2nd Study Commission
Civil Liability of Judges

Answers of the Icelandic Association

1 Under what circumstances may a judge be liable (in damages) for

a) errors contained in a judgement? A judge is not liable for errors contained in a judgment but according to the Act on the Judiciary, 1998, No 15, the State shall be liable for damages in accordance with generally applicable rules if the actions or inactions of a judge result in loss to other persons. Damages can not be claimed from a judge personally, but following a judgement ordering damages, the State may claim refund from the judge if the loss was due to his intentional act.

b) defamatory utterances made in court, or defamatory statement contained in a judgement? A judge can be held liable and punished for defamatory utterances made in court, or defamatory statements contained in a judgement, according to the General Penal Code.

c) -e) (undue) delays? poor functioning of the court administration? other behaviour in the performance of his office? Yes, under the same conditions as described above under 1a). Futhermore, according to the Act on the Judiciary, any person who considers that a judge has committed an infringement against his or her rights in the discharge of judicial functions can lodge a written complaint of the matter with the Committee on Judicial Functions. The event in question shall be described in the complaint, and reasons presented for the allegation that the rights of the complainant had been infringed. If the Committee considers that action should be taken in the matter, it may state in what manner the judge in question failed to observe his duties, or admonish the judge. A judge who has been admonished may take legal action for its invalidation against the Minister of Justice on behalf of the State.

2) Does liability in these cases lie with the judge in person, or with the State? Could the judge, if held liable, recover the sum for which he is liable from the government (or vice versa)? As described above the state will be responsible for damages caused by a judge, not the judge personally.
4) In your opinion, do the rules governing the liability of the judges in any way jeopardise their independence? No.

5) Are these rules otherwise satisfactory? Yes.

6) Are there any plans for reform? No.

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