

CCJE-BU(2020)1

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: 2**

b) **For judges of certain jurisdictions only: 1 for administrative court judges**

c) **For judges of certain court levels only: 1 for the magistrate/district court judges**

d) **Are there Associations of Judges on some other criteria (i.e. women judges): 0**
(only 1 for female lawyers in general, not restricted to judges, “djb”)

Total number of all types of Associations of Judges: ... Other objectives _____

It is difficult to determine the number of Associations of Judges.

The biggest Association of Judges is the *Deutsche Richterbund (DRB)*. It is the oldest Association (founded on 1.1.1909). It is a national member association. This Association has national member associations with respective sub associations/regional divisions on state level or divisions for highest federal courts.

It consists of 25 respective sub associations. 16 of the sub associations belong to the federal states; 5 sub associations belong to the highest federal courts (*Bundesgerichtshof* – Federal Court of Justice/ *Generalbundesanwalt* – Federal Prosecutor General, *Bundesarbeitsgericht* – Federal Labour Court, *Bundessozialgericht* – Federal Social Court, *Bundesfinanzhof* – Federal Fiscal Court and the *Bundespatentgericht* – Federal Patent Court). Additionally there are 4 associations associated with the labour, social, fiscal jurisdictions as well as the military service judges). Of the approximately 20740 judges and 5500 public prosecutors in Germany (numbers of 2017), a total of 17000 are members of the DRB. The DRB is an association for judges of all jurisdictions and all court levels with the exception of judges of the Administration Courts.

The judges of the Administration Courts are organized in the *Bund Deutscher Verwaltungsrichter (BDVR)*. It is a national member association and counts 2000 members.

Since a little over 30 years there exists another national member association for judges and prosecutors of all jurisdictions on all court levels. It is called *Neue Richtervereinigung (NRV)*. This association counts about 550 members.

Since 2003, there is a (regional) member association of magistrate/district judges (*Amtsrichterverband - ARV*). It is aiming to represent the magistrate/district judges' interests. This association counts less than 100 members.

Membership

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

Associations of Judges and Prosecutors may become members in the national member association. The individual judge/prosecutor is member of the member association.

Membership of these member associations require the formal position of a judge or public prosecutor. In some associations membership is also open to incoming judges (legal trainees), retired judges or law professors.

3. Are prosecutors members of the Associations of Judges?

Yes, see answer No. 1, 2

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?

In Germany, there is no specific legal framework or legal regulation of the Association of Judges in place. Associations of Judges are registered Associations under the Federal Law of Associations (*Vereinsgesetz*) and the Civil Code (*Bürgerliches Gesetzbuch*).

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	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no (1)
Defending and fostering the rule of law	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no (1)
Fighting for economic safeguards of judges	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no (2)
Fighting for social and physical security of judges	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
Contribution to the development of the law	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no (3)
Training of judges	<input type="checkbox"/> yes <input type="checkbox"/> no
Ethics and accountability of judges	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
Involvement in judicial self-government, especially influencing the election of officers of self-government	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no
Media work	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
Organising conferences	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
International contacts and networking	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
Other objectives (which)	<input type="checkbox"/> yes <input type="checkbox"/> no:

The answer including the ranking corresponds to the answer of the DRB. All Associations of Judges aim to support the named first three objectives. The ranking may vary. The NRV does have in addition some political objectives like e.g. the democratization and socialization of the judicial system. Opposite to the DRB the NRV has the objective to enforce the involvement in judicial self-government, especially influencing the election of officers of self-government.

Support of individual judges

6.

- a) **How do the Associations of Judges interact with individual judges?**
- b) **Can judges get assistance from the Association (which kind)?**
- c) **Do the Associations of judges defend individual judges (against what)?**

The Associations of Judges (mainly those for all jurisdictions and court levels) offer information on general questions as well as staffing issues on general, regional and sectorial levels (specialized divisions). They publish newsletters/magazines (e.g. informing about new judgments of the Federal Court of Justice, DRB publishes the *Deutsche Richterzeitung*), organize meetings/conferences and advanced training events. Every three years the DRB organizes the German Day of Judges and Prosecutors (*Deutscher Richter- und Staatsanwaltstag*).

Members can initiate topical discussions in the Associations of Judges. They may ask for support in the members associations and/or with other individual members.

Associations of Judges do not provide for financial support in general. In specific situations the member associations may provide for legal aid/support in cases (e.g. remuneration claim of general interest).

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?**

In the very rare cases in which politicians or the administration of courts try to influence a specific case, the Associations of Judges would defend the independence of a judge or the judiciary by making that behaviour public (e.g. press releases).

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

There is no influence of the Associations of Judges on appointment or promotion of judges. See No. 19, 20.

