Advocates (*Advocatenwet*). These core values (partiality, independence, confidentiality, expertise and integrity) aim to safeguard the proper administration of justice.

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 some legal provisions imposing on judges the duty not to have contacts with parties and lawyers without the presence of the other parties and the duty to respect secrecy (art. 12 and 13 of the Act on the Judicial Organisation), as well as some legal provisions on Ancillary positions that are not allowed for judges (art. 44 and 45 of the Act on the Statute of Judges). The Codes of Conduct of both professions have of course implications for the relationships between both professions. One of the elements of the professional oath of lawyers is to have respect for the judicial authorities.

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

According to the Guide to Judicial Conduct, the main principles that govern the ethics of judges are independence, autonomy, expertise and professionalism, and integrity.
For lawyers, the five core values are: partiality, independence, confidentiality, expertise and integrity.

B. Training of judges and lawyers

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

For judges:
The training for the Judiciary is provided by the Training and Study Centre for the Judiciary (SSR). The SSR falls under the responsibility of and is partly funded by Netherlands Council for the Judiciary. The Council is owner and commissioning authority of the SSR together with the Board of Procurators General.

For lawyers:
The training for new lawyers (with a duration of 3 years) falls under the responsibility of the Netherlands Bar Association (NOvA).The NOvA has outsourced the organisation of the training for a number of years commencing on 1 September 2013 to a commercial party: CPO/Dialogue (a consortium of the post graduate education office of the University of Nijmegen and a private training agency.

Continuous training is organised by educational institutions (e.g. Universities) which are certified by the NOvA.

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

For judges:
The Netherlands Council for the Judiciary is currently in the process of renewing the profile of a judge, the recruitment, and selection procedure of judges and the initial training of judges. The design for the new initial training of judges has been presented to but not yet approved by the Netherlands Council for the Judiciary.

Old system
The last group of trainees under the previous system has started its training in October of 2012. Their initial training consists of the following. The programme is basically the same for all trainee-judges. They start off as a law-clerk in the criminal law section for six months. Subsequently, they work as a law-clerk in the civil section; after that in the administrative law-section. In the third year of their programme every trainee-judge becomes a substitute-prosecutor. After the third year the trainee chooses whether he or she wants to become a judge or a prosecutor. Subsequently, the trainee fulfils a practical training of ten months. The last two years the trainee-judgeworks “outside” the Dutch Judiciary, e.g. in a law firm, in a company, or at the European Court of Human Rights or the Court of Justice EU.

In addition, there was the possibility for legal professionals to become a judge after only one year of training. One needed relevant legal experience for at least six years. However in the new system of training of judges, this possibility will disappear.

New system

In the new system, a candidate is only entitled to become a judge-trainee if he or she has worked for at least two years after his or her university-degree in a relevant legal profession.
After selection, the judge-trainee is assigned to a district court and together with the judge-trainees mentor, an individual training scheme is drafted (ranging from one year and three months up to a maximum of four years, depending on the experience and knowledge). In the initial stage (first three months), the trainee judge will learn to draft verdicts at the court where he is placed and learn about the organisation and skills a judge needs in addition to firm legal knowledge (professionalism, independence, etc.). Also, he will do a short internship at the court of appeal and at the prosecutor's office.
Afterwards, the main stage of the training period begins. The judge-trainee works at the court where he is placed, rotating between at least two fields of law (i.e. criminal, administrative or civil) working under supervision of senior judges who are appointed as trainers. In addition, the judge-trainee performs internships at different institutions (for example at the prosecutor's office, court of appeal, European/international institutions etc.). Every three months, the individual training scheme is evaluated and adjusted if needed. This way, the training is personalised according to the needs of each judge-trainee.
When this new system gets approved by the Council, the first group of new trainees should start its training in October 2013.

Continuous training

Continuous training is provided in all areas of law, and also covers psychological and social capacities. Judges must spent at least 30 hours a year on continuous training.

<u>For lawyers</u>

The curriculum of the professional training consists of skill-based modules and modules covering professional attitude and ethics. Furthermore, one of the following courses must be followed: criminal law, civil law or administrative law. Each course consists of:

- year 1: a minor and major;
- year 2: two substantial optional subjects;
- year 3: a smaller optional subject.

Beside these elements, the student must also follow a minor in another area of law than his chosen area in the first year, and a smaller optional subject of his choice in years 2 and 3.

Continuous training is provided in all areas of law, and also covers psychological and social capacities. Lawyers must spent at least 20 hours a year on continuous training.

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

See under 8.

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?

<u>For judges:</u>
The subject of integrity will be integrated into the recruitment, selection and training policy, which is to be renewed, as was already mentioned under B.8 and B.9. In the view of the Netherlands Judiciary, moral competencies concern the core values of being a judge and are closely related to his or her person. It entails situational awareness, the capacity to think and act autonomously and authentically, including the related character traits of an independent spirit, moral courage and integrity. They are present under the surface of every performance of a public office and therefore an integral part of all training courses. In addition, the SSR offers courses such as Judicial formation of Opinion and Practical Professional ethics for judges.

For lawyers:
Yes, the topics of professional attitude and ethics are part of the training, see under question 8.

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 are no explicit joint training courses for lawyers and judges. However, the training courses provided by the SSR are open to both lawyers and judges, as well as prosecutors, legal staff or other relevant professionals. Both professions do meet though at seminars or events organized by the courts or the Bar. It would probably enhance the understanding between the two professions if joint training would be more frequent.

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. See the answer to question 14.

13. If yes, how are they planned?

See under question 14.

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

Judges and lawyers do not communicate in person during the pre-trial proceedings, except during the hearing. All communication with the lawyers is handled by the supporting staff of the courts. In many courts, but not yet in all, there are computerised information systems.

Every area of law (civil, administrative, criminal etc.) has its own regulation on the different types of procedures. These regulations regulate how relevant information of the case at hand should be communicated to the court, as well as between the other relevant parties in the case. This concerns the submitting of documents, evidence and other relevant materials, as well as deadlines for submitting these materials.

In civil and administrative cases, an oral hearing takes place in an early stage of the proceedings. This allows the parties, the lawyers and the judges to discuss the course of proceedings and to consider a settlement or referral to mediation.

In complex criminal cases, a pre-trial hearing takes place to discuss the course of proceedings.

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

This depends highly on the field of law and its specific regulations. In civil cases for example, the parties often come to a (total or partial) settlement of the case. Judges are trained to foster settlements.

16. If yes, is such agreement compulsory?

If the parties agree to that, the agreement is compulsory and can be enforced like a final judgment.

17. Do they negotiate certain phases of the procedure?

See under 14. The course of proceedings is not subject to negotiations in the strict sense of the word, but the parties can put forward their ideas. The decisions about the course of proceedings remain the responsibility of the judge, who is bound by the legal provisions and the applicable procedural regulations.

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?

The legal provisions and procedural regulations contain rules about the way in which claims and requests must be put forward. If they are submitted in the right way and in due time, the judge must consider them. If not, they can be disregarded. In general, the rules are quite flexible, but the parties are supposed to "concentrate" their arguments in the beginning of proceedings. New arguments cannot be put forward in one instance without sufficient justification.

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?

The procedural acts have diminished considerably the possibilities for the parties to delay proceedings without justification. The reasonable time requirements play a central role.

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?

The successful interaction requires in the first place a clear and adequate legal framework on the proceedings. Subjective factors do play a role, but, generally spoken, judges and lawyers in the Netherlands share the culture to arrive at fair settlements and judgments within a reasonable time. The concern for timely and transparent proceedings leads to many pilots to improve the forms and time-frames of proceedings.

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.?

See under question 20.

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 general, one can say that the relations are constructive and satisfactory, especially in the areas of civil law, commercial law and administrative law. In criminal matters, one can perhaps observe growing tensions between the two professions that lead, e.g., to a growing amount of challenges of judges by lawyers. It is not easy to explain this phenomenon. However, it is clear that it is important to invest in instruments that can enhance a better understanding of judges and lawyers of their respective roles in the judicial system. These roles are distinct, but related. Both professions act in the interests of the parties and of the rule of law. In this respect, common training can play an important role.

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).

See under 15. Judges and lawyers co-operate actively to arrive at a (total or partial) settlement of a civil or commercial case. These experiences are now expanded to administrative cases and criminal cases. Co-operation takes also place when the parties and the judge discuss the further course of proceedings.

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

Yes, lawyers can become judges and judges can become lawyers. The first occurs more often than the latter.

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

Yes, lawyers can act as deputy judges. An applicant needs to have extensive legal experience. A lawyer may not act as a deputy judge in the court where he is registered as a lawyer. The deputy judges are appointed by Royal Decree and act as a judge on an irregular basis, for which they receive a small fee. They are subject to the same legal provisions and deontological rules as the professional judges. Deputy judges can offer the judiciary their specific legal and social experiences. However, there is growing criticism with regard to the employment of deputy judges, mainly because of the issue of their impartiality.

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?

Not particularly, but there are reflections on the issue of the impartiality of deputy-judges (see under 25). This has led to a stricter policy in the employment of deputy judges.

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

Judges do not comment on pending cases or judgments in the media. Every court has a specially trained media-judge who handles the contact with the media and who provides for objective information on pending cases or judgments. The contact with the media is regulated in a directive (*Persrichtlijn*), applicable to all the courts.

Lawyers do comment in the media on pending cases and judgments. They must respect, in doing so, the deontological rules. There are some, but only few, examples in which disciplinary sanctions have been imposed.

Norway / Norvège

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. The Norwegian Association of Judges adopted Ethical Principles for Norwegian judges on October 1, 2010. These principles are also adopted by the judges in the Land Consolidation Courts and by the Norwegian Courts Administration.

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

   Yes, there are Codes of conduct for Norwegian lawyers adopted by The Norwegian Bar Association.

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

   No.

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.

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 ?

Ethical Principles for Norwegian judges state some basic requirements for judges; Judges should conduct themselves in conformity with the law, the legal system and norms for proper conduct among judges, and in such a way that it promotes public confidence in the courts. Core values are:

- *Independence:* A judge should exercise his/her adjudicative role with independence, without an extraneous judicial influence from public or private interests.
- *Impartiality:* A judge should exercise his/her adjudicatory role with impartiality, both *in facto* and by appearance, and in such a way that the impartiality of the judge cannot be reasonably questioned.
- *Integrity:* Judges should behave in a way that does not threaten the public confidence in the courts and judiciary.
- *Equality:* Judges should pay attention to the principle of equal treatment of parties and other actors before the courts.
- *Proper conduct:* Judges should remain objective and conduct themselves in a dignified and correct manner with everyone that they relate to in the exercise of their adjudicative role.
- *Regarding lawyers:* Judges should respect the role of the lawyers. A lawyer should not be identified with his or her client

    - lawyers?

For lawyers core principles are basically in line with the standards for European lawyers adopted by the CCBE:

- Independence
- Confidentiality
- Avoidance of conflicts of interest
- The dignity of the legal profession
- Loyalty to the client
- Regarding judges: show due respect and courtesy towards the court while defending the interests of the client honorably and fearlessly.

B. Training of judges and lawyers

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

For judges: Training is organized by the Norwegian Courts Administration.

For lawyers: Training is provided by Center for Continuing Legal Education (Juristenes Utdanningssenter), a non-profit independent association founded by the Norwegian Bar Association and the Norwegian Association of Lawyers.

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

For judges:
The recruitment of judges in Norway has been based on the principle that the judiciary should reflect a broad professional legal background and a varied background of experience. Therefore, Norwegian judges are not recruited to an internal career in the courts as soon as they qualify. The judges recruited are experienced jurists, and the initial training is limited to a course with the duration of five weeks, giving an introduction to the court system and the role of the judge, case management, ethics for judges, relations between judges and the society (media), and also some updating on procedural and substantive law.

Continuous training is concentrated on updating on procedural and substantive law.

For lawyers:
To be qualified as a lawyer, participation in a course concerning relevant issues to a lawyer is mandatory. A candidate can participate after obtaining a law degree. The course is organized by the Center for Continuing Legal Education, and comprises topics related to organizational and economical aspects of advocacy, client relationship, ethics etc. The course consists of two mandatory sessions.

Lawyers must use an average of two days per year on continuous training. The requirement is 80 hours during a period of five years, of these at least five hours must focus on lawyers' ethics.

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

See answer to question 8.

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, cf. answer to question 8.

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?

Judges can participate in training courses arranged by the Center for Continuing Legal Education together with lawyers and other legal professionals. Due to the fact that judges have their own training courses, judges rarely participate in training with other legal professionals. Some courts have arranged joint seminars with the regional Bar Association.

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.

Pursuant to the Norwegian Dispute Act, which entered into force at 1 January 2008, the court shall at an early stage summon the parties/lawyers to discuss a plan for the further proceedings, including setting time limits and making necessary decisions. These include:

- whether judicial mediation or mediation at a court hearing should be pursued,
- whether the case should be dealt with pursuant to special provisions,
- whether court hearings shall be held during the preparation of the case and whether the case may be decided by a judgment following such court hearing,
- whether written submissions shall be made as part of the basis for the judgment,
- review of the presentation of evidence, including whether access to evidence, production of evidence or judicial inspection of a site is being requested, whether evidence shall be secured and whether an expert should be appointed,
- whether final written submissions shall be made,
- setting the date of the main hearing, which date shall fall within 6 months of the submission of the writ of summons, unless special circumstances otherwise require,
- whether expert or regular lay judges shall be appointed,
- other issues of importance to the preparation of the case.

These discussions take place as a court hearing, which may be held in the form of a long-distance meeting. The court may request the parties to submit their remarks in writing or obtain the required clarification by other methods, if necessary to progress the case or if it is evident that discussions at a court hearing are not required.

We don't have the same instrument available for criminal cases, but in cases involving a lengthy main hearing, such a preparatory meeting with the defense lawyer and public prosecutor in the pre-trial stage is not unusual.

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?

The communication between the judge and the lawyers after the preparatory meeting, cf. answer to question 12, is mainly in writing.

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

The Norwegian Dispute Act outlines two alternatives for judges' mediation; *(1) (ordinary) mediation*, which may be seen as a consequence of the judges' obligation, at each stage of the proceedings, to be aware of the possibility of having the legal dispute resolved amicably in full or in part through mediation, and *(2) judicial mediation*, which requires a formal decision by the court to be initiated, and where the mediation process is regulated in more detail by legislation.

Mediation (ordinary mediation) takes place by the court, at a court hearing or through other contact with the parties, attempting to provide a basis for an amicable settlement. During mediation the court shall not hold separate meetings with each party, nor receive information which cannot be communicated to all parties involved. The court shall not present proposals for a solution, offer advice or express points of view which may weaken the impartiality of the court.

Judicial mediation takes place separate from court hearings. The judge determines the procedure in consultation with the parties. Meetings with the parties may be held jointly or separately. The parties shall during judicial mediation be present themselves or be represented by counsel. The judge shall act in an impartial manner and promote an amicable settlement. The judge may present proposals for resolving the matter. The judge determines whether, as well as the extent to, if any, presentation of evidence shall take place during judicial mediation. Presentation of evidence cannot take place without the consent of the parties as well as the consent of whoever shall present evidence or provide a statement. The judge shall maintain a record of mediation meetings. A party making a settlement offer may demand that it be recorded. The record forms part of the case documents. If a case is not concluded during judicial mediation, the proceedings before the court shall continue. The court shall to the extent possible seek to prevent failed judicial mediation from causing any delay in the progress of the case. A judge who has acted as judicial mediator in the case shall not participate in the further proceedings of such case.

If the parties reach agreement, the settlement may be concluded in the form of an in-court settlement. This is applicable both for mediation and judicial mediation.

In-court settlements are recorded in the court record. The in-court settlement shall be signed by the parties as well as by the members of the court. If the settlement does not include provisions on the allocation of costs, the court shall at the request of the parties determine such allocation at its discretion. The court ensures that the settlement reflects what the parties have agreed in a precise manner, and that the settlement is not contrary to public interest. If the settlement is to be enforceable, the court shall ensure that a time limit for performance is specified.

16. If yes, is such agreement compulsory?

See answer to question 15.

17. Do they negotiate certain phases of the procedure?

See answer to question 15.

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. In general grounds shall be given for judgments and interlocutory orders. The decision shall provide a focused account of the legal controversy which is the subject matter under dispute, the background to the case as well as the legal and factual arguments of the parties to the extent required to explain the ruling. The court shall also describe the assessment of evidence and the application of law upon which the ruling is based.

Small claims procedure is a special and cost-effective track for cases where the amount in dispute does not exceed NOK 125 000, equivalent to approximately 15 000 Euros. The small claims procedure is designed to provide simpler and faster processing than is available for cases subject to ordinary procedure. As a consequence, also the requirements to judgments are simplified, the judgment shall briefly state the subject matter of the case, set out the arguments of the parties and explain the factors to which the court has attached particular weight.

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?

In general both the parties and the lawyers are interested in swift proceedings. Ill-founded requests from lawyers aiming at delaying the proceedings are rare, and the judge can always overrule such requests.

The judge have a legal obligation to actively and systematically manage the preparation of the case to ensure that it is dealt with in a swift, cost effective and sound manner. The judge is also equipped with legal instruments to do so.

In civil cases, cf. the Norwegian Dispute Act, the parties/lawyers shall be entitled to make statements concerning issues of importance to decisions relating to the proceedings of the case. A party/lawyer must raise any objections concerning procedural steps as soon as he or she is able to do so. An objection that is raised at a later time shall be disallowed unless the party/lawyer was unaware of there being a basis for raising the objection. Decisions relating to the proceedings of the case, including whether the case shall be summarily dismissed or quashed, shall be made as early as possible during the preparation of the case. Decisions as to procedural issues during the course of the preparation of the case are normally made on the basis of written proceedings.

In civil cases the parties may only present evidence on factual circumstances which may be of importance to the judgment. The court may refuse presentation of evidence if the party has failed to specify what the evidence is intended to establish or the evidence is not likely to improve the basis for the judgment. Furthermore, there shall be a reasonable degree of proportionality between the importance of the dispute and the scale and scope of the presentation of evidence. If the presentation of evidence as announced goes beyond the principle of proportionality, the court may curtail such presentation of evidence.

