

International Association of Judges
First Study Commission; Annual Meeting in Abidjan (October 28-31 2002)
Questionnaire

The role and function of the High Council of Justice or analogous bodies in the organisation and management of the national judicial system

Introductory remarks:

In many Civil Law Countries there is a body (institution) known as the Superior Council of the Judiciary or with a similar title (e.g. "Judicial Service Commission"). Where such a body exists its composition and functions will vary to some extent from country to country but the concept is essentially the same and there are core elements common to them. Generally speaking they are composed entirely of Judges or by a majority of Judges. Such Councils have a role in the appointment of Judges, the promotion of Judges, the appointments of Presidents of Courts and the further education of Judges. In some cases they also have functions regarding the discipline of Judges, the evaluation of the work of Judges, the budget of the judiciary and the allocation of resources to the judiciary. As stated, not all such Councils have the same functions or the same composition but the foregoing general statement of the role of such Councils is intended to enable countries who do not have a Council of the Judiciary, so called, to identify to any analogous body or bodies in their system for the purpose of replying to the questionnaire.

1. Constitution/Composition

- 1.1 Is there a Superior Council of the Judiciary or an analogous body, or bodies, in your Judicial System? (Please state title)
- 1.2 Give a brief summary of the role or function of such body or bodies.
- 1.3 Who are members of the body? (number, composition and qualifications of the members).
- 1.4 How is the body constituted and what are the procedures for the appointment of members?
- 1.5 Is there a majority of Judges on the body?
- 1.6 Are any of the members of the body elected by Judges and if so how many? What is the period of office of a member of the body and under what conditions does the term of office come to an end?. May a member be removed from office against his will and if so under what circumstances.?
- 1.7 To what extent is there a *de facto* influence on the work of the body by the Executive (Government) or the Legislature, with particular regard to its composition, its judicial functions and non-judicial responsibilities.

2. Responsibilities of the Superior Council or the analogous body

(If the Superior Council or the analogous body does not have responsibility in a particular field referred to below, please indicate, by reference to its name only, the authority, which has responsibility.)

- 2.1 Is the Supreme Court subordinate to the Superior Council of the judiciary? If yes, describe in what respect.
- 2.2 In so far as the role of the Superior Council or analogous body involves a sharing of judicial power with non-judicial persons or representatives, does the functioning of the Council/body conflict with a strict separation of powers between the judiciary and other state powers, the Executive and Legislative.
- 2.3 Does the Council/body have responsibility for the nomination or appointment of a judge? If yes, give a brief description.
- 2.4 Does the Council/body have responsibility for the promotion of judges? If yes, give a brief description.
- 2.5 Does the Council/body have responsibility in the appointment of Presidents of Courts? If yes, give a brief description.
- 2.6 Does it have responsibility for organising the training or continuing education of judges? If yes, give a brief description.
- 2.7 Does the Council/body have responsibility for the initiation or conduct of a disciplinary procedure against a judge? If yes, give a brief description.
- 2.8 Does such Council/body have responsibility in the evaluation of the work of a judge? If yes, give a brief description.
- 2.9 Does it have responsibility for the drafting or preparation of the budget of the judiciary? (If yes, describe).
- 2.10 Does it have responsibility concerning the allocation of resources (personnel and financial) within the budget approved by Parliament or Government? If yes, give a brief description.
- 2.11 Are there any other significant responsibilities of the Council/body not already mentioned? (e.g. the drafting of a judicial code of ethics).

3. Superior Council and (a) the independence of the judiciary and (b) its advantages and disadvantages

(Note: In some countries the question whether a Superior Council should be created is the subject of continuing debate. In this respect the experience of judges associations of other countries may be of interest. One of the key issues may be the independence of the judiciary).

3.1 If you have such a body, please list, very briefly the advantages and disadvantages.

3.2 If you do not have such a body:

(a) Is the creation of such a body contemplated?

(b) How do you view the advantages and disadvantages of such a body?

4. Particularities/Criticisms

4.1 Are there some special features concerning the Superior Council or body in your country which might be of special interest to others from a comparative point of view? If yes, describe.

4.2 Are there particular fundamental problems concerning the role of the Council/body in your country? If yes, describe.

4.3 Are reforms of such a Council/body under discussion or proposed? If yes, describe briefly.

5. Topics

5.1 What topics do you propose for next year's meeting of the 1st Study Commission?

Binningen/Switzerland, Dublin/Ireland, Wien/Austria,
The Presidency of the 1st study commission
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