

IAJ First Study Commission 2016 responses on behalf of Denmark.

Introductory remarks.

In Denmark, there is traditionally a very low degree of corruption. For example, according to the “Corruption Perception Index” 2014 and 2015 from Transparency International, Denmark is ranked as the least corrupt country worldwide (<http://www.transparency.org/cpi2015>). There are many reasons to this, which -according to historical research - dates back to around the year 1660, when the Danish king introduced a stand of officials, appointed for their skills rather than by their rank or willingness to pay for an office. This culture has since then been prevalent in the public sector, but yet, work is still done to avoid that corruption occurs. For example, Denmark participates in the work of several international organizations against corruption, and the Ministry of Justice has made a booklet to increase the awareness of corruption and bribery (link to english version: http://jm.schultzboghandel.dk/upload/microsites/jm/ebooks/andre_publ/191906%20uk%20avoidcorruption%202015%20indhold.pdf)

The questions:

1. What would you identify as best practice to safeguard transparency of

a) court proceedings

The most important is that all court proceedings – to the maximum extent possible - should be open to the public, including the press, that the proceedings are based on oral hearings rather than written material and that the written material used in the hearings should be referred to the public to the extent that it will affect the courts decision. In addition, there should, in particular in criminal matters, participate lay judges to ensure, that the decisions also has a popular legitimacy.

b) selection of judges

The selection of judges should be made by an independent body with representation both of the judiciary and the public, and the application process should be organized in a way, so that all the applicants are treated equally and the selection is made from public known criteria with the aim that the applicant, who after an overall assessment is the best choice for the position, is appointed.

c) administration of the judiciary?

The administration of the judiciary should be independent of the government and working for both the best possible physical environment for the courts, for example regarding to court buildings and all related to this, especially sufficient staff and modern IT equipment to support the judges in their work, but also the psychological environment, especially judicial training and facilitation of courses and seminars, that deals with new legislation, legal practice and technology and where the judges also have a possibility to share common experiences.

Do you have experiences with such practices? Which?

The Danish legislation is in compliance with the above mentioned criteria, and the experiences are in general very good.

2. What would you identify as best practice to support and promote integrity of judges? Do you have experiences with such practices? Which?

The most important factors would be good working conditions, that reflects the responsibility associated with the work, for example in regard to the support of the judicial proceedings from the other staff of the courts. Also, it is important the the salary for judges reflects this responsibility, primarily so that a job as a judge appears attractive for the most qualified applicants, but also to make sure, that it not necessary to supplement the salary in a way, that is not compatible with the function as a judge.

3. What would you identify as best practice to prevent corruption within the judiciary? Do you have experiences with such practices? Which?

The existence of a strong culture against corruption, combined with an efficient and independent law enforcement against corruption if it should arise anyway. In Denmark, there are a special court, named “The Special Complaints Court”, that deals with cases against judges regarding suspension, disciplinary proceedings and dismissal. Also, the Danish Judges Association has on the 24th of october 2014 adopted a set of Ethical Principles for Judges, wherein a longstanding Danish tradition in this area is described: (<http://dommerforeningen.dk/dommerforeningen/etiske-principper-for-dommere>).

4. What are the major threats, in your experience, to transparency and integrity and a non-corrupt judiciary? How are those threats best combatted?

As described above, we are so fortunate in Denmark not to have a problem regarding corruption of judges.

Regarding to transperancy and integrity of the judiciary, the major threat is a government tendency to make a detail regulation, especially in the area of criminal law, sometimes with an exact indication of what the verdict should be, leaving very little – if any - room for an assessment of the specific case. Often, this happens in continuance of a mentioning of a specific case in the media and without making more general considerations on the need for a legislative amendment. I Denmark, the Association of Judges tries to adress this problem and make a response when it is necessary. It is however often difficult, since the response has to be limited to judicial – and not political – arguments.