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Strasbourg, 29 January 2020

CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

Questionnaire for the preparation of the CCJE Opinion No. 23 (2020):

**“The role of the Associations of Judges
in supporting the judicial independence”**

*Please in your answers do not send extracts of your legislation
but describe the situation in brief and concise manner.*

General

1. How many Associations of Judges (please note that they can have different names) exist in your country?
 - a) For judges of all jurisdictions and all court levels _____
 - b) For judges of certain jurisdictions only _____ There is one Association of Judges of Common Jurisdiction, which includes all the judges of common jurisdiction, and there is only one Association of Judges of Specialized Courts, which includes the judges of the specialized courts.**
 - c) For judges of certain court levels only _____
 - d) Are there Associations of Judges on some other criteria (i.e. women judges) _____ **No**
Total number of all types of Associations of Judges _____ **There are two associations, and these associations are united in the Union of Associations of Judges of the Republic of Azerbaijan.**

Other objectives _____

Membership

2. What are the requirements for membership in the Associations of Judges?

Members of associations may be judges of the respective courts. Members of the Association may also can be judges of the Supreme Court, appeal courts and other courts of the Republic of Azerbaijan, as well as retired judges. The issue of membership is decided by the board. Members of the Union may be non-

commercial legal entities (except for state authorities and local self-government bodies).

3. Are prosecutors members of the Associations of Judges?

No

Legal framework / objectives

4. Which is the legal framework of the Association of Judges? Are there specific legal regulations (law, by-laws) which deal with the Associations of Judges in your country?

Article 105-1 of the Law on Courts and Judges regulates issues related to public associations of judges. This article outlines the principles of activities, aims of the associations of judges. In addition, the participation of associations of judges in the selection of Council’s judge members was stipulated by the Law on the Judicial-Legal Council. Also provisions of Civil Code, Law of the Republic of Azerbaijan on “State Registration and State Register of Legal Entities” regulate some relevant issues. The activities of associations are regulated in detail by their Charter.

5. According to their statutes, what are the main objectives of the Associations of Judges? (please mark yes or no and indicate by “1”, “2” and “3” the three most important objectives)

Defending and fostering the independence of judges and the judiciary	• yes <input type="radio"/> no 1
Defending and fostering the rule of law	• yes <input type="radio"/> no
Fighting for economic safeguards of judges	• yes <input type="radio"/> no
Fighting for social and physical security of judges	• yes <input type="radio"/> no
Contribution to the development of the law	• yes <input type="radio"/> no
Training of judges	• yes <input type="radio"/> no
Ethics and accountability of judges	• yes <input type="radio"/> no 2
Involvement in judicial self-government, especially influencing the election of officers of self-government	• yes <input type="radio"/> no 3
Media work	• yes <input type="radio"/> no
Organising conferences	• yes <input type="radio"/> no
International contacts and networking	• yes <input type="radio"/> no
Other objectives (which) The main purpose of the public union (Association) of Judges is to assist in deepening judicial and legal reform. To achieve this goal, the Association performs a number of important tasks, including: 1) uniting the judges of	• yes <input type="radio"/> no

<p>common jurisdiction of the Republic of Azerbaijan; 2) assisting in further strengthening the independence of judges, 3) protection of the reputation of the Association members and other functions.</p>	
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Support of individual judges

6. a) How do the Associations of Judges interact with individual judges?

Each judge who is a member of the Association has the right to participate in the management of the organization, to elect any representative of the Association, including its governing body, or to represent themselves in person, to appeal to the Association to assist in the protection of his/her interests, and to personally participate in the discussion related to his/her rights and responsibilities, to object to the relevant authorities of the Association and to appeal and other rights.

In addition, the associations of judges, which are actively involved in the judicial reform process, make regular proposals, conduct trainings and various public events for judges and court personnel, focus on ethical behaviour as well and “Counselling Group on Ethical Behaviour and Deontological Issues” was established at the meeting of Union of Association of Judges of the Republic of Azerbaijan taking into account the requirements stipulated by The Bangalore Principles on Behaviour of Judges and Ethical Code of Conduct of Judges of Republic of Azerbaijan.

The Counselling Group operates on a regular basis, providing consultations to judges on ethical issues and explaining rules on ethical behaviour. The opinion of the Counselling Group on matters considered is confidential and advisory.

b) Can judges get assistance from the Association (which kind)?

Yes, the Charter of the Association of Judges of the Common Jurisdiction provides for appropriate financial support at the request of the members of Association upon the decision of Management Board. In practice, the Association provides appropriate assistance to judges and family members of deceased judges whenever necessary.

At the same time, as part of the measures to improve the housing conditions of the judges, the Association is conducting appropriate work with the involvement of a contractor for the construction of apartments for judges.

c) Do the Associations of judges defend individual judges (against what)?

One of the main tasks of the Association is to ensure the protection of the reputation of its members and to further strengthen the independence of judges. In this regard, the Association responds to any threat to the independence and prestige of the judiciary within its powers and capabilities.

