

**RESPONSE OF THE ISRAELI DELEGATION**  
**TO THE FORTH STUDY COMMISSION QUESTIONNAIRE 2023**  
**THE JUDICIAL WORKPLACE AND THE INTERSECTION**  
**WITH JUDICIAL INDEPENDENC**  
**65<sup>th</sup> Annual Meeting of IAJ – Taiwan**  
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In the past few months' changes to the Israeli legislation, regarding the role of the judiciary, have been proposed. However, the legislation regarding the election of judges has not changed yet and stats the following.

**1. Appointment to a judicial position:**

A. In Israel, an appointment to the position of judge is made by the Committee for the Appointment of Judges, which currently has 9 members: the Minister of Justice and another minister; two members of the Knesset (with an existing practice of an opposition representative and a coalition representative); two members of the Bar Association, the President of the Supreme Court and two other Supreme court judges (hereinafter: "**The Committee for the Appointment of Judges**").

In Israel, appointments to the position of judge are made by virtue of the "Basic Law: The Judiciary."

A judge is appointed by the President of the State, according to the selection of the Committee for the Appointment of Judges (s. 4); a judge can only be a citizen of Israel (s. 5); an appointed judge declares loyalty to the state in a fixed format (s. 6); a judge shall not engage in additional work except with approval (s. 11);

A person who wants to be appointed as a judge must submit an application to the Committee for the Appointment of Judges and specify his qualifications. A justice of the magistrate's court is required to have 5 years of experience as a lawyer; A district judge is required to have 4 years of experience as a magistrate court judge or 7 years of experience as a lawyer; And a supreme judge is required to have 5 years of service as a district judge or 10 years of seniority as a lawyer/lecturer with a law degree or in distinguished jurist role.

Recommendations cannot be attached to an application to the committee for the appointment of judges, however the names of recommenders must be included and the committee will refer to whomever it deems appropriate. A judicial candidate will be invited to a discussion in a subcommittee of the Committee for the Appointment of Judges and a personal interview will be

held. At the end of that interview, the candidate will be given an answer as to whether they found him suitable for the position or whether his candidacy will be rejected. In most cases, the candidate will be directed to a course run by judges, lawyers and psychologists, during which the candidate's skills are tested over three intensive days. As long as the candidate is found to be suitable, his candidacy goes to the committee for selecting judges and the selection will be made according to his suitability for the position, the needs of the system and the recommendations.

There is no difference between a procedure for appointing a civil judge or a criminal judge.

In Israel there is no specific court of appeals (with the exception of the Supreme Court which also sits as an appeals court) and therefore, there are no differences in the appointment process for any of these courts. It should also be noted that a sitting judge who wishes to move to a higher court is required to submit an application to the Committee for the Appointment of Judges and go through a similar process, with the exception the course.

A. In principle, there should be no political considerations in the selection of a judge. S. 2 of the Law on Judiciary establishes judicial independence and this is the wording: "In matters of jurisdiction, there is no authority over the person who holds judicial authority, other than the integrity of the law". This is the ideal aimed for within Israel's judiciary, nevertheless since the Committee as 4 political officials (two ministers and two Knesset members); and given that the majority required for appointment to the Supreme Court is a majority of 7 committee members out of 9, the matter of appointing judges, and especially judges to the Supreme Court, sometimes involves negotiations between the various political parties and branches of government (election of a judge to other courts requires a majority of 5 committee members out of 9).

B. Ethnic origin or gender should not be relevant for the purpose of appointing judges, and the aspiration is that a judge will be selected based on his/her qualifications. At the same time, for reasons of "affirmative action" as well as to give adequate representation to all the many and diverse populations that make up the State of Israel, opinions are heard, especially among politicians, that adequate representation should also be given to various sectors that comprise the population. The same sources claim that such diversity will increase the public's trust in the judicial system, so that it will not consist only of a certain elitist stratum. On the other hand, some argue that selection based on gender or origin will contaminate the process of selecting judges and it will not be possible to guarantee that the best or worthiest from a legal point of view are the ones appointed to this position.

