

THE JUDICIAL WORKPLACE AND THE INTERSECTION WITH JUDICIAL INDEPENDENCE

Fourth Study Commission Questionnaire—2023

For most, appointment to judicial office represents not only immense personal achievement but also public acknowledgment of professional eminence. In this Fourth Study Commission analysis, we will look at the judicial workplace and examine aspects of appointment to judicial office, promotion within the judiciary, equitable allocation and distribution of judicial workload and removal from judicial office. This review also endeavors to consider how the judicial workplace is or is not comparable to other workplaces.

Please answer the following in respect of your own country.

1. APPOINTMENT TO JUDICIAL OFFICE

- A. Please describe the process by which a person is appointed to judicial office in lower courts, intermediate courts and superior courts pointing out any relevant differences between appointment in criminal civil or appellate courts.
- B. If applicable, please identify whether political influences of any description bear upon in any way the appointment of a particular person to judicial office.
- C. Is ethnic or gender diversity in any way relevant to appointment to judicial office, and if so, please describe why and in what respect each may be relevant.
- D. Describe whether and if so in what way the process of appointment to judicial office is independent of government.

2. PROMOTION WITHIN THE JUDICIARY

- A. Does scope exist for promotion within the judiciary and if so, please describe how and in what circumstances a magistrate or judge may be promoted.
- B. To what extent is political affiliation of political partisanship relevant to promotion within the judiciary.
- C. Describe the transparency involved in the process of promotion within the judiciary.

3. WORKLOAD WITHIN THE JUDICIARY

- A. In broad terms, what are the requirements for magistrates and judges in relation to the number of sitting days per year or other measurement of judicial workload requirements?

B. If a judge is encountering trouble keeping up with the workload, describe the regime that applies by which –

- (i) that judge's workload is allocated to other judges;.
- (ii) the overloaded judge can recover from workload arrears and from any other disabling factor that led to overload.
- (iii) there are other mechanisms to address judicial delinquency.

C. Are judges expected or required to assist other judges who may be adversely affected from overload so as to ensure that the business of the court is discharged in a timely manner.

4. REMOVAL FROM JUDICIAL OFFICE

A. Does a regime currently exist in your country pursuant to which a sitting judge may be removed from office. If so, please describe any such regime, giving all relevant details including-

- (i) who decides that the judge is to be removed from office;
- (ii) does the judge have a right of audience on any such motion or otherwise possess a right to be heard against the removal and is there an appeal process if removed;
- (iii) what are the grounds for seeking the removal of a sitting judge;
- (iv) what is the relationship between violation of the ethics code/principles and removal; and
- (v) describe the transparency in the process.

B. If removed from office, describe the adverse consequences that may affect the removed judge including -

- (a) financial (especially pension) consequences;
- (b) future employment consequences following removal;
- (c) societal consequences including loss of title or civic decorations; and
- (d) disciplinary steps that may be taken against the removed judge.