

**The National Association of Trial Judges of Liberia (NATJL)** will focus on responding to the 2022 Questionnaire of the First Study Commission of the IAJ as follows:

### **Disciplinary Proceedings and Judicial Independence**

- 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 example, 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?*

Disciplinary proceedings are justified against judges in Liberia for allegation of violation of the Judicial Canons of the Republic of Liberia. The Judicial Canons of the Republic of Liberia is a set of rules and regulations that guide against ethical misconduct on the part of judges such as abuse of discretion, and other improprieties. It contains 40 canons (rules), most of which center on the behavior of judges in and out of court. **Judicial Canon 39** provides that: **“The penalty for violation of any provision of the Judicial Canons shall be fine, suspension, impeachment and/or prosecution in a court of law according to the gravity of the violation”**.

An individual judge in Liberia can be subjected to disciplinary proceedings for behavior in his or her private life. Whenever a judge's conduct out of his or her workplace constitutes a violation of the judicial canons, said judge can be subjected to disciplinary proceedings for ethical breach and professional misconduct. **Judicial Canon No.7** provides that **“A judge should conduct himself in a decent and honorable manner in society”**.

For instance, the Judicial Inquiry Commission (JIC) investigated Associate Magistrate Joe Paygar for his role in the sale of an ancestral land of the complainants. During the probe, Magistrate Paygar admitted to selling the property as a member of the community in his private capacity. Based on that, Associate Magistrate Paygar was suspended from office for six months without pay.

The content or decision taken by a judge, can also lead to disciplinary proceedings if the content is found to be characterized by arbitrariness, violation of trial procedures and rules of court that amount to legal transgression.

For example, on February 20, 2013, Judge Emery Paye proceeded and heard a case that had earlier been judicially determined by another court of concurrent jurisdiction involving the same parties and same subject matter. Thus, Judge Paye, upon the filing of a complaint against him to the Judiciary Inquiry Commission (JIC); was subjected to disciplinary proceedings, investigated and suspended from office for six(6) months without pay for taking decisions, the content of which amounted to violation of the principle of res judicata and for circumventing trial procedures.

However, a judge cannot be criminally charged for the content of his/her judicial decision. **Article 73 of the 1986 Constitution of the Republic of Liberia** provides that: **“No judicial official shall be summoned, arrested, detained, prosecuted or tried civilly or criminally by or at the instance of any person or authority on account of judicial opinions rendered or expressed, judicial statements made and judicial acts done in the course of a trial in open court or in chambers, except for treason and other felonies, misdemeanor or breach of the peace. Statements made and acts done by such officials in the course of a judicial proceeding shall be privileged, and subject to the above qualification, no such statements made or act done shall be admissible into evidence against them at any trial or proceeding.”**

The laws cited above do not contain provision for criminal prosecution of judges for the content of their decisions. Judges can be prosecuted for violations of the Judicial Canons, which mostly involve ethical transgression, misconduct, and for commission of crimes of misdemeanor and felony, but not for the content of their judicial opinions.

- 2. What body is responsible for disciplinary proceedings against judges in Liberia? Is the body that carries out the disciplinary proceeding the same one that imposes the penalties? What is the composition of the body for disciplinary proceedings (as well as the one who must apply the 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 Judiciary Branch? Kindly describe the composition of that body (those bodies).*

The body responsible for disciplinary proceedings against judges in the Republic of Liberia is called **Judicial Inquiry Commission (JIC)**. The Commission has the

exclusive power and authority to receive and investigate complaints against judges of courts of record and non-record in the Republic of Liberia for violation of any provision of the Judicial Canons.

The body that carries out the disciplinary proceedings is not the same that imposes the punishment. The Judicial Inquiry Commission recommends punitive measures following its investigation of complaints against judges for violation of the judicial Canons. Its findings and recommendations are forwarded to the Supreme Court of the Republic of Liberia. The Supreme Court of Liberia imposes recommended punishments. The Supreme Court is composed of a Chief Justice and four (4) Associate Justices. It is the highest judicial body in Liberia.

The Judicial Inquiry Commission is composed of one Associate Justice of the Supreme Court of Liberia, two judges of court of records, the President of the Liberia National Bar Association, the Chairman of the Grievance and Ethics Committee of the Supreme Court, and two members from civil society who are non-lawyers. The Chief Justice appoints members of the Commission. The Associate Justice is Chairperson of the Commission.

Disciplinary penalties that can be imposed on judges in Liberia include fines, suspension, impeachment, and/or prosecution in a court of law according to the gravity of the violation of the judicial canons. The disciplinary penalties prescribed in the Judicial Canons do not include removal from office. Judicial conviction of a judge for the commission of a crime can lead to impeachment of the judge by the legislature and subsequent removal from office. **Article 71 of the Constitution of Liberia** states, **“The Chief Justice and the Associate Justices of the Supreme Court and the judges of subordinate courts of record shall hold office during good behavior. They may be removed upon impeachment and conviction by the Legislature based on proved misconduct, gross breach of duty, inability to perform the functions of their office, or conviction in a court of law for treason, bribery or other infamous crimes.”**

Disciplinary proceedings are fair. Upon the filing of a petition for investigation against a judge before the Judicial Inquiry Commission, the Commission cites the parties and conducts hearing into the matter. The Respondent Judge is allowed to be represented by a lawyer or by him/herself and is further allowed to produce witnesses if he/she so desire. After hearing the complaint, the Judicial Inquiry Commission forwards its findings and recommendations to the Supreme Court of the Republic of Liberia. The recommendations usually include disciplinary penalties to be imposed against the Respondent Judge if he/she is found to have violated the Judicial Canons.

There is no appeal against a decision imposing a disciplinary penalty on a judge in Liberia. Disciplinary penalties against judges in Liberia are recommended by the Judicial Inquiry Commission and imposed by the Supreme Court of Liberia. The Supreme Court is the final arbiter of justice in Liberia. Decision of the Supreme Court is final and there is/are no appeal available from its rulings.

**Article 66 of the 1986 Constitution of Liberia states that “The Supreme Court shall be final arbiter of constitutional issues and shall exercise final appellate jurisdiction in all cases whether emanating from courts of record, courts not of record, administrative agencies, autonomous agencies or any other authority, both as to law and fact except cases involving ambassadors, ministers, or cases in which a country is a party. In all such cases, the Supreme Court shall exercise original jurisdiction. The Legislature shall make no law nor create any exceptions as would deprive the Supreme Court of any of the powers granted herein.”**