

## THE NETHERLANDS

### First Study Commission: Status of the Judiciary and Judicial Administration

#### HOW CAN THE APPOINTMENT AND ASSESSMENT (QUALITATIVE AND QUANTITATIVE) OF JUDGES BE MADE CONSISTENT WITH THE PRINCIPLE OF JUDICIAL INDEPENDENCE

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

**Judges are appointed for life. There are quite different procedures for promotion to a management position (president of the court or sector head i.e. president of a section of a court) or promotion to a senior position in the same court or in a court of appeal. The answers hereafter apply to the latter category.**

**In the case of promotion to a senior position as a judge the judge is assessed by an advisory committee of judges and by the presiding board (consisting of judges) of the court in which the judge applies for promotion. The recommendation of the presiding board to appoint a judge to a senior position invariably results in a government decision to do so.**

*2 Are there assessments on other occasions?*

**Yes. In most courts there is an informal assessment every year by the sector head (a judge).**

*3 Who is in charge of the assessment?*

**Formally speaking: the presiding board of the court. The informal assessments however are conducted by the sector head concerned, member of the presiding board.**

*4 Please describe how an assessment is conducted*

**See 1,2 and 3**

*5 Has this assessment a quantitative character?*

**Yes, to a certain extent. The qualitative character however is dominant. The number of cases handled by the individual judge may be relevant when it is significantly below the average number handled by judges with comparable workload and experience.**

*6 Has this assessment a qualitative character?*

**Yes. On the basis of his own impressions and of information supplied by others the assessor takes into consideration various aspects of the judicial performance: the way cases are handled in court sittings, degree and character of judicial expertise in general, educational skills, necessary for training assistants and younger judges, the duration of his cases. As a rule the outcome of specific cases handled by the judge is not a matter of assessment.**

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

**See 5 and 6 The outcome of cases handled might be relevant if a superior court would reverse a significant number of his cases on the ground of gross judicial errors.**

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

**Yes (see 6) if the duration is extremely long without a reasonable cause such as complexity of the case, the acting of other parties concerned, the workload of the judge.**

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

**All judges sit in court**

*10 What are the consequences of these assessment?*

**In case of an assessment related to an application for a senior position: the application will be denied if the assessment is negative. In case of the yearly “informal” assessments: unless the outcome is very negative there will be no consequences.**

*11 Is there any connection between assessment and remuneration*

**Apart from the denial of a senior position (with a higher remuneration) there are no financial consequences**

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

**No.**

*13 What topic do you suggest for next meetings?*

**Judges caught between the upholding of human rights and the fight on terrorism**