1. **Does your country’s judiciary include prosecutors or equivalent?**
   Since the beginning of 2008 an amendment of the Austrian Constitution came into force, which claims that Public Prosecutors are part of the judiciary. In fact there remained the possibility of the minister of justice as a kind of supreme public prosecutor to influence the activities of the prosecution service by giving an order if, if not or how to prosecute.

2. **How would you define “judicial independence” in the context of the political and social system of your country?**
   Due to the fact mentioned in point 1 above concerning public prosecutors, this answer is limited to judicial independence of judges only. In the Austrian legal framework this is defined that judges when exercising their office are free of influence. They have to consider nothing but the law they have to apply. Their decisions can only be examined and changed by other judges, who have to decide on a legal remedy. The constitution explicitly states that a remedy or another direct influence on the judiciary by the executive power is forbidden.

   In a structural sense there is no separation of powers but a strong influence of the executive on the resources, the allocation of resources and the organisation of the judiciary. There is also a strong impact of the executive power on the appointment and carrier of judges.

   Judges cannot be removed from office before the reach the legal age of retirement except on disciplinary grounds or when they become unable to exercise their duties.

3. **Which objective criteria would you identify as indicating that the judiciary of your country is independent and why?**
   Judges when exercising their office act impartial and without influence from outside. This is also recognised in the public opinion. There is no corruption in the judiciary. Judges cannot be removed from their office except after found guilty in a disciplinary procedure by a disciplinary court.

4. **Which subjective criteria would you identify as indicating that the judiciary of your country is independent and why?**
   Judges and courts are seen as impartial and competent.

5. **If you have to identify the three most important criteria for indicating judicial independence in your country, what would they be and why?**
   (1) There is no influence from outside on judges when they judge cases.
   (2) Judges cannot be removed from their office except as result of a procedure at a court on grounds of disciplinary offences or inability. Judges cannot be transferred to another court without their consent.
   (3) Performance does not influence the salaries, which are set up by the law.

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