7. If there is an infringement of the independence of a judge or of the judiciary, by what means do the Associations of Judges react?

According to the legislation, one of the main objectives of the Judicial-Legal Council is to ensure the independence of judges and to take necessary measures in order to prevent interference with the courts. The participation of the representatives of Association of Judges of Common Jurisdiction and Association of Judges of Specialized Courts at all meetings of Judicial-Legal Council is ensured. Consequently, associations may raise issues before the Council regarding the prevention of

interference with judges' activities and may take other necessary measures to resolve such matters within their authority.

8. Is there any influence of the Associations of judges on appointment or promotion of judges?

In accordance with the Law of the Republic of Azerbaijan "On Judicial-Legal Council", to make recommendations for appointment, change of workplace, and promotion of judges falls within exclusive competence of the Council.

As noted, the judges' associations, in close cooperation with the Council, regularly attend its meetings. In this regard, the Associations have the opportunity to make appropriate proposals for discussions regarding the appointment and / or promotion of judges.

9. Is there any influence of the Associations of Judges in disciplinary procedures?

According to the legislation disciplinary proceedings on judges may be initiated exclusively by the Judicial-Legal Council. Investigations on disciplinary proceeding are carried out by a judge member of the Council. Judge who is brought to disciplinary is provided with all materials, hearings are conducted, and the issue of liability is considered only by the judge members of the Council.

Providing the judge to be defended by his/her lawyer or colleague, granted the right to object the members of the Council, the participation only the Council's judge members in the voting, the right to appeal against decisions on disciplinary matters to the Plenum of the Supreme Court create additional safeguards for the objectivity of the procedure.

According to the charter of the Association of Judges of Common Jurisdiction, its members are entitled to request assistance once from Association for the protection of their interests.

10. Is there any influence of the Associations of Judges on training?

The Associations of Judges by actively participating in training of judges, both organize independent training events for judges, provides learning international best-practices, and at the same time cooperates with Justice Academy and Training Sector of Judges of Judicial-Legal Council in the respective field.

Resources

11. Are there membership fees?

Yes, there is a membership fee and the amount is determined by the Management Board.

12. What other resources are available for the Associations of Judges?

The Association may own buildings, installations, apartments, equipment, inventory, cash, stocks, other securities and other means for the financial activities of the Association not prohibited by legislation to provide for the financial activities of the Association.

The sources of cash and other property formation of the Association are:

- regular or one-time membership fees of the founders or members of the Association;
- property donations and donations made by management, business, local and international organizations and citizens;
- dividends, income from stocks, bonds, other securities and deposits;
- Income from the use and sale of own property;
- grants;
- Income from exhibitions and other events;
- Income from the activities of the founders;
- Other revenues not prohibited by law.

Administration of the Associations of Judges

13. How are the governing bodies, the secretariat and officers of the Associations of Judges selected? What is their term of office?

The supreme body of the Associations and the Union is the General Meeting convened at least once a year. The General Meeting shall be convened at the initiative of the Association's executive body, one of its founders, or one-third of its members.

The day to day management of the Associations and the Union is carried out by the Board of Directors. The Board of Directors is the executive body, consisting of the Chairman of the Association, his deputies and others.

The Associations' Control-Inspection Commission oversees the associations' activities and compliance with the Charter, as well as the financial activities of the Associations. The number of CIC members is determined by the General Meeting.

14. Are there restrictions as regards the number of terms of office for members of the governing bodies of the Associations of Judges, and if yes, how many terms and for how long?

The Chairman, his deputies and other members of the Board, as well as the Control-Inspection Commission are elected by the General Assembly of the Association for a period of 3 (three) years and there are no restrictions on re-election.

The Chairman and Deputy Chairman of the Union are elected by the Board for a period of 3 (three) years.

15. Are there restrictions to become an officer of an Association of Judges?

Requirements / restrictions on persons represented in the governing bodies of legal entities apply to persons represented in the management of judges' associations as well.

Interactions with state institutions and political parties

16. How do the Associations of Judges interact with the parliament?

Are Associations of Judges involved in the process of law-making?

If yes, how (is this formal or informal)?

According to the legislation, the subjects of the legislative initiative are clearly defined. Judges' Associations do not have that right. However, the judges' associations are informally involved in the legislative process. As such, the Association regularly makes relevant analyses and proposals on amendments to the legislation on judicial activity, and actively participates in the discussion on draft laws.

17. How do the Associations of Judges interact with the government, especially with the ministry of justice?

The judges' associations by establishing working relations with the government, especially with the Ministry of Justice are actively involved in the implementation of appropriate joint activities.

According to the legislation, the Ministry of Justice by strictly adhering to the independence of judges, deals with the professional training of judges except judges of Supreme Court, creates the necessary conditions for the activity of first instance courts, provides them with normative-legal acts, financial and other material-technical support.

The judges' associations make relevant proposals in accordance with the interests of the judges on matters within the competence of the Ministry, and contribute to the common work within their powers.

