

DENMARK

First Study Commission.

Status of the Judiciary and Judicial Administration

The Constitution.

The principle of division of power, the executive power, the legislative power and the Judiciary is consolidated in the Danish Constitution.

According to act. 61 and 62 in the Danish Constitution the judicial power shall be regulated by law alone and the administration and justice shall be separated from government services at all times. Article 64 of the Constitution secures judges against intervention in the exercise of the judicial function (judicial independence) and provides judges with a special protection against removal and transfer (personal independence).

The Court Administration.

The Danish Judiciary has got its own administrative system. The Danish Court Administration is an independent state institution with its own Board of directors and a managing director. The Minister of Justice has no authority to instruct the administration. The AB is responsible for making proposals for the budget and administrative procedures.

The Courts.

The ordinary courts are the Supreme Court, the High Courts and the City and Town Courts as well as the Maritime and Commercial Court in Copenhagen.

There are by July 1.th 2006 339 Danish judges: 19 judges in the Supreme Court, 65 judges in the Eastern High Court, 36 judges in the Western High Court and 210 judges in the City and Town Courts. By January 1.th the number of judges in the City and Town Courts will be enlarged to 233.

Recruitment and appointment of judges.

Persuant to section 42(3) of the Danish Administration of Justice Act the requirement for appointment to a judgeship is that the person in question is a graduate of law.

Persuant to the same Act the recruitment of judges shall secure that the professional background of all levels of the judicial system is comprehensive and broad. This shall be achieved by attaching persons with insight and experience from different legal fields, including persons with different approaches to the solution of legal problems to the court so that the corps of judges have a broad composition.

It will usually be a condition for being appointed City or Town Court judge and High Court judge that the person in question has served as an acting judge in one of the High Courts.

The large majority of Danish judges have their legal background in two career patterns. One is through appointment usually at a young age as a deputy judge and training through service with different Town Courts and with the High Court with the possibility of supplementing the training outside the courts through rota schemes. The other is through a career in the Ministry of Justice supplemented with i.a. periodical work as a deputy judge.

During the last years more Advocates have due to the broader recruitment set forward in the Administration of Justice Act been appointed as judges.

Danish Judges are appointed by the Minister of Justice made on recommendation by an independent body - the Judicial Appointment Council.

The Judicial Appointment Council is composed by a Supreme Court Judge, a High Court judge, a City and Town Court judge, an Advocate and two representatives of the public.

The competence of the Council covers all judicial offices, apart from the position of President of The Supreme Court.