

INTERNATIONAL ASSOCIATION OF JUDGES
First Study Commission – Annual Meeting in Abidjan (October 28-31, 2002)

NORWAY

Norway is in the process of setting up a new court administration system, which will be fully operational as of 1 November 2002. The legal basis for the new system has been provided through amendments of the Law on Courts and the board of the new administration has been appointed. The answers to the questionnaire are based on the new system.

When the term “the King in Council” is used, it refers to the executive power of the state. The decisions will be made based on recommendations made by the Ministry of Justice.

1. Constitution/Composition

- 1.1 Is there a Superior Council of the Judiciary or an analogous body, or bodies, in your Judicial System?

There is a independent Courts Administration headed by a board, a separate Judicial Appointments Board and a Supervisory Committee for Judges.

- 1.2 Give a brief summary of the role or functions of such body or bodies.

The Governing Board heading the Courts Administration is responsible for administering court personnel, for drafting the courts` budget, for allocating the budget amongst the individual courts, for ensuring that the courts have serviceable premises and appropriate equipment, for training and other competence building measures, and for developing the organization of the courts.

The Judicial Appointments Board acts as a judicial appointments body. It deals with applications to all three instances, District Court, the Court of Appeal and the Supreme Court, but does not deal with the appointment of the Supreme Court President.

The recommendations of the Board shall carry a great deal of weight when the Government makes its final choice. The Government may not choose an applicant who has not received the recommendation of the Board, unless it has asked the Board to make a special assessment of the applicant in question.

The Supervisory Committee for Judges has a monitoring function with regard to judge`s behavior. It shall detect misconduct and help to promote the development of judicial ethics on a broader basis. The Committee handles complaints against judges and decides on disciplinary measures.

1.3 Who are members of the body

The Governing Board heading the Courts Administration is composed of seven members, two elected by the Parliament as public representatives and three judges and two lawyers appointed by the King in Council.

The Judicial Appointments Board shall consist of two public representatives, judges from all three instances, and two lawyers from outside the courts and with a broad range of professional contacts. All members are appointed by the Crown.

The Supervisory Committee for Judges is composed of two judges, one lawyer, and two public representatives, all appointed by the King in Council.

1.4 How is the body constituted and what are the procedures for the appointment of members?

All the above mentioned bodies are constituted by the Law on Courts. The members of the bodies are appointed for a period of four years. The Law on Courts does not set forth a special procedure for the appointment of members. The Norwegian Association of Judges recommend candidates.

1.5 Is there a majority of Judges on the body?

No

1.6 Are any of the members of the body elected by Judges and if so how many? What is the period of office of a member of the body and under what conditions does the term of office come to an end? May a member be removed from office against his will and if so under what circumstances?

*None of the members are elected by judges.
The period of office is four years with the possibility of reappointment for one period.*

Members of all three bodies can be removed by the Government if they are not willing or not able to do the work properly.

1.7 To what extent is there a *de facto* influence on the work of the body by the Executive (Government) or the Legislature, with particular regard to its composition, its judicial functions and non-judicial responsibilities.

The Legislature allocates the financial resources to all three bodies. Except for this, the question is all ready answered.

2. Responsibilities of the Superior Council or the analogous body

2.1 Is the Supreme Court subordinate to the Superior Council of the judiciary? If Yes, describe in what respect.

The Judicial Appointments Board recommends candidates for the position as a Supreme Court Judge. An exception is made for the position as Chief Justice of the Supreme Court.

The Supervisory Committee for Judges decides on complaints against Supreme Court judges.

- 2.2 In so far as the role of the Superior Council or analogous body involved a sharing of judicial power with non-judicial persons or representatives, does the functioning of the Council/body conflict with a strict separation of powers between the judiciary and other state powers, the Executive and Legislative.

Not applicable.

- 2.3 Does the Council/body have responsibility for the nomination or appointment of a judge? If yes, give a brief description.