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, structures and procedures are important in that respect.

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.?

Subjective factors become less important when the interaction is regulated by legislation and procedures.

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 general the relationship between judges and lawyers in Norway is good.

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).

Peaceful settlement is open to all kind of civil cases, see answer to question 15. For child custody cases there is a special procedure involving experts and mediation by a judge, often leading to amicable settlement of disputes.

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

Lawyers can become judges, and vice versa. As described previously, Norwegian judges are recruited among experienced jurists. In 2011 40 % of all judges appointed were advocates. It is very unusual for judges to become lawyer.

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

In Norway deputy judges are appointed for a limited period (two or three years). Lawyers can be appointed as deputy judges, but can not work as a lawyer at the same time.

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?

According to the Ethical Principles for Norwegian judges, a judge should respect the media's role in the courts, and should provide the public with information concerning the cases that are dealt with by the courts. Judges never comment on pending cases other then giving objective and factual information on the process. As a general rule judges never comment their own decisions, but in some extraordinary cases this has been done.

Lawyers more frequently comment both pending cases and judgments. Codes of conduct for Norwegian lawyers give some guidelines for such comments.

Romania / Roumanie

A.

(1) Oui, le système judiciaire de Roumanie considère que l'existence d'un code déontologique des juges et des procureurs est bien nécessaire.

(2) Non, il n'existe pas de code déontologique des avocats de Roumanie, mais un code déontologique des avocats d'Union Européenne est connu, étant disponible sur le site internet de l'Union Nationale des Avocats de Roumanie (www.unbr.ro)

(3) Non, en Roumanie il n'y a pas de codes communs comportant à la fois des règles d'éthique des juges et des avocats.

(4) Une réponse à cette question a déjà été formulée aux deux premiers points de cette page.

(5) Non.

(6) Le code déontologique des juges et des procureurs de Roumanie prévoit des normes à l'égard de l'indépendance de la justice, dans le sens que les juges et les procureurs doivent exercer leur fonction en toute objectivité et impartialité, leur unique fondement étant la loi, sans donner suite aux pressions et influences de n'importe quelle nature ; les juges et procureurs peuvent s'adresser au Conseil Supérieur de la Magistrature à propos de n'importe quel fait de nature à affecter leur indépendance, leur impartialité ou leur réputation professionnelle ; dans l'exercice de leurs attributions de service, les juges et procureurs ne doivent pas se laisser influencer par les doctrines politiques ; les juges et procureurs ne sauraient militer pour l'adhésion d'autres personnes à telle ou telle formation politique, ne sauraient participer à des collectes de fonds au bénéfice de pareilles formations et ne sauraient permettre que leur prestige ou leur image soient utilisés à de fins pareilles ; les juges et procureurs ne peuvent accorder aucun appui à un candidat à une fonction publique à caractère politique ; les juges et procureurs ne sont pas en droit d'utiliser les actes découlant de l'exercice de leurs attributions professionnelles pour exprimer ou manifester leurs convictions politiques; les juges et procureurs ne peuvent participer à des réunions publiques à caractère politique ; les juges et procureurs peuvent prendre part à l'élaboration de publications ; il peuvent élaborer des études spécialisées, des ouvrages littéraires ou scientifiques et peuvent participer à des émissions audiovisuelles, à l'exception des émissions à caractère politique ou qui pourraient affecter l'image de la justice; les juges peuvent être membres de différentes commissions

d'examen ou d'élaboration de projets d'actes normatifs, de documents d'ordre intérieur et international ; les juges et procureurs peuvent être membres des sociétés civiles ou académiques, tout comme de n'importe quelle personne de droit moral, privé, sans but lucratif. Le même code prévoit également des règles, visant la promotion de la primordialité de la loi, dans le sens de la défense des droits et libertés fondamentales des citoyens, les juges et procureurs étant tenus de respecter l'égalité des citoyens devant la loi., en assurant un traitement juridique non-discriminatoire, à respecter et défendre la dignité, l'intégrité physique et morale, de toute personne qui participe, sous une forme ou l'autre, aux procédures judiciaires.

L'impartialité des juges et procureurs est consacrée par des normes, aux termes desquelles les juges et procureurs doivent d'abstenir de tout comportement ou manifestation de nature à altérer la confiance dans leur impartialité ; en cas d'incompatibilité, les juges et procureurs ont l'obligation, de par la loi, de s'abstenir, tout en ayant le devoir d'accorder de l'assistance juridique dans les situations ou cela leur est permis.
L'exercice des attributions professionnelles se déroule à la lumière de normes concernant l'obligation des juges et procureurs de faire preuve de diligence dans l'accomplissement des ouvrages impartis, dans le respect des délais imposés par la loi et dans la situation ou la loi n'en fait pas mention, à l'intérieur de délais raisonnables ; les juges et procureurs doivent imposer l'ordre et l'attitude solennelle au cours de la solution des affaires, laissant voir de la dignité et de la civilisation, vis-à-vis des parties, des avocats, des témoins, des experts, des interprètes et autres, sollicitant de la part de tous un comportement adéquat, avec l'obligation de ne pas dévoiler ou utiliser à des fins différentes les informations obtenues dans l' exercice direct de leur profession ; au cas ou, aux termes de la loi, les travaux ont un caractère confidentiel, les juges et procureurs ont l'obligation de conserver lesdits documents à l 'intérieur du bâtiment de l'instance ou du parquet et de ne pas permettre qu'ils soient consultés que dans le cadre prévu par la loi et le règlement ; de même, des règles sont prévues pour les juges et pour les procureurs chargés de fonctions de direction.
La dignité et l'honneur de la profession de juge ou de procureur sont détaillées par les règles portant sur les relations entre juges et procureurs, dans le cadre de leurs collectifs, dans le sens que ces relations doivent reposer sur le respect et la bonne foi, indifféremment de l' ancienneté et de la fonction détenue ; les juges et procureurs sont interdits de se prononcer au sujet de la probité morale ou professionnelle de leurs collègues; les juges et procureurs peuvent exprimer publiquement leur opinion pour ce qui est de l'exercice du droit de réplique, au cas ou des affirmations infamantes ont été faites à leur adresse dans des articles de presse ou des émissions audiovisuelles.
Des règles sont aussi mises en exergue pour ce qui est de la matérialisation des activités incompatibles avec la qualité de juge ou de procureur, dans le sens que les juges et procureurs ne peuvent cumuler cette qualité avec aucune autre fonction publique ou privée, à l'exception des fonctions didactiques de l'enseignement supérieur ; ils peuvent déployer une activité de formateurs, à l'Institut National de la Magistrature et à l'Ecole Nationale des Greffiers, suivant le programme décidé par ces institutions avec la direction des instances ou des parquets ou les formateurs déploient leur activité de base; il est interdit aux juges et procureurs de participer directement ou par personne interposée, aux jeux du type pyramidal, aux jeux de fortune ou systèmes d'investissements pour lesquels on n'assure pas la transparence des fonds, en conformité avec la loi ; les juges et procureurs sont tenus de s'abstenir, aux termes de la loi, de toute activité ayant trait à l'acte de justice, lorsque cela suppose l'existence d'un conflit entre leur propre intérêt et l'intérêt public de réaliser la justice ou de défendre les intérêts généraux de la société.
En ce qui concerne l'éthique qui devaient être spécifique des avocats, les principes en sont ceux qui visent la déontologie de la profession d'avocat : incompatibilités, relations avec les juges et procureurs, à l'intérieur et en dehors de la procédure.

B.

(7) Institutions de formation professionnelle :
–La Faculté de Droit, ultérieurement l'Institut National de la Magistrature pour les juges et procureurs, et l'Institut National de Formation et Perfectionnement, pour les avocats.

(8) Oui, dans le cadre des deux instituts susmentionnés, l'on pratique les deux types de formation : initiale et continue.
Pour les juges, l'INM assure la formation initiale de 2 ans et la formation continue, par l'organisation périodique de séminaires, conférences à thème, ouvertes à tous les juges et procureurs du pays.
Pour les avocats, l'INPPA assure la formation initiale de 2 ans et la formation continue pour tous les avocats de Roumanie, par l'organisation de séminaires et conférences. La formation continue a une durée totale de 60 heures, dans le courant de 3 années consécutives, pour une moyenne de 20 heures annuellement.

(9) Pour les juges: 2 ans
Pour les avocats: 2 ans

(10) Oui: dans la formation initiale dépensée par les deux Instituts l'on discute des règles d'éthique professionnelle: un module d'éthique permet ainsi, à l'Institut National de la Magistrature, des débats dans le cadre desquels l'on met aussi en évidence des aspects de la relation avec les avocats.

(11) Un Protocole de collaboration existe entre le Conseil Supérieur de la Magistrature et l'Union Nationale des Barreaux de Roumanie, qui prévoit la collaboration dans le perfectionnement de la formation professionnelle des magistrats et avocats (art. 6 littera e, et art.7 littera 6) , tout comme l'organisation, par l'intermédiaire de l'Institut National de la Magistrature et de l'INPPA de programmes communs de formation, avec pour thème l'entrée en vigueur des nouveaux codes juridiques, et d'autres sujets d'intérêt commun.
La durée du Protocole est de 5 ans. La participation aux actions communes organisées est obligatoire. Le financement est assuré par l es fonds des parties au Protocole (art.11 du Protocole).
Il existe également un protocole similaire entre l'INM et l'INPPA au sujet de la formation initiale et continue, à travers des modules communs de formation professionnelle. Ce protocole n'a pas de date butoir.
Un autre protocole, celui entre l'INM et l'UNBR, est similaire.

C.
(12) Oui, en droit civil, la ou la loi prévoit une procédure préalable.

(13) –

(14) Oui, la communication se déroule, de manière efficace, par écrit, par télécopie, par notes téléphoniques et par courriel.

(15) Non, seules les parties, en droit civil, peuvent conclure une transaction, pour éteindre le litige.

(16) Ce n'est pas le cas.

(17) Non, on ne négocie pas à ce point.

(18) Non.

(19) Non.

(20) Le système roumain de droit appartient à la famille romano-germanique et par voie de conséquence ne connait pas les procédures judiciaires préalables ou précontentieuses communes, entre juges et avocats, comme cela existe dans le système anglo-saxon. Une procédure pareille pourrait devenir possible uniquement par un changement de législation, mai cela implique une réforme procédurale et l'abandon des principes judiciaires romano-germaniques.
L'interaction des juges et des avocats ne dépend ni de la législation ni de la procédure.
(21) L'interaction dépend de plusieurs facteurs subjectifs, dont la compréhension du rôle et de la responsabilité de chacun, le respect de la loi et des attributions de chacun.
(22) L'amélioration est possible par l'intermédiaire de la formation continue en commun, par des rencontres périodiques avec les avocats, afin de débattre des problèmes communs (l'idée est prévue dans le Protocole de collaboration entre le CSM et l'UNBR) ou de réunir une participation commune aux commissions de rédaction des principaux actes normatifs, de la taille des codes juridiques.

D.
(23) « Les affaires réglées à l'amiable », cela n'existe pas, en Roumanie.

(24) Oui, et les cas sont relativement fréquents. Les avocats peuvent devenir juges, par concours externe. Les juges, à leur tour, peuvent devenir avocats, par concours et s'ils ont déjà une ancienneté de 5 ans à cette fonction de juge, ils deviennent avocats définitifs.

(25) Non.

E.
(26) Non.

(27) Seuls les avocats peuvent formuler des commentaires dans les média, ce qui est interdit aux juges, tenus par la loi d'observer la réserve et la neutralité.

Republic of Moldova / République de Moldova

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 first code of professional ethics of judges in Moldova was approved by the Judicial Conference of February 4, 2000. Code of Ethics for judges in Moldova, which is currently in force, was approved by the Superior Council of Judges no. 366/15 of 29 November 2007;

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

Code of Ethics of the Association of lawyers of Moldova (adopted by the Congress of Lawyers of December 20, 2002, with amendments adopted on 23 March 2007 by the Congress of Lawyers)

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

No.

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.

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 ?

     independence;
     impartiality;
     officiality

   - lawyers?

     Independence
     Trust and integrity
     Professional secrecy

B. Training of judges and lawyers

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

I*n Moldova activates from 2007 National Institute of Justice*

   - for lawyers?

     Law Centre of Advocates;
     Union of Lawyers

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

     Initial training

Continuous training

- for lawyers?

Initial training
Continuous training

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

     18 months

   - for lawyers?

     90 hours

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 initial training include issues related to the professional ethics, conduct and responsibility of judges and lawyers etc.

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

    Occasionally, not always, are joint seminars at the National Institute of Justice – lawyers, judges

    If yes:
    - what is their content and duration?

      The topics are diverse, but are all dedicated enforcement substantive and procedural issues in criminal and civil matters

    - are they mandatory for judges and lawyers?

      No.

    - how are these courses funded?

    Funding is from the state and the programs of various international organizations

    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.

Only rules of criminal and civil procedure codes

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?

No.

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

No.

16. If yes, is such agreement compulsory?

17. Do they negotiate certain phases of the procedure?

No.

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?

There are only general rules of criminal procedure and civil lawyer being a part of this process

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?

No.

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?

Lawyers, as required by law trial are treated equally with other parties in a lawsuit (whether criminal or civil)

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).

Reconciliation between the parties in criminal cases is between the defense (accused, defendant and lawyer) and the prosecution (prosecutor) and in the civil lawsuit between the parties participating in the process, without any involvement of the court, judges at the end these transactions. The court or judge is neutral in this process, only controlling compliance to the agreements of peace and if it finds that they have not violated any provisions

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

    Lawyers can be judges under general rules: if participation in the contest for the position of judge.
    Lawyers become judges resignation only on the request without undergoing examination and testing without participating in the contest of appointment of counsel.

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?

Judges do not make comments in the media concerning certain specific cases and decisions.

Lawyers rarely make comments in the media concerning certain specific cases and decisions.

Slovakia / Slovaquie

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 – issued by the Association of Slovak Judges; some basic principles are stipulated in the Act on Judges No 385/2000 Coll.

2. Does your country have a Code of Ethics or equivalent for lawyers? (please specify)
   Code of Ethics for Barristers (it is specified in the Barristers´ Code of Conduct) issued by the Slovak Chamber of Barristers.

3. Does your country have any joint codes, rules and/or regulations concerning ethics of judges and lawyers? (please specify)
   No.

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.

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
   Yes – in the Code of Ethics for Judges.

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

   judges - **should be guided in their activities by principles of professional conduct, drawn up by the judges themselves, separate from the judges' disciplinary system, there should be established within the judiciary commission or committee composed exclusively from judges to advise judges confronted with a problem related to professional ethics or compatibility of non judicial activities with their status.**

   lawyers **– similar as to the judges**

B. Training of judges and lawyers

7. Which are, in your country, the training institutions:
   - for judges ? **Judicial Academy of the Slovak Republic**
   - for lawyers? **Slovak Chamber of Barristers**

8. Which kind of training curricula (initial and continuous training), in brief, do these training institutions have:
   - for judges ? **Substantive and procedural law, specific procedural situations during hearing the case; training curricula is managed by the Judicial Academy of the Slovak Republic.**
   - for lawyers? **N/A**

9. What is the duration of the initial training:
   - for judges ? **It is a continuous training.**
   - for lawyers? **N/A**

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.

11. Are there joint training courses for judges and lawyers?
    No.

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?
Yes, they are discussed mainly within the members of the Slovak Association of Judges (furthermore "SAJ"). The principles of judges´ ethics, in general, is important part of the SAJ agenda for 2013.

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.
    Civil Proceedings Code, Criminal Proceedings Code

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?
    Communication is possible during hearing the case.

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

16. If yes, is such agreement compulsory?
    No, it is not compulsory, it depends from the parties´ will in each individual case. According to the Civil procedural Code, in each phases of hearing the case judge should try to come to the peaceful settlement between the parties if it is appropriate.

17. Do they negotiate certain phases of the procedure?
    Yes, it happens usually at the very beginning of the hearing.

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 – Civil proceedings Code and Criminal Proceedings Code – but Judge has to give reasons why he/she didn´t accept the lawyer´s (party´s attorney) claims, arguments etc.

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?
    Yes.

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?
    N/A

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.?
    N/A

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 is sufficient, but see also the answer in paragraph 11.

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).

According to the Civil Procedural Code, in each phases of hearing the case judge should try to come to the peaceful settlement between the parties if it is appropriate. According to the Criminal Procedural Code proceeding judge can in certain specific circumstances approve an agreement between prosecutor and accused about guilt and punishment.

24. Do you have any possibility in your country for lawyers to become judges, and vice versa? If yes, is it frequent ?
    It is possible – via selection process that is open to all lawyers.

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?
    Yes.

27. To what extent lawyers and judges comment in the media on pending cases and on judgments?
    Judge is forbidden to comment any pending case in the media (Art 30 par. 11 of the Act on Judges cited above);
    lawyers comment in the media on pending cases and criticise judgments very often.

Slovenia / Slovénie

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 Constitution of Slovenia establishes core values that apply to judicial proceedings (articles 21 to 31), such as the equal protection of rights, the right to legal remedies or the presumption of innocence. It also contains principles which address the judiciary and judges more directly (articles 125 to 134). These articles pertain to the independence of judges (article 125), the permanence of judicial office (article 129), the election of judges (article 130), as well as the termination and dismissal of judicial office (article 132), incompatibilities (article 133) and the immunity of judges (article 134). The Courts Act (CA) and the Judicial Service Act (JSA) both address the independence and impartiality of judges, e.g. by laying down that judges must always act in such a way so as to safeguard the impartiality and independence of their office and the reputation of the judicial service (article 2 JSA). The JSA also contains provisions on incompatibilities (articles 41 to 43) and a prohibition from accepting gifts (article 39).

