

Report from BRASIL

1. Are there assessments on the occasion of the appointment (of a judge) to another position or function?

In our system a judge can't be appointed for another function (for example, Justice Prosecutor). For a superior post in the judiciary hierarchy, there is assessment by the own tribunal that the judge is related, with fiscalization of the National Council of Justice.

2. Are there assessments on other occasions?

The magistrates are assessed permanently, through the analysis of their quantitative and qualitative production, by a institution of their own tribunal.

3. Who is in charge of the assessments?

Check the previous answers. Beside the "Corregedorias" of Justice, that the function is to do the analyses of the activity of the magistrates, there's in the top of the national judiciary pyramid, the National Council of Justice, that can revise administration acts of the courts.

4. Please describe how a assessment is conducted.

Assessments don't constitute a formal process. In promotions for superior post, the criterions are, alternately, the seniority in the career and the merit. For measure the merit never was found satisfactory objective criterions. However, it's necessary that the judge (1) combine the first fifth part of the seniority list, taking into account security, efficiency, jurisdiction exercise, frequency and progress in recognized improvement courses.

5. Has this assessments a quantitative character?

Every month the judges fill statistics maps with the quantity of lawsuit that were admissiomed and judged by him, number of achieved sentences, witness that were questioned, achieved

session (audience), etc. These subjects are considered for the assessment.

6. Has this assessments a qualitative character?

Yes. The quality of the decisions is considered. However, the contents by it's self is not, because the analysis of the case is done based in judge conscientiousness and in the analysis of the legal system. The quality of the legal security is take into consideration. But, there aren't concise facts about this. The way that the aspects of judicial activity are assessed is very subjective, what imply in a concern about internal independence of the magistrates related to some courts

7. Do the number and/or the outcome of the cases handled by the judge play any role in the assessment?

Check number five answer.

8. Is the duration of a case dealt with by a judge an item witch is considered in assessment?

Usually, yes. However, certainly there are cases that because it's nature, demand more delay in the process instruction, what is take into consideration. In other words, what is considered, in the negative aspect, is the eventual disregard of the judge in the conduction in some process.

9. How are judges who sit in court assessed?

The judges sit in court are assessed first for their own tribunal. This assessment had been insufficient. Nowadays, the National Council of Justice can be provoked to review this assessments or do it *ex officio*. The existence of the National Justice Council is very recent in Brazil. So, that assessment can't be appreciated in a critical way, yet.

10. What are the consequences of these assessments?

Check the previous answer.

11. Is there any connection between assessments and remuneration?

No, the only connection is indirect. That means that depends of the judge promotion to a better post in the judicial career.

12. Do you see any infringement of the independence by virtue of the assessment of judges in your country?

In some tribunals, some times, the subjectives aspects of promotions for superiors posts in the judicial career, give space to the repudiation of more independence judges related to their own tribunal, and to the benefit of more submissives judges in the positions of the tribunal. In Brazil, aspects of internal independence of judges related to their tribunals are some times more serious than the external independence, which is institutionally consolidated.

For next meeting, the suggestion is the discussion about the theme of the judiciary hierarchy and the aspects related to the internal independence of Judiciary Power. Until where the judge can judge in agreement with his conscientiousness and comprehension of the legal system, even in face of tribunal unfavorable? Briefly: Conscientiousness of the judge *versus* legal security.