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 BE MADE CONSISTENT WITH THE PRINCIPLE OF JUDICIAL INDEPENDENCE?**

Country: …CANADA…………………………………………………………………………………………………………………

We do not consider the question of the initial appointment of the "judge", because we want to discuss the question of appointment together with the question of assessment. We therefore deal with the appointment of judges to another position/function. The question of (first) appointment has already been discussed by the First Commission several times.

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

   No. There is an informal assessment of potential competence during the process for selection of new judges from among the members of the Bar. The applicant must submit letters of recommendation, many of which may comment on his or her capacity as a lawyer. These applications are considered by a committee which is chaired by a judge and which contains representatives of various lawyers groups (the law society, the Canadian Bar association) as well as lay persons. That committee makes recommendations to the Minister of Justice as to which applicants should be considered for appointment. Anticipated competence as judges based on competence as lawyers is the primary issue addressed by these committees when making recommendations for appointment.

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1 De quelle manière la nomination et l’évaluation (qualitative et quantitative) des juges est-elle mise en concordance avec les principes de l’indépendance judiciaire?
There is limited opportunity for advancement once one becomes a judge. Primarily those opportunities are limited to the possibility of elevation to a court of appeal or nomination as chief justice. There is no formal mechanism in place for assessment of judges who are candidates for elevation although the Minister of Justice no doubt makes informal inquiries in that regard.

2. Are there assessments on other occasions?

There are no formal assessments of competence or performance after appointment. There are three primary methods of informal assessment of competence which occur on an ongoing basis: first, review by the Court of Appeal in the context of individual judgements which become the subject of appeal, second, review by the judge’s Chief Justice in the context of a particular problem or issue noted by the chief justice or the judges’ colleagues and, third, review in the media (nothing the media says or does binds the judge in any way but negative press can have a very sobering effect). This is independent of any review of conduct which occurs through the discipline process and which relates to complaints of a judge acting in an unethical manner.

3. Who is in charge of the assessments?

Not applicable.

4. Please describe how an assessment is conducted?
Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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.

Not applicable.

9. How are judges who sit in court assessed?

Not applicable.

10. What are the consequences of these assessments?
The consequences of the informal assessments referred to above depend on the context. There may be assignment consequences for a judge who ignores the advise or suggestions of a Chief Justice i.e. the Chief Justice may limit the judges’ future assignments to areas where competence problems have not been identified. If this occurs the judge may become aware of it only over time, and informally. There is not any formal record made of the problem or the result.

11. Is there any connection between assessment and remuneration?
None. All judges are paid the same except for Associate Chief Justices, Chief Justices and Judges of the Supreme Court of Canada, each of whom is paid the same as others in that group.

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

No.

13. What topic do you suggest for next meeting?

Judicial remuneration - the means by which it is set include techniques used to encourage governments to award increases in remuneration over time.