

Decision-making in the Tribunal for Consumer Claims: A Critical Review

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Abstract: While the Tribunal for Consumer Claims (TCC) was established to address a wide range of consumer disputes relating to goods and services in a speedy manner, decision-makings are sometimes questionable as the decision-maker (President) may not have the technical knowledge on the respective areas. In view of the limitation that a decision-maker may possess, foreign jurisdictions started to adopt 'lay judge' (decision-maker who does not have legal background) with the objective to assist the legal judge with technical or social assistance. The involvement of the lay judge is aimed to assist the legal judge with components of discussions that the legal judge may not be well equipped, and this is reasonably understood in the EU countries and Australia. It may be a solution to the issue of lack of knowledge of the legal decision-maker (President) in the current TCC. Through qualitative and comparative approaches, this paper uncovers that participation of 'lay judge' is not alien in the administration of justice in some "administrative tribunals" in Malaysia. Nevertheless, this lay participation is absent in the TCC, thus further research on this area is suggested to be conducted in order to further enhance the function of TCC as an effective consumer settlement forum.

1 INTRODUCTION

The scope of the paper is to examine the practice of decision-making in the Tribunal for Consumer Claims (hereinafter "TCC") with other institutions outside the court system in Malaysia (which can be loosely referred to as "administrative tribunals") and also other foreign jurisdictions. The paper is confined to scrutinise the practice of having legal trained decision-makers to hear cases at the TCC compared to having participation of lay persons in the decision making process as practised in other administrative tribunals in Malaysia and also foreign jurisdictions, in view of the lack of such discussion in the literatures. The objective of the paper is to assess the practicality of adopting the participation of "lay judge" at the TCC as a possible solution to solve the problem of lack of technical knowledge of the President of TCC in hearing certain cases. This is necessary in view of the high cases related to car repairs which are brought to the TCC and through observation during trial at the TCC, it can be seen that often, the President faces difficulty in understanding the terms and functions of parts in the car which is the subject matter in dispute. During observation at the TCC also, apart from technical issues as a result from mechanical disputes,

technical issues can also arise as a result from operational issues that arises in services for example issues arising from holiday packages which contributes the highest disputed cases in the service industry at the TCC. As a result from the enclosed social environment of a 'legal judge', it is seen that a legal judge normally is not familiar with such nature of disputes which a 'lay judge' may be more familiar as a result of his normal way of life as opposed to a 'legal judge'. For purpose of clarity, "lay judge" can be defined as a person that does not have any legal educational background or does not undergo any legal training or does not have any legal experience that can equip him with knowledge in law. He is also a person who has an occupation which is not related to legal-related fields which include but not limited to the judicial and legal service, the law firms, the legal advisory departments in corporate entities and the law lecturers in the Universities. Whereas, "legal judge" means a person who has obtained legal education or has undergone any legal training or has gained any legal experience that can equip with knowledge in law and has made him to be qualified to work in legal-related fields which include but not limited to the judicial and legal service, the law firms, the legal

advisory departments in corporate entities and the law lecturers in the Universities.

2 MATERIALS AND METHODS

The study is a doctrinal study that adopts a qualitative research. It involves references to legal materials in the form of statutes, textbooks and articles from journals and observations at TCC. Library-based research is conducted and online databases are also utilised. Comparative studies are made with selected foreign jurisdictions i.e. Australia, France and Germany. Australia is chosen to represent the practice of consumer-related tribunals in common law countries in relation to having lay participation in its decision-making process. France and Germany are chosen to represent the practice of “lay judges” in the European countries that adopts the civil law system. Comparisons are also made with the Industrial Court and the Disciplinary Board in Malaysia to represent the practice of tribunals outside the court with regard to the involvement of “lay judges” in their institutions. Relevant statutes are referred to; the Queensland Civil and Administrative Tribunal Act 2009, the New South Wales Civil and Administrative Tribunal Act 2013 No 2, the Industrial Relations Act 1967 and the Legal Profession Act 1976.