A more specific set of aspirational professional and personal rules of conduct is contained in the Code of judicial ethics, which was first adopted by the Slovenian association of judges on 10 October 1972 and was renewed and amended, with the addition of a commentary, in 2001. It contains nine principles, on independence, impartiality, training, commitment, compatibility, incompatibility, discretion, attitude and reputation.

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

The Code of professional conduct for lawyers was adopted by the Lawyers' Assembly of the Bar Association of Slovenia on 7 December 2001. It contains principles on personality, independence, incompatibility, competence, representation, respect, prohibition of advertising, prohibition of disloyalty, competition, substitution, settlement of disputes, attitude to pupils, clients and opposing party, attitude to mass media, confidence and faithfulness and confidentiality.

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

Slovenia does not have any joint codes, rules and/or regulations concerning ethics of judges and lawyers. It should be stressed, however, that the two professions share in common some very important ethical principles, such as independence, rule of law, dignity and competence.

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.

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*

Such specific rules and/or regulations do not exist. However, that does not mean that the two professions, though distinct, are not interlinked. I should be noted that 5 members (out of 11) of the Judicial Council (the entity responsible for the appointment and promotion of judges) are elected by the National Assembly on the proposal of the President of the Republic from among university professors of law and lawyers. Furthermore, in disciplinary proceedings against lawyers due to the breach of the legal duties for which it is possible to deny the right to practice the legal profession, the disciplinary senate consists of two judges of the Supreme Court and three lawyers. The President of the Senate is a judge. An appeal against the decision of the disciplinary senate is subject to the decision of the Supreme Court in the senate of five judges.

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

Main ethical principles for judges: independence, impartiality, integrity, competence, diligence, ensuring equality of treatment.

Main ethical principles for lawyers: independence, respect, competence, rule of law, confidentiality, faithfulness, attitude to clients and opposing party

B. Training of judges and lawyers

6. *Which are, in your country, the training institutions:*
   - *for judges ?*
   - *for lawyers?*

In Slovenia, the training institution for judges and "judicial trainees" (candidates to accede to the lawyer's state exam) is the Judicial Training Centre, which is part of the Ministry of Justice.

The training for lawyers who have passed the lawyer's state exam and become members of the Bar Association is organized by the Bar Association itself.

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

First it is necessary to complete a law degree to become a judge or a lawyer, then, for both professions equally, the initial training (lasting 2 years) is compulsory in order to accede to the lawyer's state exam (the same exam for both professions). The program of the so-called "judicial trainees" is set by the Minister of Justice. Its organisation and execution are taken care of by the Judicial Training Centre. During the judicial traineeship trainee signs an employment contract with one of the four courts of appeal. As an alternative, the trainee can sign an employment contract with another employer and be only appointed to the court to do the obligatory eight months of practice in court. The change in the law introduced the possibility for university graduate lawyers or masters of law to accede to the state lawyer's exam directly without the traineeship provided they pass some obligatory forms of training organised by Judicial Training Centre and have a certain period of working experience after graduation in the legal field (e.g. in a lawyer's office). In both cases the traineeship focuses on theoretical knowledge and fostering practical skills

After the state exam there is a mandatory 3 years training period required to fulfil qualifications for a judge. To qualify as a lawyer 1) 4 years of practical legal experience is required, out of which at least 1 year after the state exam; 2) a candidate has to pass an exam focusing on legislation governing the bar.

8. *What is the duration of the initial training:*

- *for judges ?*
- *for lawyers?*

See under 8.

9. *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 initial and continuous training for judges includes some components related to the professional ethics and their co-operation with a view of fair and efficient conclusion of judicial proceedings (e.g. such training constitutes a part of education and training on civil and criminal procedure). The exam the lawyers have to pass after the state exam (see supra under 8) covers, *inter alia*, topics on ethical conduct and responsibility of lawyers and their relations with judges. Notwithstanding this commendable action more needs to be done to raise awareness and provide guidance to judges and lawyers on professional ethics and relations with each other. Often there is a gap between the duties set out by the laws and the way these duties are understood in everyday life and practice.

10. *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?

As explained under 8, in Slovenia, there is joint training for lawyers and judges prior to the state exam and an uniform state exam for both professions. After the state exam the professional training separates: the Judicial Training Centre organizes initial and continuous training for judges and the Bar is in charge of training for lawyers. Nevertheless, the Judicial Training Centre organizes certain events which are open for lawyers as well. At present, there are no plans to expand this activity of the Judicial Training Centre.

C. Efficiency and quality of judicial proceedings

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

Two procedural instruments should be highlighted in this respect: settlement conference in civil and pre-trial hearing in criminal proceedings.

A settlement conference in civil proceedings follows the receipt of a reply to an action and is held prior to the trial. It is conducted by the judge (the same who conducts the trial) who, by means of his active role according to the principles of case management tries, together with the parties and their lawyers, to achieve a settlement. Furthermore, at the conference the judge discusses openly with parties the factual and legal aspects of the case in order to define uncontested and contested facts and legal issues.

A pre-trial hearing in criminal proceedings was introduced in Slovenian law recently. With a view of facilitating the interaction between judges, parties, lawyers and prosecutors and accelerating the proceedings it is aimed, *inter alia,* at determining uncontested and contested facts and evidence to be heard at trial.

12. *If not, how are they planned?*

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

Judges and lawyers communicate at hearings. Direct communication between them outside courtrooms is not foreseen. The lawyers can find the necessary information (e.g. regarding hearings) during office hours, in person or by phone. I addition, there are computerised information systems offering information on proceedings.

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

At all times during civil proceedings, the parties may conclude settlement concerning the matter in dispute (court settlement). The settlement may involve the whole claim or only a part thereof and it may also contain settling of other questions in dispute between the parties. Moreover, a person who is not a party to the proceedings may also participate in the settlement. All the time during the proceedings, the court should be alert to the possibility of settlement and advise the parties of this possibility, and shall help them settle the matter in dispute.

15. If yes, is such agreement compulsory?

The settlement has the legal effect of a final judgment and is enforceable.

16. Do they negotiate certain phases of the procedure?

Phases of the procedure cannot be negotiated, but, as mentioned under 12, with a view of facilitating and accelerating civil proceedings the judge at the settlement conference discusses openly with parties the factual and legal aspects of the case in order to define uncontested and contested facts and legal issues. Similarly, the pre-trial hearing in criminal proceedings is aimed at determining uncontested and contested facts and evidence to be heard at trial.

17. 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?

The Civil procedure act (CPA) proclaims that in court lawyers shall speak the truth and exercise their rights stipulated by the CPA in a fair manner (article 9). However, the obligation to speak the truth is a rather programmatic principle and the only efficient sanction in this case is not to believe a party who is cross-examined. Besides, the CPA determines (article 10) that in the event that parties and lawyers, with intention of harming another person or achieving goals contrary to the good faith and fairness, abuse the rights stipulated by the act, the court may impose on them a fine which may not exceed 1.300 EUR. Another measure of disciplinary nature aimed to achieve a proper administration of justice is a special court tax stipulated in the Court tax act imposed on a party who delays the proceedings (article 33). An abuse of procedural rights can also result in the court's decision not to accept a procedural act or not to decide on merits on a motion of a party who continues an abuse of rights.

As parties in civil procedure should contribute to the quality, concentration and acceleration of litigation the CPA introduced a certain system of preclusions: parties can assert new facts and evidence until the first session of the main hearing. At later hearing sessions parties are allowed to assert new facts and evidence only if at the opening session they were prevented from presenting them by reasons beyond their control (article 286). The provision stating that a judge can set binding time limits for the filing of the submissions for further comments and clarifications (article 286a/1) also contributes to the acceleration of litigation.

According to the criminal procedure code (CPC) the court ensures that proceedings are conducted without unnecessary delay and prevents any abuse of the rights of participants in the proceedings. Furthermore, the CPC determines that in the event that lawyers insult the court or any participant in the proceedings or if their behaviour is obviously intended to protract criminal proceedings the court may impose a fine on the offender (article 79, 140). The lawyer irrespective of the outcome of criminal procedure bears the costs arising from the postponing of an investigative action or of the main trial or failure to file an announced appeal, as well as other expenses incurred through their fault (article 94).

In criminal proceedings, according to the new CPC amendment the defendant (and his defence counsel) is allowed to present evidence only until the end of the pre-trial hearing unless he was prevented from presenting them by reasons beyond his control (article 84b/3-4.

18. 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?

The latest amendments of the CPA (2008) put the emphasis on strengthening of judges' powers in order to achieve concentration of procedure and at the same time enhance the system of procedural sanctions

against parties. Although this resulted in some improvement regarding the excessive duration of civil proceedings it can be assessed that there are still fields for improvement. One of these is a better organization of a preparatory stage of civil litigation.

The latest amendments of the CPC have just entered into force, so it is hard to tell whether they provide for sufficient tools, which would prevent parties and lawyers from dilatory tactics and guarantee efficient justice without undue delays.

19. 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 is a crucial factor for a successful interaction between judges and lawyers. As for plans for reforms, see under 19.

20. 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.?

It should be stressed that 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 are as important as the procedural rules. While the rules constitute a form and are a prerequisite for a good interaction between judges and lawyers the subjective and social factors and ethical values are the contents of this relationship.

21. 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?

It can be assessed as satisfactory, but there is still room for improvement. As mentioned under 10 more needs to be done to raise awareness and provide guidance to judges and lawyers on professional ethics and relations with each other. I should be stressed that the two professions share in common some very important ethical principles (see under 3). The relationship, sometimes hampered by conflicts, would be smoother if lawyers and judges had a better understanding of each other's role in the proceedings. While judges tend to forget that lawyers represent their clients lawyers are not always aware of the fact that they hold (at least in Slovenia) a place in the justice system.

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

22. 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 proceedings: determining contested and uncontested facts; fixing the date of a hearing; drafting the settlement between the parties; active case management provided by a judge who, by asking questions or in other appropriate manner, sees that all relevant facts be stated during the hearing and evidence related to the parties' statements be adduced.

In criminal proceedings: determining contested and uncontested facts; fixing the date of a hearing.

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

The possibility, thanks to joint training and uniform state exam for both professions, exists. In the past it was very common for (career) judges to become lawyers because being a lawyer was a better-paid job. Nowadays it is still not unusual, but judges tend to be more careful when changing jobs because of the economic crisis. For the same reason, in the past lawyers rarely became judges, but now the profession seems to gain more and more popularity among lawyers.

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

No.

E. Judges, lawyers and media

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

Reflecting the general trend in the public of a low trust in institutions, the media in Slovenia carefully monitor possible improper relations between judges and lawyers. Even though courts constantly figure higher on the scale of public trust in institutions than other branches of government there have been cases of questionable relations between judges and lawyers that have influenced and undermined the position of the judiciary. As the principles of independence and impartiality constitute the basic pillars for a functional judiciary any interference with these two principles has to be taken seriously.

The latest case involves photographs taken at a birthday party of a judge dealing with bankruptcy cases where various bankruptcy managers who handle insolvency proceedings presided by the same judge were present. The questions, correctly posed by the media, concerned the level of impartiality of judges and whether they should have excluded themselves from deciding in cases, in which their friends were involved.

Another question that has gained public attention concerned the possibility of direct transition from the function of a judge to the function of a lawyer. There have been cases where judges have left their function and immediately after that they began their work as lawyers that have raised public doubt regarding the impartiality of judges, former colleagues of the lawyers. The same question was raised about prosecutors becoming lawyers. There have been legislative initiatives, providing a certain temporary period during which former judges could not practice law. However, such laws have not been passed.

Considering the fact that Slovenia is a rather small country, with 2 million citizens, around 1.000 judges and 1.600 lawyers, there is a high possibility that legal professionals as lawyers and judges know each other from the time of their studies or have constant professional interaction that can evolve into friendship. Bearing this in mind, the judiciary has to be specifically careful at detecting problematic relations between lawyers and judges and show extremely low tolerance towards relations that could seriously undermine the essential principles of independence and impartiality. In the end, the question of relationships between judges and lawyers concerns the very basic ethical principles that every judge has to answer first and foremost him or herself.

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

Court rules (Rules) specifically address the question of ensuring public operation of courts. In this regard the Rules state that courts inform the public of its work, decisions and views of interest to the public through publications and other public media, at press conferences or in another appropriate manner (article 7/2). The president of the court or, pursuant to an authorisation by the president of the court, a public relations officer, is responsible for the monitoring of public media reports and for informing the public (article 8/2). A trial judge should not be involved in giving verbal information on the case to the public (article 8/3).

Article 13 explicitly regulates the question of public appearances of judges, stating that in public appearances a judge should only express his personal opinions and act on his own behalf. On the other hand, if a judge appears in public as a court representative then he must express the opinions of the court.

In practice, the comments of judges on cases are strictly limited. In cases with extensive media coverage it is usually the president of the court who gives a general opinion, avoiding to comment the specific case. Cases that are still *sub judice* are not discussed.

On the other hand, what has just been explained does not apply to lawyers. More and more media savvy lawyers use the channels that the media offer to present their side of the story. In high profile cases it has become usual practice that lawyers defend their clients in front of cameras and microphones, using the media to build informal pressure on the deciding judges. Naturally, media coverage cannot and should not influence the final decision of a judge. However, lawyers use media both for the explained informal pressure as for publicity since direct advertisement is forbidden by law.

Sweden / Suède

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)

There is no code of ethics for judges in Sweden but before assuming the duties of office, a judge shall take the following oath that is in the Swedish code of judicial procedure.

”I (name) promise and affirm on my honor and conscience that I will and shall impartially, as to the rich as well as to the poor, administer justice in all matters to the best of my ability and conscience, and judge according to the law of the Realm of Sweden; that I will never manipulate the law or further injustice for kinship, relation by marriage, friendship, envy, ill will, or fear, nor for bribes or gifts, or any other cause in whatever guise it may appear; nor will I declare guilty one who is innocent, or innocent one who is guilty. Neither before nor after the pronouncement of the judgment of the court shall I disclose to the litigants or to other persons the in camera deliberations of the court. All this, as a honest and righteous judge, I will and shall faithfully observe.”

The oath shall be taken before the court or its chairperson.

In the end of 2009 the Swedish Courts Administration got an assignment from the government to create conditions for a debate about ethics for judges within the judiciary. The discussion is led by an appointed judge in cooperation with the Swedish Judge Association and a working group also including the Swedish Union of University Graduates of Law (JUSEK). The discussions have led to publication of three papers on ethics including principles and questions that can be used in the judges’ daily work.

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

Yes.

The activities of lawyers are governed by several rules and regulations.
The statutory rules concerning lawyers in Sweden are chiefly found in ***the Code of Judicial Procedure.*** The Code gives provisions on the Swedish Bar Association, and the position of lawyers in the legal system. The Code gives the Bar Association the power to exert public authority within certain fields, including the right to accept new members of the Bar and to supervise members from a disciplinary point of view. The Code also establishes the lawyers’ duty to absolute professional secrecy.

The Bar Association’s own rules are found in the Association’s Charter, the Code of Conduct and in the Accounting Regulations. The Code of Conduct for European Lawyers is applicable to members’ cross-border activities.

The Charter of the Swedish Bar Association was adopted in 1962. It was last amended in 2010. The Charter is adopted by the General Assembly of the Bar Association. The Charter and any amendments made to it shall be ratified by the government of Sweden before entering into force.

All members of the Swedish Bar Association must observe the ***Code of Conduct***.
The Code of Conduct provides a framework for the professional and ethical standards to be observed in lawyers’ professional activities. It contains rules on running a law firm, on fees, on relations to the opposite party and to the court, and on conflicts of interest. A cornerstone of the Code of Conduct is the lawyer’s obligation to loyalty towards the client.

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

No

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?

Not in any other way than continuing work on the areas mentioned above under 1 and 2.

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

The procedures in court, including communication between the court and the parties are regulated in for example the Code of Judicial Procedure. Otherwise there are no regulations on the subject. However most of the Swedish courts have on-going projects concerning the routines of communication with parties and their representatives such as lawyers and prosecutors. The National Courts Administration

has a mission from the government to create possibilities for the courts to exchange experience on, among other subjects, this kind of questions.

6. In your opinion, what are the main principles which should govern the ethics of:
   - Judges: Independence, impartiality and equal treatment, good conduct and treatment of others, good expertise and efficiency.
   - Lawyers: Loyalty to the client, good conduct and treatment of others, good expertise and efficiency.

B. Training of judges and lawyers

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

The Courts of Sweden Judicial Training Academy has the main responsibility for all education aimed for permanent judges and judges doing their four year judge training-employment, concerning their judicial education.

Under Swedish law, only members of the Swedish Bar Association may use the professional title *"advokat".* The Swedish Bar Association offers both mandatory education and continuous training.

There are also many private actors offering different kind of education. These courses are open for all parties interested in the subject.

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

   - for judges ?

The Courts of Sweden Judicial Training Academy offers both initial and continuous training. The most extensive initial education offered is the one for persons doing their four year training-employment. For those, when they are appointed, as well as for newly appointed permanent judges who have another background than such an employment the Academy offers basic courses on central areas. Those courses are often tree days each.

   - for lawyers?

Among the requirements for membership in the Swedish Bar Association is passing the Swedish Bar Examination after completing mandatory training courses. The Association give these courses. A member of the Association has an obligation to take courses for at least 18 hours a year. The Association offers these courses as well.

9. What is the duration of the initial training:

   - for judges ?

The initial training program for judges on their four year training-employment is ten courses spread over the period. The courses are four days each.

   - for lawyers?

To become a member of The Swedish Bar Association you have to take a course which is given in three parts during three terms. Every part has a duration of 2,5 days. The examination is usually taken during term four.

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 initial training offered by the Courts of Sweden Judicial Training Academy includes parts about ethics and related subjects.

The first part of the mandatory training for lawyers given by the Swedish Bar Association is about ethics and techniques working as a lawyer. One part of the course concerns the relations to courts and other authorities.

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

Yes, see 7 above about the private actors.

The Courts of Sweden Judicial Training Academy and The Swedish Bar Association don´t give joint training courses. Sometimes though, lawyers are lecturers at the courses given by the Academy and vice versa. The Academy sometimes invites some lawyers to join there courses. One reason is to create opportunities for discussions about future relations.

