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 behaviors.
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 happens from time to time that court decisions are criticized in social media. However, the fact that Judges themselves are exposed to personal attacks in media is relatively rare but it happens. There is generally no reason to respond to such comments, but in the event of a clear infringement of the personal sphere or honor it can sometimes be in place. It is suitable that a press officer or the Chief Justice of the Court make a clarification, eg. via a press release, not the Judges themselves.

There are several examples when clarifications or comments have been made, eg. concerning the burden of proof in sexual assault cases. In general, the inappropriate comments in social media cease after such clarification by the court.

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?

No, there are no specific rules concerning this matter. To facilitate the work of the Courts, a guideline has been produced by the National Courts Administration with information on what both the Courts and employees should have in mind from a security perspective when it comes to online presence. The guide also clearly describes some measures that the courts can take when Judges or other personnel is subjected to harassment or threats.

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.

The Swedish Courts and the National Courts Administration body uses social media.
Facebook allows the Courts to interact with the public in different ways.

Many Courts, including the Supreme Court and the Supreme Administrative Court, use Twitter for press releases and external monitoring.

When recruiting, LinkedIn is used as a professional site for the courts. Often, it is on the LinkedIn courts find future employees, as many who are interested in jobs both have their personal profile and CV available on the page.

The Swedish Courts are also visible on Instagram and the Courts also have their own channel on YouTube.

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 the Swedish Courts are allowed to use social media privately. The National Courts Administration has, as mentioned above, established guidelines for the use of social media in a safe way and how to act if one is exposed to threats, harassments etc.

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?

The Public Disciplinary Committee examines issues of disciplinary responsibility, prosecution, dismissal and suspension of Judges.

Theoretically, unethical or otherwise inappropriate behavior on social media could lead to a report to the board for a disciplinary proceeding. Any such case has, as far is known, not yet occurred.