

THE JUDICIAL WORKPLACE AND THE INTERSECTION WITH JUDICIAL INDEPENDENCE

Fourth Study Commission 2023

Response of the Hellenic Association

1. APPOINTMENT TO JUDICIAL OFFICE

A. Please describe the process by which a person is appointed to judicial office in lower courts, intermediate courts and superior courts pointing out any relevant differences between appointment in criminal civil or appellate courts.

To become a judge, success in a competition conducted by the school of judges is required. Entering the judiciary the judge takes a position as a probationer and after one year of successful probation is called an ordinary judge. To become a superior judge (meaning a judge at the appellate or the high court) the procedure of promotion is turned on, for which see below. The ordinary judges are adjudicating both civil and criminal and there is no discrimination at the phase of the appointment.

B. If applicable, please identify whether political influences of any description bear upon in any way the appointment of a particular person to judicial office.

By the Constitution (art. 26) the judiciary is independent. But the president (chairman) and the vice presidents of the High Court are appointed directly from the Government. So, any political influence is materialized indirectly.

C. Is ethnic or gender diversity in any way relevant to appointment to judicial office, and if so, please describe why and in what respect each may be relevant.

To become a judge the only conditions set are Greek citizenship and completion of an age limit. It is just noted that about the 80% of the judiciary is consisted by women.

D. Describe whether and if so in what way the process of appointment to judicial office is independent of government.

The process is absolutely independent of government as the competition is conducted exclusively by judges

2. PROMOTION WITHIN THE JUDICIARY

A. Does scope exist for promotion within the judiciary and if so, please describe how and in what circumstances a magistrate or judge may be promoted.

Judges are promoted in order of seniority (by yearbook). The promotion is in the hands of the Superior Council of the Judiciary, which is consisted exclusively by judges of the

High Court. The sole reason for omission is disciplinary sanctions or delay in the administration of justice

B. To what extent is political affiliation of political partisanship relevant to promotion within the judiciary.

As already mentioned political influence is just indirect. The political will is realized from the activation of supreme judges, who are appointed by the government, insofar as they influence the decisions of the Supreme Judicial Council, in which they preside or participate.

C. Describe the transparency involved in the process of promotion within the judiciary.

Up to now there were no complaints, as the promotion was in a sense automatic, taking place in the order of the yearbook. Recently, by a new stipulation based on an amendment to the court organization code, if a judge is omitted the possibility to appeal to the plenary session of the supreme court, as was the case until now, was limited to those cases only, where the rejected received at least three positive votes (dissenting opinions). This provision seems unfair, if not unconstitutional. In the last session of the Supreme Judicial Council a number of 150 judges were omitted, mainly for delay in the administration of justice! The main problem is that after three omissions the judge is considered for dismissal!

3. WORKLOAD WITHIN THE JUDICIARY

A. In broad terms, what are the requirements for magistrates and judges in relation to the number of sitting days per year or other measurement of judicial workload requirements?

A B. If a judge is encountering trouble keeping up with the workload, describe the regime that applies by which

A – (i) that judge's workload is allocated to other judges;.

After the case file has been assigned to the judge, it is prohibited to be heard by another person. However, after a certain number of months, depending on the procedure, which in the extreme reach eight months, the judge is subject to disciplinary proceedings and the delayed case files are taken away from him, and are assigned to other judges.

A (ii) the overloaded judge can recover from workload arrears and from any other disabling factor that led to overload.

There is no substitution system. The chief judge of the Court is entitled to help, by delegating his work to others. This is not provided by law. In a way it is unfair, because this workload burdens his colleagues.

A (iii) there are other mechanisms to address judicial delinquency.

As already mentioned, delayed judges face disciplinary proceedings, which may lead to their dismissal. In addition, any citizen can complain against the judge, before the disciplinary bodies. These reports are not at all rare and often judges are asked to give explanations even for their judicial judgment.

C. Are judges expected or required to assist other judges who may be adversely affected from overload so as to ensure that the business of the court is discharged in a timely manner.

Pls see above Aii.

4. REMOVAL FROM JUDICIAL OFFICE

A A. Does a regime currently exist in your country pursuant to which a sitting judge may be removed from office. If so, please describe any such regime, giving all relevant details including-

A (i) who decides that the judge is to be removed from office;

It is in the hands of the Superior Disciplinary Council, which is composed exclusively of judges.

A (ii) does the judge have a right of audience on any such motion or otherwise possess a right to be heard against the removal and is there an appeal process if removed;

The judge may be presented at a hearing. If the judgment is unfavorable for him, he has the right to appeal to the plenary session of the supreme court.

A (iii) what are the grounds for seeking the removal of a sitting judge;

Normally an ordinary judge is for life (limited only by age limit). As already mentioned, disciplinary sanctions, if they concern serious violations, such as criminal acts, political activism or a significant delay in the administration of justice (which is the most common case), they can lead to dismissal.

A (iv) what is the relationship between violation of the ethics code/principles and removal;

There is no ethics code. Disciplinary attitude is described in general in the court organization code, which includes disciplinary offences, related to behaviors that are not considered appropriate for the judge.

and

A (v) describe the transparency in the process.

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By the law, the disciplinary process is in general (for all public officers) identical to criminal procedure.

B. If removed from office, describe the adverse consequences that may affect the removed judge including -

(a) financial (especially pension) consequences;

If the judge has not completed the time limits provided by the law, he is not entitled to a pension, but the years he served count as pensionable, if he works elsewhere.

(b) future employment consequences following removal;

It depends on the criteria of the new employer. There is no relevant legislative provision.

(c) societal consequences including loss of title or civic decorations;

There is no such issue. Titles of nobility are prohibited by the constitution; only the question of social control remains.

and

(d) disciplinary steps that may be taken against the removed judge.

Theoretically the judge may be punished additionally with deprivation of wages but such insistence would be judged rather contrary to the principle ne bis in idem.

For the Hellenic Association of Judges
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