If yes:
- what is their content and duration?

It differs depending on the subject and how thorough the training is but as mentioned above they are often three days. Sometimes the courses offered by private actors are shorter.

- are they mandatory for judges and lawyers?

No

- how are these courses funded?

It is most likely that the costs for the judge are born by the courts budget and for the lawyer by the law firm or the lawyer him/herself.

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.

When communicating shall take place in different cases, is governed by the Swedish Code of Judicial Procedure and other regulations governing the processes in the courts. The regulations are not specifically concerning judges and lawyers but the court and the parties.

However, many courts have cooperation with lawyers, who are frequently in contact with the court, to create and evaluate routines to facilitate the interaction.

13. If not, how are they planned?

See above question 12.

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

The use of e-mail for communication between the court and lawyers is more and more frequent. I think it is rather efficient. However it is important to take into account the rules of integrity concerning personal data. The Swedish National Courts Administration is developing secure lines for the courts and lawyers which can be used for such sensitive communication.

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

In criminal cases there are no such possibilities beyond planning the case, such as time/schedule for court sessions.

However, in the civil litigious cases, the possibilities are much wider for the court to helping the parties to coming to an agreement. Chapter 42 section 17 in the Swedish Code of Judicial Procedure states that the

court shall work for the parties to reach a settlement, if it is not inappropriate considering the nature of the case and other circumstances.

16. If yes, is such agreement compulsory?

The agreement is compulsory as any civil contract. If the parties ask for it the court can determine the settlement in a judgement which is also enforceable.

17. Do they negotiate certain phases of the procedure?

The trial in the court of first instance is mainly divided in two parts, the preparation and the determination of the case. The determination can be made after a main hearing or without such a hearing. It is usually during the part of preparation that discussions about settlement take place. Nevertheless, settlements can be made during the whole procedure.

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?

Chapter 42 section 5 in the Swedish Code of Judicial Procedure states that if an application is not dismissed by formal reasons, the court shall issue a summons calling upon the defendant to answer the case. If the plaintiff's statement does not constitute a legal basis for the case, or if it is otherwise clear that the case is unfounded the court may, however, immediately enter judgment in the case without issuing a summons.

There is also a regulation in chapter 9 section 3 in the Code stating that a party in a civil case who endeavours to prolong the course of litigation by the interposition of clearly unfounded allegations or defences, by withholding evidence, or by any other improper measure, shall be sentenced to a fine. This regulation is very rarely used.

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?

A substantive potential way to delay a case for a lawyer is to ask for respite. However, the process is controlled by the judge who grants a request for respite. If there is a risk that the parties delay the process deliberately a request for respite can be denied.

Another way that potentially can be used to delay the consideration of a case is to make objections to the counterparty’s evidence and claim that it should be dismissed.

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?

As mentioned above many courts have an on-going cooperation with lawyers in the jurisdiction to improve the quality and effectiveness of the court process. However, sometimes it can be efficient to have some legislation or at least routines to refer to, when the cooperation in a certain case is not ultimate.

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 subjective factors are important and it comes closer to some judges and lawyers to be working together to improving the process. However, education, routines, maybe legislation and on-going discussions on the subjects improve the work and can give the stakeholders the tools for cooperation.

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?

Please see question number 5.

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).

One example is when judges and lawyers plan the process/schedule in a case together. This often takes place in more extensive cases both criminal and civil ones.

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

Yes, since a couple of years ago the recruitment of judges is more open. The employment as a permanent judge requires a certain law degree and experience from qualified legal activities. The goal for the courts is to recruit permanent judges who are among the most skilled and professional best suited lawyers in the country, no matter background.

One way to achieve experience and skills is working in the courts for a longer period. After the graduation you can apply for notarial work in the courts of first instance. That employment is for two years and then you can apply to the court of appeal for employment. That employment is a combination between working as a judge and being educated for the role. After four years you have, if approved, finished the working/training period and can apply for an employment as a permanent judge. However, it is very usual that the approved judge work somewhere else than in court for a period to get experience from other judicial work, for example as a lawyer.

Other qualifying judicial experience can be working in a university of law, in the government with judicial issues, in an authority such as the Prosecutions office and as an advocate in different areas.

A judge can become a lawyer but is not, according to the Swedish Code of Judicial Procedure allowed to serve as an attorney during the employment as a judge.

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

Yes, there is a possibility for a lawyer to apply for an employment as a deputy judge in a court of appeal to gather experience from judging and maybe to becoming a permanent judge later on. These employments are often limited in time for six months. There are also other time-limited employments as deputy judges in the courts in Sweden, often for lawyers with judging experience.

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 have been some articles about the work going on in the courts concerning cooperation on routines and treatment of the parties in court.

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

It is becoming more usual than before that judges comment on pending cases and even more on judgments. Still it is more often the lawyer who is commenting a judgment in the media. The Swedish National Courts Administration administrates a media group with judges who have special skills for and interests in contact with the media. These judges can help with comments and discussions on a general level. Contact with the media is also part of the education given by the Swedish Courts Administration and the Courts of Sweden Judicial Training Academy.

Switzerland / Suisse

Remarque préliminaire : La Suisse est un Etat fédéral composé de 26 Etats fédérés (les cantons). L'organisation judiciaire et celle des barreaux est de la compétence des cantons. C'est pourquoi les réponses apportées à ce questionnaire reflètent la tendance majoritaire au sein des cantons, des tribunaux de 1re instance de la Confédération et du Tribunal Fédéral Suisse (cour suprême).

A. L'étique professionnelle, la conduite et la responsabilité des juges et des avocats

1. *Votre pays dispose-t-il d'un code d'éthique ou équivalent pour les juges? (veuillez préciser).*

La Suisse ne dispose pas de code de déontologie pour les juges, ni sur le plan fédéral, ni sur le plan cantonal. Le mode d'exercice de l'activité des juges ne fait pas véritablement l'objet de discussions dans notre pays. Cela tient principalement au fait que l'on a affaire à une magistrature issue des rangs de praticiens expérimentés – exerçant les professions d'avocats, de juristes dans l'administration/dans les entreprises ou de greffiers de tribunaux – qui ont déjà intégré dans leur réflexion les règles de base d'une déontologie des juges (indépendance et impartialité des magistrats, récusation, incompatibilités, courtoisie envers les parties et leurs mandataires, etc.).

Les grands principes (indépendance et impartialité) ressortent des textes constitutionnels (art. 191 de la Constitution fédérale) et conventionnels (art. 6 CEDH) ; en outre, il existe des règles, énoncées dans des lois organiques (motifs de récusation, incompatibilité, etc.) ou découlant du serment prêté par les magistrats (obligation faite aux juges d'agir avec honneur, dignité et loyauté). Ces principes et ces règles forment un ensemble auquel les juges et les instances disciplinaires sont en mesure de faire référence.

Seul, à notre connaissance, le Tribunal administratif fédéral, un des tribunaux de 1re instance de la Confédération, a adopté pour ses juges une charte éthique (voir annexe).

2. *Votre pays dispose-t-il d'un code d'éthique ou équivalent pour les avocats? (veuillez préciser)*

La Fédération Suisse des Avocats (FSA) a adopté en 2005 (modifié en 2012) un code de déontologie pour ses membres (voir annexe).

3. *Votre pays dispose-t-il de codes communs, de règles et/ou règlements concernant l'éthique des juges et des avocats? (veuillez préciser)*

Il n'existe pas à proprement parler de règles écrites qui s'imposeraient aussi bien aux juges qu'aux avocats.

Les règles de procédure contiennent toutes des dispositions relatives à la récusation des juges, notamment lorsqu'ils sont étroitement liés avec les représentants des parties (art. 47 al. 1 let. b du Code de procédure civile suisse ; art. 56 let. c du Code de procédure pénale suisse ; art. 34 al. 1 let. c de la Loi sur le Tribunal fédéral). Le Code de procédure civile suisse (CPC) contient en outre des dispositions qui sanctionnent les actes perturbant la procédure (art. 128 CPC) ; le Code de procédure pénale suisse (CPP) se réfère expressément aux règles déontologiques des avocats (art. 127 al. 3 et 128 CPP).

On peut en outre relever que les greffiers sont soumis, en règle générale, aux mêmes obligations en matière de récusation que les juges.

4. *Votre pays envisage-t-il de mettre en place des codes, des règles et/ou règlements concernant l'éthique professionnelle, la conduite et la responsabilité des juges et des avocats ou de développer ceux qui existent déjà?*

L'Association suisse des magistrats de l'ordre judiciaire, qui a notamment pour but la sauvegarde et le maintien de l'indépendance des juges et de la justice, vient d'entamer une réflexion sur la déontologie, à la requête de plusieurs de ses membres. Les travaux sont encore au stade de projet; l'idée serait de mettre en place une commission de déontologie que les juges pourraient saisir pour obtenir un avis sur une question concrète.

5. *Votre pays envisage-t-il de mettre en place des codes, des règles et/ou règlements traitant d'une façon ou d'une autre les questions de relations entre les juges et les avocats ou est-il prévu de mettre en place ces instruments de manière conjointe pour les deux groupes (juges et avocats)? Si oui, veuillez préciser.*

Non.

6. *A votre avis, quels sont les grands principes qui doivent régir l'éthique :*
a) des juges ?
b) des avocats?

Pour les juges : L'indépendance, l'impartialité ainsi que l'intégrité, la probité et la loyauté du juge; le respect de l'ordre juridique qui inclut le devoir traiter les causes avec compétence et diligence; la délicatesse (respect et écoute); la discrétion et la réserve comprenant notamment le secret de

fonction et le souci de préserver l'image de la justice. Cette énumération est tirée de l'exposé présenté par M. le Juge fédéral Bernard Corboz le 7 novembre 2012 dans le cadre des activités du CCJE et publié sur le site du CCJE: http://www.coe.int/t/dghl/cooperation/ccje/meetings/Conferences/Paris_2012/Corboz.asp

Pour les avocats, le Code suisse de déontologie de 2005, modifié en 2012, contient les parties principales suivantes :

c) Des règles relatives au comportement général prévoyant notamment que l'avocat exerce sa profession, avec soin et diligence, et dans le respect de l'ordre juridique. Cette partie contient aussi des règles relatives aux conflits d'intérêts et aux honoraires.

d) Des règles relatives au comportement avec les confrères prévoyant notamment que l'avocat s'abstient de toute attaque personnelle contre les confrères, dans l'exercice de ses fonctions.

e) Le pouvoir disciplinaire relève de la compétence des ordres cantonaux.

B. Formation des juges et des avocats

7. Quelles sont, dans votre pays, les institutions de formation:

a) *pour les juges?*

b) *pour les avocats?*

c) Tant les juges que les avocats possèdent une formation juridique complète.

d) En ce qui concerne les juges, la Suisse ne dispose pas d'une école nationale de la magistrature. Depuis 2009, il existe cependant une Académie Suisse de la Magistrature qui forme des volées d'étudiants. Il s'agit d'une formation en cours d'emploi sur deux ans (qui conduit à un titre académique postgrade) qui n'est pas obligatoire pour accéder à la fonction de juge mais peut constituer un atout supplémentaire dans le curriculum vitae des candidats à un poste de juge.

e) En ce qui concerne les avocats, la formation est régie par les lois cantonales sur les barreaux.

8. Quels sont les types de programmes de formation (formation initiale et continue) que les établissements de formation possèdent (veuillez préciser brièvement) :

f) *pour les juges?*

g) *pour les avocats?*

Formation initiale :

h) En ce qui concerne les juges, il n'existe aucun cursus officiel donnant accès à la fonction de juge. L'Académie suisse de la magistrature dispense une formation facultative en cours d'emploi sur deux ans comprenant la rédaction d'un travail personnel.

i) En ce qui concerne les avocats, les réglementations cantonales prévoient en règle générale l'accomplissement d'un stage dans une étude d'avocats qui peut comprendre une certaine durée comme greffier au sein d'un tribunal. Dans certains cantons, les barreaux organisent quelques journées de cours à l'intention des avocats-stagiaires. A la fin, l'avocat-stagiaire est soumis à un examen.

Formation continue :

j) Les juges et les avocats ont la possibilité de suivre des séminaires de formation continue sur des thèmes spécifiques mis sur pied par exemple par les facultés de droit des universités.

k) En ce qui concerne les juges, la Fondation pour la formation continue des juges suisses met sur pied un programme de formation continue. Il en va de même de l'Association suisse des magistrats de l'ordre judiciaire organise chaque année une " Journée des juges " comprenant un cycle de conférences.

l) Les avocats peuvent obtenir le titre d'avocat spécialisé FSA dans une matière déterminée. Après quelques années de pratique dans le domaine choisi, les avocats peuvent suivre une formation mise sur pied par la Fédération Suisse des Avocats (FSA) dans les domaines du droit du travail, du droit des successions, du droit de la construction et de l'immobilier, du droit de la famille, de la responsabilité civile et droit des assurances.

9. Quelle est la durée de la formation initiale :

m) *pour les juges?*

n) *pour les avocats?*

Voir les réponses apportées aux questions précédentes.

10. *La formation initiale inclut-elle les questions liées à l'éthique professionnelle, la conduite et la responsabilité des juges et des avocats, leurs relations les uns avec les autres ainsi que leur coopération en vue de la conclusion juste et efficace des procédures judiciaires?*

Les formations initiales et continues décrites ci-dessus contiennent toutes des modules ou des conférences relatifs à l'éthique ou aux règles déontologiques.

11. *Existe-t-il des formations communes aux juges et aux avocats?*

Si oui :

o) *Quel est leur contenu et leur durée?*
p) *Sont-elles obligatoires pour les juges et pour les avocats?*
q) *Comment sont financées ces formations?*

Si non, sont-elles prévues ou en discussion?

Comme nous l'avons déjà évoqué précédemment, la formation juridique initiale et les conférences publiques sur des sujets de formation continue peuvent être communes. En outre, il convient de signaler qu'une grande partie des juges sont issus des rangs des avocats. Ces juges sont alors au bénéfice de la même formation postgrade que les avocats. Aucune unification de la formation des juges et des avocats n'est prévue en Suisse

C. Efficacité et qualité des procédures judiciaires

12. *Existe-t-il des instruments de procédure pour faciliter l'interaction entre les juges et les avocats au cours de la procédure? Si oui, veuillez préciser.*

En procédure civile, selon l'art. 124 al. 1 CPC, le tribunal conduit le procès et prend les décisions nécessaires à une préparation et à une conduite rapides de la procédure. En procédure pénale (cf. art. 62 CPP), la direction de la procédure ordonne les mesures nécessaires au bon déroulement et à la légalité de la procédure. Il ressort des dispositions précitées que le juge est seul responsable du bon déroulement de la procédure.

Les travaux du groupe de travail qualité de la Commission européenne pour l'efficacité de la Justice (CEPEJ) en matière de contractualisation (cf. "Contractualisation et processus judiciaires en Europe", in: Les études de la CEPEJ n° 16) soulignent l'importance et l'utilité des arrangements procéduraux donnant aux parties ou à leurs représentants, sous l'autorité du juge, le moyen de personnaliser davantage le processus judiciaire, notamment par une contractualisation autour du déroulement de la procédure. Les "contrats de procédure" consistent pour le juge à s'accorder avec les parties, de manière formelle ou informelle, sur le déroulement de la procédure (par ex. la durée des plaidoiries et des auditions de témoins; calendrier pour la communication et la production des pièces; calendrier pour le dépôt des conclusions; etc.).

Les lignes directrices du groupe SATURN de la CEPEJ pour la gestion du temps judiciaire (doc. CEPEJ(2008)8Rev) recommandent la conclusion d'accords sur le calendrier avec les parties et les avocats (cf. partie V, B. des lignes directrices précitées).

Même si les instruments du Conseil de l'Europe que nous venons de mentionner sont peu connus en Suisse, il arrive très souvent que les tribunaux les appliquent sans le savoir. A titre d'exemple, on peut citer l'étude qui a été faite au sein du Tribunal de district de Dorneck-Thierstein à Dornach qui fixe quotidiennement, notamment, les dates des étapes de la procédure d'entente avec les avocats ou les parties (cf. le document "Rapports sur la mise en oeuvre des lignes directrices de la CEPEJ sur la gestion du temps judiciaire dans 7 tribunaux référents / institutions", document CEPEJ-SATURN(2011)1 - voir en annexe l'extrait du document précité concernant le Tribunal de district de Dorneck-Thierstein à Dornach).

13. *Dans le cas contraire, comment sont-elles envisagées?*

Voir la réponse à la question précédente

14. *Comment est organisée la communication entre les juges et les avocats? Est-elle efficace? Existe-t-il des systèmes électroniques d'information à cette fin?*

En règle générale, la communication entre les tribunaux et les avocats utilise les service de la poste. Depuis le 1er janvier 2011, pour les procédures civiles et pénales, il est possible aux avocats (et aux parties) d'adresser leurs mémoires au tribunal par voie électronique et, inversement, pour les tribunaux de notifier leurs actes par voie électronique moyennant l'accord des destinataires.

La communication par courrier postal ne pose pas de problème particulier. La communication électronique entre les parties et les tribunaux n'est encore utilisée que de façon très marginale, principalement en raison des coûts de la signature électronique, des risques encourus en cas de panne du réseau internet et des difficultés techniques liées à l'utilisation de la signature électronique et des plateformes de distribution (qui sont des "postes virtuelles" qui permettent une communication sécurisée et qui attestent de la date et de l'heure d'une communication électronique).

15. *Existe-t-il des possibilités, procédures et mécanismes pour les juges et les avocats pour parvenir à un accord sur la résolution judiciaire d'une affaire?*

- En procédure civile, conformément à l'art. 124 CPC, le tribunal peut en tout état de la cause tenter une conciliation des parties; dans ce cas, le juge intervient pour que les parties trouvent un accord entre elles sur la résolution de l'affaire.- En procédure pénale (cf. art. 316 al. 1 CPP), lorsque la procédure préliminaire porte exclusivement sur des infractions poursuivies sur plainte, le ministère public peut citer le plaignant et le prévenu à une audience dans le but d'aboutir un arrangement à l'amiable.- Concernant la conclusion de "contrats de procédure", voir la réponse donnée à la question 12.

