

Latvian Judges Association

Questionnaire 2022 of the 1st Study Commission IAJ-UIM“Disciplinary proceedings and judicial independence”

I

1.1. 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. **1.2.** Can the content of the decisions taken by judges also lead to disciplinary proceedings? **1.3.** Can judges be charged criminally for the content of their judicial decisions under any circumstances?

1.1. Basis for Subjecting a Judge to Disciplinary Liability

A judge may be subjected to disciplinary liability for:

- 1) intentional violation of law during examination of a matter in court;
- 2) failure to perform his or her duties of employment or allowing gross negligence in the examination of a matter;
- 3) dishonourable actions or gross violation of the norms of the Judges Code of Ethics;
- 4) refusal to discontinue his or her membership in parties or political organisations;
- 5) failure to observe the restrictions and prohibitions provided for in the Law on Prevention of Conflict of Interest in Activities of Public Officials.

Disciplinary proceedings against a judge may also be instituted for conduct related to the judge's private life. For instance, disrespectful conduct in a public place.

1.2. The revocation or modification of a court ruling shall not in itself be a reason for subjecting a judge who has participated in its acceptance to liability, if he or she has not allowed an intentional violation of law or negligence in examination of the matter.

1.3. The imposition of a disciplinary sanction shall not exclude criminal and civil liability, except for the cases indicated in Section 13, Paragraph five of the Law on Judicial Power. The revocation or modification of a court ruling shall not in itself be a reason for subjecting a judge to criminal liability.

II

2.1. Which body is responsible for disciplinary proceedings against judges in your country? **2.2.** Is the body that carries out the disciplinary procedure the same one that imposes the penalties? **2.3.** 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)? **2.4.** 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).

2.1. In accordance with Judicial Disciplinary Liability Law Section 2, Paragraph 1 Matters concerning disciplinary offences by judges of district (city) courts, regional courts, and the Supreme Court shall be examined by the Judicial Disciplinary Committee.

2.2. The following are entitled to initiate a disciplinary matter:

1) the President of the Supreme Court - regarding judges of district (city) courts, regional court, and the Supreme Court in all the cases;

2) the Minister for Justice - regarding judges of district (city) courts and regional courts in all the cases;

3) Presidents of regional courts - regarding judges of district (city) courts and regional courts in all the cases;

4) Presidents of district (city) courts - regarding judges of district (city) courts in all the cases;

5) the Judicial Ethics Commission - regarding judges of district (city) courts, regional courts, and the Supreme Court if it has established gross infringement of the norms of the Code of Judicial Ethics.

The materials of the disciplinary matter have to be sent to the Judicial Disciplinary Committee. No one else can make a decision in a disciplinary matter.

The initiator of a disciplinary matter does not examine the initiated disciplinary case himself, but it is done by an independent institution of self-government of judges - the Judicial Disciplinary Committee. On the other hand, the law does not provide the Judicial Disciplinary Committee with the right to initiate disciplinary proceedings against a judge

2.3., 2.4. The Judicial Disciplinary Committee shall consist of one judge from the Department of Administrative Cases of the Supreme Court, one judge from the Department of Civil Cases of the Supreme Court, one judge from the Department of Criminal Cases of the Supreme Court, one judge from the Regional Administrative Court, one judge from the Judicial Panel of Civil Cases of the regional court, one judge from the Judicial Panel of Criminal Cases of the regional court, one judge from the District Administrative Court, one judge from the Judicial Panel of Administrative Cases of the regional court, and two judges from district (city) courts whereof one has specialised in examination of civil cases, whereas the other - examination of criminal cases. The members of the Judicial Disciplinary Committee shall be elected by secret ballot for four years at a conference of judges.

III

3.1. Which disciplinary penalties can be imposed on judges in your country? **3.2.** Is the disciplinary penalty of removal from office among them? **3.3.** Can a judicial conviction for a crime lead to a penalty of removal from office?

3.1., 3.2. The Judicial Disciplinary Committee may take the following decisions:

1) to impose a disciplinary sanction;

2) to send the materials of the disciplinary matter to the Office of the Prosecutor General for a decision to initiate criminal proceedings;

3) to recommend the removal of the judge from office;

4) to dismiss the disciplinary matter.

The Judicial Disciplinary Committee may impose the following disciplinary sanctions upon a judge:

- 1) an annotation;
- 2) a reprimand;
- 3) a reduction of salary for a time period up to one year, withholding up to 20 per cent of the salary.

In exceptional cases, the Judicial Disciplinary Committee may restrict themselves to examination of a disciplinary matter at a sitting, without the imposition of a disciplinary sanction.

The Judicial Disciplinary Committee may determine an extraordinary assessment of the professional work of a judge.

3.3. A judge shall be dismissed from office:

- 1) if the judge has been convicted, and the judgment of the court has entered into legal effect;
- 2) on the basis of a decision of the Judicial Disciplinary Committee.

IV

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

4.1. The judge has a right to the examination of a matter in a fair, objective, and independent court. Before the materials of the disciplinary matter are sent to the Judicial Disciplinary Committee, the judge against whom the disciplinary matter has been initiated shall be notified of the completion of the preliminary examination and of the time when he or she may become acquainted with the materials of the examination. A judge against whom a disciplinary matter has been initiated has the right to become acquainted with the materials of the relevant matter, to provide explanations, and to submit petitions.

4.2. The judge to whom the decision of the Judicial Disciplinary Committee referred may appeal it within seven days from the day of receipt of the decision to the Disciplinary Court. A decision of the Disciplinary Court shall enter into effect at the time of notification thereof and may not be appealed.

4.3. If a disciplinary matter against a judge has been initiated for a violation which is not compatible with the status of a judge, the Judicial Disciplinary Board shall, upon its own initiative or upon a proposal of the initiator of the disciplinary matter, suspend the judge from the performance of office duties in accordance with the procedures laid down in the Judicial Disciplinary Liability Law.

4.4. The minimum monthly wage determined in the State at the time of suspension shall be disbursed to suspended judge. If the decision to dismiss the disciplinary matter or in case of criminal charge a court make acquitting judgement, the monthly wage that was not disbursed for the whole period of suspension and also supplements shall be disbursed to judge.

V

5. Were there any recent changes regarding disciplinary proceedings that maybe 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.

5. No amendments have been made to the Judicial Disciplinary Liability Law, which could be treated as an interference with the independence of the judiciary.