



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?

There are four types of associations of judges in Ukraine:

1. nationwide – spread its activity all over the state territory;
2. regional – act in certain regions of Ukraine;
3. by jurisdiction – established under the particular jurisdiction;
4. by gender – established by women judges.

In general, there are such associations of judges in Ukraine:

- Association of Judges of Ukraine
- Association of Administrative Judges
- Association of Judges and Judges of Ukraine
- Association for the Development of Judicial Self-Government of Ukraine
- Association of Commercial Court Judges
- Association of Judges of the Constitutional Court of Ukraine
- Association of Judges of Kyiv
- Association of Judges of Zaporizhzhia Region
- Association of Investigative Judges of Ukraine
- Association of Judges of Kharkiv Region
- Association of Judges of Donetsk Region
- Association of Judges of Vinnytsia Region
- All-Ukrainian Association of Women Judges

- a) For judges of all jurisdictions and all court levels – 9
- b) For judges of certain jurisdictions only – 4
- c) For judges of certain court levels only – none
- d) Are there Associations of Judges on some other criteria (i.e. women judges) – yes (All-Ukrainian Association of Women Judges)

Total number of all types of Associations of Judges – 13

Other objectives – none

### Membership

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

The membership in associations is voluntary. Members of the Association may be citizens of Ukraine who are acting judges or retired judges. They have to accept the goal of the Association of Judges of Ukraine and contribute to its responsibilities. The Association may have: 1) collective members, which are non-governmental organizations, which unite judges; 2) honorary members who are not Ukrainian judges but have made a significant contribution to the development of independence of the judiciary and the Associations of Judges. The founders of the Association automatically become its members.

3. Are prosecutors members of the Associations of Judges?

No. Prosecutors are not members of the Associations of Judges, although the statutes have not a direct prohibit prosecutors from being members the Associations of Judges.

### 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 Associations of Judges in Ukraine are non-governmental organizations (all-Ukrainian non-governmental organizations) established under the general Law of Ukraine “On Civil Associations”. The Association of Judges carry out its activities based on the Constitution of Ukraine, the Law of Ukraine “On Civil Associations”, other laws of Ukraine and its Statute. There is no special law on the establishment and activity of judicial associations in Ukraine.

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	2
Fighting for economic safeguards of judges	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	
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	
Training of judges	<input checked="" 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	<b>3</b>
Other objectives – Promoting of the development of civil society in Ukraine; – development of democratic legislation and justice; – development of legal theory and legal education	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	

### Support of individual judges

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

The Associations of Judges organize and hold round tables, training seminars for judges, conferences.

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

Yes. Judges receive assistance from the Associations, such as: 1) judicial protection of the Association members' interests; 2) consultations from the Associations.

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

Yes. The Associations of Judges in Ukraine protect the interests of all judges and operate in parallel with the Council of Judges of Ukraine, which is the highest body of judicial self-government and acts as the executive body of the Congress of Judges of Ukraine (the highest body of judicial self-government), and unites all judges of Ukraine. At their level, the Association resolves conflicts that arise between judges, judges and the media, judges and citizens.

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 Associations of Judges apply to bodies (persons) who have interfered with the independence of a judge or the judiciary, with a warning about the inadmissibility of such actions. If these actions show signs of an offense, the Associations of Judges will appeal to the relevant law enforcement bodies to investigate and bring perpetrators to justice. The Associations of Judges also appeal to the Council of Judges of Ukraine and the High Council of Justice; are allowed to go before the court.

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

No. The Associations of Judges have no influence on the appointment or promotion of judges

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

No. The Associations of Judges cooperate with the judiciary, but do not affect the process of disciplining judges.

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

Yes. To fulfill their tasks, the Association of Judges, in accordance with the procedure established by the legislation of Ukraine, organize and hold educational and scientific conferences, seminars and other events aimed at promoting the development of civil society, ensuring the independence of courts and judges, improving the professional level of the judiciary, protecting the rights and interests of judges. They can coordinate their activities in this area with the National School of Judges of Ukraine.

## **Resources**

11. Are there membership fees?

Yes. The fund of the Associations of Judges is formed, including, from membership fees, which are set by the Congress of the Association.

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

Funds of the Associations of Judges consist of:

- from the income from the main activity, which corresponds to the purpose and objectives of the NGO;
- from voluntary contributions and donations from enterprises, institutions, organizations, banks, individuals, donor organizations;
- from passive income;
- from other proceeds not prohibited by the current legislation of Ukraine for non-governmental organizations;

The Associations of Judges are also allowed to financial support at the funded from the State Budget of Ukraine and local budgets in accordance with the Law of Ukraine "On Civil Associations".

## **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 Congress of the Association of Judges, which is the high collegial administrative body of the Association, by simple majority vote of the present delegates, elects the President and Vice-President of the Association, the Board of the Association and the Auditing Commission of the Association.