16. *Si oui, un tel accord est-t-il obligatoire?*- En procédure civile, conformément à l'art. 208 al. 2 CPC, la transaction, l'acquiescement ou le désistement d'action ont les effets d'une décision entrée en force.- En procédure pénale, lorsque la conciliation aboutit, le ministère public classe la procédure (art. 316 al. 2 CPP).
    - Concernant les "contrats de procédure", selon les expériences récoltées auprès de juges, il incombe au juge qui dirige la procédure de faire respecter les termes de l'accord. Par exemple, si l'accord de procédure prévoit un seul échange d'écritures et un délai de 10 jours pour déposer d'éventuelles observations, il appartient au juge de refuser toute demande des avocats dérogeant à l'accord passé avec eux, comme une demande pour prolonger le délai pour déposer les observations. Un juge connu pour rester ferme et pour avoir une ligne stricte n'aura, en règle générale, aucune peine à faire respecter les termes de l'accord.

17. *Négocient-t-ils certaines phases de la procédure?* Dans le cadre des "contrats de procédure", certaines phases de la procédure peuvent être inclues dans les négociations: nombre d'échanges d'écriture, délai pour déposer des observations, date des audiences d'instruction, date de l'audience au fond, etc. Dans la pratique, il n'y a en règle générale aucun accord au début d'une procédure pour l'ensemble de la durée de celle-ci, mais plutôt des accords successifs pour chaque phase.

18. *Existe-t-il des instruments juridiques (de fond ou de procédure) qui pourraient être utilisés par les juges afin d'ignorer, d'écarter ou de tout autre manière d'éviter de prendre en considération les réclamations, demandes et arguments des avocats?* Comme nous l'avons mentionné à la question 3 ci-dessus, le Code de procédure civile suisse (CPC) contient des dispositions qui sanctionnent les actes perturbant la procédure (art. 128 CPC) . En procédure pénale, le conseil juridique d'une partie peut faire l'objet de restrictions du fait de son comportement (art. 108 al. 2 CPP). En procédure civile, le juge peut ne pas prendre en considération les actes illisibles, inconvenants, incompréhensibles ou prolixes (art. 132 al. 2 CPC). Enfin, les actes abusifs ou introduits de manière procédurière sont renvoyés à l'expéditeur (art. 132 al. 3 CPC). La procédure pénale contient des dispositions similaires (art. 110 al. 4 CPP). Pour simplifier le procès civil, le tribunal peut limiter la procédure à des questions ou des conclusions déterminées (art. 125 let. a et 222 al. 3 CPC). En procédure pénale, la direction de la procédure détermine les preuves qui seront administrées lors des débats; elle peut rejeter les réquisitions de preuves présentées par les parties (art. 331 al. 1 et 3 CPP).

19. *Existe-t-il des instruments juridiques (de fond ou de procédure) qui pourraient être utilisés par les avocats afin de retarder l'examen de l'affaire ou d'affecter de quelque manière sa résolution juste et efficace?*

    En procédure civile et pénale, l'avocat peut demander une prolongation des délais fixés par le tribunal (art. 144 al. 2 CPC / art. 92 CPP). Les actes des avocats, notamment les incidents de procédure, le volume des mémoires déposés et l'utilisation systématique des voies de droit disponibles, ont une

incidence sur la durée des procédures mais l'on ne peut, en règle générale, pas reprocher à un avocat d'utiliser les possibilités que lui offrent les dispositions de procédure.

20. *Dans quelle mesure l'interaction réussie entre les juges et les avocats dépend de facteurs objectifs tels que la législation, les structures et les procédures? Y a-t-il des projets pour les améliorer?*

    De notre point de vue deux facteurs principaux interagissent dans les relations entre juges et avocats: **la législation**, en particulier le droit de procédure, et **le facteur humain (subjectif)**, notamment l'aptitude du juge à conduire efficacement la procédure et volonté de l'avocat de collaborer pour la faire avancer. Dans notre appréciation, ces deux facteurs ont un poids à peu près égal.
    Au niveau de la cour suprême (Tribunal Fédéral Suisse) et des tribunaux cantonaux, des réunions ont lieu à intervalle régulier entre les organes directeurs des tribunaux et les bâtonniers, accompagnés de membres de l'ordre, afin de discuter de sujets d'actualité et de problèmes généraux dans les relations entre les tribunaux et les avocats.

21. *Dans quelle mesure cette interaction dépend de facteurs subjectifs tels que les schémas de comportement des juges et des avocats, leur compréhension de leur rôle et de leur responsabilité et/ou de leur volonté de travailler ensemble afin d'améliorer la procédure, etc.?* Voir la réponse à la question précédente.

22. *Comment évaluez-vous les relations entre les juges et les avocats dans votre pays? Y a-t-il des mesures à prévoir pour améliorer la culture juridique et favoriser la coopération entre les juges et les avocats?*

    Les relations sont bonnes. Les juges étant souvent d'anciens avocats, ils connaissent leur façon d'agir et comprennent leurs besoins. Cette situation contribue à renforcer la confiance et la collaboration dans les relations entre juges et avocats. Les rencontres régulières mentionnées dans la réponse à la question 20 est une mesure adéquate pour maintenir la bonne collaboration entre les deux corps et prévenir d'éventuels conflits.

D. Rôle des juges et des avocats pour répondre aux besoins des parties

23. *Veuillez donner quelques exemples de coopérations entre les juges et les avocats dans certaines catégories de cas (par exemple, dans les affaires civiles, les affaires réglées à l'amiable).*

    Voir la pratique décrite au sein du Tribunal de Dorneck Thierstein à Dornach dans le document joint, en particulier les remarques faites aux points 4.1.2, 4.13 et 4.14.

24. *Dans votre pays, est-t-il possible pour les avocats de devenir juges et vice-versa? Si oui, est-ce fréquent?*

    Oui, cela est relativement fréquent vu l'absence de cursus officiel pour accéder à la fonction de juge.

25. *Les avocats peuvent-ils agir, dans votre pays, en tant que juges suppléants et si oui, sous quelles conditions?*

    Oui, dans le respect des règles usuelles concernant la récusation.

E. Juges, avocats et médias

26. *Y a-t-il eu des réflexions dans les médias en ce qui concerne les relations entre les juges et les avocats et leur coopération?*
    La relation entre juges et avocats ne donne lieu à aucune discussion particulière dans les médias.

27. *Dans quelle mesure les avocats et les juges font des commentaires dans les médias sur les affaires pendantes et les jugements?*
    Les avocats n'ont aucune restriction pour commenter les affaires pendantes et les jugements dans les médias. Ils sont liés par le contenu de la relation de mandat avec leurs clients.
    En revanche, les juges ne commentent en règle générale pas les affaires pendantes. Leur avis est exprimé dans le jugement et ne nécessite en règle générale aucun commentaire supplémentaire.
    Dans certaines affaires particulièrement complexes ou médiatiques, il peut arriver que le tribunal informe sur les étapes de la procédure et/ou accompagne le prononcé ou l'envoi du jugement par un communiqué de presse afin de mettre en évidence les motifs principaux ayant conduit au jugement.

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Annexes:
1. Charte éthique du Tribunal administratif fédéral
2. Code suisse de déontologie de la Fédération suisse des avocats
3. Report on the implementation of the CEPEJ guidelines for judicial time management at the Judicial District Court Dorneck-Thierstein (first instance civil and criminal court) in CH-4143 Dornach/SO

The « former Yugoslav Republic of Macedonia » / l'ex république Yougoslave de la Macédoine »

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)

Macedonian Association of judges adopted the Code of Judicial Ethics in 1994. The Code is comprised of the most significant guiding principles for judges in their execution of judicial office pursuant to the Constitution, statutes and ratified international treaties. The principles of judicial ethics are based on ethical rules of conduct as well as on fundamental values of the constitutional order, including: Basic freedoms and rights of individuals and citizens as set forth in the Constitution and recognized by the international law, the rule of law, humanism, social justice and solidarity, legal protection of property, market freedom and entrepreneurship.

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

The profession of advocacy is regulated in the Law on advocacy (Official gazette No. 59/02, Constitutional Court decisions Official gazettes No. 134/02 and 34/03). This law regulates the manner in which the legal profession provides legal assistance to natural and legal entities for the purpose of realization and safeguard of their rights and legally based interests in proceedings in courts, before state bodies and other legal entities, execution of public office as laid down in this and other laws, as well as the organization of the legal profession, the conditions under which it is conducted, the regulation of its status, as well as the rights and obligations of attorneys. The legal profession is the sole (abolished) autonomous and independent public mandate that secures and provides legal assistance. Attorneys execute their public mandate in accordance with this and other laws.

As to the ethical rules, the name of the document adopted by the Macedonian Bar Association is "Code on professional ethics of lawyers, associates and legal trainees. The Code is a sum of adopted principles, which should serve as directions to lawyers in their work. These principles are in compliance with the general principles of professional ethics of the Bar adopted and developed earlier. Any failure to observe the rules and principles as set out in this Code constitutes violation of the principles, sanctioned by special Act of the Bar. All lawyers are obliged to ensure regular application of this Code. In cases where they represent or defend clients in foreign courts, in addition to observing this Code, they should adhere to the generally adopted principles of professional ethics of the host country.

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

No

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?

Yes, such joint activities as regards the establishment of a joint ethical code have been already negotiated with the Bar Association, as the two professions have recently started with the joint seminars on the relations between judges and lawyers, code of ethic of judges and lawyers, challenges and perspectives, where such initiatives were very well accepted and encouraged by both professions.
No

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

Yes
The lawyers in Republic of Macedonia play a significant role in the process of the preparing of the legislation. They are part of the various working groups established in the Ministry of Justice that work on the preparation of the laws concerning the judiciary, and especially when preparing and amending the procedural and substantial codes (criminal, civil and administrative), as well the substantive laws in the criminal, civil and administrative fields that are closely linked to the judiciary issues). Also, the representatives from the judiciary are part of the working groups, working on the preparation and amendments of the laws related to the advocacy, in general. Also, the Bar Association always invites judges and prosecutors, to be take participation in the preparation of their documents. Also, the representatives from the Bar are invited on the conferences and round tables, organized by the Ministry of justice and other judicial institutions. The Bar Association has excellent relations and regular cooperation with the Association of judges and the Association of the public prosecutors. The cooperation between the Bar Association and the Academy for judges and prosecutors represents an excellent example of good cooperation and synergy between the legal professionals, that will be elaborated in details, in the Chapter "Training".

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

The principles of independence, professionalism, humanism, understanding of social justice, solidarity, impartiality, courage, audacity, abilities and training for proper relations with the colleagues and the court staff, promotion of the observance of the human rights, molding of a personality, acutance with cultural values, being in line with the cultural, scientific and political achievements, IT and communication technologies, high degree of personal, professional and moral dignity and authority, inside and outside the court, proper relations with the colleagues from the other legal professions, personal engagement and devotion, continuous legal education, resistance to corruption, ability for mediation and alternative modalities of cases resolution, case management capabilities, participation in continuous training.

8. Lawyers?

The principles of Independence, confidence, personal dignity, honor, integrity, reliability, refraining inappropriate form of personal promotion, acting in client's best interest, conscience,

B. Training of judges and lawyers

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

10. Judges ?

The training institution for judges and public prosecutors in Republic of Macedonia is the Academy for Judges and Public Prosecutors as a public institution for admission and professional training of candidates for judges and public prosecutors, continuous training and professional improvement of the judges and public prosecutors, continuous training of the professional services in the judiciary and the public prosecution, as well as the entities that take part in the implementation of the laws in the field of justice, conducting analytical activities in jurisprudence and practice.

11. Lawyers?

The Macedonian Bar Association is constantly organizing seminars, round tables and other forms of continuous training for lawyers, wither on their own or in coordination with other institutions, NGO's and foreign projects and international organizations with local and foreign lecturers, on different topics that are of interest to the members of the bar.

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

13. Judges ?

The Initial Training Programme of the Academy entails the Programme for Theoretical Training and the programme for Practical Training.
The goal of the theoretical training is to develop the participants' wider general knowledge of substantive and process domestic and international law and EU Law from a practical aspect, the practice of international courts, development of techniques specific to the judicial/prosecutorial function, capability of logical

reasoning, familiarisation with the social, cultural and economic aspects of law, familiarisation with other institutions in the system, as well as the civil society, developing openness towards the social environment, ability to use foreign judicial practices, using foreign languages and information technologies in the every-day work.
(The Theoretical Training consists of lectures, individual and group exercises, elaboration of projects, participation of the participants in seminars from the Continuous Training, visits to institutions, participation in the work of other institutions and other appropriate methods which enable practical familiarisation of the participants with the profession.)

The practical training is specialised and it is realised under the guidance and supervision of the mentors – judges and public prosecutors, in the courts and public The initial training lasts 24 months and is conducted in the following two phases: the first phase – theoretical training in the Academy lasting nine months; and the second phase – practical training in the courts and public prosecution offices and other institutions, in accordance with the Initial Training Programme, lasting 15 months.

Young lawyers can also apply to attend the initial training in the Academy. In that case if they pass the entry test, and if they enter the Academy, enter into employment with the Academy, and they can no longer work as lawyers until their appointment either as judges or prosecutors.

a. Lawyers?

The bar does not provide initial training course for future lawyers prior to their entry into the profession.

The continuous trainings for the lawyers are organized independently by the Macedonian Bar Association, as well as in collaboration with domestic and foreign institutions, and with bar associations that have mutual active cooperation. The Programs that are developed by MBA are short term, in order to determine the current needs and interests of the members of the bar.
During the past two years, MBA has organized a large number of training on the following topics
- Amendments to the Criminal Procedure Law in collaboration with the Academy for Training of Judges and Public Prosecutors.
- Amendments to the Criminal Procedure Law in cooperation with the American Bar Association.
- Arbitration as quicker and more efficinet way of dispute resolution, in cooperation with the Permanent Arbitration Court of the Republic of Macedonia
- Law on the lawyers stamps and the Advocacy Law
- News in CPC, the fight against corruption and application of international instruments and standards
- As representatives of clients and lawyers as arbitrators in the arbitration procedure, in cooperation with the German Federal Bar Association and Fermaskata Foundation for International Legal Cooperation-CDI.
- Amendments to the Law on Criminal Procedure
- Code of ethics of lawyers and the relationship between lawyers and clients, and the way of managing lawyers' associations, and the development of communication skills, confidence building and team collaboration
- Application of the provisions of the Companies Law, Bankruptcy Law, Contract Law, Criminal Code - provisions relating to the liability of the members of the Company
- Amendments to the Law on Civil Procedure
- Law on Free Legal Aid
- Arbitration Law and Arbitration rules of the Swiss bar, in cooperation with the Court of Arbitration and Mediation of the Swiss Chamber of Commerce
- Administrative litigation, current problems, comparative experiences and solutions, in cooperation with the German Federal Bar Association and Fermaskata Foundation for International Legal Cooperation-CDI.
- Prevention of money laundering, international terrorism and terrorist financing, and others.
During the above period of time, over 1.500 lawyers have been included and participated on different seminars and training courses.

14. What is the duration of the initial training:

a. Judges ?

See below

b. Lawyers?

15. 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?

According to the novelties of the new Law of the Academy the applicants for the initial training programme need to take internationally recognized psychological tests and to take an integrity test that is a test for checking the moral and ethical abilities for the profession of a judge or a prosecutor. These tests are eliminatory.

All issues as regard the ethics and deontology are part of the Initial Training Programme of judges and public prosecutors, together with the anti-corruption issues, as conflict of interests, gifts, outside paid and non paid activities of judges, the obligation for declaration of assets ect. The teaching methodology is through case study, work in groups and tests.

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

Lawyers are also included in the continuous trainings of judges and public prosecutors organized by the Academy and their participation is voluntary in general, and they can attend most of the training courses according to the Annual Catalogue of activities of the Academy for judges and public prosecutors.

If yes:

- What is their content and duration?

Besides the trainings in the Annual Catalogue of activities of the Academy for judges and public prosecutors, that are attended by the lawyers, the most important joint trainings were the trainings on the amendments of the crucial procedural codes in Macedonia, civil and criminal. All judges went through the basic trainings on novelties in the procedural aspects, and the lawyers took part as well. Also, the most significant training on judicial reforms in the criminal justice system is the training in procedural and substantive provisions that apply equally to judges, prosecutors, lawyers and the representatives from the LEA.

As to the trainings on the New Law on Criminal Procedure (NLCP), so far, 35 thirty-five basic training were organized in which were trained: 231 judges working in all criminal court departments with extended and basic jurisdiction, 80 advisers and associates of the aforementioned courts; 181 public prosecutors from the Public Prosecutor's Offices with extended and basic jurisdiction and 34 advisers and associates of the aforementioned offices; 212 lawyers; total of 135 officials within the judicial police in investigation centres of which 98 representatives from the Centre to combat organized and serious crime at the Interior Ministry, 21 of the Customs Administration, 17 of the Financial Police, and 29 representatives from the Ministry of Justice who participated in the training.
Within the close cooperation between the Academy and the Macedonian Bar Association, the lawyers are not only included in the training as participants, but are also part of the 5 teams of trainers (including a lawyer as a trainer in each of the teams), who also participate in the preparation of the materials of the trainings, making of the practicum for application of the NLCP that should include templates and examples of actions on certain contentious issues in the implementation of the new LCP etc. The duration of the trainings was 4 days each.
In the next 2 years specialized trainings on different parts of the procedure (pre-trial proceedings, investigative Procedure, the main hearing, specific (special) procedures and rregular and extraordinary remedies) will be held also including as participants judges, public prosecutors, lawyers and representatives from the police.

- Are they mandatory for judges and lawyers?

The training is mandatory for the judges and voluntary for the lawyers, but a successful cooperation with the Academy for judges and public prosecutors and the Macedonian Bar **Association results to a total number of 212 lawyers who have attended the NLCP training, and they also have attended other training sessions according to the Catalogue of activities of the Academy.**

- How are these courses funded?

