QUESTIONS

Could you please provide answers to these questions by 20 June 2016 for Discussion by the First Study Commission at the next annual meeting of the IAJ:

1. What would you identify as best practice to safeguard transparency of
   a) court proceedings

   With a few exceptions necessary to protect vulnerable parties, Court proceedings should be open to the public. This includes access for the press under reasonable circumstances, but does not include necessarily broadcast of the proceedings. Judgements of the supreme courts should be published (anonymised) with free access via internet and open to public and especially academic discussion. Judgements must be reasoned.

   b) selection of judges

   In Germany, the first appointment of young lawyers coming from university as judges depends on their academic qualification. In some parts of Germany the applicants have to pass through an assessment centre. This can be regarded as a sound safeguard against patronizing at the appointment. Appointment for higher ranks within the judiciary have to get the approval of a committee elected from judges and depend on references from the presidents of their former Courts.

   c) administration of the judiciary?

   Do you have experiences with such practices? Which?

   We do not have a council in Germany, so the administration of the judiciary is done by the ministries of justice. Most of their decision are taken within the executive mechanism and only open to scrutiny by parliament or the media. However, as politics for the judiciary is not very much at the focus of public attention, it is not normally not examined by either.

2. What would you identify as best practice to support and promote integrity of judges? Do you have experiences with such practices? Which?

   To promote an atmosphere within the judiciary that corruption is not tolerated by colleagues and just “not done”. The daily meeting over a cup of coffee in which cases are being discussed and unusual decision spotted is very helpful. Colleagues do have a very sensitive feeling for decisions out of line and the necessity to scrutinize what a colleague is doing.

3. What would you identify as best practice to prevent corruption within the judiciary? Do you have experiences with such practices? Which?

   A fair pay for judges, a code of conduct for everybody working at court or- as an advocate- in front of it, an advocacy, which is not corrupt, and media, which reports in an open and fair way. And a non-corrupt prosecution service which takes on cases of corruption within the judiciary and prosecutes them persistently.

4. What are the major threats, in your experience, to transparency and integrity
and a non-corrupt judiciary? How are those threats best combatted?

A society, in which corruption is accepted as part of daily life and especially a political class, which is living on and out of corruption and lawlessness. If there are only few judges, who are corrupt, strict prosecution and the collegial system will work. If the whole judiciary is corrupt, the political system must be based on corruption too and changed.

Submitted on behalf of the German Association of Judges

Berlin, 26.06.2016