

## Disciplinary proceedings and judicial independence

### IAJ 1st Study Commission

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On behalf of the Association of judges in Finland

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#### General

The independence of courts and the right to process one's case in an independent court are fundamental principles of a state governed by the rule of law.

Due to the independence of the courts, the supervision of courts of law mainly focuses on court proceedings and practices, such as the promptness of proceedings or the conduct of a judge.

The supervision of court decisions may only concern manifestly inadequate grounds, obvious excess of discretionary power or some other obvious unlawfulness of the decision, such as deviating from the form of punishment provided in law or sentencing for an offence where the statute of limitations has expired. The Chancellor of Justice does not interfere in the interpretation of law a court makes within the limits of its discretionary power or carry out a new review of evidence.

The Chancellor of Justice does not investigate matters that are still pending before a court or that can still be appealed. The Chancellor of Justice does not have the right to change a court ruling or order a re-trial.

The Chancellor of Justice supervises the activities of courts mainly by the same means as other official activities.

- 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?**

Judges are independent in their exercise of judicial powers. The right of judges to remain in office as a guarantee of independence are laid down in the Constitution. According to the Constitution article 118 everyone who has suffered infringement or damage from public officials illegal measures or negligence, has a right to demand public official to be sentenced and to be given compensation from public official. This applies to judges also.

There are no actual disciplinary proceedings against Finnish judges. Finnish judges are not protected from criminal prosecution after the ordinary criminal law. Judges are i.e., responsible for their acts as judges according to the criminal law related to misuse of their authority, corruption etc.

The content of the decisions taken by judges may never lead to disciplinary proceedings. Judge can be charged or given a judgement for the content of the judgement if it fulfills the essential elements of a breach of official duty.

- 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).**

There is no disciplinary organ or disciplinary functions directed on judges.

A written warning may be issued to a judge by the head of the court in which the judge serves. However, a written warning to the chief judge of a district court is issued by the president of the court of appeal.

The decision to suspend a judge from office is made by the court in which the judge serves.

The Chancellor of Justice serves as the supreme guardian of the law. The Chancellor of Justice oversees the legality of the activities of the Government and the President of the Republic. The Chancellor of Justice also oversees that the authorities comply with the law and fulfil their duties. Citizens can file complaints with the Chancellor of Justice about an authority's activities that they suspect to be illegal. The Chancellor of Justice or parliamentary ombudsman is responsible for prosecution of a judge for impeachment.

- 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?**

Judges are considered accountable and the judicial immunity is on high level. There is no disciplinary organ or disciplinary functions directed on judges. The Association of judges in Finland has established in 2021 ethical advisory board to assist judges with ethical rules.

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Citizens can file complaints with the Chancellor of Justice about an authority's activities that they suspect to be illegal. The Chancellor of Justice gives decisions concerning the procedure of Judges. These decisions can lead to remarks or warnings. Warning is the more serious one. Decision resulting to warning cannot result to removal of judge from office.

Removal from the office requires a decision from court. Removal of the judge from office (viraltapano) or condemnation to be expected is possible on the same grounds as the general public officials. Judge will be condemned to be expected if the crime he or she commits is grave enough.

Judges shall resign from their position if they have lost their ability to work due to an illness, impairment or injury. If a judge who has lost his or her ability to work does not resign on his or her own motion, the court decides on the relieving of the judge from office. The matter shall be considered by the court relieving the judge from office as an urgent judicial matter

- 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?**

Procedural laws incorporate rules for a fair trial and these guarantees apply also to the cases handling judges conduct. Judges can be sued for their conduct in civil life or their procedures related to their use of law. Judges can be accused for behavior in their private life. This will lead to criminal prosecution (drunk driving etc).

If a judge gets a disciplinary penalty, and does not agree, he and she have to file a case before the court. There is no other way to appeal against the decision.

Judge can be suspended for the office if the crime he or she commits is grave enough. The judge who is suspended does not continue to earn a salary normally.

- 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.**

No recent changes. There is no discussion in Finland about the founding of the disciplinary committee. The Association of judges in Finland has established in 2021 ethical advisory board to assist judges with ethical rules and questions. Advisory board will start its work in the beginning of 2023. The measures that this advisory board can use are solely in the level of recommendations.