

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

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

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 – please refer to the answers below.

B) For judges of certain jurisdictions only : For judges of the jurisdiction (criminal and civil cases) the ANM, Associazione nazionale magistrati - within which operate independently Autonomia e Indipendenza (AI); Magistratura Indipendente (MI); Movimento per la giustizia and Magistratura Democratica (MD), those last two reunited in the grouping called Area; UniCost (Unità per la Costituzione), each with its own Statute and associative bodies -.

For administrative magistrates: Associazione tra i Magistrati del Consiglio di Stato and Associazione Nazionale Magistrati Amministrativi.

For military magistrates: Associazione Nazionale Magistrati militari (AMMI).

For accounting magistrates: Associazione Magistrati della Corte dei Conti (AMCC).

For tax magistrates: the Associazione Nazionale Magistrati Tributarî, the Union Giudici Tributarî and the Confederazione Unitaria Giudici Tributarî (C.U.G.I.T.).

C) For judges of certain levels of jurisdiction only: Several. Among others : Union Nazionale Giudici di Pace; Unità Democratica Giudici di Pace; Associazione Nazionale Giudici di Pace; Confederazione Giudici di Pace; Associazione Giudici Onorari di Tribunale (AGOT); Unione Italiana Magistrati Onorari. For juvenile jurisdiction: Associazione Italiana dei Magistrati per i Minorenni e per la Famiglia, connected with the A.N.M..

D) Are there Associations of Judges on some other criteria (i.e. women judges)?

Yes there are. For example, the ADMI, l'Associazione Donne magistrato italiane. There are also other associations of magistrates at local or thematic level with prevalent study purposes.

Total number of all types of Associations: Please refer to the answers above, but it is not an exhaustive census.

Membership

1) What are the requirements for membership in the Associations of Judges?

Generally, being magistrates on duty or retired.

Are prosecutors members of the Associations of Judges?

Yes, prosecutors can be members of the ANM, of the other associations operating within the NMA, as well as AMMI and AIMMF. All magistrates of the Court of Auditors can be members of the AMCC. Other associations admit prosecutors.

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?

The legal framework is provided by: art. 11 of the European Convention on Human Rights and Fundamental Freedoms, articles 11 and 12 of the Charter of fundamental rights of the European Union and articles 18 and 21 of the Italian Constitution; the latter respectively establish: (Art. 18) Citizens have the right to associate freely, without authorization, for purposes that are not prohibited to individuals by criminal law. Secret associations and those that pursue, even indirectly, political purposes through military organizations are prohibited. (Art. 21) Everyone has the right to freely express his or her thoughts with words, writings and any other means of dissemination. The press cannot be subject to authorization or censorship.

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 1
Defending and fostering the rule of law	yes 2
Fighting for economic safeguards of judges	yes 3
Fighting for social and physical security of judges	yes
Contribution to the development of the law	yes
Training of judges	Yes
Ethics and accountability of judges	Yes
Involvement in judicial self-government, especially influencing the election of officers of self-government	Yes, See 19 a) b)
Media work	yes
Organising conferences	yes
International contacts and networking	yes
Other objectives (which)	Yes; Promotion of gender equality for example

Support for individual judges

6.

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

The associations interact with the associated magistrates in the forms provided by the respective statutes

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

Assistance can be obtained on remuneration, insurance and social security matters

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

Yes Associations can intervene in defense of individual magistrates in any event of an attack on their independence

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?

The Association reacts with different forms of support and, in particular, through public statements

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

The associations of judges of the ordinary courts can exercise indirect influence to the extent that they are involved in the election of the members of the self-governing bodies both at national (Consiglio Superiore della Magistratura - CSM) and local level (Consigli giudiziari, at level of Courts of appeal). However, the code of ethics of the National Magistrates Association reaffirms that, once elected to representative bodies, the magistrate operates without a binding mandate with respect to the electors or associated groups.

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

No, there isn't.

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

Yes, there is.

Resources

11. Are there membership fees?

Yes, personal contributions are expected.

12.

What other resources are available for the Associations of Judges?

Other resources can be made up of the contributions of the members and any legacies or donations.

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?

