

**RESPONSE OF THE ISRAELI DELEGATION  
TO THE FOURTH STUDY COMMISSION QUESTIONNAIRE 2022  
JUDICIAL WORKPLACE AND JUDICIAL INDEPENDENCE**

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The independence of the judiciary is determined in the Basic Law: Justice. This is a constitutional law (no formal constitution has been enacted in Israel and according to Israeli law, the Basic Laws constitute the normative source for the constitutional rights in the country. The Basic Laws de facto have the status of a constitution). Section 2 of the Basic Law of Justice states as follows: "In matters of justice, there is no authority over a person who has judicial authority, other than the authority of the law." That is, judicial independence is enshrined as a fundamental constitutional right.

This means that the judge is supposed to judge solely by the law. In terms of the content of judgments and judicial decisions, this is the customary situation in Israel.

The Judiciary is headed by the President of the Supreme Court. Alongside the President, serves the Director of the Administration of Courts, who is also a judge. In this respect, the legal system has independence in the sense that those in charge are judges, they are well acquainted with the complexity of the judicial craft and the challenges facing judges.

At the same time, there is a structural difficulty that has an impact on the independence of the judicial system as an institution in its relationship with the executive branch. This is because there is no complete disconnect between the judicial branch and the executive branch and in this aspect; the judiciary does not enjoy complete independence. At the administrative level, the "legal services" provided by the judiciary are perceived as part of the services for which the

executive branch is responsible. In this respect, the Court system is part of the executive branch, with the minister in charge being the Minister of Justice. Accordingly, the administrative responsibility of the Courts rests with the Minister of Justice. He appoints the Director of the Administration of Courts and he has a central role in the appointment of the Presidents and Vice-Presidents of the Courts as well as the Court Registrars, who form a significant part of the judicial staff. However, the appointments are made after the consideration of search committees composed of judges and on the recommendation of the President of the Supreme Court, so that in decisions on appointments / promotion to management positions, professional and objective judicial bodies are given voice and weight.

In addition, in many cases it has been determined that the decision of the Minister of Justice should be made in consultation with, or in agreement with, the President of the Supreme Court. This also achieves a reduction in the administrative control of the executive branch over the judiciary.

There are also processes that have become customary practice, which moderate the influence of the executive branch. For example, in the matter of appointing the Director of the Administration of Courts. According to the law (section 82 of the Courts Law [combined version], 1984), the Minister of Justice determines the procedures of the Director of the Administration of Courts and the incumbent is responsible to the Minister for the implementation of the procedures. The law stipulates that the position of Director of the Administration of Courts can be held by either a judge or someone that is not a judge alike. However, the minister has always appointed a judge to the position, who is naturally well acquainted with the judicial system and the day - to - day work of the judge. As a result, even in the management of the court system, weight and expression are given to the principle of judicial independence.

Another institutional barrier that has an impact on the independence of the judicial system is the issue of the budget for the Court system, which is subject to the approval of the Ministry of Finance, which is part of the Executive branch. Accordingly, issues such as standards (whether for the judges themselves or the

administrative coverage such as legal assistants and interns, secretaries and stenographers) are also subject to various limitations arising from the decisions of the Executive branch. This means that the ability of the judicial system to provide judges with optimal administrative support for the performance of the essential judicial tasks is limited and depends on ongoing dialogue with the Treasury. This is the case with work force, physical conditions and even the judges' salary conditions.

In addition, all administrative employees are considered state employees, and are subject to the Chief Secretary of the court where they work and to the administrative management structure in the court system. Since these are civil servants, they are subject to the directives of the Civil Service Commission, which is the body that manages the entire workforce of the State, as part of the executive branch. In fact, there is no relationship of subordination between the administrative staff supporting the work of the judge and the judge himself. This is so too at the level of the solitary judge (judge with his staff) and at the administrative level (President of a Court with the Chief Secretary). On a practical level, there is commonality of purpose for the entire system (judges and administrative staff) - to provide a quality and effective legal service to the public, for which all parties work in cooperation.