

**International Association of Judges; Annual Meeting in Siofók, Hungary
1st Study Commission; September 27th to October 02nd 2006**

Questionnaire
HOW CAN THE APPOINTMENT AND ASSESSMENT (QUALITATIVE AND QUANTITATIVE) OF JUDGES BE MADE CONSISTENT WITH THE PRINCIPLE OF JUDICIAL INDEPENDENCE¹

Country: Sweden

1. Are there assessments on the occasion of the appointment (of a judge) to another position or function?

- Yes, the judges are assessed on the merits by a recruitment committee, within the Court Administration Agency.

2. Are there assessments on other occasions?

- Yes, in connection to a raise of salary. This is a new agreement that the parties of the labor market have agreed on and signed 18:th of October 2005. This agreement will start to apply from the first of October 2006.

3. Who is in charge of the assessments?

The chief judge in that specific court

4. Please describe how an assessment is conducted?

- The first step is a discussion between the judge and the chief judge. This discussion serves as the basis for the negotiations between the Court Administration Agency and Jusek, which is the Association of Graduates in Law. The judge's raise of salary will be decided between the parties in a collective agreement.

5. Has this assessment a quantitative character (eg. number of cases undertaken; files completed)? Please describe. What figures are taken into consideration?

- No. There is no direct quantitative assessment of a judge's work.

6. Has this assessment a qualitative character (eg. someone assesses how well the judge performs at various tasks)? Please describe. What aspects are taken into consideration?

¹ De quelle manière la nomination et l'évaluation (qualitative et quantitative) des juges est-elle mise en concordance avec les principes de l'indépendance judiciaire?

- Yes, through assessment of the judges in connection to a salary raise as a result of evaluation of the experience, ability to take on responsibilities and the degree of difficulty of the judges assignments.

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7. Do the number and/or the outcome of the cases handled by the judge play any role in the assessment? Please explain.

- No. The productivity of the judges' judicial activity is not under consideration, nor is the result of the judgments. This is prohibited because of the possible pressure aimed at influencing judicial decisions and behaviour of judges.

8. Is the duration of a case dealt with by a judge an item which is considered in an assessment? In what way? Please, explain.

- The duration of a case dealt with by a judge is not under assessment.

9. How are judges who sit in court assessed?

- There is no assessment of the judges in court.

10. What are the consequences of these assessments?

11. Is there any connection between assessment and remuneration?

- Yes, if a judge fulfils the criteria's discussed under question six he/she has a right to a raise of salary.

12. Do you see any infringement on the independence by virtue of the assessment of judges in your country? Please, explain.

- The parties of the labour market have agreed on that the chief judge, as a part of his/hers administrative duties is to be allowed, to assess the judges qualifications after certain criteria's and this assessment will serve the parties of the labour market as a basic data for there decision-making and distribute bonuses to one or several of the regular judges employed at the courts. It is not required a formal application, a notification of interest is to be sufficient. This presupposes a continuous assessment of the judges' skill level before the salary negotiations. Further, the individual salary level then becomes a control instrument for the employer or the decisive body. If the judge needs to be graded or assessed as skilful in order to receive higher salary or a bonus this might influence him/her to subconsciously subordinate him/herself to the

colleagues and chiefs opinions instead of using his/her own judgment in the judging activities. A skilful judge who works slower but safer than others might become a victim when productivity and efficiency through experience, taking on more responsibilities or more difficult assignments are considered the most desirable qualifications in the assessments.

It is the government that decides the court's budgets and formulates the goals of the courts. There is an increased focus on productivity and efficiency and quantitative goals that are constantly raised. In the budget work the fulfillment of goals are connected to the distribution of funds to the courts. This connection is endangering the independence of judges. These kinds of criteria's leads to an indirect quantitative assessment of the judges. One can see in the near future as a result of recent developments how even the chief judges salary will be depended on productivity and efficiency of the court and this will naturally effect his/hers opinion on most desirable quality of a judge in the assessments.

13. What topic do you suggest for next meeting?

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