Each association has its own rules in this regard. For example, the Statute of the ANM to which 90% of ordinary magistrates are enrolled, provides that all members can participate in the General Assembly and that the Central Management Committee, in particular, is elected by universal suffrage with direct, free and secret vote attributed to lists of competing candidates pursuant to art. 23 of the Statute. The allocation of seats is carried out on a proportional basis.

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?

Each association has its own rules. The ANM, for example, does not provide restrictions as regards the number of terms of office for members of its governing bodies. Nevertheless, in general, the replacement in the top positions is ensured.

15.

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

Each Association has its own regulation. With regard to the ANM, only members of the Associations can become officer.

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)?

Yes Magistrates' Associations can be invited to hearings at the Parliamentary Commissions and in this case it is a question of formalized participation. They also make public studies and positions on proposed bills before Parliament.

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

Magistrate Associations interact with the government through informal meetings and consultations or through public statements.

18.

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

They interact with political parties through informal meetings and consultations, public positions, participation in conferences and study meetings.

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

No there are no connections between associations of judges and political parties.

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

No political parties do not exercise formal influence over the associations of judges.

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) b) The associations of judges participate in the elections of the 16 elected member magistrates of the CSM. However, the code of ethics of the National Magistrates Association reaffirms that, once elected to representative bodies, the magistrate operates without a binding mandate with respect to the electors or associated groups. The associations also promote a constant internal and external debate on the choices of the CSM.

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 formal interaction between the associations of judges and the administration of the Courts. Nevertheless, the associations of judges often pay attention to the lack of human and material resources for the judicial offices and organizational choices made both at national and local levels.

Interactions with other organizations

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?

a) b) The Associations of ordinary, administrative, accounting, tax and military jurisdiction interact each other through informal consultations, coordination bodies (e.g. Comitato di coordinamento tra le magistrature e l'Avvocatura dello Stato) meetings and public positions as well as through the organization of conferences and study meetings. In particular, the association of judges of the ordinary courts interact above all within the National Magistrates Association but also outside of it. So, as regards the ordinary jurisdiction associations, other

stakeholders interact mainly with the Anm but can also interact with every single association operating within the ANM.

Therefore, as regards the Associations of ordinary courts, the stakeholders deal mainly with the ANM but can also deal with the Associations that are part of the ANM.

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

Judges' associations can interact with NGOs through informal consultations, meetings and public positions as well as through the organization of conferences and study meetings.

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

National associations of judges may participate in international associations (e.g. ANM joins the International Association of Judges and the European Association of Judges (EAJ); Magistratura Democratica adheres to Magistrats européens pour la démocratie et les libertés (Medel). They also interact with foreign or international organizations.

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?

The judges of the ordinary courts are members of professional organizations only.

Ethical standars.

25. Is there any influence of the Associations of Judges in establishing ethical standards? On 13/11/2010 the Central Steering Committee (Comitato Direttivo Centrale, CDC) of the National Magistrates Association approved the new ethical code of the judiciary. The new code of ethics updates the figure of the magistrate, inserted in an ever – changing society. Recalls, in his premise, that the magistrate works for the sole purpose of achieving the full effectiveness of people's rights. It also underlines its responsibility for the good performance of the justice service, but at the same time protects its independence both in external relations and in the context of self-government. It takes a significant position on the delicate

side of relations with the media. The code expressly reiterates that, once elected to representative bodies, the magistrate operates without mandate constraints with respect to the voters or associated groups. It recalls and indicates the conduct that the magistrate must follow in his relations with the other actors of the process. The Code is divided into three parts: 1) General Rules 2) Independence, impartiality and correctness of the magistrates; 3) Conducted in the exercise of their functions. Disciplinary offenses and related sanctions are, on the contrary, defined by law. Disciplinary procedures are set in motion on the initiative of the Minister of Justice or the Attorney General at the Court of Cassation. They are fully contradictory. The disciplinary judge is the Disciplinary Section of the CSM. Judicial associations have no formal competence in this type of procedure.

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

As already mentioned, the associations of ordinary magistrates participate in the election of the members of the self-governing bodies both at national (Consiglio Superiore della Magistratura - CSM) and at local level (Consigli giudiziari). They are also sometimes called upon to offer their opinion during parliamentary work and, more generally, actively participate in the public and institutional debate on justice.

Perception.

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

The role of the Associations of Magistrates is now generally recognized. However, they are sometimes subject to heated criticism.