3 RESULTS

3.1 Variations in Composition of ‘Lay-Judges’

Tribunals are sometimes referred to as “administrative tribunals” or “statutory tribunals”. In Malaysia, tribunals are established by the legislations. Administrative tribunals are set up to be less formal, less expensive, and a faster way to resolve disputes than by using the traditional court system. Tribunal members who make decisions (adjudicators) usually have special knowledge about the topic they are asked to consider. Judges, however, are expected to have general knowledge about many areas of law, and do not possess particular expertise about the law in the case they are hearing. Unlike in courts, in a tribunal hearing, the case may be heard by one adjudicator sitting alone, or by a panel of several adjudicators if the matter is complicated. These adjudicators have special training and experience to conduct hearings, but they are not judges. (Justice Education Society, 2019)

It was found that in foreign jurisdictions like some European Union countries, ‘lay judges’ are not only involved as decision makers in tribunals outside the court but they also take part in decision-makings in the courts. This paper examines the practice of having ‘lay judges’ in some consumer-related tribunals in Australia. Comparative study is made pertaining to the participation of lay judges in the courts and specialised tribunals in France and Germany as examples of European countries. Apart from that, this paper also scrutinises the practice of lay participation in selected tribunals in Malaysia; i.e. the Industrial Court and the Disciplinary Board.

In Australia, two consumer-related tribunals can be taken as examples for lessons to be learnt; the Queensland Civil and Administrative Tribunal (QCAT) and New South Wales Civil and Administrative Tribunal (NSWCAT). The QCAT is chosen because it hears, among others, cases related to consumer and trader disputes. Similarly, the NSWCAT is chosen because one of its divisions include the Consumer and Commercial Division.

At the QCAT, lay persons (or “lay judge” as referred to in this paper) that may be part of the decision makers are the senior members and the ordinary members. Section 171 (1) of the Queensland Civil and Administrative Tribunal Act 2009 (hereinafter QCATA 2009) provides for five categories of members at the QCAT; the president, the deputy president, the senior members, the ordinary members and the supplementary members. Section 175 (1) of QCATA 2009 states that the President is a Supreme Court judge who is recommended for appointment by the Minister after consultation with the Chief Justice. Section 176 (1) of QCATA 2009 further states that the deputy president is a District Court judge who is recommended for appointment by the Minister after consultation with the Chief Judge. Another category of members of QCAT with legal background is the supplementary members. Section 192 (1) of QCATA 2009 provides that if the President considers it necessary for the functioning of the tribunal, the President may request the Minister to appoint a person to be a supplementary member for a stated period. Section 192 (2) of QCATA 2009 further states that only a Supreme court judge, a District Court judge or a magistrate can be appointed as a supplementary member. The appointments of the President, the Deputy President and the supplementary members would not affect the tenure of their offices as judges, neither would it affect their salaries as judges or any other rights or privileges as judges in accordance with sections 175 (4), 176 (4) and 192 (9) of QCATA 2009.

As for the other two categories of members, a senior member and an ordinary member, section 183 (4) of QCATA 2009 further classifies them into two; one with legal background, the other with no legal background. A senior member may be an Australian lawyer of at least 8 years standing. Similarly, section 183 (5) of QCATA 2009 requires that an ordinary member may be an Australian lawyer of at least 6 years standing. For the second category of the senior member and the ordinary member who do not have legal background, sections 183 (4)(b), 183 (5) (b) and 183(6)(d) lay down similar criteria for selection i.e. those who have special knowledge, expertise or experience relating to a class of matter for which functions may be exercised by the Tribunal. Section 183 (2) of QCATA 2009 requires that the senior member and the ordinary members must be recommended for appointment by the Minister after consultation with the president of the Tribunal. Nevertheless, according to section 171 (3) of QCATA 2009, they are appointed by the Governor in Council. Section 165 (1) of QCATA 2009 provides for the quorum to hear a case of which the President must choose either one member or two members or three members to constitute the tribunal.

Lay persons acting as decision makers can also be seen in another tribunal in Australia, the New South Wales Civil and Administrative Tribunal (hereinafter NSWCAT). According to section 9 of the New South Wales Civil and Administrative Tribunal Act 2013 No 2 (hereinafter NSWCAT 2013), the NSWCAT consists of five categories of members; the President, the Deputy Presidents, the principal members, the senior members and the general members. Section 13 of NSWCAT 2013 lays down the qualifications of these five categories of members. The President and the Deputy Presidents are people having legal background. The President is a Judge of the Supreme Court. The Deputy President is either an Australian lawyer of at least 7 years' standing or a person who holds or has held a judicial office of the State or of Commonwealth, another State or territory. The principal members and the senior members can either be people with legal background (an Australian lawyer of at least 7 years' standing) or people with special knowledge, skill or expertise in the areas within the jurisdiction of the NSWCAT. The general members are those who do not have legal background that are either people with special knowledge, skill or expertise in the areas within the jurisdiction of the NSWCAT or those who are capable of representing the public (or a sector of the public), or a particular organisation, body or group of persons (or class of organisations, bodies or groups of persons).

