

International Association of Judges (IAJ/UIM)

4th Study Commission – 2022

“Judicial Workplace and Judicial Independence”

Answers Slovenia

What is the impact on judicial independence of the judicial workplace (including nominations and appointments, independence in decision making, governance, assignments, fund and other resources)?

Please provide examples in the judicial workplace that foster judicial independence and identify barriers and practices that impede or negatively impact judicial independence.

Nomination, appointment and promotion:

The Supreme Court of the Republic of Slovenia shall advertise vacant judicial posts within 14 days from the receipt of a proposal from the president of the court.

The conditions for a judge are determined by the Judicial Service Act. The selection and appointment from among the registered candidates is made by the Judicial Council of the Republic of Slovenia (an independent constitutional body sui generis, which consists of 11 members, 6 of whom are elected by the judges from among themselves, 5 of whom are elected by the Parliament at the proposal of the President of the Republic of Slovenia from among legal experts) on the basis of professional criteria specified in the law. The appointed candidate is then proposed for election to the National Assembly - Parliament. After the election, the judge is then sworn in before the President of the National Assembly. The judicial service begins on the day of the oath.

Once appointed and elected, the competences and abilities of judges are evaluated regularly – every 3 years in the first 3 years, every year in a written way by personal councils of the next higher courts. The results in those regular evaluations are an essential basis for promotion. The presidents of the courts decide on promotion in salary grades (regular), while the Judicial Council decides on faster and exceptional promotion and on promotion to the position of councilor.

If a judge is promoted to the position of Supreme Court Judge, he/she must be re-elected in the National Assembly on the proposal of the Judicial Council.

The Republic of Slovenia is the only country in Europe where judges are elected by the National Assembly on the proposal of the Judicial Council. To change the provisions, the Constitution would have to be amended, but the governments so far had neither the will nor it was possible to secure a 2/3 majority in the parliament. Despite GRECO's recommendations, the provision that a judge promoted to the post of Supreme Judge must be re-elected by parliament was not changed.

Independence in decision making, governance:

The independence of judges in the Republic of Slovenia is guaranteed in the Constitution (Article 125 - Judges shall be independent in the performance of the judicial function. They shall be bound by the Constitution and laws.) and in the Law on Courts and the Law on Judicial Service.

The principle of judicial independence in Slovenia is not only constitutionally and legally protected to a large extent, but is also actually lived in the courts.

The principle of appointment/election for a lifetime guarantees a high level of personal independence of each judge, and thus fosters judicial independence as judges cannot be dismissed unless for severe reasons that

can be subject to criminal and disciplinary proceedings.

Assignments, fund and other resources:

Both the funding of courts, and the personal remuneration of judges are highly relevant to guarantee judicial independence.

The allocation of funds for the judiciary in the Republic of Slovenia is in need of improvement.

Especially due to vacancies, the workload of judges especially in the central regions of Slovenia can be very high. An excessive workload on judges can at some stage have a negative impact on their judicial independence, as they could feel compelled to decide as many cases as possible at the expense of diligence.

Adequate remuneration of judges is an essential element to ensure the economic independence of each individual judge. As such, adequate remuneration of judges – including an adequate pension – is necessary to guarantee judicial independence.

The salaries of judges in the Republic of Slovenia lag far behind the salaries of representatives of the other two branches of government. Therefore, first the Slovenian Association of Judges and then the Judicial Council of the Republic of Slovenia submitted a request for an assessment of the constitutionality of the laws regulating judges' salaries. We expect a decision later this year.