

Topic 2. Judicial Ethics and Independence: are they threatened by social networks or political influence?

QUESTIONNAIRE

PRELIMINARY QUESTIONS

I. The Court System in each country

1. Describe briefly the court system in your country, including the place of the Labour Courts in the court system, including their structure and jurisdiction.

Also, please relate to the following:

- a) Are the Labour Courts part of the general court system or an independent court system?
- b) Is the administration of the Labour Courts independent of the administration of the general courts?
- c) Does the Labour Court in your country have lay members on its' panels? In all cases? Do they have an equal vote on deciding the outcome of the court's judgment? Are there lay members on the general courts?

II. The Independence of the Labour Court System

2. How are judges appointed to the Labour Courts? Please relate to the following:

- a) Who appoints the judges to the various instances of the Labour Courts?

a.a) If there is a committee, who sits on the committee?

a.b) Are there any politicians involved in the appointment process? If so, what is their involvement?

- b) What are the qualifications required for people applying to be judges of the various instances of the Labour Courts?

- c) Please describe the appointment process: who can apply? How does one apply?

Are there tests given? If so, what are they: written, oral, personality?

Are there interviews? If so, who does the interviewing?

- d) Are there necessary qualifications to become a judge in the various instances of the Labour Courts? Years of experience as a lawyer? Years admitted to the Bar? Languages spoken

and/or understood? Are recommendations submitted? Are candidates required to take a seminar or personality tests?

- e) Are there different methods of appointing Labour Court judges as compared to judges of other types of courts?
 - f) If your system has more than one instance (trial, appeal, supreme) are there different methods of appointing Labour Court judges for the different instances? If so, please describe the methods.
 - g) How are the Lay members appointed and who appoints them and for what length of terms?
3. How is the budget of the Labour Court determined? By who or which body?
4. Under what circumstances can a judge or lay member be dismissed from office and is this done in practice?
- a) Age
 - b) Misbehavior – are judges subject to disciplinary action, by whom
 - c) Conflict of Interest
 - d) Senility, mental disease
5. Is there an independent body which handles public complaints against the court system, including the judges and the lay members? If so, please provide a short description of this body.
- a) Can the public file complaints against the judges?
6. Who decides which judges hears which each case?
- a) Does any person or body outside the court have any say on which judge hears a specific case?
 - b) Who decides which lay members will sit on each panel?
 - c) Does any person or body outside the court have any say on which lay members hear a specific case?

7. Who decides on promotion of judges to higher courts?

III. Judicial Ethics, social media and court independence

8. Are there rules of judicial ethics for the general court judges and the Labour Court judges?
- a) Is there an enforcement procedure for these rules?
 - b) Is there a method whereby judges can ask for rulings about how to act or behave when they have questions about their behavior?
 - c) Are there rules of judicial ethics for the lay judges?
9. Are judges and lay members allowed to be active members of political parties? Run for political office? Do private work as arbitrators, mediators, attorneys?
- a) Are judges and lay members allowed to participate in any fashion in political or social public demonstrations, such as marches, rallies, protests, etc.?
10. Are there limitations on the ability of judges or lay members to express themselves in public lectures? In the media? To appear on television or radio?
11. Have there been any court cases in your country regarding the independence of the Labour Courts or judicial ethics?

Have there been any claims by labour unions or management organizations that the Labour Courts are not independent or are influenced in any way by politicians' or political motives?

12. Has there ever been instances of people or bodies who have attempted to influence a judgment of your court?

Has there ever been "political" influence on your Labour Court system from outside your country, such as from EU, UN or ILO bodies? This does not refer to the EU court system or the European Courts, but to political influence from outside your country by international unions or employer associations, foreign embassies, international sports associations, etc.

IV. Social Media and the Courts

13. Are judges and lay members allowed to use the social media?

a) Can and do judges have connections thru the use of Facebook, twitter and similar social media?

b) Can and do they have blogs or web pages?

Are there limits to the extent of personal information which judges or lay members are permitted to publish on social media? For example, can they state their private telephone number and address, spouse name and place of work, marital status, and sexual preference?

c) Can and do they put pictures of themselves on the social media and use social media like Facebook, Tweeter, and Instagram?

d) Can and do judges use any of the above social media forms to communicate with each other?

e) Are there any rules governing lay members which relate to the above questions?

f) If the answer to any of the above questions is positive, how is it used, are there any other limitations to its use and have there been any problems with its use?

g) If there is a judicial code of ethics applying to judges and/or lay members, do these relate to issues arising out of the use of the social media? If so, please describe them.

14. Do judges, yourself included, consider the social networks, internet or the media in general a legitimate method of learning about disputes which are being litigated before your court?

a) Will you read a newspaper or internet article about a dispute being litigated in your court?

b) May an attorney arguing a case in your court refer to information appearing in the social media, internet or the media? Will it be given any importance in your opinion?

c) May an attorney ask a witness a question on cross examination based on such information appearing in the social media, or a media article or any item published in the internet?

15. Do you feel that the social media or the social networks have any influence on the hearings or judgements of your court?

16. Does your country have a general rule of "sub-judice" and is it enforced?

a) Does your country have laws and/or regulations regulating social media's relationship to the court system, and the labour courts in particular? If yes, please describe them?

b) If there were any judgments on this subject please describe them.

17. Has the social media influenced the transparency of your court?

a) Regarding public access to information about your court?

b) Does your court have a site on social media? On Facebook, twitter or a similar site?

c) Does your court have an Internet site open to the public?

Give a brief description of the type of information the public can obtain on this site.

What are the languages of the site?

Are the judges' and lay members legal ethics published on the site?

Are decisions of disciplinary hearings concerning judges or lay members published on the Courts' internet site?

d) Does the public have access on the social media to hearings in your court?

e) Is it permissible to record or film hearings in a Labour Court? If yes, is it permissible for a party to a hearing or a person attending a hearing to record the hearing and then post it on the social media?

Can the court protocol or evidence be posted on the social media?

f) Are there limits to what the public, judges, lay members or parties can say in the social media about Labour Court judges and/or about the way the judges conducted a hearing or court judgments?

Have there been any charges of contempt of court relating to information appearing in the social media?

g) Given the open character of the social media and the difficulty to control information appearing on it, is it still possible:

- 1) To conduct some hearing "in closed court"?
- 2) To prohibit publishing of certain information revealed in a court case. For example: in cases involving sexual harassment,
- 3) To prohibit publication of the victim's name or details of the harassment.

18. Has the social media or internet been used to monitor judges' work and/or worktime?

Is the social media, especially the internet, used for purposes of setting cases and managing judges' workloads?

19. Have there been instances when the social media has been involved in revealing internal discussions within judicial panels? Or draft judgments prior to their being signed and delivered to the parties?

What steps were taken to prevent these kind of errors?

20. are there any other issues relating to the relationship between the social media and judicial independence which you would like to mention?