



First Study Commission
Judicial Administration and Status of the Judiciary

Meeting in Madrid, 23 - 27 September 2001

Conclusions

THE APPOINTMENT AND THE ROLE OF PRESIDENTS OF COURTS

1 The organisation and administration of the judicial system should be structured in such a way as to avoid or eliminate not only direct but indirect influence by public authorities or any other outside interest on the exercise of judicial functions by the judiciary.

2 The president of a court must be a judge. Presidents of courts should in principle be chosen from persons who have already held judicial office. Their functions and areas of competence should be objectively defined by regulation or other means so that they can act in full independence of outside interests. The independence of a president of a court in the exercise of his administrative functions should enjoy the same protection as judges do in the exercise of their judicial functions. Therefore he should not be removed from office before the expiry of his term.

3 The presidents of courts should not exercise their administrative functions in a manner which could compromise the independence of other judges or unduly influence them in the exercise of their judicial functions. The primacy of president of courts in administrative matters should not be transposed and used to influence judicial hearings or judicial decisions. Practices and procedures should guarantee, particularly in courts where more than one judge presides, that the president of the court does not exercise undue influence on other judges.

4 The judiciary as a whole, but in particular presidents of courts, should be consulted before proposals, by way of legislation or otherwise, are adopted to alter the structure or organisation of the courts.

5 As regards budgetary matters and the allocation of resources for the functioning of the judicial system, this should be sufficient to enable the judiciary to fully exercise its functions, but in particular, should not be a means by which pressure is placed on judges which could affect their independence. Presidents of courts should at least be consulted as to the budgetary and other resources required by the courts to carry out their judicial functions. The topic of next year:

"The role and function of the High Council of Justice or analogous bodies in the organisation and management of the national judicial system."

Madrid, September 26th 2001