Response from The Danish Association of Judges.

1. In your country, do you have
   a) specialized courts dealing with certain types of cases
   b) specialized judges for certain types of cases working in the general courts

Please describe the different types of specialized courts or judges.

a) The general court system consists of The Supreme Court, The Western and The Eastern High Courts, The Maritime and Commercial Court, 24 District Courts and The Land Registration Court. Furthermore there is the Court of the Faroe Islands – a district court with appeal to The Eastern High Court – and the courts of Greenland. The Greenlandic court system consists of The High Court of Greenland, The Court of Greenland and 18 District Courts. The judges in the district courts are lay judges with a special education and thorough knowledge of the Greenlandic society. The district courts are – generally speaking – first instance, but if a case is legally complicated it is processed in The Court of Greenland in the first instance.

The Maritime and Commercial Court and The Land Registration Court are as their titles suggest in reality specialized courts:

The Maritime and Commercial Court hears cases concerning maritime and commercial matters from all over the country including for instance cases related to The Danish Trade Marks Act, The Design Act, The Marketing Practices Act, The Competition Act and international trade conditions. Furthermore the bankruptcy division of the court hears bankruptcy cases arising in Greater Copenhagen. Their Rulings can be brought directly before The Supreme Court.

The Land Registration Court handles registrations of titles to land, mortgages and other charges, marriage settlements etc. The jurisdiction of the court extends to all of Denmark, and the court settles disputes arising from registration of land. Rulings can be brought before The Western High Court.

The general courts are supplemented by for instance The Labour Court. This court deals with disputes about the validity and the interpretation of collective agreements, breach of the agreements or of the peace obligation and claims for damages based on these breaches.

Another example is The Special Court of Indictment and Revision. This court consists of a Supreme Court judge, a High Court judge, a professor of law and a lawyer. They are recommended by the Minister of Justice and then appointed by the Queen for 10 years. They cannot be reappointed. The court processes
complaints against judges and deputy judges, applications for resumption of criminal cases, appeals regarding refusal of resumption of a judgement given in default and complaints about the courts exclusion of an appointed defense lawyer in criminal cases. Furthermore the court acts as a disciplinary court in cases of suspension or removal of a judge from office. The court cannot review the judicial decisions of a judge but can state criticism or issue a fine if the behavior of the judge is found unseemly or improper in his or her office.

Outside the system of courts there is a rather developed system of boards established by law and often with a judge as the chairman. One example is The Danish Refugee Appeals Board, which is also an administrative appeal authority established by law. It consists of a chairman and a number of deputy chairmen – all appointed judges – a number of lawyers and a number of persons working in the Ministry of Justice (in the Department). The board processes complaints about asylum related decisions from the Danish Immigration Service. The Supreme Court has in some cases concluded that the Board is an expert board of a quasi-judicial nature and that deliberations of the courts are limited to points of law.

Another example is The Danish National Tax Tribunal which is the supreme administrative appeal authority regarding disputes on tax. The tribunal consists of 34 members: 1 president and 3 chairmen – all jurists – and 30 other members. 11 are chosen by the Parliament, 19 are appointed by the Minister of Tax and 11 of the last group shall meet the qualifications of a judge. Generally they are appointed judges in either a High Court or a District Court. The other members widely represent the Danish society. Rulings from the tribunal can be tried in the ordinary court system.

b) There is a moderate specialization especially in the high courts but also in the district courts. The judges are still generalists and all court divisions handle most types of cases. At the same time each division handles one or two certain types of cases, i.e. cases related to land registration, bankruptcy, paternity, childabduction, custody, housing, probation, sea and land transport etc. etc.

2. Have there been arguments presented IN FAVOUR OF increased specialization of judges/courts in your country? Yes.
   If the answer is affirmative, please state these arguments.

   Arguments in favour of specialization: In some areas with comprehensive complexity the judges need to specialize to keep up with the very specialized lawyers; specialization may make the system more efficient; specialization may serve the users of the legal system better.

3. Have there been arguments presented AGAINST increased specialization of judges/courts in your country? Yes.
   If the answer is affirmative, please state these arguments.
Arguments against specialization: it may lead to a more fragmented and unintelligible legal system; it may lead to a more narrow perspective and make it more difficult for the judge to develop the key-value solid judicium; too much specialization can make a career as a judge less attractive and thus make it difficult to recruit the best jurists.

4. How is specialization in the judiciary obtained:
   a) by recruiting specialized persons to become a specialized judge
   b) by specialized training before/during office
   c) by "on the job" training by colleagues
   d) other means, please describe how.

Learning by doing/experience, studying on your own, attending courses and seminars, using experiences from an earlier career or extra jobs etc.

5. Career:
   a) Does a specialized judge remain in the same position during the judge’s (lifetime?) career or is that judge’s appointment only for a certain period, after which the judge is automatically appointed to another specialization/court?
   b) can the judge move to another court/specialized function at his/her own demand?

Judges are appointed for lifetime (until they are 70 years) and can only be dismissed by a court judgment from the Special Court of Indictment and Revision. From the age of 65 a judge can be dismissed without loss of income until reach the age of 70. A judge cannot be transferred to another court without his or her consent unless the courtsystem is reorganized. A judge can apply for a job in another court.

6. In your view, could specialization have an impact on the independence of a judge or the judiciary? If so, in what way?

The answer is probably no, when we are talking about moderate specialization.

A comprehensive specialization could be dangerous because it might change societies view on our profession as well as our own perception of whom we are and what we are.