

**International Association of Judges; Annual Meeting in Marrakech, Morocco
1st Study Commission; November 21st to November 24th 2005**

**“Economics, Jurisdiction and Independence”
(«Gestion des juridictions et indépendance»)
Questionnaire**

Country:

1. "New Public Management" in the Judiciary

1.1 Introduction

New public management (NPM), management techniques and practices drawn mainly from the private sector, are increasingly seen as a global phenomenon. NPM reforms shift the emphasis from traditional public administration to public management.

NPM reforms have been driven by a combination of economic, social, political and technological factors. A common feature of countries going down the NPM route has allegedly been the experience of economic and fiscal crises, which triggered the quest for efficiency and for ways to cut the cost of delivering public services. However, it may well be argued that "fiscal and economic crises" are just used as excuses to push forward political intentions!

NPM refers to two concepts. The most relevant may be the new institutional economics. "The new institutional economics refers to introducing incentive structures (such as market competition) into public service provision. It stresses aggregating bureaucracies; greater competition through contracting-out and quasi-markets; and consumer choice." (Rhodes, 1996.¹)

The NPM style of government involves distinguishing between policy decisions and service delivery. Service delivery, proponents of NPM argue, is best left to "entrepreneurial" governments based on principles like competition between service providers, outcome based performance standards, decentralized authority, market mechanisms and other qualities not traditionally found in government bureaucracy. Rhodes notes that "NPM and entrepreneurial government share a concern with competition, markets, customers and outcomes." (1996)

Key elements of NMP may include

- various forms of decentralizing management within public services (e.g., the creation of autonomous agencies and devolution of budgets and financial control),
- increasing use of markets and (internal) competition in the provision of public services (e.g., contracting out and other market-type mechanisms such as benchmarking),
- increasing emphasis on the quantity of outputs, performance and customer orientation.

1.2 Questions

1.2.1 There are Ideas of NPM which are or are planned to be applied in several countries in the judiciary. They may infringe on the independence of the judiciary and the judge. **Please give a short survey** of certain tendencies or features which may derive from NPM in your jurisdiction.

¹ Rhodes, R. A. W. 1996. "The New Governance: Governing without Government." Political studies XLIV: 652-667.

1.2.2. Please report on the following typical features of NPM.
Are they applied in your judiciary? If yes, in what way are they applied?
Do you think that they infringe on the independence of the judiciary?

- Global budget, devolution of budgets
- financial control,
- internal competition, benchmarking
- best practice
- quantity of outputs ^
- flexible distribution of workload
- customer orientation,
- emphasis on performance, incentives
- Quality control
- others

2. Costs of the judiciary

2.1 How many professional judges are there in the judiciary of your country? (absolute figure and per 100'000 inhabitants)

2.2 How much is the share of the judiciary of the overall annual budget of the state? Indicate the percentage out of the total state budget)?

2.3 Is there any fixed percentage in the overall budget of the state?

2.4 What is the recent development (1995-2005) of finances allocated to the judiciary? Give a short survey.

2.5. Can you report on any cost-cutting measures in the last 10 years (1995-2005)? If yes, give a short description of them (please consider especially changes of court procedures, remedies etc.)

2.6. Is there any influence of these cost-cutting measures on judicial independence and jurisdiction? If yes give a short description.

3. Privatisation of the judiciary

3.1. Are the tendencies to shift competences from the state courts to private arbitration, mediation and "private courts" ("rent a judge")? What are your experiences?

4. Diversa

4.1 Is remuneration for judges dependant at all on their performance (quantity or quality of output)?

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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 31-07-2005