



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 ____None
Within the UK there are 3 separate jurisdictions (i) England and Wales (ii) Scotland and (iii) Northern Ireland. Each has its own legal system. That is why there is no cross-jurisdiction association of judges (apart from the UK Association of Women Judges). Within England and Wales there is a Judges' Council, which represents all levels of the judiciary; but it is not an association as such. The cultural tradition in the UK has not generally encouraged the formation of judges' associations.
 - b) For judges of certain jurisdictions only ____At least 7__
 - c) For judges of certain court levels only _At least 5____
 - d) Are there Associations of Judges on some other criteria (i.e. women judges) __Yes (Women judges, Judges in Wales) etc The Association of Women Judges is (exceptionally) open to women judges throughout the UK.____

Total number of all types of Associations of Judges ____At least 15__

Other objectives _____

It should be noted that in the UK associations of judges are the spontaneous creation of the judges themselves. They choose to group themselves together, primarily to advance their own interests. The judges who form an association are self-selected, in that any group of

judges with common interests may choose to set up an association. It is partly for that reason that it is not possible to be specific about exactly how many associations there are.

Membership

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

It depends on the association. In the case of the High Court judges' Association, membership is limited to High Court judges. In the case of the Council of Circuit judges, membership is limited to circuit judges and retired circuit judges. There are other associations for Tribunal judges, Immigration judges, employment judges etc. In the case of the Association of Judges of Wales, both full time judges and retired judges are eligible. In the UK there are many tribunals where the judges include non-lawyers (e.g. medical practitioners, or trade union representatives in employment cases) who have their own associations. In most cases, a modest annual fee is payable. The fee varies from £10 to £70 per annum.

3. Are prosecutors members of the Associations of Judges?

No. In the UK prosecutors are generally employed by the Crown Prosecution Service, which is not regarded as part of the judiciary.

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?

Each association has its own constitution. The constitution is not prescribed by law. It is a document drawn up by the judges who establish the association. None of the associations is officially recognised by law; and there are no regulations with which they must comply.

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 type="radio"/> yes <input type="radio"/> no
Defending and fostering the rule of law	<input type="radio"/> yes <input type="radio"/> no
Fighting for economic safeguards of judges	<input type="radio"/> yes <input type="radio"/> no
Fighting for social and physical security of judges	<input type="radio"/> yes <input type="radio"/> no
Contribution to the development of the law	<input type="radio"/> yes <input type="radio"/> no
Training of judges	<input type="radio"/> yes <input type="radio"/> no
Ethics and accountability of judges	<input type="radio"/> yes <input type="radio"/> no
Involvement in judicial self-government, especially influencing the election of officers	<input type="radio"/> yes <input type="radio"/> no

of self-government	
Media work	<input type="radio"/> yes <input type="radio"/> no
Organising conferences	<input type="radio"/> yes <input type="radio"/> no
International contacts and networking	<input type="radio"/> yes <input type="radio"/> no
Other objectives (which)	<input type="radio"/> yes <input type="radio"/> no

The objects of each association are usually expressed in very general terms. For example, the objects of the Council of Immigration judges are “to promote the interests of Immigration Judges, both fee paid and salaried, throughout Scotland, Northern Ireland, England and Wales”. The objects of the Association of Judges of Wales are “to promote and foster: the administration of justice in Wales; the interests of the judiciary in their work in Wales; a collegiate atmosphere amongst all members including arranging social events for judges and their spouses/partners; relations between judges in Wales and judges in other jurisdictions.” The objects of the High Court judges’ association are to “represent to the Lord Chief Justice (and other judicial office-holders), the Judge’s Council, the Judicial Executive Board, the administration of Her Majesty’s Courts Service and others (as may be appropriate) the views, interests and opinions and resolutions of the Judges of the High Court on matters affecting them.” The objects of the High Court Masters Association are to “represent the views, interests, opinions and resolutions of the Masters to the Lord Chief Justice and other judicial office-holder.” The objects of the Association of Women Judges are to “enable women judges, full and part time, to contribute to the understanding and resolution of legal issues facing women; to increase recognition of factors affecting women’s experience of the legal system and promote good practice; and to enhance human rights and to decrease the barriers to women’s entrance to and progress through the judiciary.”

Most associations attempt to safeguard the economic safeguards of judges (i.e. salary and pensions) and to improve judges’ working conditions generally.