C. As aforementioned, the process of appointing judges should be detached and independent and not dependent on the government. Israel has 3 authorities, the executive, the judiciary and the legislature - and the intention is to ensure the independence of each of these authorities. It should be noted that Israel does not have a constitution, but a number of Basic Laws. Judicial independence should be preserved by the committee for appointing judges, in which the

government has, at most, between 3-4 elements out of 9. As long as the composition of the committee is kept as it is, there should be no control by the government in the process of appointing judges.

## **2. Promotion of judges:**

A. There is a requirement, both of the system and of the judicial body, to facilitate promotion, as this motivates towards excellence in the position, benefitting both the system and the litigating public. The ideal is that the promotion will be made on a professional basis only, and the way to promote a judge is mentioned in section 1)a. above, i.e. via an application to the committee for the appointment of judges.

B. There should be no influence of political affiliation to the promotion of judges. I will point out that in Israel a judge is not allowed to take part in demonstrations or protests and he is not allowed to be a member of a political party.

C. The name of each candidate for promotion is published in the records and thus the public can express their opinion about that candidate. At the same time, the protocols of the committee for the appointment of judges are confidential and are not visible to the public, therefore, the general public does not know what the considerations were in the selection of a certain judge or the non-selection of another judge.

## **3. Workload:**

A. In Israel, the judicial year begins on September 6 of each calendar year and ends on July 20 of the same year. There are 7 weeks of vacation in the summer and another two weeks during the Israeli holidays (Tabernacles and Passover). During the trial year, a judge must hear hearings four days a week and one day is designated as a writing day. There is no fixed case quota for each judge and this is subject to the work procedures of each court. A situation can arise in which the load imposed on the judges is not uniform.

1. In the case of a judge being overloaded, some of his cases can be transferred to other judges who are less busy.

2. A busy judge can lighten his load by reducing the number of cases he handles; by taking care of his diary spacing; he will be given the help of a legal assistant, an intern or a student in writing decisions and judgments; or they will may be taken out for a writing sabbatical to reduce arrears.

C. Sometimes judges are asked to help a judge who is busy, either by accepting cases, or by helping to write decisions. This is an administrative decision of the managerial officials of the court.

#### **4. Termination of office:**

A.

1. A judge's tenure can be suspended if a complaint has been filed against him or a criminal investigation has been opened against him or an indictment has been filed against him. In such a case, the President of the Supreme Court may suspend the judge for a period determined by him. The termination of a judge's term of office, which is not due to reaching retirement age or resignation or being elected to a position that obligates him to terminate his term of office, can be done according to a decision of the Committee for the Selection of Judges. A proposal to terminate a position this way can be raised by the Minister of Justice, the Ombudsman for Judges or the President of the Supreme Court. A decision to terminate a term of office requires a majority of at least 7 members out of the 9.

2. A judge has a right to a hearing before removal. There is a precedent where the committee for the selection of judges decided on removal of a certain judge from office and the Supreme Court, sitting as the High Court, accepted the judge's petition and she was reinstated.

3. The grounds justifying the termination of a term by the Committee for the Selection of Judges are: committing a criminal offense; committing a disciplinary offense; major failure to comply with duties as a judge; health reasons that prevent continued proper functioning and more.

4+5. As mentioned, a violation of a code of ethics can be grounds for removal and termination of a position. Such a matter will be brought before the Committee for the Appointment of Judges. The committee hearings are not open to the public, however, a procedure can be submitted to the High Court of Justice against a committee decision and a judge can be represented by lawyers in the same procedure.

B.

1. According to Section 14(c) of the Law of the Courts, the Committee for the Appointment of Judges, which decided on the termination of a judge's term of office, can determine in its decision the date for the end of the term of office, as well as, at its discretion, the rate of compensation he will receive.

2. A judge whose tenure has been terminated will usually not be able to be a member of various committees that require a judicial background. Generally, there is no obstacle for a judge whose tenure has been terminated to return to serve as a lawyer or as a lecturer or in any other position.

3. A judge whose tenure has been terminated may suffer damages to his reputation by such a move, since it is publicized.

4. In some cases, a judge may be subject to criminal or disciplinary proceedings.