

What is the impact on judicial independence of the judicial workplace (including nominations and appointments, independence in decision making, governance, assignments, funds and other resources)?

Iceland has a court system of three levels: District Courts; the Supreme Court and, since 1 January 2018, a second instance Court of Appeal. All court actions commence in the District Courts, which are eight in number located around the country. The conclusion of a District Court can be appealed to the Court of Appeal, provided specific conditions for appeal are satisfied. These conditions are not strict. In special cases, and after receiving the permission of the Supreme Court, it is possible to refer the conclusion of the Court of Appeal to the Supreme Court. In most instances, the judgement of the Court of Appeal is the final resolution in the case.

Nominations and appointments

According to Articles 11 and 12 of the Judiciary Act No. 50/2016, following a call for applications for a judicial post at any level of the court system, an Evaluation Committee of five experts assesses candidates for the post and delivers its assessment to the Minister of Justice. The Minister can not appoint a candidate as a judge who has not been considered the most qualified by the Committee, either alone or among others. An exception to this rule is if Parliament accepts the Minister's proposal to appoint such a candidate on the condition that he or she fulfils the minimum requirements under the Judiciary Act. The Supreme Court has in a judgment of 19 December 2017 stated that when the Minister decides to propose to Parliament to depart from the Committee's opinion, as the law permits, the Minister's proposal must be based on an independent investigation of all the elements necessary to substantiate the Minister's proposal. The Minister should, at a minimum, compare the competence of the candidate he or she decides to put forward in his or her proposal to Parliament and the candidate or candidates considered most qualified by the Committee.

After this procedure a judge is appointed for an indefinite period of time by the President of Iceland as proposed by the Minister and in exceptional cases with the acceptance of Parliament if the Minister departs from the Committee's opinion.

Independence

The independence of the Icelandic judiciary is primarily safeguarded by the idea of the division of powers written into the Icelandic Constitution and traditionally acknowledged. Article 2 of the Constitution states that Parliament has the legislative power, the executive power is invested in the President and the government and judges are the guardians of the judicial power. In chapter V of the Constitution, Articles 59 to 61, the independence of the judiciary is further emphasized. There it is stated, among other things, that the judicial order is only to be decided by law; that judges are, in their work, only to be guided by law; and that judges may only be removed from office by the order of a court. Further clauses concerning the status and official duties of the courts, judicial functions and jurisdictions are found in the procedural legislation.

Judicial decisions may only be reviewed through an appeal to a higher court or if a new court in Iceland, which was introduced in Iceland on 1 January 2020, the Court of reopening judiciary proceedings, decides on application that a certain case should be reopened. Before the introduction of this new court in Iceland a special committee decided on whether a certain case should be reopened. However, the Supreme Court stated in a judgment of 25 February 2016 that a committee, as a part of the executive power, was not under the Icelandic Constitution entitled to set aside a decision handed down by judges.

Possibilities for a judge to take on extra-judicial duties are limited in Iceland to strengthen the judges' independence. If a judge wants to take on responsibilities outside the judiciary, he or she must apply to an independent committee on extra-judicial duties of judges who decides whether such activities of the judge, are likely to have an effect on his or her independence, if not directly, then indirectly.

Governance

An independent agency sees to the joint administration of the courts and operates on the basis of the Judiciary Act. Judges at the Supreme Court and the Court of Appeal elect one of their own as president over each court who resides in office for a five-year term. The Judicial Administration appoints a Chief judge of District Courts for the duration of five years. In the instance where only one judge serves at a District Court, he or she will be appointed as the Chief judge of the said court. However, if three or more judges reside at a District Court, they elect one of their own as Chief judge.

Assignments

The Chief judge in each District Court and the presidents of the Supreme Court and the Court of Appeal distribute cases to judges. In principle, a case cannot be withdrawn from a judge. There are however a few exceptions, for example if for some reasons the judge does not hear the case within a reasonable time or if a judge cannot do so because of an illness or comparable unforeseeable situations. If so happens, it is the Chief judge of a Civil Court or the president of either the Supreme Court or the Court of Appeal who is invested with the limited power to withdraw a case and reassign it. The judge concerned may appeal such a decision to the Judicial Administration.

Funding and other resources

Funding for the courts' activities is included in the State Budget, as a subsection under the Ministry of Justice. An Act of the State Budget is passed by Parliament in December each year and the budget of the judiciary included in the same way as other state institutions. The Judicial Administration makes a proposal to the Minister of Justice, reflecting the financial needs of the Supreme Court, the Court of Appeal, the District Courts, and the Judicial Administration. The Minister then makes an independent proposal to the Minister of Finance, who in turn makes an independent proposal to Parliament as to the budget to the judiciary. If the proposal to Parliament departs from the Judicial Administration's proposal, the Minister shall report the fact to the Financial Committee of Parliament, and it shall also be stated especially in the Bill of the State

Budget. The funding of the Judiciary shall be set out specifically in the Bill of the State Budget and later the State Budget, divided between the Supreme Court, the Court of Appeal, the District Courts as a whole and the Judicial Administration. The Judicial Administration divides later, after Parliament has accepted the State Budget, the budget earmarked for the District Courts between individual courts.

Icelandic courts are fairly equipped concerning support staff and equipment, especially in respect to data processing facilities. In recent years a renewal of these facilities has taken place and software, especially designed to meet the various needs of the courts, has been created, for example a registration system and a system that enables the digitalization of the courts, such as digital case handling portals.