



Fourth Study Commission
Public and Social Law

Meeting in Taipei, 16th - 21th September 2023

Conclusions

THE JUDICIAL WORKPLACE AND THE INTERSECTION WITH
JUDICIAL INDEPENDENCE

Introduction

The scope of the Fourth Study Commission is to examine public and social law, which includes labor, employment and the workplace. Although the judiciary is an independent branch, the judicial workplace, in our interpretation, by necessity intersects with other branches of government.

So, the topic of this year was "The Judicial Workplace and the Intersection with Judicial Independence". We received responses from 41 countries (plus few others out of deadline). The commission's conclusions are as follows:

Conclusions

I. Appointment to Judicial Office

- Judges in most countries are appointed by elected officials after a rigorous selection process.
- The selection process varies widely, including interviews, exams, and legal experience requirements.
- Many countries have different appointment processes for lower and higher courts.
- The degree of judicial independence from the government varies, with some countries having no elected official involvement.
- Several countries prioritize diversity in judicial appointments, including gender and minority representation.

II. Promotion within the Judiciary

- Countries have diverse approaches to judicial promotion, with some following standard application procedures, while others prioritize existing judges.
- Politics may influence promotion decisions in some countries, either explicitly or indirectly.
- Transparency in the promotion process varies, with some countries disclosing criteria and candidate information.

III. Workload Within the Judiciary

- Many countries allocate cases equally among judges with deadlines for decisions.
- Some countries set minimum sittings or days for judges, while others have a fixed case allocation per judge.
- Reallocation of cases is common, with reasons varying from judge workload to judicial performance.
- Some countries employ mechanisms to provide assistance for overburdened judges.

IV. Removal from Judicial Office

- All surveyed countries have procedures for removing judges, although the difficulty of removal varies.
- Different actors, including judicial bodies and the executive branch, initiate removal processes.
- Most countries have open and transparent removal procedures with rights to counsel and hearings.
- Consequences of removal vary by individual circumstances, including financial, employment, social, and disciplinary consequences.

Topic for the next year (2024):

Dramatic changes in the economy and in labor markets have resulted in dramatic changes in the relationship between employers and employees/independent contractors. At the same time, increased computerization has impacted the marketplace. We will explore the “gig” or “platform” economy and its impact on this relationship as well as the related issue of the impact of artificial intelligence on employment:

Digital Revolution Impact on the Labour Market: Platform or Gig Economy and Artificial Intelligence