

International Association of Judges

Annual Meeting in Siofók, Hungary

1st Study Commission; September 27th to October 02nd 2006

Questionnaire

HOW CAN THE APPOINTMENT AND ASSESSMENT (QUALITATIVE AND QUANTITATIVE) OF JUDGES ARE MADE CONSISTENT WITH THE PRINCIPLE OF JUDICIAL INDEPENDENCE

Country: POLAND

Please notice very kindly that the answers mentioned below deals also with the problem of the first appointment of judges which has been discussed by the International Association several times but not presented by the Polish Association of Judges before.

1. Are there assessments on the occasion of the appointment (of a judge) to another position or function?

- Yes, the judges are assessed on the merits when they are appointed to the highest position in the court itself (e.g. from the Regional Courts to the Circle Courts and further on) but they are not assessed if they are appointed to another position in jurisdiction (e.g. to the position of prosecutor or attorney in law) or another function (e.g. president of the court or head of department).

2. Are there assessments on other occasions?

- Yes, the judge is assigned on the merits after about nine months of his/her performance in the higher court he/she was temporary nominated. Although there is no formal procedure indicates the duration of the performance after which the judge should be assessed, but it may not be longer then a year after nomination. See answer below.

3. Who is in charge of the assessments?

- The Supervisory Departments established in the Circle Court, Court of Appeal and Supreme Court for the judges who are appointed to the higher position. The Supervisory Department in the Circle Court is also in charge of the assessment during the first nomination.

4. Please describe how an assessment is conducted?

- The assessment is made by the Supervisory Department established within Court of Higher Instance than assigned judge works and presented in front of the Collective Committee of the Court. After approve of such bodies the candidate may perform in the higher court for couple of months (temporary nomination). The second assessment of the judge is made after his/her temporary performance. The achievement of the judge is presented then by the Collective Committee of the Court in front of the National Council of Justice. Once the candidate is approved by the bodies mentioned above the President of the Country nominates a judge to the higher court position. The same procedure is taken during the first appointment of the judge except the temporary nomination. It is necessary to mention that there are no formal criteria of nomination judges to the higher courts and for this reason Polish Judges Association made a proposal to the government to establish such criteria.

5. Has this assessment a quantitative character (eg. number of cases undertaken; files completed)? Please describe. What figures are taken into consideration?

- No. There is no direct quantitative assessment of a judge's work. Although such a criteria is taken into consideration during procedure of assessment. It may be presented as an example that the judge who is assessed should have significant number of cases undertaken itself out of the all cases undertaken in the whole department.

6. Has this assessment a qualitative character (eg. someone assesses how well the judge performs at various tasks)? Please describe. What aspects are taken into consideration?

- As it was mentioned above there is also no formal qualitative criteria during assessment but it is better if the judge may present a significant number of cases which sentences have been approved in the course of remedies by the Court of Appeal. The degree of difficulty of the cases undertaken by the assigned judge is also subject to be considered.

7. Do the number and/or the outcome of the cases handled by the judge play any role in the assessment? Please explain.

- The productivity of the judges' judicial activity is taken into consideration but there are no specific figures which are considered as sufficient in this criteria. The result of the judgments is not under consideration whatsoever. This should be prohibited because of the possible pressure on judicial decisions.

8. Is the duration of a case dealt with by a judge an item which is considered in an assessment? In what way? Please, explain.

- The duration of a case dealt with by a judge is not under assessment.

9. How are judges who sit in court assessed?

- There is no formal assessment of the judges in court. However extraordinary duration of the case as the consequence of taking no procedural steps (unnecessary delays) may be subject of the supervisory control in the administrative but not judicial way. In that case the President of the court has a right to oblige a judge to proceed without suggesting him/her judicial solution.

10. What are the consequences of these assessments?

- A judge who has been obliged to take a procedural measure in particular case in the light of unnecessary delays might be a subject of unsuccessful verification in the time of his/her assessment in the case of his/her appointment to the higher position.

11. Is there any connection between assessment and remuneration?

- No, there is no connection between assessment and remuneration.

12. Do you see any infringement on the independence by virtue of the assessment of judges in your country? Please, explain.

There is no infringement on the independence by virtue of the assessment of judges in Poland. It is worth to mention again that there are no established formal criteria of assessment of the judges and therefore no pressure can be made on judges itself. Moreover, the procedure of assessment ensures judges in their judicial independency as every decision connected with assessment and appointment of the judge may be the subject of remedy to the National Judicial Council.

13. What topic do you suggest for next meeting?

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