Danish Response

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 is hard to give a general response to this question. The first thing to consider is if the unfair comment deserves a response at all, depending of its character. The second thing to consider is in which kind of media a response should be given. Generally, making a serious comment on a social media on an unserious comment leads to a great risk of generating further unserious comments. If a response needs to be given, it should be considered to give it in an objective media or as a press release instead of using the social media.

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 such rules in Denmark.

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.

Generally, the court system in Denmark do not use social media. A few courts have a facebook profile, which is used for limited purposes, like opening hours and participation in cultural events in the local area, but newer in case related matters. There a few guidelines from the Courts Administration regarding behavior on social media, but mostly related to the use of private facebook profiles in relation to making comment on the work in the court etc.
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?

Yes, the judges are allowed to do so. There are no direct rules, but the ethical codex for judges have some general guidelines, such as acting in a way, which is suitable for maintaining the general confidence in the courts and the reputation of the judges, and such that there is a connection between the values of the courts and the actions of the judge.

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?

There has to our knowledge never been such cases. If it should occur, there is not a special disciplinary body. A complaint would have to be made through the usual complaint system that exists if one is dissatisfied with a judge’s behavior.