18. a) How do the Associations of Judges interact with political parties?

b) Are certain Associations of Judges connected with certain political parties?

c) Is there an influence of party politics within the Associations of Judges?

a)According to the legislation, judges cannot be engaged in political activities and cannot be members of political parties. Individuals appointed to the position of judge should immediately withdraw from membership of a political party or other political organization. Persons appointed to the position of judge are not allowed to carry out the judge's duties without leaving the membership of a political party or other political organization. At the same time, according to the Charter of the Association of Judges of Common Jurisdiction, the Association cannot provide financial and other financial assistance to political parties, as well as to participate in organization of elections of the President of the Republic of Azerbaijan, the Milli Majlis and the municipality of the Republic of Azerbaijan.

b) No

c) No

19. a) How do the Associations of Judges interact with the Council for the Judiciary?

b) What is the role, if any, of the Associations of Judges in the selection of members of the Council for the Judiciary and/or presidents of courts and judges (please describe)?

a)As noted, the Judicial-Legal Council and the judges' associations interact very effectively. As such, the presence of associations at all Council meetings is ensured, their views about the issues which are on the agenda are considered, as well as information from the associations on the matters related to interests of the judges are heard.

b)The Judicial Associations must nominate at least two candidates for each Judicial and Legal Council member. The list of nominees for membership in the Judicial-Legal Council may be challenged only once by the body that selected them. Of the candidates nominated for the second time, a member of the Judicial-Legal Council should be elected. Seven judges from the Judicial Council were selected from the nominations proposed by the Judges Associations.

20. How do the Associations of Judges interact with the court administration and what, if any, are the problems in these relations?

Most judges and chairmen of the courts are members of the Judges Association. Courts administrations participate in associations' and union's activities, trainings, discussions, seminars and various public events. By the request of associations court administrations officials involve in process of making proposals on amendments.

Interactions with other organisations

21. a) If there is more than one Association of Judges, how do they interact with each other?

b) If there is more than one Association of Judges, how other stakeholders deal with this fact?

As noted, the Association of Judges of Common Jurisdiction and the Association of Judges of Specialized Courts are operating in Azerbaijan. These associations are jointly represented in the Union of Judges Associations.

Associations are very effective in establishing their joint activities and exchanging experiences. So far, no contradictions have been found in their interactions.

22. How do the Associations of Judges interact with NGOs?

Judges' associations establish relations with other related non-governmental organizations, including the Confederation of Lawyers of Azerbaijan, cooperate in the areas of mutual interest.

23. How do the Associations of Judges interact with foreign or international organisations?

The Association of Judges of Common Jurisdiction, as a full member of the International Association of Judges, participates in its activities and contributes to it.

The Associations of Judges of Specialized Courts as a full member of the European Association of Judges has been actively involved in its activities since 2011. The Association is represented in the working group of "Independent and Effectiveness", "Environment", "Refugees and Migration" and "Tax Law" under the European Union of Administrative Judges.

Associations also cooperate with other international organizations, as well as maintains regular contacts, exchanges and experiences, establishing effective relationships with relevant international associations.

24. Is there a trade union, in which judges can be members? If so, what are the relations between this trade union and the association of judges?

No

Ethical standards

25. Is there any influence of the Associations of Judges in establishing ethical standards?

The Ethic Code of Conduct of Judges was approved by the Judicial-Legal Council Decision on 22.06.2007. The Code, which is a collection of ethical principles and standards of judge's activity, regulates specific ethical and ethical requirements for judges, issues of their professional ethics, and behaviors outside of their professions, determines their attitude to professional activities. Taking into account that the Code was adopted by Judicial-Legal Council and associations are in close interaction with the Council, it should be noted that the judges' associations are also involved in establishing ethical standards.

Also, as mentioned above, "Counselling Group on Ethical Behaviour and Deontological Issues" was established at the meeting of Union of Association of Judges of the Republic of Azerbaijan taking into account the requirements stipulated by The Bangalore Principles on Behaviour of Judges and Ethical Code of Conduct of Judges of the Republic of Azerbaijan, which operates in the field of providing consultations to judges on ethical issues and explaining rules on ethical behaviour.

26. Do the Associations of judges contribute to a further improvement of the justice system? How?

Both the Law on Courts and Judges, and the Charters of judges' associations stipulates that the primary purpose of judges' associations is to assist the deepening of judicial reforms. Today, associations, with their extensive activities, make significant contributions to the development of the judiciary. As such, the associations help to further strengthen the independence of judges, disseminate positive experience of judges, study existing judicial practice in foreign countries and promote positive innovations, and carry out legal awareness raising activities.

At the same time, judicial associations contribute to the development of the judiciary by participating in the activities of the Judicial-Legal Counsel, the self-governing body of the judiciary, as well as the nomination of decent judges for its membership.

Perception

27. How does the public at large see the Associations of Judges?

Judicial associations in the community generally have positive image as a non-governmental organization that unites judges, mostly has a unique role in legal education, and contributes to the development of the judiciary.