CHAPTER THIRTY-TWO

Analysis of the Amendments to the Mt. Scopus International Standards of Judicial Independence

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I Introduction

In this chapter we shall offer an analysis of the amendments to the Mt. Scopus Standards of Judicial independence of 2008 that were adopted at the Vienna 2011 and Ghent 2012 conferences. These amendments dealt with a number of central issues that warranted the study and deliberation of the International Project of Judicial Independence. These issues include: the relationship between top national, international, and supranational courts; the duty of the international and supranational courts to respect basic legal principles as reflected by the Supreme Courts of member states; the significance of administrative adjudicators; limits on judges' consultations; the significance of an expressly provided procedure for selecting a Chief Justice; the significance of building a culture of judicial independence; and guidelines regarding public inquiries by judges.

The chapter also outlines the agenda for future discussions at the project's next conferences. The focus will be upon the legal profession and judicial independence, global judicial ethics codes, and online justice or Online Dispute Resolution (“ODR”).

The chapter begins by offering a brief report on the development of the Project of Judicial Independence of the association of judicial Independence and World Peace (“JIWP” Association) and the drafting of significant international standards that members of the JIWP Association have both contributed to and initiated. These include the New Delhi Code of Minimum Standards of Judicial Independence 1982, the Montreal Universal Declaration on the Independence of the Justice System 1983, research projects and reports on

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II Development of the Project of International Standards of Judicial Independence

Between 1980 and 1982, members of the International Project of Judicial Independence and JIWP Association participated in the drafting of the New Delhi Code of Minimum Standards of Judicial Independence in cooperation with the International Bar Association. The code was drafted in Lisbon and Jerusalem, with final approval obtained in New Delhi in 1982.¹ A year later, in 1983, members of the project took part in Montréal's Conference on the Independence of Justice, and therein drafted the Universal Declaration of the Independence of Justice 1983.² Two years later, in 1985, the then collective works of the International Project of Judicial Independence were published by Shimon Shetreet and Jules Deschenes in Judicial Independence: The Contemporary Debate (Martinus Nijhoff: 1985).

Members of the association were active in the research and study of human rights and presented country reports and general reports on topics ranging from human rights, the rule of law, world peace, and judicial independence at international professional and academic conferences. By these studies and reports, the members of the association made a substantial impact on academic, professional, and judicial approaches to the subjects, as well as, influencing the awareness of the general communities. In 1986, the members of the association took part in the Twelfth Congress of Comparative Law in Sydney and Melbourne, Australia (1986), and presented a General Report on Human Rights. Members of the association took active part in the preparation of a major report on Judicial Independence for the Seventh International Congress of Procedural Law 1983 in Wurzburg and again in 1991 in Lisbon and Coimbra. Members of the association contributed to the study of the role of judges in society at a conference on the Fiftieth Anniversary of the International Association of Procedural Law in 2000 at the University of Ghent which focused on ‘The Discretionary Power of the Judge’.³

¹ See http://www.jiwp.org/-/new-delhi-declaration/c134r. see Appendix II Part IX of this Volume.
² http://www.jiwp.org/-/montreal-declaration/c1bue.
³ See details below text and notes 10–12.