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

There is no influence of the Associations of Judges in disciplinary procedures. See No. 19, 20.

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

Associations of Judges participate actively in the Deutsche Richter Akademie (advanced professional training for judges).

Resources

11. Are there membership fees?

All Associations of Judges do have in general membership fees. The amount of fees varies.

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

There is no public subsidies and no fund raising.

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?

In general the Charter of the Association of Judges provide different bodies: General Assembly of the Representatives; Board of Directors/Presidium or Federal Executive Committee.

DRB: The General Assembly of the Representatives is the members' assembly of the DRB. Every 18 months, it holds an official session. The Presidium is elected by the General Assembly every 3 years. It also determines the fundamental goals and structures of the DRB.

The Federal Board of Directors consists of all members of the presidium and additional delegate members, which are sent by the membership associations. The Board of Directors plans the general work of the DRB. The Board meets twice a year.

The Presidium consists of one president and 6 – 12 other members. It represents the governing body of the DRB. The members of the presidium are elected for a three-year period.

NRV: The Federal Executive Committee is elected by the General Assembly for a period of two years. The executive committees on the state level are elected regularly by the assembly of members within the division. The material work of the association is also carried out by the local and regional groups and the project-related and thematically determined specialist groups that are formed by the members of the organization. Those subject-specific specialist groups that may make statements on behalf of the entire association require in general the confirmation by the general assembly.

The other associations have similar legal structures to those of DRB and NRV.

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?

No, there are not.

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

No, there are not.

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)?

The DRB publishes regularly statements concerning judicial topics, especially addressing the courts facility and staffing issues. It also gives its opinion unsolicited and outside formalized procedures. The situation of the judges in general or the judiciary is addressed. All statements are published on the website of the DRB or its member associations.

On the federal level Associations of Judges (national member associations) participate in the law making process by rendering statements, opinions, oral or written statements as legal experts. The number of members of the association is relevant for their participation. However the Associations of Judges do not have a legal right to initiate. On a regularly basis the DRB is involved in law making process.

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

See No. 16

18.

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

The Associations of Judges are political independent and not associated to any political party. This excludes any political influence on them.

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

No.

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

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)?**

There is no formalized influence of the Associations of Judges on the appointment nor promotion of judges or presidents of courts. There is an indirect influence via the Council for the Judiciary as members of these Councils may also be members of an Association of Judges. See No. 20.

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

There is no formalized interaction with the court administration. The Associations of Judges are represented via its members in the Council for the Judiciary of the local courts and the district courts. These Councils have co-determine rights in many practical issues around the judges' workplace (e.g. amount of workload, staff, salary, working conditions, IT, assessments, statistics). See No. 19.

Interactions with other organisations

21.

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

See above No. 1. The relationship might be influenced by the number of members of the Associations of Judges and their objectives. According to their different orientation in focus there might be partly a competition. However, the Associations recognize each other and seek reciprocal cooperation in many fields.

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

The size of members of the Associations of Judges is relevant for its influence in the political process in general. See no. 16.

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

The cooperation between Associations of Judges and NGOs varies and depends on the project and matter.

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

Most of the Associations of Judges are members in international organisations:

DRB works closely with the IAJ (International Association of Judges) or the EAJ (European Association of Judges). The DRB is a member of the European Law Institute. Furthermore the DRB cooperates with the Federal Ministry of Justice in the European Network of Councils for The Judiciary (ENCJ).

BDVR is a member of AEAJ (Association of European Administrative Judges).

NRV is a member of MEDEL (Magistrats Européens pour la Démocratie et les Libertés).

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?

There is no special trade union for judges. No Association of Judges is affiliated with a trade union.

Ver.di (member strongest trade union in Germany) has a division of judges and prosecutors.

Ethical standards

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

There is no formal set of ethical rules developed by the Associations of Judges on ethical standards although the topic is focused and discussed. In 2013, the DRB has finalized a discussion paper on the judges' ethic in Germany which establishes no firm ethical rules but some values for the conscious exercise of the profession. Furthermore, the DRB has collected some practical cases which discusses the application of values in day-to-day decisions/situations, published under:

https://www.drb.de/fileadmin/DRB/pdf/Ethik/1901_DRB-Broschuere_Richterethik_EN_Judicial_Ethics.pdf.

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

Yes.

See no. 5, 20.

Perception

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

In general, the Associations of Judges do play an important role in defending the rule of law and the independence of the judiciary. Furthermore, they are very important to

improve all kinds of working conditions for judges and prosecutors. These achievements are recognized in public.

The DRB is involved regularly in the law making process and in discussions relating to legal policy issues. It is the most known Association of Judges in Germany, see No. 1.