The trainings are organized in by the Academy on its own, as well as by the Academy in cooperation with, and with partial or full funding from other national and international projects, associations, organisations and institutions.

The lawyers participating in the Academy's training are not charged.

If not, are they planned or discussed?

C. Efficiency and quality of judicial proceedings

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

ADMINISTRATIVE PROCEDURE

According to The Law on Administrative disputes "Unless this Law contains provisions on the procedure upon administrative disputes, the provisions of the Law on Litigation shall accordingly apply." So, the instruments of the Law on litigation to facilitate the interaction between judges and lawyers shall accordingly apply during the proceedings in front of Administrative court and Supreme Administrative court.

CIVIL PROCEDURE

According to the Law on Litigation "The submissions have to be comprehensible and must contain everything necessary in order to act upon them. They shall especially contain the title of the court, name and surname with a personal identification to prove it, place of permanent residence, i.e. temporary residence for the parties, i.e. for the company and the head office of the legal entity entered in the Central Register of the Republic of Macedonia or another register with a proof from the corresponding register, their legal representatives and attorneys in fact, if any, the subject of the dispute, the value of the dispute, content of the statement and signature of the submitter, i.e. electronic signature, e-mail address and contact phone number."

The e-mail address and contact phone number as parts of the content of the submissions are the instruments to facilitate the interaction between judges and lawyers during the proceedings.

CRIMINAL PROCEDURE -See the answers in the following questions

18. If not, how are they planned?

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

ADMINISTRATIVE PROCEDURE

The communication between judges and lawyers in the administrative-judicial procedure is mainly in written form.

According to the Law on administrative disputes "The complaint shall be directly served to the Administrative Court, or sent by post". If the lawsuit is incomplete or incomprehensible, the president of the council or the sole judge shall summon the complainant, if necessary through another court, to eliminate the established flaws of the lawsuit. Thus, he will provide instructions as to further action, point out the need of an attorney-in-fact and to the consequences that will arise unless the party acts as instructed by the Administrative Court."

If during the court procedure, the body brings another act whereby the administrative act against which an administrative dispute has been initiated is amended or no longer effective, that body, beside the complainant, shall at the same time notify the Administrative Court where the dispute is initiated. In that case the Administrative Court shall call the complainant within 15 days to state whether they are satisfied with the additional motion act or whether they will decide sticks to the complaint and to what extent, i.e. whether he extends the complaint on the basis of the new act as well."

Generally, the Administrative Court in administrative disputes shall decide in a session which is not public. In a dispute on the lawfulness of the acts of the bodies referred to the Law, on the matter referred to the Law, the Administrative Court shall decide by a decision, without a contention."

The court shall hold a public oral contention and shall, by a verdict, decide on the administrative matter itself, if:

- the complexity of the case in the administrative dispute imposes so, - if is necessary due to better clarification of the administrative matter or determination of the actual condition, the court exhibits evidence and in cases anticipated in the Law.

The hearing shall be headed by the president of the council. Minutes shall be kept of the hearings, where only the essential facts and circumstances, as well as the delivery of the decision. The minutes shall be signed by the president of the council and the minute-taker."

Absence of a party from the hearing shall not prevent the work of the court. The absence of the parties cannot be considered as their withdrawal from the dispute and their submissions shall be read. If neither the complainant nor the defendant attends the hearing and the hearing is not postponed, the court shall decide upon the dispute without the presence of the parties."

At the dispute first to speak is the reporter – member of the council, who states the condition and the core of the dispute, thus not giving personal opinion. Second to speak is the complainant in order to elaborate the complaint, then the representative of the defendant and the interested parties, in order to elaborate their legal interests."

The Supreme Administrative Court shall, as a general rule, decide upon an appeal without a contention. When the council of the Supreme Administrative Court finds that due to correct determination of the actual condition it is necessary to repeat the already exhibited evidence, it shall schedule a contention." When at a session of the council it will be determined that the verdict against which the appeal has been announced is based on an actual violation of the provisions of this or another law, or on incorrectly or incompletely determined actual condition, and the verdict had once been abolished, the Supreme Administrative Court shall schedule a contention and decide on merit of the case .

The court shall decide upon the complaint for repeating in a session which is not open to the public."

Regarding to delivery of writs to the lawyers and also to examining records in administrative-judicial procedure shall accordingly apply the Law on litigation .

CIVIL PROCEDURE

The relevant articles regarding to communication between judges and lawyers are the following:

According to the Law on litigation "the parties shall undertake the litigation activities in writing when out of the hearing or orally at a hearing The lawsuit, countersuit, legal remedies and other statements, proposals and announcements given out of the contention shall be submitted in writing or via electronic means to the admissions office of the competent court (submissions)."

The submissions submitted by attorneys at law, state body, i.e. state administration body, local self-government units, legal entities and persons exercising public authorizations, in addition to the data referred to this Law. shall contain data for the electronic mailbox for delivery of the writs, registered in accordance with law."

The court shall be obliged to give or send via e-mail a copy of the minutes to each of the present parties. In a period of 15 days as of the day of holding the hearing, the court, upon a request of the absent party from the court, shall issue a copy of the minutes from the hearing it had not attended, or send one via e-mail."

The party or participant in the procedure may orally at the hearing, or by a written submission after the hearing is closed, request from the court to issue a written form of the audio recording."

The writs shall be served by mail, via electronic means, by an official person of the court, directly in the court, by a notary, enforcement agent or another person determined by law. Within 15 days as of the day the need of service of process is established the court shall make two consecutive efforts to perform due service in one of the manners anticipated in the Law. If the service is unsuccessful, then the writ shall be published

on the court's notice board and after eight days as of its publishing it shall be considered that the service of process is completed."

The service of writs to attorneys at law, state bodies, i.e. state administration bodies, local self-government units, legal entities and entities to which public authorizations have been entrusted, shall be performed via electronic means to the electronic mailbox"

If due to any reason the court is closed on the day of the scheduled hearing, it shall be obliged to publish the day and hour of the new hearing on its web site and on another visible place in the court, and the party shall be obliged to be informed thereof."

The service of process via electronic means shall be performed via an information system of the court to the address of the electronic mailbox of the receiver of the service.

In case when there are no technical condition to perform service of process to the electronic mailbox, the service of process shall be performed by handing over the writs to the person authorized for receipt of writs or to the employee who will be found in the office, i.e. business premises."

Service to an attorney at law may be also performed by handing in the writ to the person performing any kind of activities in his office."

A lawsuit, payment order, extraordinary legal remedy, verdict, a determination adopted in a procedure due to hindering of possession, as well as a determination against which a special appeal is allowed, shall be personally served to the party that is a natural person i.e. to its legal representative i.e. attorney-in-fact. Other writs shall be personally served when it is explicitly determined by this Law or when the court finds that due to the documents enclosed in their master copy or due to another reason, greater precaution is necessary."

The parties shall have the right to examine, copy in writing or copy the records of the procedure they participate in the presence of an authorized person of the court."

The above –mentioned provisions of the Law on Litigation facilitate the communication between judges and attorneys. There are improvements in the practice regarding to efficient communication between them but we could say that communication is really efficient when fully revive the electronic mode of delivery of the writs.

In the Macedonian courts there is a centralized system of IT management of the court cases that enables following the progress of the cases. Also, there are displays in the entrance of every court buildings with information about the schedule of the hearings, name of the judges and all useful information about the cases. According to the new criminal and civil procedural codes, the lawyers have an opportunity for electronic delivery of the posts, and for that reason they each, should have established and deposited their e-mail addresses in the courts, in order to ensure an efficient delivery of the posts send from and to the lawyers. The new procedural codes introduces an audio-visual recording of the hearings. Also the distribution of the cases has been performed through the IT system.

All judicial verdicts shall be publicly available and accessible in electronic or printed copies, except in cases when the public has been excluded pursuant to the Constitution of the Republic of Macedonia, this Law and ratified international agreements in accordance with the Constitution of the Republic of Macedonia.

Also, a special chapter in the Ethical Code of the lawyers is dedicated to the relations with the court and the other bodies. Namely**,** during the execution of the function, the lawyer is obliged to protect the reputation of the Court, the administrative bodies and other social bodies where he represents his client. - By any appearance of the lawyer, the Court and the other bodies should consider him as a protector of the legality/lawfulness and the client's rights and legal interests.

The lawyer is obliged to respect the court, administrative and other bodies where he represents his client, but he is also obliged, in the interest of the advocacy reputation, to prevent any unfair relation of the representatives of these bodies to him or to his client. He is obliged to prevent such tendencies in a decent manner and by permitted means. He is obliged to give decent resistance against any attempt to violate the principles of democracy and person's dignity. 12. - The friendly relations of the lawyer with the judge or with other representatives of the aforementioned bodies should not be expressed during the execution of the

lawyer's function. It is especially indecent if the lawyer tries to misuse his friendship, connections or acquaintance with these persons in the interest of his own or in the interest of his client, and to the detriment of the opposite party, third party or the court.

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

ADMINISTRATIVE PROCEDURE

The parties during the course of the administrative-judicial procedure can settle upon the subject of the dispute (court settlement).The court shall point the parties to the possibility for court settlement and shall help them conclude a settlement. This isn't regulated by Law on administrative procedure so regarding this issue shall accordingly apply the Law on litigation .

The possibility to elaborate the legal interests of the parties at the hearing, the lawyers could use to make relevant their legal understandings pertaining to the subject of the dispute.

CIVIL PROCEDURE

According to Law on litigation "During the main contention it shall be contended about the proposals of the parties and the actual allegations by which the parties elaborate their proposals, i.e. abnegate the proposals of the opponent, as well as the evidence offered on their part, the evidence shall be exhibited and the results from their exhibit shall be reviewed. The parties may state their legal understandings pertaining to the subject of the dispute"

The president of the council, i.e. the sole judge by asking questions and in another purposeful manner shall exercise care during the contention considering the statement of all decisive facts, supplement the incomplete allegations of the parties in regard to important facts, mark or supplement the substantiating means referring to the allegations of the parties and generally to provide all clarifications necessary to confirm the actual condition important for the decision. The court, if necessary, shall clarify the legal issues in the dispute with the parties."

CRIMINAL PROCEDURE

There are several opportunities provided in the New Criminal Procedure Code that enables resolution of the case in a previous stage of the procedure.

Before raising the indictment, the public prosecutor and the suspect may submit a draft plea agreement requesting from the preliminary procedure judge to impose a criminal sanction determined by type and duration within the legally prescribed limits for the specific criminal offence, however, not lower than the limits for mitigation of the sentence as defined by the Criminal Code. The Public Prosecutor shall be obliged, along with the draft plea agreement, and together with all the evidence, to enclose a written statement signed by the injured party regarding the type and amount of any legal or property indemnification claim.

The plea agreement procedure shall be conducted between the competent public prosecutor and the suspect, in the presence of his or her defense counsel.

The subject of the plea agreement shall be the type and duration of the criminal sanction to be proposed in the draft plea agreement, and if consented by the accused, the subject of the plea agreement may also be the legal or property indemnification claim of the injured party.

The suspect must have a defense counsel present from the moment of commencing the plea agreement procedure.

The judge of the preliminary procedure shall not participate in the plea agreement procedure between the public prosecutor and the suspect and his or her defense counsel.
The judge of the preliminary procedure shall schedule a hearing for assessment of the draft plea agreement within three days from the receipt of the draft plea agreement.

The preliminary procedure judge shall advise the public prosecutor and the suspect and his or her defense counsel of their right to withdraw from the draft plea agreement before the ruling is made. The preliminary procedure judge shall advise the public prosecutor and the suspect and his or her defense counsel that the

acceptance of the draft plea agreement shall be considered as waiving the right of appeal against any judgment reached on the basis of the draft plea agreement.

If the preliminary procedure judge accepts the draft plea agreement, he or she shall pronounce a judgment where he or she must not pronounce a criminal sanction different to the criminal sanction contained in the draft plea agreement.
The judgment shall contain the elements of a judgment of conviction pursuant to the Law. The judgment shall be announced immediately and prepared in writing within three days of its announcement. The judgment shall be delivered to the public prosecutor, the suspect and his or her defense counsel without any delay.
In the stage of the examination of the indictment, If the suspect who has a defense counsel, gives a statement and pleads guilty with respect to all or certain counts of the indictment, or if he or she pleaded guilty at the hearing, the judge or the indictment review chamber shall check the following:
1) whether the guilty plea has been given voluntarily, advisedly and with full understanding of the consequences, including the consequences related to any property-legal claim and the expenses of the criminal proceedings; and
2) whether there is sufficient evidence to prove the suspect's guilt.

If the judge or the indictment review chamber accepts the guilty plea, upon a motion by the suspect and his or hers defense counsel or upon a motion by the public prosecutor, it shall be possible to ask for postponement of the hearing in order to conduct a plea bargaining procedure and file a plea bargaining agreement in accordance with the provisions of the Law.

the judge or the indictment review chamber shall postpone the hearing for a period of 15 days and set the date for the next hearing.

If the judge or the indictment review chamber does not accept the guilty plea, the judge or the chamber shall note that in the record, inform the present parties accordingly and the indictment review hearing shall continue.

The guilty plea, i.e. the record that contains the guilty plea, which was not accepted by the judge or the indictment review chamber, may not be used as evidence in the further criminal proceedings. The judge or the indictment review chamber shall make sure that the motion, i.e. the record with the guilty plea is placed in a separate file and kept apart from the case file.

If, at the plea bargaining motion hearing, the public prosecutor and the suspect and his or her defense counsel file a motion for a plea bargaining agreement, , the judge or the indictment review chamber shall review the proposed plea agreement.

If the judge or the indictment review chamber accepts the plea bargaining agreement, it shall enact a decision pursuant to Law.

If the judge or the indictment review chamber does not accept the plea bargaining agreement, it shall enact a decision for non-acceptance of the plea-bargaining agreement and it shall rule relative to the indictment.

Any plea bargaining agreement that was not accepted may not be used as evidence in the further criminal proceedings. The judge or the indictment review chamber shall make sure that the record with the guilty plea and the proposed plea bargaining agreement are placed in a separate file and kept apart from the case file.

During the main hearing, after the defendant has been advised of his or her rights, regardless of the nature and severity of the crime at hand, the defendant may plead guilty voluntarily, in respect of one or more criminal offenses, i.e. counts of the indictment.

Following such a guilty plea, the individual judge. i.e. the Presiding Judge of the Trial Chamber shall be obliged to confirm that it was a voluntary confession, that the defendant is fully aware of the consequences of the guilty plea, any consequences related to a possible property or legal claim and the expenses of the criminal procedure.

After the court has completed the plea in an evidentiary procedure, the court shall present only the evidence that pertains to the ruling on the sanction.

The defendant shall not be allowed to appeal the verdict or part of the verdict that was passed as a result of the guilty plea by the defendant during the main hearing, claiming that the facts or the case have been wrongly established.

MEDIATION PROCEDURE IN CRIMINAL PROCEDURE

In the event when a criminal offense is prosecuted upon a personal legal action, the competent individual judge, at the reconciliation hearing and for the purpose of expedience, may propose to the parties to agree on referral to mediation. The parties in the mediation procedure shall be the suspect, his or her defense counsel and the injured party and his or her attorney. After the parties have given their consent, the individual judge shall enact a decision, thus referring the parties to mediation. If the parties do not give consent within the prescribed deadline, the individual judge shall enact a decision, noting that the mediation referral proposal has not been accepted and he or she shall set a date for the main hearing according to the summary procedure provisions.

The mediation procedure may end by signing a written agreement, The written statement, the notification or the decision enacted by the mediator, i.e. the statement of withdrawal by the parties shall be delivered to the individual judge without any delays and he or she shall set a date for the main hearing according to the summary procedure provisions. At the hearing, the suspect may give a statement and plead guilty with respect to all or certain counts of the indictment.

The public prosecutor and the defense counsel may respond to the submissions by the opposite party only once. The judge or the indictment review chamber shall declare an adjournment of the hearing if the judge or the indictment review chamber believes that it can make a ruling with respect to the adequacy of the indictment.

21. If yes, is such agreement compulsory?

CIVIL PROCEDURE

A. There isn't agreement but expressions of their legal understandings pertaining to the subject of the dispute.

Also, to the Law on litigation "The court, during the course of the procedure, shall point the parties to the possibility for court settlement and shall help them conclude a settlement"

AS FOR THE CRIMINAL PROCEDURE, SEE BELOW

22. Do they negotiate certain phases of the procedure?

ADMINISTRATIVE PROCEDURE

No, they don't negotiate.

According to tje Law , generally, the court shall decide upon the dispute based on facts established in the administrative procedure, or based on facts established by the court.

The lawfulness of the disputed administrative act shall be investigated by the court within the limits of the requests in the complaint, wherefore it is not bound to the reasons of the complaint." The court takes care ex officio regarding the annulment of the administrative act.

Article 8 of the Law on litigation accordingly applies in administrative-judicial procedure.

CIVIL PROCEDURE

No, they don't negotiate.

"The court shall grant each party the possibility to declare itself regarding the claims and the allegations of the opposing party.According to its own belief the court shall decide which facts it will consider substantiated, based on a conscientious and thoughtful assessment of each proof separately and all of them together, as well as based on the results of the complete procedure.(article 8 of the Law on litigation)

AS FOR THE CRIMINAL PROCEDURE SEE BELOW

23. 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
24. consideration the claims, demands and arguments of lawyers?

ADMINISTRATIVE PROCEDURE

Potentially the judge could ignore allegations and arguments of the lawyer state in the complaint or in the appeal. Also, the judge could avoid taking into consideration the claims, demands and arguments of lawyers during composition of minutes at the hearing. Minutes shall be kept for the dispute, where only the essential facts and circumstances, as well as the disposition the decision. The minutes shall be signed by the president of the council and the minute-taker."

