It was decided by the First Study Commission of the IAJ held in Marrakech Morocco, that the following topic will be discussed in the 2019 conference:

“Social media and the judiciary, notably:

1. How best to respond to unfair comments about judges made on social media;

2. Use of social media by judges and courts: opportunity or danger?”

The use of social media is widespread in society today. Although there is a general perception that they are more frequently used by the younger generations, that is to say, by the so-called “digital natives”, their users include older people, corporations, politicians and public agencies as well.

Social media can be a practical, fast and inexpensive tool for making contact to other people and for exchanging information, but it can also be a means of disseminating inappropriate and offensive ideas and behaviours.

In order to understand to what extent this scenario may affect the activity of judges and courts, we present the following questions:

1. What is the best way to respond to unfair comments about judges made on social media? Should the response be given through social media itself or should it be
given by other means? Who should be responsible for this response, the judges themselves or someone on their behalf? If possible, kindly provide examples of cases in which said responses were given and what were the results and outcome (good or bad) of said responses accordingly.

➢ It depends on the extent of the offence. If the extent of the offence is small, the answer can be given by the judge through the social media he/she uses, but, he/she must adhere to the principles of Judicial Conduct (The Bangalore Principles, 2009-2010, see Article 29 (3) of the Greek Constitution and Article 91 (4b) of the Greek Code of Judicial Officers). If the extent of the offence is large, the answer may be given by the Association in which the judge is a member (Judicial Associations), or the judge may file a criminal complaint (private prosecution) against the person who allegedly committed the crime of defamation (slander or libel) or file a petition seeking restitution for defamation together with a claim for damages. For example, if a judge is wrongly accused through social media of misconduct in a case, the intervention of the Judicial Association has a calming effect on the situation.

2. Are there rules in your country defining how to respond to unfair comments about judges made on social media? If so, are those rules determined by some higher body of the judiciary and are they binding?

➢ There are no specific provisions for judges in this jurisdiction, but general provisions of the Greek Civil and Penal Codes, which protect every citizen from unfair and defamatory comments that are made through social media, apply.

3. Do the courts of your country use social media as a means of communication? If so, which ones are used (e.g. Facebook, Instagram, Twitter or others)? In general, what type of information is disseminated by the courts through social media? If possible, kindly give examples. Do the courts have any communication assistance for this purpose? Are there rules that establish what contents can be released by the courts through social media? If so, who defines these rules? Have the courts of your country ever suffered criticism for any content published on social media? If so, kindly give examples.

➢ So far, no court in this jurisdiction has been using social media as a means of communication, except for Judicial Associations.

4. Are judges in your country allowed to use social media in their private lives? If not, where is this prohibition stated and determined? If so, are there any rules setting limits for the expression of judges on social media and accordingly what are these limits?
Judges in this jurisdiction can use social media, participating in this way in the lifestyle of the modern-day world as part of the freedom of expression provided for in Article 14 (1) of the Greek Constitution, Article 10 of the European Convention on Human Rights (ECHR) and Article 11 of the Charter of Fundamental Rights of the European Union, but must observe the principles of Judicial Conduct (The Bangalore Principles, 2009-2010) as well as Article 29 (3) of the Greek Constitution, in accordance with which a judicial officer may express an opinion on political matters or on any matter or issue of any kind, provided that this does not constitute a concealed political party’s opinion, as well as Article 91 (4b) of the Greek Code of Judicial Officers, according to which the expression of an opinion in public does not amount to misconduct, unless it is done with a view to reduce the authority of the judiciary or in favour of a particular political party or other political organisation. The latter will be decided after taking into account the manner, means and circumstances in which the judicial officer has publicly expressed his/her opinion. For example, speaking in an angry and abusive style (for example, by using slogans) would amount to disciplinary offence, since the way by which the judicial officer expressed himself/herself is incompatible with his/her office. Criticism towards the legislative framework is permissible, as long as it is not undermining the whole legal order. In other words, the judicial officer may express himself/herself with the principle of prudence consistent with his/her office. Judges must use social media responsibly and knowing that there is a direct and broad exposure of any information shared on them. Judges are responsible for how they use social media. All contacts are allowed insofar an objective observer cannot take the view that they may affect/impair the judgment of the judge. Any contacts that may adversely affect the image of the judiciary/judicial authority must be avoided. Care is needed in choosing or maintaining online kisses. However, the concept of online friendships and contacts is not necessarily the same as in real life. Communication with parties, lawyers and other trial parties in pending cases, should be avoided. The judge must be careful when choosing his contacts. However, just the mere chance of someone’s future involvement in a case should not pose a barrier to online contacts. Procedural rules, such as the requirement for the judge to refrain from sitting on a case because of a reasonable apprehension or suspicion of bias, must be applied whenever there is a likelihood of a breach of the principle of impartiality. Indirect connections (such as participation in the same group/community/group of friends) should not be as serious as direct contact with someone. Judges may
allow comments on their posts. In case of inappropriate reactions, comments can be questioned/deleted.

5. Have there ever been cases in your country where judges were criticized by the press or had disciplinary problems because of the content of their posts on social media? If so, kindly give examples. Have there ever been cases of judges who have been disciplined because of those posts? Is there a disciplinary body in charge of imposing sanctions on judges in such cases?

➢ In recent years, due to the widespread use of social media from judges, there have been more cases of judges in this jurisdiction who have been criticised by the press, mainly because of the political positions they have expressed through social networks. Because of these criticisms, disciplinary investigation by the competent disciplinary bodies provided for in Article 91 of the Greek Constitution and the Greek Code of Judicial Officers (Article 90 et seq.). The disciplinary investigation may also be ordered by the Minister of Justice. Recently, a disciplinary investigation was launched, and disciplinary action was brought against a judicial officer, because he posted on Facebook pictures with insulting comments about the President of the Hellenic Republic and the Prime Minister. He also called for the resignation of the President of the Hellenic Republic and the resignation of the Prime Minister whom he addressed as ‘The National Traitor’. The disciplinary bodies competent to impose the relevant disciplinary sanctions in case the judge who is the subject of the disciplinary investigation is found guilty of the disciplinary offense in question, are those provided for in Article 91 of the Greek Constitution and Article 97 of the Greek Code of Judicial Officers, and these bodies are the competent authorities for all disciplinary offences of judges. These are basically disciplinary councils, primary and secondary, formed by a draw selection of judges, as defined by law.

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