

Answers to questionnaire
HOW CAN THE APPOINTMENT AND ASSESSMENT (QUALITATIVE AND QUANTITATIVE) OF JUDGES BE MADE CONSISTENT WITH THE PRINCIPLE OF JUDICIAL INDEPENDENCE¹

Country: ICELAND.....

We do not consider the question of the initial appointment of the "judge", because we want to discuss the question of appointment together with the question of assessment. We therefore deal with the **appointment of judges to another position/function**. The question of (first) appointment has already been discussed by the First Commission several times².

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

Answer: Considering the scope of the question, it is important to note two facts about the Icelandic court system: 1) it has only two levels, circuit courts (district courts) and one Supreme Court; 2) judges are appointed for life. If a judge moves from one court to another at the lower level no assessment takes place. For an appointment to the Supreme Court an assessment takes place.

2. *Are there assessments on other occasions?*

Answer: No. However, by the end of each year every court reviews how many cases each judge has finished and how many cases are still pending, each courts then sends the summary results to the National Statistics and the Judicial Council.

3. *Who is in charge of the assessments?*

Answer: As to the Supreme Court, the Supreme Court itself and the minister of justice. As to the annual case count this is supervised by the chief judge of each court.

4. *Please describe how an assessment is conducted?*

Answer: Applications are sent to the minister of justice who sends them for assessment to the Supreme Court. There an assessment takes place by all the justices of the court (9) and report is sent back to the minister of justice, who appoints the judge on behalf of the President of the Republic. The minister is only bound by the recommendation of the Supreme Court as to whether the candidate is qualified to be a Supreme Court justice. The minister has in recent years frequently gone against the Courts recommendation of which candidate to choose. This has promoted a debate in the society about the application process. One side holds that the minister should be bound by the courts choice, the other holds that the court should not itself decide which candidate is chosen.

5. *Has this assessment a quantitative character (eg. number of cases undertaken; files completed)? Please describe. What figures are taken into consideration?*

Answer: See answer to question 2. The count of cases is not meant to be used as an assessment of the work of individual judges, but it has indirect control and encouragement effects.

6. *Has this assessment a qualitative character (eg. someone assesses how well the judge performs at various tasks)? Please describe. What aspects are taken into consideration?*

Answer: In the assessment made by the Supreme Court the primary elements of importance are education, work-experience and legal research. Also other activities count, such as teaching at Universities, service in governmental committees, experience of legislative activities. Valuation of the

¹ De quelle manière la nomination et l'évaluation (qualitative et quantitative) des juges est-elle mise en concordance avec les principes de l'indépendance judiciaire?

² See General Reports of the 1st Study Commission of the I.A.J. of 2001 (Madrid) and 1999 (Taipei).

quality of the applicants judicial work or other work of legal nature is also under consideration. There the court mainly reflects on the cases that have come before it and have previously been tried by the applicant judge or argued before it by council. It should be remembered that Iceland is a small society and the performance of each candidate is widely known, however, in such a situation there also is some danger of prejudice or favouritism in respect to individual candidate.

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

Answer: See the answer to question 6.

8. *Is the duration of a case dealt with by a judge an item which is considered in an assessment? In what way? Please, explain.*

Answer: A great emphasis is laid on effectiveness in the courts. If a judge is exceptionally slow this may have a negative effect on the assessment. Speed however has to go hand in hand with quality to help an individual judge in the assessment process.

9. *How are judges who sit in court assessed?*

Answer: There is no regular assessment, apart from the yearly case count in the lower court, see answer to question 2. Judges are appointed for life and a court action is needed to dethrone them.

10. *What are the consequences of these assessments?*

Answer: Does not apply.

11. *Is there any connection between assessment and remuneration?*

Answer: No.

12. *Do you see any infringement on the independence by virtue of the assessment of judges in your country? Please, explain.*

Answer: No. In a small society any assessment may have some effect on the reputation of an individual, but this does not interfere with the judges independence.

13. *What topic do you suggest for next meeting?*

Answer: The appointment process for international courts.

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<p>Please send the answers to this questionnaire by E-Mail to the presidency of the First Study Commission and to the Secretariat of the IAJ not later than by 30-06-2006</p>
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