Section 57 (3) of NSWCAT 2013 regulates the procedure of decision making at the NSWCAT. In making decision, if the NSWCAT consists of more than one member sitting in the hearing and the members are divided in their opinions, then a majority decision will be the decision of the NSWCAT. However, if the members are equally divided in their opinions, the opinion that prevails will be as follows:

(a) in proceedings in which the presiding member is an Australian lawyer or none of the members sitting are Australian lawyers—the opinion of the presiding member, or

(b) in proceedings in which the presiding member is not an Australian lawyer but one or more of the other members sitting are Australian lawyers:

(i) on a question of law—the opinion of the member who is an Australian lawyer (or the member with the greatest seniority who is an Australian lawyer), or

(ii) on any other question—the opinion of the presiding member.

It is observed that when the members of the NSWCAT cannot reach a majority decision, the opinion of the member with legal background (the 'legal judge' who is an Australian lawyer) prevails when he is a presiding judge. Similarly, when the members are equally divided in their opinions and the case before them involves a question of law, the opinion of the member with legal background (the 'legal judge' who is an Australian lawyer) will be taken as the decision of NSWCAT even though the 'lay judge' and not the 'legal judge' is the presiding judge. Nevertheless, if the case before the NSWCAT does not involve any question of law and the 'lay judge' is the presiding judge, then only the opinion of the 'lay judge' will be regarded as the decision of the NSWCAT. This shows that the opinion of the 'lay judge' is only significant in matters which do not involve any question of law.

The mixed tribunal of the legal judges / the professional judges and the lay judges in some European countries can firstly be seen in their criminal justice system. The professional judges and the lay judges jointly decide legal cases. They sit together during trials, hear and examine evidence and deliberate before making a decision. The professional judges have an opportunity to "correct" the views of lay judges and explain the law. At the same time, lay judges have the opportunity to "correct" the professional judge's view by bringing the fresh approach of an average citizen. To preserve the common element in the lay judges, some countries like France and Germany, prohibit certain occupations with legal education or experience such

as professional judges, prosecutors, attorneys or police officers to serve as lay judges. Many countries such as Croatia and Germany also require that lay judges possess non-legal specialised skills, such as a degree in educational studies or parenting experience, to serve in select types of cases, primarily those dealing with juvenile defendants. (Ivkovic, 2007).

France and Germany are given special attention in this paper since they were among the six original members that founded the European Union's predecessors; the European Coal and Steel Community in 1951 and later the European Economic Community and the European Atomic Energy Community in 1957. (European Commission, 2016)

The composition of "lay judges" in France was established in 2002. "Lay" judges are not professional judges, they are appointed by the legal profession by decree after the approval of the Higher Council of the Judiciary (CSM) for 7 years and not renewable. They exercise certain functions of judges in criminal or civil matters. In May 2009, there were 618 "lay judges". In France, the involvement of "lay judge" can be seen in the criminal division (Police Court Tribunal de Police) of the District Courts (petty offences for classes one to four) and also some civil cases under 4,000 Euro. For both civil and criminal issues, cases are tried by a judge sitting alone. Lay judges are also involved in hearing cases in the Regional court and its criminal jurisdiction. There are generally three judges hearing cases in these courts; one of them may be a "lay judge". However, occasionally the courts are presided by a single judge. The "lay judges" also participate in specialist courts in France such as Labour courts, Commercial courts, social Security courts and Agricultural and Land tribunals. Judges of these specialist courts are non-professionals and are elected or chosen with the respect of equal representation. (Ministry of Justice, 2012).

Another specialist court in France, the Juvenile courts, that hear youth offences by offenders who are below 18, also involves the participation of "lay judges". The Juvenile courts are presided by one juvenile court judge assisted by two lay judges and one court clerk. For most serious cases, there are Juvenile Assize courts which have jurisdiction for offences committed by minors from 16 to 18. These courts are made up of three professional judges and a jury made up of 9 civilians randomly chosen. (Ministry of Justice, 2012).

