Swedish answers to the questionnaire by the 1st Study Commission IAJ 2016

1. What would you identify as best practice to safeguard transparency of
a) court proceedings
All proceedings should be held in open court with the public having access. All documents should be open to the public. Only when the protection of a person’s privacy calls for closed doors or closed files, this should be granted. In some pre-trial proceedings it could also be needed to protect the investigations. In Sweden all cases are open to the public with the press having full access to the proceedings and all documents. There are some limitations on disclosure of names to protect the privacy in delicate cases like rape and to release documents revealing sensitive medical information. Also in pre-trial hearings on detention it is possible to close the doors for public and press to protect an ongoing investigation. There has, however, been some criticism in Sweden as some mean that courts are too keen on granting this request by the prosecutor.

b) selection of judges
An open and transparent system calls for standardized application procedure including interviews, open records and full explanation on how each candidate has been valued. In Sweden judges must apply for a judicial position on a standardized application form and provide references which are checked thoroughly by a committee appointed to make recommendations to the Minister of Justice. Applicants are interviewed by at least two delegates of the committee and on higher positions, the whole committee. Also several tests are mandatory on higher positions.

In Sweden this system is however considered to be a problem in one aspect. The fact that all applications and all relevant documents, except test results, are open to the press and public, can possibly make persons hesitant to apply for a position in the judiciary. For an attorney it might not be good for business to reveal his interest to change jobs if he is not absolutely certain it will happen. This could mean that not the best suited for the job will apply.
c) administration of the judiciary?
The administration of the judiciary should be carried out by an independent public authority, run by a majority of judges. The most important in this aspect is that the training of judges, the strategies on promoting efficiency and timeliness, the selection of judges, and division of budgetary means is administered by such a body. In Sweden the Swedish Court Administration carries out these duties, and is considered by judges to do it fairly well. It is an independent public body but the director general is appointed by the Minister of Justice and there is no formal influence by judges. Even though today there is no feeling that the Minister of Justice has undue influence on the judiciary in this way, the system is widely criticized.

2. What would you identify as best practice to support and promote integrity of judges? Do you have experiences with such practices? Which?
Training of judges is essential to achieve a high level of integrity among judges. It is necessary to offer courses and possibilities for judges to discuss ethical and conduct matters. In Sweden there is both mandatory initial training as well as elective continuing training in these matters. Training is mainly in small seminar groups where judges are able to share common experiences.

3. What would you identify as best practice to prevent corruption within the judiciary? Do you have experiences with such practices? Which?
It is of great importance that both press and the public have access to all court proceedings. Transparency is the best way to prevent corruption. Also, all judges must provide information on other duties they have in society and if they are paid for this. Last but not the least – judges salaries must be high enough so that they are not tempted to take bribes.

4. What are the major threats, in your experience, to transparency and integrity and a non-corrupt judiciary? How are those threats best combatted?
We are very fortunate in Sweden and do not have a problem regarding corruption of judges. The main threat is if the status of the judges is sinking, causing this not to be an attractive career for the best lawyers. A lower status will occur if the salaries and the work conditions are not at a good level.

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