

## **Judges and specialization**

### Questionnaire 1<sup>st</sup> study commission 2012 – German Answers

1. a) There are specialized courts (court branches) with certain types of cases like labour courts (labour and trade union law), administrative courts, social courts (social security law) and so called finance courts (tax law). In the so called ordinary jurisdiction (civil and criminal law) there are specialized chambers, e.g. for commercial law.  
b) In the general courts there are no specialized judges by law, but in practice judges specialize and tend to stay in their field.
2. Specialization is regarded as increasing quality. As lawyers and law firms tend to specialize judges' specialization is regarded as necessary to keep up and maintain the quality level.
3. The argument against specialization is the loss of flexibility of judges (in general judges in Germany are supposed to be capable of resolving/running all typ of cases). Specialized courts or court branches also tend to be an obstacle against flexibility. In former East Germany for example the number of labour law cases is decreasing constantly due to the fact of loss of industrial labour and the change in the structure of population (decreasing number of inhabitants and growing age average). On the other hand the number of social law cases is increasing. Special branches now make it impossible to move a judge from labour court to social court against his will.
4. Judges for the special branches of the judiciary are recruited during the first three years of judges' career. Later a judge may apply for a change of branch, in practice this usually is realized. Some judges receive specialized training before or during office, usually though is learning by doing "on the job" and a training by colleagues.
5. a) Every judge may remain in the same position during his lifetime service. Usually though judges after several years of service want to be promoted, this might lead to the necessity of change.  
  
b) A judge may move to another court/specialized function. As the German judiciary is run by the same rules as the whole public sector a vacancy in this other court/branch is required. In practice a change can be realized within some time.
6. An impact on the independence of a judge or the judiciary by specialization is not visible in Germany.

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