

Third Study Commission Questionnaire

2018

Marrakech, Morocco

It is common for witnesses to give evidence during court proceedings. However certain witnesses present special issues and require the court to employ unique procedures in order to obtain useful evidence in court. Examples of such witnesses would include:

- 1) Children, whether or not the witness is also a victim of a crime.
- 2) Witnesses who need protection from potential retribution for giving evidence against criminal gangs, criminal organizations such as the Mafia, or criminals who have not been apprehended.
- 3) Victims of abuse, especially victims of sexual abuse and domestic violence.
- 4) Witnesses with mental or emotional issues for whom court proceedings are more stressful than would otherwise be the case.

For our 2018 meeting in Marrakech, the Third Study Commission, which is focused on Criminal Law, decided to study how courts and judges employ special procedures and protections for such witnesses, while at the same time affording other parties, such as the accused, fairness and the ability to confront witnesses who may testify in a case.

Three delegates will first make presentations from the perspective of their own countries. We will then open the floor for discussion and exchange of ideas. To facilitate the discussions, please answer the following questions:

- A) Describe how the courts in your country deal with the kinds of witnesses listed above.
- B) Describe how the courts and judges protect the interests of the accused or other parties when dealing with such special witnesses.

C) Clarify whether the court has any obligation to hear from such special witnesses if they have already given a statement during the investigation.

Please also be prepared to discuss any personal experiences you have had regarding the treatment of such special witnesses.

If time permits, we will also discuss how trials are conducted in your country. Countries with a Common-Law tradition use juries of various sizes to decide facts. Other Civil-Law countries employ a single judge, or several judges, or judges assisted by lay assessors, to decide facts. Please be prepared to discuss the system or systems your country uses in various kinds of cases, both criminal and civil, and the positive and negative attributes of the differing systems.

We look forward to seeing everyone in Marrakech in October, 2018.

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and

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