

IAJ/UIM Study Commission IV — 2022
Judicial Workplace and Judicial Independence
POLAND

What is the impact on judicial independence of the judicial workplace (including nominations and appointments, independence in decision making, governance, assignments, fund and other resources)? All the working conditions of a judge can make her/him susceptible to external influence, especially of persons who decide upon those conditions. These conditions comprise of the entire work environment of a judge, starting from the desk and chair she/he uses and ending with the promotion/non-promotion to a higher position or a certain function.

Please provide examples in the judicial workplace that foster judicial independence and identify barriers and practices that impede or negatively impact judicial independence.

Since 2017 in Poland we've experienced very many less and more subtle ways of making the judges' life harder if they disagreed with the attempts to subordinate the judicial power to the political one.

Many court presidents were exchanged by the Minister of Justice with new ones and the new presidents became tools of harassment of judges. They transferred judges from one department to another (for example judge Łukasz Biliński from a Warsaw court who acquitted people participating in demonstrations defending the democracy was transferred from criminal to family department). One judge was deprived of a parking spot and her long-time secretary was replaced with an inexperienced one. Judge Bartłomiej Przymusiński, the spokesman for Iustitia, lost his function as a chief of department under the pretext of reorganization.

The presidents of courts can suspend judges for up to 30 days and this rights has been abused greatly in the last 6 months, because judges got massively suspended for applying EU law and checking the proper appointment to judicial positions.

In the last few days the president of the Court of Appeal in Warsaw, who is also the Disciplinary Prosecutor for Judges, transferred two very experienced judges from criminal department to labour and social security department. It does not need and explanation that after 20+ years judges specialize in a certain type of cases, especially as criminal and civil proceedings in Poland are very different. It is also easy to make a mistake in such a situation, leading to disciplinary responsibility.

Presidents of courts also refused to agree for extra activities of judges, such as teaching at the university.

The excessive power of the presidents of courts and their administrative subordination to the Minister of Justice – Prosecutor General constitute a serious threat to the judicial independence.

All promotion procedures should be transparent and objective, with no room for doubt or discretion.

Proposal for 2023 topic:

Ensuring the division of powers and effectiveness of the checks and balances mechanisms.