

Disciplinary proceedings and judicial independence

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From The Norwegian Judges Association

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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?

Disciplinary proceedings against Norwegian judges may run according to two different tracks. In addition to prosecution to be dismissed or punished by a decision of court, judges can be filed a complaint to a disciplinary committee.

Most of these complaints to the disciplinary committee and reactions regards to the judges behavior in court. There are also complaints related to the preparation of cases and delayed case management. Several different behaviors in their role as judges can lead to disciplinary proceedings. It almost never happens that judges are accused for behavior in their private life although it might happen. Usually this will lead to criminal prosecution, i.e. drunken driving.

Norwegian 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.

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).

In addition to prosecution according to criminal law, judges can be filed a complaint to a disciplinary committee that carry out the disciplinary procedure and impose the penalties. This committee is appointed by the government after a specified procedure. It has a mixed composition of judges and professionals outside the Judiciary Branch. It is discussed if judges should be in majority in the disciplinary committee.

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?

There are two different disciplinary penalties that can be imposed upon Norwegian judges, criticism and warning. Warning is the more serious one. Such a decision cannot result in removal from office which would require a decision from court.

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?

Our procedures incorporates rules for a fair trial.

If a judge get a disciplinary penalty, and does not agree, he and she has to file a case before the court. There is no other way to appeal against the decision. For the time being these proceedings are under discussion.

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. The present system has been operating since 2002. As mentioned above, the composition of the disciplinary committee is under discussion.