Some associations organise social events, such as an annual dinner.

Other associations hold annual conferences where topical issues are discussed.

Support of individual judges

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

Usually by electronic communication; and/or by annual meetings. The High Court Judges Association also has plenary meetings three times a year.

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

Associations act for the collective benefit of their members rather than individual benefit of particular judges. An individual judge can, however, seek advice from an association about issue arising in their judicial work.

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

No; but where a judge is facing disciplinary action an association may offer advice or assistance.

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?

An association would report it to the Lord Chief Justice or another leadership judge.

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

No. Appointments are decided by an independent Judicial Appointments Commission; although there at least two judges who sit on the Commission in their individual capacities.

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

No; but judges are often asked to adjudicate such procedures. When they do so they do so as individuals and not as members of any Association.

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

The Lord Chief Justice has statutory responsibility for the training of judges. The Senior President of Tribunals has similar duties in relation to tribunal judges. Training of the judiciary is mostly organised by the Judicial College. Individual judges act as trainers and tutors; but they do so as individuals rather than as representatives of their Association. As mentioned, some associations also organise their own conferences or training sessions, but this is uncommon.

Resources

11. Are there membership fees?

There is usually a modest annual subscription (in the region of £10 to £70 depending on the association).

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

None in general. But in the case of some associations the time spent by members of committees and officers is counted towards their required sitting days; and travel and other expenses may be reimbursed.

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?

Judges' associations do not generally have a secretariat. Officers are generally elected by the members of the relevant association and hold office for a fixed number of years (generally two or three).

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?

Yes. The constitutional document will lay this down. The fixed term of office (see answer to question 13) is generally renewable.

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

Not generally but in some cases a judge must have served a term as a committee member before being eligible for proposal as an officer.

Interactions with state institutions and political parties

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

They do not. Individual judges may be invited to give evidence to Parliamentary Committees. In modern times, judges who have been asked to attend have done so voluntarily, subject to the well-established and long-standing rules and conventions that prevent judges from commenting on certain matters. Parliamentary Committees respect these rules and conventions. The Lord Chief Justice appears before the parliamentary Justice Committee once a year.

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

Associations of judges will generally respond to consultations on changes in the law proposed either by the government or by the official law reform institution (the Law Commission) which has a duty to consider law reform. The Law Commission is chaired by a senior judge.

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

Informal: see above

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

Interaction with the government is generally carried out by the Judicial Executive Board and the Judges Council. Both are chaired by the Lord Chief Justice; and consist of senior members of the judiciary. Associations may make representations to government appointed bodies (such as the Senior Salaries Review Body). Officers of other associations may have occasional meetings with officials from the ministry of justice.

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

They do not. The Code of Conduct prohibits any appearance of political bias.

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

No: see last answer.

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?

The Judges' Council is representative of members of the judiciary of England and Wales. Some associations (but not all) nominate members of the Judges' Council.

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)?

Some associations nominate members of the Council of Judges. They have no involvement in the appointment of presidents of courts or judges. But, as noted in answer 8 above some judges in their individual capacities are members of the Judicial Appointments Commission.

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

Interaction with court administration is generally carried out through leadership judges rather than through associations of judges.

Interactions with other organisations

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

Many judges will be members of more than one associations (e.g. by reference to the geographical area in which they sit, the types of case over which they preside and their level in the judiciary). There may also be informal consultations with other associations (over such matters as judicial salaries).

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

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

They do not, except for responding to proposals for law reform (see answer to question 16)

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

The Judges' Council is a member of the European Network of Judges' Councils (ENCJ). The Judicial College participates in exchange programmes run by the European Judicial Training Network (EJTN). The Lord Chief Justice may also nominate a particular judge to be a member of an international organisation (e.g. the CCJE).

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?

Ethical standards for the judiciary are contained in the Guide to Judicial Conduct. This was published by the Judges Council following extensive consultation with the judiciary. The individual Associations will have participated in that consultation exercise. The Guide is revised from time to time. When revisions are under consideration, associations of judges are consulted. The latest version was published in March 2019. The Judicial College also organises courses in judicial ethics.

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

See previous answers. In addition at their meetings associations of judges will discuss matters relating to the administration of justice.

Perception

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

It is doubtful whether the public at large is aware of associations of judges.