Similar to France, lay judges in Germany also sit in criminal cases in the courts of first instance i.e. in local (Amtsgericht) and Regional (Landgericht) courts and in appeal proceedings at the Regional court. They are two lay judges sitting in addition to

one or two or three professional judges, depending on which court it is. In addition, the lay judges in Germany are also involved in the specialist courts like the Labour tribunal and the Agricultural court. Lay judges in the Labour (employment) tribunal proceedings are required to have knowledge and experience in the field of labour (employment) and of world of work. The members in the Labour (employment) tribunal proceedings consist of three members; one presiding judge who is a professional judge, one lay judge as a representative of employees and one lay judge as a representative of employers. On the other hand, in the Agricultural courts in Germany, lay judges sit in courts for agricultural matters in all the instances in agricultural court proceedings. An agricultural court at local level is generally composed of one judge of the local court as chairperson and two volunteer lay judges. Panels of judges in the Higher Regional Courts and in the Federal Supreme Court are composed of three professional judges and two lay judges. One of the criteria to be lay judges in the Agricultural courts include those who are working in agriculture in the jurisdictional district in a self-employed capacity either as a main or subsidiary profession. Another specialist tribunal in Germany is the Trade Matter Court. At the regional level there are special chambers for trade matters to pass judgement in disputes between merchants. In these chambers, merchants / businessmen sit as lay judges, they are known as "trade matter judges". Other qualifications to be appointed as trade matter judges include member of a board, managing director or an authorised signatory of a business. A Trade Matter Court is comprised of one professional judge and two lay trade matter judges. In Germany, lay judges are generally referred to as volunteer lay judges. They do not receive a salary or stipend. They receive compensation for their time and for actual expenses incurred. (Deutsche Vereinigung der Schöffinnen und Schöffen. (German Association of Lawyers and Schöffen), (2009-2016).

Tribunals can be loosely referred to as bodies or persons that adjudicate on specific matters as provided by the statutes. In Malaysia these would include the Tribunal for Consumer Claims established by the Consumer Protection Act 1999, the Industrial Court as established by the Industrial Relations Act 1967 and the Disciplinary Board as established by the Legal Profession Act 1976. Tribunals like the Industrial Court that deals with trade disputes between the employers and the employees and the Disciplinary Committee that assists the Disciplinary Board in investigating an alleged misconduct of a lawyer are

examples of tribunals having lay persons in the decision making process.

The decision makers at the Industrial Court shall consist of three people; the President and two members selected by the President, one from each of the panels specified in section 21 (1) of the Industrial Relations Act 1967 (hereinafter IRA 1967); one panel representing employers and one panel representing employees. (Yeoh, 2011). Section 21 (1)(a)(b) read together with section 2 of IRA 1967 provide that the President shall be appointed by the Yang di Pertuan Agong and the panel representing employers and the panel representing employees shall be appointed by the Minister of Human Resources. The President is assisted by a number of Chairmen in two or more Divisions of the Industrial Court as stated in section 23 of IRA 1967. (Aminuddin, 2011). Section 23A of IRA 1967 further explains that the President and the Chairman of the Industrial Court are selected among those that have legal background. He or she is either a senior lawyer of seven years in practice or a member of the judicial and legal service of the Federation or of the legal service of the Federation. The qualifications of members of the two panels representing employers and employees are not stated in the Industrial Relations Act 1967. In practice, the members of the panels are appointed by the President after consultation with relevant organisations such as the Malaysian Trades Union Congress (MTUC) and the Malaysian Employers Federation (MEF). These bodies submit lists of persons considered suitable to sit on the panels. The President is empowered to choose from these lists. The panel members are then rostered to attend court hearings. However, where the case being heard is a complaint of unfair dismissal, the President or Chairman can sit alone without a panel. (Aminuddin, 2011).

The composition of members in both the Industrial Court and the Disciplinary Board show not only people having expertise hearing the cases before them but lay persons to be involved in their decision making. Two members of the Industrial Court are lay persons selected from the panel representing employers and the panel representing employees.

