

## **Iceland: Answers to the Questionnaire 2022 of the 1st Study Commission IAJ-UIM**

### *“Disciplinary proceedings and judicial independence” Questions:*

- 1) *What kind of allegation can justify disciplinary proceedings against judges in your country: an individual's behavior only in the workplace or also in his or her private life? Give some examples, please.*

*Can the content of the decisions taken by judges also lead to disciplinary proceedings?  
Can judges be charged criminally for the content of their judicial decisions under any circumstances?*

In general, any kind of allegations regarding a judge’s behavior in the workplace can initiate a censure of whether the conduct should lead to disciplinary proceedings. A complaint can be directed to the Committee on Judicial Activities by anyone who thinks he or she has been wronged by a judge. Examples of such allegations are indecent or offensive behavior or impartial conduct of a judge. However, complaints relating to judicial activities subject to review by superior courts are outside the purview of the Committee.

A judge’s conduct in his or her private life can also lead to disciplinary proceedings. If the person in charge of a court considers that the professional conduct or performance of a judge, or his private conduct, is worthy of censure, and the judge, despite a request, does not correct the matter, or if the matter is considered to be so serious that a request of this kind is not suitable, the chief judge at the court in question shall refer the matter to the Committee on Judicial Activities, stating the reasons. The Minister of Justice may also refer such matters to the Committee. Judges shall not hold other jobs or own a share in an association or business, but the Committee issues rules on exemptions from this main rule. When relevant, the Committee can issue a reasoned decision forbidding a judge to hold a second job, participate in association or own a share in an association or business. In case a judge does not adhere to such prohibition the matter shall be subject to disciplinary proceedings.

As stipulated in the Icelandic Constitution, judges will not be removed from office except by a judgement of a court of law. A Supreme Court Justice was released from office by a Judgment of the Supreme Court in the year 1989, confirming the findings of a District Court the same year. He had made excessive use of permitted privileged perks to buy tax-free alcohol, in the periods of holding, as one of three substitutes, the powers of the President of the country in the President’s absence. This conduct was found to be a misuse of the privilege and therefore not compatible with the dignity of his office and trust that is essential for the Supreme Court to hold. Although the conduct occurred in his private life, the privilege he held followed directly from his position as the president of the Supreme Court.

Any criminal liability resulting from a judge's conduct in office is governed by the General Penal Code and other criminal law. The General Penal Code stipulates punishment for judges for wrongdoing in resolving a case with the intention of a wrongful conclusion.

- 2) *Which body is responsible for disciplinary proceedings against judges in your country? Is the body that carries out the disciplinary procedure the same one that imposes the penalties?*

*What is the composition of the body responsible for disciplinary proceedings (as well as the one who must apply penalties to judges, when it is not the same)? Is it composed only by judges, does it have a mixed composition, or is it composed only by professionals outside the of the Judiciary Branch? Kindly describe the composition of that body (those bodies).*

The Judicial Administration is an independent administrative body responsible for the functioning of the Courts, governed by a board of five persons appointed by the Minister of Justice, one of those without nomination. Four persons shall be appointed in accordance with nominations, the chairperson of the board shall be a Supreme Court judge, one member shall be a judge at the Court of Appeal, one shall be a District Court judge and one is nominated by other staff of the courts.

To perform the functions of disciplinary proceedings the Judicial Administration appoints three persons to the Committee on Judicial Activities and three alternates. One member shall be appointed as proposed by the Icelandic Association of Judges, another as proposed by the Law Faculties of the Icelandic Universities. Each proposal shall include one male and one female candidate. The third person shall serve as chairman and is appointed by the Judicial Administration without nomination and shall fulfil all requirements set for appointment to the office of a Supreme Court judge other than the age limit. A working judge is not eligible. The Committee shall be independent in its work and the decisions taken by it cannot be referred to any higher administrative authority. The Committee shall deliver a written and reasoned opinion to the Judicial Administration. If the Judicial Administration considers that action should be taken on the matter, it may admonish the judge or, in case of a possible suspension or removal from office, refer the matter to the Minister of Justice for further procedure.

- 3) *Which disciplinary penalties can be imposed on judges in your country? Is the disciplinary penalty of removal from office among them? Can a judicial conviction for a crime lead to a penalty of removal from office?*

Admonition and removal from office are available penalties to be imposed.

If a judge is subject to a criminal investigation, or if a criminal action is brought against him or her, the judge may be removed from office temporarily until the investigation is concluded with a decision not to prosecute the judge, six months have passed without an indictment having been issued, a criminal action is brought to a conclusion of final acquittal, or until two weeks have passed from the pronouncement of a final judgment finding the judge guilty. Such judgment could, depending on the nature of the crime and all circumstances, lead to a procedure for dismissal from office, but judges will not be removed from office except by a judgement of a court of law deciding on a dismissal from office at the request of the Minister of Justice on behalf of the State.

*4) In the disciplinary proceedings against judges in your country, is a fair trial granted? Is there an appeal against the decision imposing a disciplinary penalty on judges? During the disciplinary proceedings, can the judge be suspended from office? Does the judge who is suspended during disciplinary proceedings continue to earn a salary normally or does the judge suffer any reduction in income?*

The procedure by the Committee on Judicial Activities is governed by the provisions of the Administrative Procedures Act and the judge in question shall be afforded an opportunity to reply to the allegations in writing. A judge who has been censured may take legal action to annul the decision against the Minister of Justice on behalf of the State within one month from when the censure was served on the judge.

A judge may be suspended from office temporarily if he/she has been censured and fails to adhere to the censure within a suitable period of time, or if his or her conduct provides an occasion for a new censure within a period of three years. A judge may be suspended from office temporarily if the judge is no longer in possession of the general qualifications required for judicial office or if the judge is subject to a criminal investigation or criminal action where the charges, if sustained, would deprive the judge of the general qualifications for judicial office. A decision taken to relieve a judge temporarily from office because of a criminal investigation shall stand until the investigation is concluded or a criminal action is concluded.

A fair trial is granted as the following procedure is provided by law. When a judge has been temporarily relieved from office, the Minister of Justice on behalf of the State, shall take legal action against him before the District Court of Reykjavík, requesting dismissal from office by judgment within a period of two months. If this is not done, the decision shall be cancelled automatically. The action shall be governed by the general rules on civil procedure, with the exception that the procedure shall be expedited and that the case shall be handled by three district court judges. If the case is dismissed from court or the action is cancelled, the decision shall also be automatically cancelled unless a new action is brought within a period of two weeks; however, this may occur only once.

After a judgment has been rendered by the district court in such a legal action, the decision to suspend the judge from office temporarily shall remain in effect until the general time limits for appeal have passed, and, in case of appeal, while the action is in progress before the Court of Appeal or the Supreme Court. A final judgment on dismissal from office has automatically that effect. If the court denies a request for dismissal from office, the judge is automatically reinstated in office as from the date a rendered judgment enters finally into effect.

A judge retains his official salary in full while temporarily relieved from office.

*5) Were there any recent changes regarding disciplinary proceedings that may be considered to infringe upon judicial independence in your country? If so, were those changes introduced by legislation, or were existing laws applied differently? Please specify.*

No recent changes in substance. The legislation now in force is from the year 2016 and is in this regard basically the same as the repealed legislation from the year 1998.