

Response of the JAPAN
to the Study Commission IV — 2022
Judicial Workplace and Judicial Independence

What is the impact on judicial independence of the judicial workplace (including nominations and appointments, independence in decision making, governance, assignments, fund and other resources)?

Under the Constitution of Japan, all judges are independent in the exercise of their conscience and are bound only by the Constitution and the laws (Article 76, paragraph (3) of the Constitution). The independence of exercise of authority by judges is ensured not merely because they should not be bound by instructions or orders given by others, but also because their judicial decisions should not be seriously affected by other organizations in effect.

In order to ensure such independence of judges, the judges of the inferior courts are appointed by the Cabinet from a list of persons nominated by the Supreme Court (Article 80, paragraph (1) of the Constitution).

In addition, the authority of judicial administration is provided as the authority of the court itself, and judicial administration affairs are conducted through deliberations of a judicial assembly consisting of judges (Articles 12, 20, 29, and 31-5 of the Court Act). Moreover, it is provided that expenses of courts must be independently appropriated in the national budget, in light of their position as independent organizations recognized under the Constitution (Article 83 of the Court Act).

Please provide examples in the judicial workplace that foster judicial independence and identify barriers and practices that impede or negatively impact judicial independence.

Judicial functions are distributed among the units of "divisions" each to which a number of judges sufficient to form a panel are allocated, and are processed by individual judges or by a panel of judges. It is provided that the power of

supervision over judicial administration does not affect or restrict the judicial decision-making power of judges (Article 81 of the Court Act).