As for the Disciplinary Board, its members are those having legal background. Section 93 (3) of the Legal Profession Act 1976 (hereinafter LPA 1976) provides for the composition of members of the Disciplinary Board. The Chairman must either be a retired judge or a person having the qualification to be a judge at the superior courts; the High Court, the Court of Appeal and the Federal Court. The other members are from the legal profession itself; the

President of the Bar Council and senior lawyers with a minimum of 15 years experience.

The Disciplinary Board is assisted by the Disciplinary Committee in making its decision. One of the three members of the Disciplinary Committee consist of a lay person. Section 103A (2) reads together with section 96 (1) of the LPA 1976 provide for one lay person to be the third member of the Disciplinary Committee in addition to the other two members who are senior lawyers of at least 10 years standing. The Disciplinary Committee is appointed from the members of the Disciplinary Committee Panel which consists of 30 members; 20 members are lawyers of not less than 10 years standing and have valid practising certificates and 10 members are lay persons as stated in section 96(1) of the LPA 1976.

The role of the Disciplinary Committee is crucial whereby it helps the Disciplinary Board in making inquiries and finally giving recommendations as to its findings and the suitable punishment related to the case. Decided cases had shown the importance of the findings made by the Disciplinary Committee as to whether an advocate and solicitor is guilty of a misconduct, which is usually agreed upon and adopted as the decision of the Disciplinary Board. Examples can be found in the Court of Appeal decisions in the cases of *Iszam Kamal bin Ismail v. Prestij Bestari Sdn Bhd (Majlis Peguam Malaysia, Intervener)* and *Ramasamy a/l Amaippan v. Kwan Lee Pin (Majlis Peguam Malaysia, Intervener)*.

Although the Disciplinary Board usually follows the finding of guilt or innocence by the Disciplinary Committee, the Disciplinary Board still retains the power to decide whether it agrees or disagrees with the recommendations of the Disciplinary Committee on the appropriate punishment for the misconduct committed by the advocate and solicitor. Section 103D(1) of LPA 1976 provides that the Disciplinary Board may affirm or reject the recommendations of the Disciplinary Committee. Section 103D (2) of LPA 1976 further allows the Disciplinary Board to impose a greater punishment.

3.2 Benefits of Lay Participation

In the literature, a number of benefits of participation of lay judges had been highlighted. Firstly, lay judges relate to the principle of democracy. Citizens need to participate not only in Parliament but also in the administration of justice i.e. in the decision-making process in the courts. Secondly, lay judges serve as supplements to the professional judges. Professional judges are seen to belong to the upper half of the

society but sit in judgment of the lower half, which they would not know and they do not experience the struggles of the self-employed, the ordinary worker and the welfare recipient. The lay judges would be able to give the wider social spectrum of people in the work of the courts. Thirdly, the lay judges can contribute effectively when they have knowledge, expertise and experience in the areas that the professional judges lack knowledge. Fourthly, lay judges can represent social interests in certain areas such as in specialised labour courts where there are representatives of both employers and employees as members of the labour courts. Fifthly, lay judges allow a discussion with the professional judges and may lead to a more balanced conclusion. Finally, there are other additional effects to lay participation in court; the legitimisation function and the education function. For the legitimisation function, the parties involved and the public may experience a better court system that is closer to the people. For the education function, it may involve three forms. In the first form, the lay judges are educated by their own experience in court. In the second form, they will share their experience and educate their colleagues, families and friends. This will broaden the public knowledge of law and courts that will lead to the ‘multiplication function’. In the third form, trials before lay judges have to be made in an accessible language and in all necessary details to help the lay judges to understand the whole process. Consequently, parties to the dispute can understand the arguments and the audience present in the court room also can follow the proceedings. (Machura, 2016).

3.3 Problems with Lay Participation

There were problems with lay participation that occurred in some EU countries. Firstly, the selection process should allow lay judges that represent their communities. However, the eligibility requirement of citizenship and politics resulted in overrepresentation of middle-class citizens and underrepresentation of lower-class citizens. An example can be seen in Germany where the industrial worker of lower social class are underrepresented as compared to the civil servants who are overrepresented. Secondly, there should be the same weight in the votes of the lay judges and the professional judges that would give them equal influence during trials and deliberations. However, in reality, the professional judges dominate the lay judges. In Croatia for example, its criminal procedure law gives additional rights and responsibilities to presiding judges, who may only be professional judges. In Germany, while professional