CIVIL PROCEDURE

The exhibition of evidence shall be established by the council, i.e. the sole judge with a determination, wherefore the dubious fact for which the evidence and substantiating means shall be exhibited is stated."; "The proposed evidence not considered important for the decision, shall be rejected by the council i.e. the sole judge, and the reason shall be stated in the determination.A special appeal shall not be allowed against the determination allowing or rejecting exhibition of evidence."

The president of the council shall prohibit the party to ask or answer certain question, if the question already contains the preferred answer or the question does not refer to the case.If the president of the council prohibits asking or answering certain question, the party can request the council to decide upon it. On a request of the party the rejected question, as well as the question prohibited to be answered, shall be inserted in the minutes."

The minute shall be composed in a manner that the president of the council, i.e. sole judge tells out loud the minute taker what shall be entered in the minutes."

CRIMINAL PROCEDURE

As to the access to the Court, according to the New CPC, only a licensed attorney may act as a counsel for the defense. For crimes that entail a prison sentence of at least ten years, the defense counsel shall be an attorney with at least five years or working experience, following the passing of the bar exam. The defense counsel is obliged to submit a letter of attorney to the body before which the procedure is conducted. The defendant may also verbally accredit his or her counsel on record, before the body that conducts the procedure. The victim, the injured party, the marital i.e. illegitimate spouse of the victim, injured party or the plaintiff, and their direct blood relatives of first degree, may not assume the role of a defense counsel. A person summoned as a witness in the procedure may also not be a counsel, unless, according to this Law, the person has been relieved from his or her duty to testify and has stated that he or she is not going to testify or if the counsel is being heard as a witness as referred in the Law, neither a person who is a co-defendant in the same case may not be a defense counsel, nor a person who has acted as a judge, public prosecutor or a police official. Also in the Law, there are the cases, listed for providing a compulsory defense The assigned counsel may ask to be dismissed only for justified reasons. The President of the Court, upon request of the accused or with his or her consent may dismiss the assigned counsel who has not exercised his duties in a responsible and competent manner.

As to the right to access to the court files, during the criminal procedure, the defense counsel shall have the right to review the case file and any available evidence, in accordance with the provisions of this Law.

The defense counsel shall have the right to access and to get a copy of all reports and other files related to actions to which the defense had a right to be present at, which are being kept at the public prosecution office.

As to the right for communications with the accused Communication between counsel and defendant in detention, the defense counsel shall have the right of free and unsupervised correspondence and communication with him or her. In exceptional cases, the judge of the preliminary procedure may subdue this right to visual supervision only, if detention has been imposed if the danger for judges and there is some probability that the accused might abuse the contacts with his or her counsel.

The court shall punish any participant in the procedure, with a pecuniary fine of 200 to 1200 Euros, payable in Macedonian Denars, who, in the motion or verbally, or in any other manner offends either the court or the person who participates in the procedure. The Bar Association of the Republic of Macedonia shall be informed by the Court about any punishment of an attorney

According to the Constitution, the principle of fair trail within a reasonable time, is one of the basic principles of, and it is transposed in the procedural laws.

Shortly, the New Code on criminal procedure, that will come into effect in December 2013 th, is introducing a new, adversarial model of the procedure, thus, introducing a new system of relations between all the participants in the procedure, including the lawyers. Namely, the prosecutor is having the leading role in the investigation stage, working together with the judicial police, the institute if investigative judge is abandoned and a new institute- the judge for investigation will be introduced. This judge will take care on the legality of the procedural acts undertaken or proposed by the judicial police and the prosecution office, and the defense, in regard of protection of the rights and freedoms. Also, new institutes are introduced in order to strengthen the principle of equality of arms, the active role and the equal position of the defense and the prosecution, through the possibility for the defense to undertake its own investigations, to play an active role in proposing the plea bargaining and proposing the other forms of the negotiation foressen in the code, to have an active role in submitting the evidences, obligatory presence of the counsel during performing the investigative acts (search, scene crime investigation, ect) Any person that is subject of the procedure, shall have the right to be taken before a court within a reasonable time and tried without any unjustified delays. The court shall be obliged to conduct the proceedings without any delay and to preclude any abuse of the rights that belong to the persons that participate in the proceedings. Each natural person will be sanctioned with a fine from 700 to 1000 Euros payable in Macedonian Denars and each legal entity will be sanctioned with a fine from 2500 to 5000 Euros payable in Macedonian Denars according to the current exchange rate, for misusing the rights to which he is entitled during the procedure. These measures shell be as well applied to the lawyers, who by misusing their procedural rights, are undertaking actions, that contrary to this principle, are aimed at postponing the procedure (by not timely submitting the proposals for evidences ,submitting unlawful requests for exclusion of the judge or the prosecutor ect.

During the first examination of the defendant, in a case of an obligatory defense, the person may not waive his or her right to a defense counsel, if the defense is compulsory in accordance with this Law. If the defendant does not have an attorney or if he or she is not capable of contacting the attorney, he or she shall receive the list of public defenders on call compiled by the Bar Chamber of the Republic of Macedonia. If the defendant did not want a defense counsel initially, but later on has asked for one, the examination shall be adjourned and continued only after the defendant has been provided with a defense counsel that he or she may consult with.

One of the methods to achieve more transparent work of the court and the prosecutor is the novelty introduced for audio-visual recording of the procedural acts and the main hearing.

As regard the investigative acts, If the search is conducted in an attorney's office in the absence of the attorney that the office belongs to, a representative of the Bar Chamber shall be invited, or if that is not possible, another attorney. If the attorney who was called does not arrive within a period of three hours from the moment when he or she was summoned, the search may be conducted in his or her absence. By means of a court order, written letters of the defendant addressed to his counsel may not be seized, unless the defendant turns them in voluntarily;

The defense counsel of the defendant can not have the staus of a witness in the procedure on anything confided by the defendant in him or her as counsel, unless the defendant himself or herself demands it.

The public prosecutor shall be obliged, in a convenient manner, to inform the defense counsel, the injured party and the suspect about the time and location of the investigative actions that they may be present at, except if there is a danger of procrastination. If the suspect has a defense counsel, as of a rule, the public prosecutor shall inform the defense counsel only.

The suspect, his or her counsel and the injured party may complain to the higher public prosecutor in the event of any irregularities or delays of the investigation procedure. In such a case, the higher public prosecutor shall investigate the allegations in the complaint, and if he or she establishes that they are grounded, shall take any necessary measures for the completion of the investigation procedure or elimination of the irregularities.

The public prosecutor shall be obliged to disclose to the defendant all the evidence that was collected during the investigation procedure against him or her, as well as any exculpatory evidence that might be useful to the defense.

In the event when, upon request by the suspect or his or her defense counsel, the public prosecutor is collecting certain evidence, this shall have to be completed within a period of 30 days from the day of submission of the request.

During the procedure, the defense counsel may give suggestions to the public prosecutor on possible investigative actions for the purpose of collecting specific evidence.

The defense counsel may undertake actions in order to find and collect evidence that would be beneficial to the defense case. The authority as referred to e may be utilized by the defense counsel throughout the entire procedure. Any actions as referred in the Law, may be conducted by the defense counsel, his or her deputy, authorized private detectives and if a specific specialty is needed, by the technical advisors.

The defense counsel may ask the person whom he or she speaks with to provide a written statement or a report. Any person who has been already interviewed or examined by the judicial police or the public prosecutor may not be asked to provide information about the questions asked and answers provided. For the purpose of getting statements or information from a person in detention, the defense counsel shall have to get a special approval by the preliminary procedure judge, but only after the person has had a conversation with his or her defense counsel and has been examined by the public prosecutor. For the purpose of the defense, in accordance with the law, the defense counsel may ask for information and reports from state entities, local self-government bodies, legal and natural persons with public authority and other legal entities, asking for documents, files and reports to be delivered to him or her.

If the entities do not respond within the deadline as referred to the Law, the defense counsel may ask from the preliminary procedure judge to order for the requested data to be delivered to him or her, i.e. from the court, during the main hearing. if they fail to respond to the council, s request the court will issue a fine to the responsible, i.e. official representative person in the entities in the amount from 2500 to 5000 Euro payable in Macedonian Denars.

In the course of preparation of the main hearing the Presiding Judge of the Trial Chamber may reject any tendered evidence: if the proposal refers to a manner of gathering evidence that is prohibited by law, to evidence whose use is not allowed by the law or to a fact that cannot be proven under the law (unlawful proposal); if it is unclear, incomplete or aimed towards a significant postponement of the procedure; or if the facts that need to be established according to the proposal are not relevant to the decision making, i.e. if there is no connection between the facts that need to be established and the decisive facts, or if such a connection cannot be established due to legal reasons (irrelevant proposal) .
The Presiding Judge of the Trial Chamber may summon the parties to appear before the court on a specific date in order to elaborate their proposals i.e. their objections in regard to any proposed evidence. The decision rejecting the proposal for presenting evidence must be elaborated. Upon proposal from the parties, the Trial Chamber may alter or withdraw this decision in the later stages of the procedure.

The Presiding Judge of the Trial Chamber shall forewarn any public prosecutor, defendant, defense counsel, injured party, legal representative, proxy, witness, expert witness, translator, i.e. interpreter or any another person who attends the main hearing and disturbs the order or does not yield to the orders of the presiding judge for the purpose of maintaining the order. If such a warning is ineffective, the Trial Chamber may order for the defendant to be removed from the courtroom, whilst all other persons present may not just be removed, but the Trial Chamber may also impose a fine as provided in this Law.

The Trial Chamber may deprive the defense counsel or the proxy from any further defense, i.e. representation at the main hearing, if, after being fined, he or she continues to disturb the order. In such an event, the party shall be invited to appoint another defense counsel i.e. proxy.

If the defense counsel fails to appear at the main hearing, although regularly summoned, and fails to inform the court about the reasons thereof, as soon as he or she becomes aware of those reasons, or if the defense counsel leaves the main hearing without an approval, and there is no possibility to assign a new counsel immediately without any detriment to the defense, upon a motion by the defendant, the main hearing shall be postponed, but it can also be held in the absence of a defense counsel, if the defense is not mandatory. In the event of a postponement, the Trial Chamber shall decide, with a decision, for the defense counsel to bear all the expenses that have been incurred as a result of the postponement, if he or she can be considered responsible.

The audio or the visual-audio recording of the proceedings at the main hearing is part of the court case, which is included into the automated case management information system (ACMIS).
The audio or the visual-audio recording must not be made public, broadcasted or to be used for aims and purposes outside of the criminal procedure.
The parties and the defense counsel shall have the right to get a copy of the audio or visual-audio recording or the stenographer's record within three days of the main hearing, in a hard copy or an electronic format. The copy of the recording shall be provided immediately, and not later than 24 hours.

During the main hearing, each of the parties, with consent by the other one, may withdraw the presentation of some evidence that was previously tendered.

The Presiding Judge of the Trial Chamber shall control the manner and order of examination of witnesses and expert witnesses and the presentation of evidence, providing for the efficiency, economics of the proceedings and as the need arises, for the establishing of the truth. Upon objection, the Presiding Judge of the Trial Chamber shall prohibit questions and answers to questions that have been previously asked, if he or she considers it inadmissible or irrelevant for the case.
The Presiding Judge of the Trial Chamber shall refuse presentation of evidence if he or she considers it unnecessary and of no importance for the case and shall briefly explain the reasons for it. Upon an objection by the parties, the Presiding Judge of the Trial Chamber shall prohibit asking questions that contain both a question and an answer within, i.e. leading questions, except during cross-examination.
The Presiding Judge of the Trial Chamber shall approve a cross-examination of the witness as suggested by the party that summoned that witness, if as a result of his or her testimony, he or she can no longer be considered as a witness of the party that summoned him or her. During the evidentiary hearing, the Presiding Judge of the Trial Chamber shall attend to the dignity of the parties, the defendant, witnesses and expert witnesses. During the entire evidentiary proceeding, the court i.e. the Presiding Judge of the Trial Chamber shall take care of the admissibility of questions, validity of answers, fair examination and justification of objections.
According to the principle of objectivity, the court and the state authorities shall be obliged to pay equal attention to the investigation and determination of both aggravating and exculpatory facts (in favor of the defense) The right of the court and any state authorities which participate in the criminal procedure to evaluate the existence or non-existence of facts shall not be bound nor limited by any special formal rules of evidence. The court and the other state authorities shall be obliged to clearly elaborate and indicate the reasons for their decision. That means that all the claims ,requests and demands of the layers as regard the procedural rights of the defendant should be taken with a due consideration, should be decided and properly elaborated.

25. 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?

ADMINISTRATIVE PROCEDURE

In administrative-judicial procedure the lawyer can request exemption of the judge with whom the procedure is conducted, to delay the consideration of the case, or to affect in any way its fair and efficient resolution.

The provisions of the Law on Litigation shall accordingly apply regarding this issue.

CIVIL PROCEDURE

The parties can request exemption of the judge i.e. lay judge with whom the procedure is conducted, i.e. the president of the court who should decide upon the request for exemption.

The sole judge or the president of the council, can by means of a determination, against which a special appeal is not allowed, decide and further continue the work should he assess that the request for exemption is obviously requested for the purpose of obstructing the court while undertaking certain activities, i.e. for the purpose of postponing the procedure."

Ungrounded proposal of the lawyer for postponing of the hearing is also instrument to delay the consideration of the case.

Also, If the attorney-in-fact is removed from the court room due to violating the order, the council shall on a request of the party postpone the hearing, and if the party is not present at the hearing, the council shall always postpone the hearing and notify the party that its attorney-in-fact is removed from the hearing due to violating the order.(article 304 paragraph(3)).

During the procedure, the court can punish the party, the legal representative, attorney-in-fact or intervener, who with their litigation activities has abused the rights recognized by this Law.

AS FOR THE CRIMINAL PROCEDURE SEE BELOW

26. 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?

ADMINISTRATIVE PROCEDURE

The both factors, objective factors such as legislation, structures and procedures and 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, are equally relevant for the successful interaction between judges and lawyers.

The new procedural laws (both criminal and civil), have enabled a better and more successful interaction between the courts and the parties. Recently ,the courts are introducing the system on case management of the cases, where the judges and the lawyers can make an agreement about the time schedule of the hearings, giving contribution in a efficient resolution of the case in a timely manner according to the art.6 of ECHR. Also , the new institutes for obligatory publishing of every court judgement on the web sites of the courts, electronic management of the cases, the adversarial system of the procedures introduced very strict deadlines for submitting the evidences from the parties, very short deadlines for procedural acts, completing of the different type of cases (for example labour law cases), writing and announcing the judgement by the judge.These provisions actually gave the parties the key role in the procedure, the new legislation imposed a strict procedural discipline by the parties but in the same time with ensuring procedural guarantees for their procedural rights not to be infringed.

CIVIL PROCEDURE

The both factors, objective factors such as legislation, structures and procedures and 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, are equally relevant for the successful interaction between judges and lawyers.

27. 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.?

ADMINISTRATIVE PROCEDURE

In terms of subjective factors, taking into account the scope of the jurisdiction of the Administrative Court, good knowledge of substantive laws by judges and lawyers is very important for successful interaction between them.

Regarding to the subjective factors, according to Attorney's Law of the Republic of Macedonia, "attorneys provide legal assistance to the client conscientiously and professionally, in accordance with the law, the Code of Ethics of the Legal Profession and other acts of the Bar Association, and preserve the confidentiality of the information disclosed to them by their client and the attorneys are accountable for the professional and conscientious discharging of the legal profession and for upholding the repute of the profession.

According to Code of Judicial Ethics "When performing his/her work, a judge shall preserve the dignity and authority of the court, and endeavor to insure the preservation of the dignity of the court by anyone with whom he or she interacts in the performance of his/her office. Also, the judge must foster proper relationships with all parties involved in the proceedings before the court. Outside the courtroom, he or she shall always endeavor to provide for the presence of both parties at the same time, i.e., counsellor, attorney, plaintiff and the like.

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The joint training sessions organized in cooperation between the Academy and the Bar association enable establishing a spirit of mutual cooperation, culture of better understanding of the competences and the role of each of the professions, without interfering in each other professions and the principles that are prevailing in the each of the professions, independence, impartiality for the judges, autonomy and independence of the lawyers, but indispensible is the fact that both professions should be respectable, professional, very well trained in the legal issues ,but also on the non legal issues like ethics, communication skills, relations with the media, case management ect.

28. 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 the country in general is correct. Education of the judges and the lawyers on legal culture through the Academy for judges and public prosecutors and the Bar Associtaion, mutual work on the legislation framework, joint working meetings and round tables are the steps that are useful for improving their relations .

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

29. 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 alternative dispute of resolutions, mediation are more and more becoming popular frequent, but still they are not enough to reduce the workload of the courts.According to the new responsibilities of the presidents of the courts, introduced in the novelites of the Law on the courts, they are obliged to increase the efficialncy of the courts, and thus to encourage the judges in more often using the alternative procedures for settling the cases.

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

Yes, but it is not that frequent. According to the amendments of the Law on courts there will be no more opportunities for a lawyer to become a judge in a Appellate and Supreme court without having previous experience as a judge in the lower courts. The laywer can become a judge or a prosecutor in a first instance jurisdiction, only after completing the initial training in the Academy. Now there will be only a possibility for the lawyer to enter in the judicial profession only through entering in the initial training of the Academy that lasts 2 years. Probably, for the future, it will be attractive only for the younger generations of lawyers who want to become judges.

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

There are no deputy judges in Macedonia

E. Judges, lawyers and media

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

The media (TV companies) are always covering the criminal cases in the organized crime field and sometimes they report from the courtrooms about the penalties imposed by the judges for not respecting the order and the discipline in the courtroom from out the defense lawyers.