The Judicial Appointments Board is responsible for recommending candidates. The King in Council (The Government) appoints judges. The Government may not choose a candidate who has not received the recommendation of the Board, unless it has asked for the Board to make a special assessment of the applicant in question.

- 2.4 Does the Council/body have responsibility for the promotion of judges? If yes, give a brief description.

The procedure for promotions is the same as for new appointments.

- 2.5 Does the Council/body have responsibility in the appointment of Presidents of Courts?

The Judicial Appointments Board recommends candidates for the position as Court President.

- 2.6 Does it have responsibility for organizing the training or continuing education of judges? If yes give a brief description.

The Board heading the Courts Administration has the over all responsibility for organizing the training and continuing education of judges. To day this work is done by a special body composed of judges and one member from the Ministry of Justice (Etterudanningsrådet).

- 2.7 Does the Council/body have responsibility for the initiation or conduct of a disciplinary procedure against a judge?

The Supervisory Committee for Judges has the responsibility for the initiation and conduct of disciplinary procedure against judges.

The judges can be subject to disciplinary procedure primarily for professional misconduct in the performance of their office. All forms of negligent or willful professional misconduct can result in disciplinary reaction, subject to circumstances, in the first instance professional misconduct in relation to parties, witnesses etc, and

dilatoriness with regard to case preparation and drafting written judgments. Moreover breach of professional duties arising from a judge's contract of employment can result in disciplinary action.

There are two types of disciplinary measures or reaction that may be employed: the judge can either be issued with a "criticism" or a "warning". Criticism is a milder form of reaction than a warning.

- 2.8 Does such Council/body have responsibility in the evaluation of the work of a judge? If yes, give a brief description.

No.

- 2.9 Does it have responsibility for the drafting or preparation of the budget of the judiciary?

The Board heading the Courts Administration is responsible for drafting and preparation of the budget of the judiciary. The draft budget will be presented to the Ministry of Justice and be included in the Government's budget. The Ministry is free to decide on how the draft should be handled. If the Ministry makes substantial changes in the draft budget, the Board has the right to send its draft directly to the Parliament.

- 2.10 Does it have responsibility concerning the allocation of resources (personnel and financial) within the budget approved by Parliament of Government? If yes, give a brief description.

The Board heading the Courts Administration allocates personnel and financial means between the courts.

- 2.11 Are there any other significant responsibility of the Council/body not already mentioned? (e.g. the drafting of a judicial code of ethics).

No.

3. Superior Council and (a) the independence of the judiciary and (b) its advantages and disadvantages

- 3.1 If you have such a body, please list, very briefly the advantages and disadvantages.

The establishment of the three above bodies, the Board heading the Courts Administration, the Judicial Appointments Board and the Supervisory Committee for Judges secure that the courts are not placed under any political steering or control in the exercise of their judicial functions. The reason for wishing independence in administrative regard is primarily because it supports the independence of the work carried out by the judiciary.

It is a possible disadvantage that the Ministry could lose some of the interest in the courts and put less effort into trying to get the necessary financial resources to the judiciary.

- 3.2 If you do not have such a body:
(a) Is the creation of such a body contemplated?
(b) How do you view the advantages and disadvantages of such a body?

Not applicable.

4. Particularities/Criticisms

- 4.1 Are there some special features concerning the Superior Council or body in your country which might be of special interest to others from a comparative point of view?

None of the bodies described above have a majority of judges. The reason is that the public probably will have more confidence in the court system when there is a majority of representatives from outside the judiciary. On the other hand, the judges have a strong representation, therefore the three bodies have the necessary expertise.

- 4.2 Are there particular fundamental problems concerning the role of the Council/body in your country? If yes describe.

Not so far.

- 4.3 Are reforms of such a Council/body under discussion or proposed? If yes, describe briefly.

No

5. Topics

- 5.1 What topics do you propose for next year's meeting of the Ist Study Commission?

Ethics and code of conduct for judges should be interesting.

Svein Kristensen
Judge of the Oslo City Court
Member of the Board of the Norwegian Association of Judges