Members of the Board of the Association and the President are elected for 4 years.

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 President of the Association is elected for a term of 4 years and cannot be re-elected for another consecutive term.

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

Yes, there are restrictions on combining. So acting or retired judge, who does not hold any administrative position other than a judge in an administrative position in court (president, deputy president, or academic or teaching activity) can be elected as the President of the Association of Judges.

### **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)?

Officially associations of judges in Ukraine are not involved in the lawmaking process. However, all draft laws under consideration by the Ukrainian Parliament and related to the judiciary are discussed by the Associations of Judges during roundtables (seminars), which develop and structure various proposals for these drafts, which are then forwarded to the Ukrainian Parliament for their consideration.

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

It is established at the legislative level in Ukraine that public authorities can involve public associations, which include the Associations of Judges, in the process of forming and implementing state policy, addressing issues of local importance, in particular by consulting with public associations on important issues of state and public life, development of relevant drafts of legislative acts, establishment of advisory, consultative and other subsidiary bodies to the public authorities, in whose work representatives of public associations take part. In 2015, the Association of Judges and Court Employees was part of the Public Council under the Ministry of Justice of Ukraine. However, to date, none of the judges' associations are members of this Public Council.

18. a) How do the Associations of Judges interact with political parties?  
b) Are certain Associations of Judges connected with certain political parties?

No, the Associations of Judges are not related or interact with political parties.

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

No, there is no influence.

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

It is established at the legislative level in Ukraine that the High Council of Justice cooperates, including with public associations, to which the Associations of Judges belong, in developing and implementing measures to ensure the independence of judges and judiciary. In addition, the High Council of Justice, in cooperation with judicial self-government bodies, other bodies and institutions of the justice system, public associations, including the Association of Judges, prepares and publishes an annual report on the situation of independence of judges in Ukraine.

- 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)?

The associations of judges in Ukraine in no way affect the process of selection of members of the High Judicial Council, presidents of courts and judges and make no recommendations. According to the Ukrainian legislation, members of the High Council of Justice are elected by

quotas from the Congress of Judges of Ukraine, the President of Ukraine, the Ukrainian Parliament, the Congress of Advocates of Ukraine, the All-Ukrainian Conference of Prosecutors, the Congress of Representatives of Law schools and Academic institutions. The Presidents of the courts are elected at the meeting of judges of the respective court. Judges are selected by the results of examinations at the High Qualifications Commission of Judges of Ukraine, training at the National School of Judges of Ukraine, and are appointed by the President of Ukraine on the basis of the submission of the High Council of Justice.

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

The Associations of Judges do not directly interact with the court administration, but have the ability to request and receive information.

### **Interactions with other organisations**

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

The Associations of Judges in Ukraine have been set up under different criteria: 1) under the jurisdiction of the courts; 2) by regions; 3) by gender of judges. However, they all share one common goal - to uphold the interests of the judiciary in Ukraine. Their interaction occurs in various forms: 1) holding joint events; 2) the possibility of joining another Association as a collective member; 3) joint media appearances in the interests of the judiciary.

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

Coordination takes place through the executive bodies of the Associations of Judges, as well as through the Council of Judges of Ukraine, the High Council of Justice.

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

The Associations of judges, jointly with non-governmental organizations, hold educational and scientific conferences, seminars and other activities aimed at promoting the development of civil society, ensuring the independence of courts and judges, improving the professional level of the judiciary, protecting the rights and interests of judges.

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

Of all the associations of judges represented in Ukraine, only one Association of Judges of Ukraine is a member of the International and European Judicial Associations. Representatives of the Association of Judges of Ukraine take an active part in their activities, attend congresses, share experiences, and inform about the situation of independence of the judiciary in Ukraine. In addition, representatives of the Association of Judges of Ukraine often take part in international conferences, congresses, meetings with judges associations of other countries, and learn the international practice.

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 Constitution of Ukraine prohibits judges from belonging to trade unions.

### **Ethical standards**

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

The Council of Judges of Ukraine is responsible for developing ethical standards for the conduct of judges and amending them. However, at their meetings, the Associations of Judges discuss issues of concern, submit their suggestions and comment on draft ethical codes and amendments thereto.

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

In order to improve the judicial system, the Associations of judges hold seminars (roundtables) that are dedicated to role of the judicial power in the lawmaking process. During these seminars amendments to the Codes, Laws (concerning the judicial system) are discussed, suggestions are developed and structured and subsequently forwarded to the Parliament of Ukraine for its consideration. Working groups are also being set up in the Associations of Judges to prepare innovations in the field of justice.

In addition, the Associations of judges work closely with the National School of Judges of Ukraine and undertake joint training activities for judges

### **Perception**

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

Unfortunately, the Ukrainian public is not very informed of the activities of the Associations of Judges. First of all, it is related to the general indifference of the citizens to the problem of the judicial power, although the Associations of Judges make sufficient efforts to inform the public about their activities.