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

The lawyers usually comment the pending cases, especially in the attractive cases like organized crime and corruption cases. They are always involved in the cases against journalists when the plaintiff are the politicians. Fortunately, recently Macedonia has decriminalized the defamation that now became a civil delict. The statements of the lawyers, sometimes violate the principle of the presumption of the innocence, but so far, the Bar has not sanctioned a lawyer for giving prejudiced statements and for predicting the outcome of the process and the case in the media. The lawyers sometimes use to give in the media statements like -that the judges are not efficient, that are not impartial, that the sentence is too high, that there were not enough evidences for the court decision, that the judge was not capable to manage the case in a proper and efficient manner, that they did not have an access to the evidences ect.The judges are bound by the ethics not to comment the pending case before them so they do not have an opportunity to react on the truthfulness of the lawyer's statements. In that case when the court remain silent, there is no space and no opportunities to check the correctness of these statements that are causing damage to the judiciary.The Association of judges do not react on these statements of the lawyers in the media.Some steps are been taken in order to improve the relations between the judges and lawyers, and in raising the awareness about the role that the lawyers play in the process of creating the image of the justice in the society, and in creating of the public opinion about the judicial activities, in general, through joint training that have been organized between judges, journalists and the lawyers, but still, a lot has to be done in that direction.

Turkey / Turquie

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

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.

United Kingdom / Royaume Uni

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: a Judicial Code of Conduct**

2. Does your country have a Code of Ethics or equivalent for lawyers? (please specify) **Yes: there are Codes of Professional Conduct for both barristers and solicitors**

3. Does your country have any joint codes, rules and/or regulations concerning ethics of judges and lawyers? (please specify) **No**

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**

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 ? **The basic principles must be the same for both lawyers and judges: integrity, independence, no conflicts of interest, efficiency and no criminal or immoral behavior.**
   - lawyers?

B. Training of judges and lawyers

7. Which are, in your country, the training institutions:
   - for judges ? **The Judicial College**
   - for lawyers? **There are various "law schools" which provide training for the professional examinations; then there is "in house" training for both barristers and solicitors after they have taken their professional examinations.**

8. Which kind of training curricula (initial and continuous training), in brief, do these training institutions have:
   - for judges ? **Practical training on how to conduct trials.**
   - for lawyers? **Courses in procedural law and professional procedures (preparing opinions, pleadings for court cases etc).**

9. What is the duration of the initial training:
   - for judges ? **3 weeks.**
   - for lawyers? **After university (where theoretical law will be studied): 1 year at law school then 2 years further training for solicitors and 1 year further training for barristers.**

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**

11. Are there joint training courses for judges and lawyers? **No**

    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? **No**

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. **Nothing specific. It is assumed that they will "interact"; it is a central part of the legal system in litigation.**

13. If not, how are they planned? **They are not "planned".**

14. How is the communication between judges and lawyers organised? Is it efficient? Are there computerised information systems to that end? **In court proceedings the most usual communication is usually orally. Sometimes there is email communication.**

15. Are there possibilities, procedures and mechanisms for judges and lawyers to come to an agreement concerning the judicial resolution of the case? **Yes, occasionally a judge will assist the parties in arriving at a compromise.**

16. If yes, is such agreement compulsory? **No**

17. Do they negotiate certain phases of the procedure? **Yes. When there are "case management" hearings, often there will be discussions between the lawyers and the judge about how the procedure will be fashioned for that particular case; but if there are disputes then the judge will rule on what is to happen.**

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. A judge must always have regard to the claims, demands and arguments of lawyers, but in the end the judge will decide what is to happen.**

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? **Lawyers may try to use the procedural rules of court to delay cases but they will not succeed because the judge will soon appreciate what is being attempted and will stop it.**

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? **The successful interaction does depend on procedural rules of court to some extent. These are always kept under review.**

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.? **A great deal.**

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 all parts of the UK is very good. There are no steps planned to alter this.**

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). **Judges and lawyers may discuss the merits at a "case management conference" and this may lead to a settlement. This can only be done with the agreement of the parties. A judge may give a view on the merits in an "Early Neutral Evaluation" hearing which summarily considers the merits. This may lead to a settlement.**

24. Do you have any possibility in your country for lawyers to become judges, and vice versa? If yes, is it frequent ? **Yes. All judges in the UK will have had to have been lawyers before becoming judges. A person will only be eligible for appointment as a judge if he has first of all been a lawyer for (normally) 10 years at least.**

25. Can lawyers act, in your country, as deputy judges and if so, under what conditions ? **Yes. There are special competitions for appointment as deputy judges. A person will have to have been a lawyer for 10 years at least, generally speaking.**

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 very rarely comment on pending cases; judges never do so. Lawyers sometimes comment on judgments, but that is not frequent. Judges will never do so.**

Ukraine

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 professional ethics for judges was adopted during the 5th Congress of judges of Ukraine in 2002. Regulations of this Code are focused on ethic items concerning the status of a judge.

According to the preamble of this Code, its regulations cannot be used in bringing judges to disciplinary responsibility and cannot define a degree of their fault.

It's important to point out, that the 11th Congress of judges will be held on February 22, 2013. One of the main questions, submitted during this Congress is adopting of the new edition of the Code of professional ethics.

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

On October 1, 1999 the High Qualification commission of the Bar approved the Rules of lawyers' ethics as revised by the Association of judges of Ukraine.

The Rules of lawyers' ethics are widely used by local qualification and disciplinary commission of the Bar, bythe High qualification commission of the Bar and also by courts.

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

No, there are no joint codes, rules and/or regulations concerning ethics of judges and lawyers.

4. **- 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**

Ethic and legal standards of judicial performance and legal practice are provided by number of legal acts, which establish relevant legal system concerning judicial system and status of judges and concerning the Bar. Starting with the Constitution of Ukraine the following legal acts need to be amended: the Criminal Code of Ukraine and the Criminal Procedural Code of Ukraine, the Civil Code and the Civil Procedural Code of Ukraine, the Commercial Code and the Commercial Procedural Code of Ukraine, the Code of Administrative Proceedings of Ukraine, the Law On Judicial System and Status of Judges, the Law On the Bar and legal practice, other legal acts, the Code of professional ethics for judges, Rules of lawyers' ethics and Bar associations' statutes.

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

- judges ?

Fairness, impartiality and independence of judges should be the fundamental ethic principles governing judicial performance.

Thus far deficiency of morality in behavior of parties, as in behavior of judges themselves, can be observed. Some reasons for that are: 1) decrease in level of moral potential in relationships between people in conditions of economic crisis and social instability; 2) insufficient providing of status of judges with guaranties for independence (especially insufficient level of remuneration); 3) low "quality" of legislation which comes into force and functions, while it is still reforming. So the main purpose of ethical demands for judges is inadmissibility of behavior that can interfere with authority of courts and judiciary.

6. **- lawyers?**

We suppose that the main principles of lawyers' ethics are the principle of client's interests priority or principle of legal equity; principle of independence; principle of confidentiality; principle of competence and fair practice; principle of responsibility for violation of lawyers' ethics rules.

However, these are specific duties carried out by lawyers, that determine necessity of balancing observance of interests of one client with observance of interests of the society, adherence of principle of legality and rule of law.

Additionally, relationships "court - lawyer" must be based on mutual respect for court and a lawyer.

B. . Training of judges and lawyers

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

- judges ?

In 2010 by the decision of High qualification commission of judges was established a separate training institution – the National school of judges of Ukraine.

According to the Law "On Judicial System and Status of Judges" the National school of judges is a public educational institution with a special status which provides training of high-qualified specialists for judicial system and perform scientific and research work.

- lawyers?

In 1995 the board of the Association of lawyers of Ukraine carried a resolution to found a new higher law educational institution. The practical realization of new Conception for legal specialists training undertook the International Law firm B.I.M International and Ukrainian Bar Corporation, which became co-founders of the Institute of Advocacyr. As follows from the foundation agreement the Institute was established and registered in 1995 as a LLC and got the full title "Institute of Advocacy at Taras Shevchenko National University Of Kyiv" which by the order or rector №113 on December 12, 2011 was transformed into the Academy of Advocacy of Ukraine, LLC.

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

- judges ?

Intra-extramural form of study.

Special training for an applicant for a position of a judge includes theoretical and practical trainings and contains common and special components. Common component of the special training curriculum includes courses of fundamental, social and functional orientation, special component includes training in four directions ("civil proceedings", "criminal proceedings and proceedings in cases about administrative offenses", "administrative proceedings", "commercial proceedings").

Every course is practically oriented according to functions of judges and aimed to mastering the abilities and skills demandable for future occupation. The essence of special trainings lies in shaping abilities and skills of high morality and professional culture of applicants for judges before they hold the position. This training goal is to assist applicants in fostering quality, abilities and skills demanded for exercising duties of judges, which will help in making lawful and justified decisions, in respectful attitude to a person, assist to provide realization of human rights and freedoms, to respect a person and to guarantee rights and fundamental freedoms, to adhere to ethical norms and norms of judicial deontology and also to recognize high importance of a court in democratic society integrated into international environment.

Besides the special training for applicants for a position of a judge the National school of judges is also responsible for initial training for judges appointed for the first time, training for lifetime judges and also judges appointed for administrative positions. Also the range of activities includes providing periodical trainings for judges aiming in upgrading qualifications, trainings for court staff, researches on improvement of judiciary, examination of international experience in court management. Legislator also assigned the National School of judges to provide scientific and methodical activities of general courts, of the High Qualification Commission of Judges of Ukraine and of the High Council of Justice.

- lawyers?

Intra-extramural, distant form of study.

The Academy of Advocacy has two departments – a department of law training and a department of special trainings for lawyers. Education at the last one gives its students an opportunity to have an oriented training for a certain legal profession, it is the most advanced to individual training (small groups of special lawyers' trainings, attaching 2 – 3 students to lawyers and judges in law schools and judicial workshops). Students during 3 years learn Ukrainian business and legal language, two foreign languages, attend conferences, workshops, explore subtleties of lawyer and judicial activities. Students have a possibility to learn on the base of certain "real" cases in courts and on the civil and criminal case-files they learn the following disciplines: "Representation and defense of individuals in separate categories of cases in court", "Speech in court", "Forensics (tactic and methodic of defense)"; almost every discipline from special course has practical workshops on concrete cases, which are proceeded by lawyers or judges who teach in the Academy.

The most importing feature in Academy's of advocacy of Ukraine training program is that students during the whole course are surrounded by practitioners – lawyers, judges, legal advisers at enterprises, financial establishments directly during executing their professional duties and that students following the special training for lawyers constantly broaden their knowledge gathered during the common training, update them by attending workshops, models of court hearings etc.

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

As it follows from Art. 69 Law "On the Judicial System and Status of Judges" special training for a candidate for a position of judge includes theoretical and practical intra or extra-mural course. Special training is carried out during six months using State budget funds.

- lawyers?

In accordance with Art.6 Law "On the Bar and legal practice" a natural person can be an attorney if they have complete higher legal education, can speak the official language, have a minimum of two years experience in the legal field, passed the qualification test, completed probationary training, took the oath of the Ukrainian attorney, and received a certificate authorizing them for legal practice.

Probationary training is carried out during six months, under supervision of an attorney appointed by the regional bar council.

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, as mentioned above, initial training of judges includes items concerning professional ethics, behavior and responsibility of judges and lawyers, relationships between them and also issues concerning their cooperation.

11. **- Are there joint training courses for judges and lawyers?**
If yes:

12. **- what is their content and duration?**

13. **- are they mandatory for judges and lawyers?**

14. **- how are these courses funded?**

Yes, joint training programs for judges and lawyers are running in Ukraine. Examples of such programs can be the following:

Joint program of European Commission and Council of Europe "Transparency and efficiency of the judicial system of Ukraine". This project was focused on judges, prosecutors, lawyers, law clerks, administrative and teaching staff of institutions for judges and prosecutors and had an overall objective to assist in improving judiciary. In particular, project is aimed to transfer judiciary of Ukraine into a transparent and fair judicial system that is accessible to all citizens, working effectively and transparently vis-à-vis citizens and civil society, and also to improve training programs for judiciary;

Project "Combating ill-treatment and impunity", which is carried out in execution of current joint program of the European Union and the Council of Europe. It has an objective, without losing the achieved speed and relying on achievements of the last, to develop fruitful partnership with national authorities and other interested parties aiming to expand gathered experience and to introduce new important components, in particular: counteraction to impunity in places of custody arrest and executing of punishment; strengthen combating ill-treatment and impunity;

Project "Providing effective implementation of European Convention on Human Rights on the national level by crucial groups of lawyers", which has an objective to expand implementation of European Convention on human rights by crucial groups of specialist in law field (judges, prosecutors, lawyers) in the process of their routine work and to promote consolidation of human resources in educational institutions for effective learning of the European Convention on human rights.

Joint program of the European Union and Council of Europe "Transparency, independence and efficiency of the judicial system and increasing in access to justice by all citizens of Ukraine", which is aimed to promote creating independent, impartial, effective and professional judicial power in Ukraine, accessible to all citizens, efficient, transparent to all citizens and civil society. It concerns following items: automatization of workflow in courts, determination of a caseload per judge, funding of courts, system of basic training and advanced training for judges, disciplinary responsibility of judges, creation of unitary professional association of lawyers, access to legal aid, using alternative dispute resolution, and also instruments to adhere national legislation in accordance with European standards.

These programs are funded not from the State Budget of Ukraine.

C. Efficiency and quality of judicial proceedings

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

Current legislation doesn't provide any procedural instruments to facilitate the interaction between judges and lawyers during the proceedings.

We suppose, that expediency of introduction of required methods in Ukraine demands separate (additional) research.

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

Legislature of Ukraine stipulates only procedural communication between lawyers and judges in the court room, other forms of communication are not provided.

Relevant norms of behavior of a lawyer in court, which oblige him as a party in court proceedings to maintain these norms, are allocated in current legislation. In relationships with court staff lawyer is also obliged to maintain relevant norms.

There are no computerized systems to that end.

17. - **Are there possibilities, procedures and mechanisms for judges and lawyers to come to an agreement concerning the judicial resolution of the case? If yes, is such agreement compulsory? Do they negotiate certain phases of the procedure?**

Ukrainian laws don't provide any possibility for judges and lawyers to come to an agreement concerning the judicial resolution of the case.

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?**

There are no provisions for groundless refusal in satisfaction of lawyers' demands, claims. The Civil Procedural Code of Ukraine stipulates powers of court in a court hearing. Article 168 of the Code stipulates, that claims and petitions of a party are considered by a judge after hearing the opinion of remaining parties, and then a reasoning ruling is carried out.

Though reasoning ruling on refusal in satisfaction of a claim doesn't prevent this claim to be applied on the other grounds.

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?**

Legislature of Ukraine doesn't provide any legal instruments which potentially could be used by lawyers to delay consideration of the case or to affect its 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**?

Adjusting of current provisions in compliance with present requirements, elimination of gasp in the legal field is a civilized way to creation a rule-of-law state in Ukraine and to improvement of social and legal defense of citizens.

Successful interaction between judges and lawyers largely depends on current legislature of a state.

Therefore, for example, coordinated and accurate functioning of advocacy in a human rights protection mechanism of modern Ukraine has an immense influence in a formation and functioning process of civil society, insofar as the Bar is a particular "buffer" which counterbalance civil society's interests with requirements and possibilities of a state.

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.?**

In our opinion, the key factor which largely influence quality of interaction between a judge and a lawyer is a level of their professionalism and morality.

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 accordance with current legislation, court is obliged not only to respect honor and dignity of all participants of the proceedings, but to prevent violation of these rights by other participants. Judge shouldn't express his attitude and notices concerning case before it's time to consider a decision.

As art.7 of the Code of professional ethics of judges states, a judge should administer judges in frames and in order envisaged by procedural law and should show tactfulness, affability, moderation and respect for participants in proceedings and others. Hence, no matter if a judge like or not a lawyer, his position or his client, a judge should show "tactfulness, affability, moderation and respect for participants in proceedings and others". Lawyer is a party in a civil proceeding, therefore he has a right to recon on such respect or at least on a facade of that. Herewith the Code doesn't contains any provisions concerning qualification of a lawyer. Besides that judges have to retain that a lawyer acts for the benefit of his client and has a right to enjoy all allowable legitimate means exercising functions of defense and representation. A lawyer himself develops strategy and tactics of his behavior, legal position in a case, because he is personally responsible for his actions, if they are unconscientious towards client.

On the other side, lawyer shouldn't ignore violations of law, indelicate and contemptuous attitude of court or other participants to his client, himself or Bar as a whole, and should respond by means, provided by law, p.2 art. 54 of the Rules of lawyers' ethics.

The Rules of lawyers' ethics also recommend and oblige lawyers to be persistent and high-toned in defending clients' interests in court, to maintain their independence in representing clients but not to impair relations with court.

Taking into account disciplinary practice of the High Council of Justice cases of the open hostile relations between judges and lawyers occurred. Such cases certainly result in bringing a guilty party do disciplinary responsibility, therefore there can be nothing personal between court and a lawyer during the proceedings.

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).**

According to art.175 of the Civil Procedural Code of Ukraine peaceful settlement may be concluded by parties aiming to resolute dispute on a base of mutual acquiescence and concerns only rights and responsibilities of parties and cause of action. Before making a judgment according to a settlement, judge clarifies for the parties consequences of such decision, checks if a representative of a party has powers to make this action.

Court doesn't admit a settlement in a case with a representative (appropriate adult), if his actions contradicts with interest of a person he represent.

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

The reality is that there three categories of lawyers, which potentially can hold positions in court – court staff, lawyers (attorneys) and prosecutors, that is those who systematically and permanently take part in administration of justice. And it is frequent.

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

No, such powers of lawyers are not acceptable in frames of current judicial system of Ukraine.

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 were no publications in the mass media to that end.

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

As art. 6 of the Code of professional ethics of judges state, a judge has no right to divulge information, came to knowledge during consideration of a case in a closed court session. He are not allowed to make public statements, to comment cases in mass media, while they are considerate in the court, to query judgments entered into force.

Within the frame of criminal proceedings affecting public interests or other court proceedings, which have an impact on society, judicial bodies enlighten mass media on their general actions, if it won't interfere the secrecy of investigation and won't bar current proceedings.

Cooperation with media is provided by press office or press-secretary of the court.

On the other part, more liberated behavior during press-conferences or TV-show concerning ongoing court proceedings or judgments is peculiar to lawyers. The last can be explained by absence of any legal or ethic restraint.