

Appendix VII – German evaluation sheet

Name:	Michael Everybody
Position:	judge, court of appeal, Cologne
Date and Place of Birth:	April 4, 1958, Boomtown
Address:	Castlestreet 12, Cologne
Civil state:	married, 3 children
Exams:	first state exam 1984: "sufficient" second state exam 1988: "fully satisfactory"
Appointments:	1985: Article Clerk 1988: (junior) Judge 1992: Judge (appointed for life), Regional Court Cologne 2003: Judge, Court of Appeal, Cologne
Assignments:	1992-1993: local court, Cologne 1999-2000: court of appeal, Cologne

Judge at the Court of Appeal Michael Everybody in his time in the regional court Cologne was a member of various panels for first and second instance civil cases and for first instance criminal cases. From 1993 to 1996 he was deputy presiding judge of a panel for homicide cases. After this he was a member of the panel for crimes against the state and from 1998 until his assignment to the court of appeal he sat in a panel for appeals in probate cases. After his assignment to the court of appeal he was a member and deputy presiding judge of two panels for first instance civil cases who had to deal mainly with construction cases. At the court of appeal, Judge Everybody sat from 2003 to 2005 in a panel on appeals in construction cases; in addition to this, for some months with half his working force he was assigned to a panel dealing with appeals on costs and another panel hearing company law cases. Between 2005 and 2007 he belonged first to a panel hearing appeals in international sale cases and again construction cases. Since 2008 Judge Everybody is a member and deputy presiding judge of the panel dealing with bank cases.

Judge Everybody has published books and articles on construction law and is teaching in seminars for lawyers. He is also sitting as an examiner in law exams.

Professional Competence

Judge of the court of appeal Everybody is a judge with complete experience in civil and criminal cases. He commands excellent, widespread and deeply founded knowledge of the law. He knows how to apply this knowledge of the law to the individual case with an ability for deep scientific research – where this is necessary -, but also with excellent practical skills, with a down-to earth and clear view of essential issues and with distinct social competence. He shows critical, independent thinking and judgment and a balanced, infallible intuition. His understanding of the role of a judge is exemplary. He meets litigants, advocates and witnesses with competence and at all times guarantees impartial conduct of hearings and of decision-making.

Due to his high professional and intellectual abilities judge Everybody is able to appraise exactly even very voluminous, complex and manifold cases, to analyze them clearly, to structure the issues and to write an easily understandable, structured report of the facts of a case with exact emphasis on important issues. Thanks to his laudable engagement and stamina he is able to acquaint himself shortly and thoroughly with legal fields so far not familiar to him. Hereby, at the court of appeal, in a very short period of time he has acquired profound knowledge in the fields of construction law, costs, company law, probate and the law of banking and stocks. He commands a remarkably wide judicial expertise and knowledge in these fields. Especially in the law of banking he is an expert with excellent, very profound knowledge. With his high engagement and great sense of duty he prepares even the most complex cases deeply and thoroughly and leads them to a very balanced and convincing outcome. His opinions are well structured and show complete and exact reception of the facts. They are phrased in easily understandable language. Relevant legal issues are reported thoroughly with reference to leading cases, textbooks and learned opinions. His draft judgments are in clear, transparent and consequential order; they show convincing reports of the deliberations of the court and are precise in their wording. The judge's oral reports in the deliberations are well prepared, instructive and easy to follow. He stands to his opinion with thoughtful arguments but is always open to hear and discuss the views of his colleagues. In cases where he is not charged with the task of rapporteur he still intervenes in with thoughtful and knowledgeable ideas.

As deputy presiding judge of the panel judge Everybody regularly presides over one tenth of the cases of the panel. In these cases but also in times of absence of the presiding judge he conducts the business of the panel with great competence. He conducts hearings excellently prepared in a quiet, professional way and a very constructive, benevolent atmosphere. He is very successful in explaining the preliminary opinions of the panel in a convincing way to parties and advocates and hereby often reaches conciliatory settlements.

Personal Competence

Judge Everybody is a very learned, open-minded person with multiple interests. He works with great enthusiasm, industriously, with great concentration and swiftness but at the same time thoroughly and is absolutely reliable. His sense of duty and responsibility, his flexibility and personal preparedness as well as his social competence are exemplary. He is able to shoulder even long-lasting high workloads with no sign of fatigue and without shortcomings in the quality of his work. Repeated simultaneous assignments in two panels with different special fields were easily mastered by him. He is open for new working techniques and makes use of modern information technology.

Social Competence

With his collegiality and assistance judge Everybody helps creating and maintaining a good working climate in his panel. In court he is open, polite, competent and well-balanced towards all persons present. He explains preliminary views and opinions of

the panel in an emphatic, open, easily understandable way which can be understood well even by lay litigants. Judge Everybody who shows a friendly, quiet, polite and (in a positive way) self-assured standing, is highly respected among his colleagues and the support staff.

Competence to Lead

With his own high commitment judge Everybody works towards efficient and rational organization of the work in the panel. This applies especially in those cases where he acts as presiding judge. By his own conduct he sets an example for other members of the panel, integrating them and motivating them. His co-operation with the support team is constructive and efficient. He knows how to incorporate interests and views of the support team in the conduct of the work of the panel for which he is responsible.

The overall view of the performance of judge Everybody shows excellent professional competence, a very distinct sense of duty and responsibility, great flexibility and preparedness to take over diverse fields and assignments of judicial work.

Knowledge, abilities and performance of this very industrious and engaged judge are at the date of this report (January 1, 2013)

High above average (upper level).

It is likely that even higher performance will be assessed in the future.

Cologne, February 2013

The president of the Court of Appeal