judges may access the case dossier, the lay judges are denied of the same access. Thirdly, it is very rare that the lay judges outvote the professional judges when there are disagreements among them. In German criminal courts for example, the overall effect of the lay judges on the verdicts of the courts was indeed small. The active roles and the higher status of the professional judges allow them to persuade the lay judges and gently guide them towards making the preferred decision. Fourthly, the criticisms and the negative perceptions of the professional judges towards lay judges will result in the views, the comments or the contributions of the lay judges not to be taken into account by the professional judges. In Poland for example, those who opposed the practice of lay participation argued that lay judges were more emotional and lenient, justifying the professional tribunals to be preferable. Another example in Finland found that the Finnish professional judges criticised lay judges for being emotional, having a lower standard of proof, being too easily persuaded by professional judges and revealing trial-related secrets. Finally, another distortion may happen if the practice of lay participation is made for political reasons. For example, in legitimising the apartheid government in 1991, South Africa gave professional judges, who were mostly white, the discretion whether to sit with lay judges, who were mostly black. It was later found that between 1991 and 1995, the overall number of cases across the country in which lay judges participated was “exceedingly low”. It was proven here that giving professional judges the discretion whether to have lay judges to participate in making legal decisions may result in no lay participation at all especially if the professional judges dislike lay judges or directly oppose the system of lay participation. (Ivkovic, 2007).

4 DISCUSSION

‘Lay judges’ appear to be more significantly used and discussed in criminal-related hearings in some jurisdictions compared to the others. Although ‘lay judges’ are applied in tribunal hearings in some aspects of civil jurisdictions, the methodology behind the decision-making by the ‘lay judges’ are not widely discussed and therefore, findings of actual practice of ‘lay judges’ in tribunals can be further gathered through fieldwork. Proper consideration of the practicality of the adoption of ‘lay judges’ in Tribunal for Consumer Claim may bring about the possible solution of practical issues in the tribunal such as lack of technical expertise.

5 CONCLUSIONS

By referring to the above-mentioned practices of consumer-related tribunals in Australia, the mixed tribunal of the professional judge and the lay judge in France and Germany, the panel of three members at the Malaysian Industrial Court and the Disciplinary Committee assisting the Disciplinary Board of the legal profession, there can be two possible approaches in the lay participation that the TCC can adopt. The first approach is where the lay judge can be made part of the panel hearing cases together with the President of the TCC. To avoid dominance of the 'professional judge' / 'legal judge' over the 'lay judge' in a mixed panel of decision makers, there should be a demarcation of different roles to be played by the lay judge and the President as the professional / legal judge. A possible practice would be where the 'legal judge' will look at the legal issues in the case before him while the 'lay judge' will assist the 'legal judge' in terms of the factual issues which may include the technical issues that the 'legal judge' lack knowledge. When the 'legal judge' would be able to rely on the expertise of the 'lay judge', the 'lay judge' can be seen as contributing effectively as a team in making decision together with the 'legal judge'. As for the second approach, it is also possible to appoint the lay judge as an expert to give inputs to the President as and when it is necessary. This may happen during the pre-trial process when the 'legal judge' is making preparation for hearings and it can also be extended during hearings where the 'legal judge' can consult the 'lay judge' as and when it is necessary. In the two above-mentioned approaches, it is pertinent to have the 'lay judge' who can contribute effectively and participate actively in solving the cases before the TCC. The 'lay judge' plays the supplementary role to the fundamental role of the 'legal judge'. Therefore, the 'lay judge' should not be any layman pick in the street but he must be someone with expertise, experience and/or knowledge in the areas of cases that he is hearing. It should also be suggested here that if the first approach is to be adopted, a three-panel of one 'legal judge' and two 'lay judges' is a viable option in order to avoid a deadlock in decision-making. However, in case a majority decision cannot be reached, then a veto power of the President of the TCC to finalise the award of the TCC is unavoidable. On the issue of which cases are suitable for the lay participation to be practised in the TCC, it should not be made applicable to all types of cases but only to selected cases. Cases where the technical knowledge and the expertise of the lay judge are needed to assist the President of the

TCC to make its decision are viewed as the most suitable cases to be selected. Last but not least the above suggestions can be adopted to allow the participation of the "lay judge" at the TCC as a possible solution in solving the problem of lack of technical knowledge of the President of TCC in hearing certain cases.

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