Questions for consideration

1) Please provide at least one example, which can be used as a case study, of an occasion in your jurisdiction where a judge, the judiciary or the courts have been unfairly criticized by:

a) A politician or politicians;
b) The mainstream media;
c) Social media.

Please attach the actual examples to your response.

In Germany, the main concern at the moment is the disregard of judgement by the high level administration for political reasons. By tradition, it was not necessary to enforce judgements against the administration or other representatives of the states. That seems to be changing.

Two examples: the federal administrative supreme court gave a judgement forcing the health authorities to hand out in some cases under special scrutiny poisonous drugs for very ill and suffering people to enable them to commit suicide. The judgement was criticized but final. The minister responsible for the health authorities gave order to ignore the judgement and to stop handing out these substances. He is still minister.

An alleged terrorist was deported to Tunisia although the administrative court has not finally decided on his appeal against the extradition order for fear of torture against him. The Court ordered the German authorities to bring him back to Germany, which failed due to the Tunisian authorities.

These cases and the ongoing discussion about them shows a growing disrespect for the judicial process and for final judgements by the court.

Besides these cases, we have a political movement by people claiming themselves as “Reichsbürger”. They claim that the German Reich never ceased to exist and that judges, employed by a not existing federal Government, do have no authority at all. The movement, well over 10.000 people strong, has not been taken serious until a follower shot a police officer. Most of them are well armed. In Court, they and their supporters are trying to make a Court hearing impossible by noise and violence. Some are suing judges and prosecutors for millions of Euro for alleged miscarriage of justice by using foreign forums and the European Payment procedure.

In court Supporters are try to make videos in which a judges acts helpless against action in the courtroom to send them online immediately. Members of the judiciary have given training to react properly, but it is a difficult task to bring a “Reichsbürger” to justice.

2) What effect, if any, have those criticisms had:

a) On the independence of the judiciary;
b) On the separation of powers;
c) On public confidence in the judiciary.

3)

a) What steps, if any, were taken to deal with the criticism?
b) How effective were those steps?
4) What is regarded as the boundary between legitimate and unfair criticism?

5) What approaches have been adopted in your jurisdiction to improve the accuracy of reporting of court decisions and fair treatment of judges and the justice system?

6) What have been the benefits of and any problems caused by those procedures?

7) What suggestions could you make for:
   a) improving the accuracy of reporting of court decisions; and
   b) the fair treatment of judges and the justice system
      i) By politicians
      ii) By the media;
      iii) In social media?