



## **Answers from Association of Greek Judges and Prosecutors to the questionnaire 2022 of the 1st Study Commission IAJ-UIM**

### **“Disciplinary proceedings and judicial independence”**

*1) What kind of allegation can justify disciplinary proceedings against judges in your country: an individual's behavior only in the workplace or also in his or her private life? Give some examples, please. Can the content of the decisions taken by judges also lead to disciplinary proceedings? Can judges be charged criminally for the content of their judicial decisions under any circumstances?*

**1) Judicial misconduct (disciplinary offence) means conduct (whether a wilful and conscious act or omission) by a Judge, whether in the execution of his or her office or otherwise, (i.e., behaviour in the workplace and also in his/her private life), which is contrary to the Judge's obligations arising under the Constitution and its provisions in force, or is incompatible with the judicial office and affects the prestige of the judicial office or the prestige of the judiciary. Judicial misconduct (Disciplinary offences) of a judge may include: (a) acts that appear to denote lack of trust and devotion to the State and the rule of democracy; (b) any breach of rule pertaining to the administration of justice, the internal Organisation and Operation of the Courts and the Status of Judges; (c) any exploitation of the Judge's judicial office to the advantage of self-interest (i.e., actions that elicit personal benefit); (d) the unethical or inappropriate conduct whether in the execution of his or her office or otherwise (i.e., behaviour in the workplace and also in his/her private life); (e) the unjustified delay in the execution of their judicial duties; (f) breach of secrecy(confidentiality) in judicial proceedings; (g) Non-disclosure of any legal reason justifying exclusion or exemption of the Judge from hearing a certain case and (h) involvement in an organisation which has unknown goals and which imposes secrecy on its members.**

The following do not constitute judicial misconduct (Disciplinary offences): (a) the Judge's refusal to apply provisions of law that are either unconstitutional or in violation of the Greek Constitution; (b) the Judge's right to freedom of expression and opinion, in the exercise of his/her office; (c) the expression of opinion in public, unless it is obviously aimed at undermining the prestige of the judiciary or it is made in favour of or against a certain political party or other certain political organisation; d) participation and development activities in recognised associations or other unions of Judges and the expression of opinion and critical thinking made in the context of the Judge's participation in a Union of Judges.

Judges are given immunity from prosecution while forming and rendering their judgments (i.e., Judges cannot be criminally charged for the content of their judicial decisions under any circumstances).

*2) Which body is responsible for disciplinary proceedings against judges in your country? Is the body that carries out the disciplinary procedure the same one that imposes the penalties? What is the composition of the body responsible for disciplinary proceedings (as well as the one who must apply penalties to judges, when it is not the same)? Is it composed only by judges, does it have a mixed composition, or is it composed only by professionals outside the of the Judiciary Branch? Kindly describe the composition of that body (those bodies).*

2) In Greece, disciplinary proceedings against Judges are brought by and carried out by courts and disciplinary boards, which are composed exclusively of Judges and these Judges are not the same with those initiating the disciplinary proceedings. Competent Courts to impose the sanction (penalty) of permanent removal are the Plenary Sessions of the Courts (the Plenary Session of the Council of State, the Plenary Session of the Supreme Court (Areios Pagos) and the Plenary Session of the Court of Audit). The above courts hear the cases of those who have committed judicial misconduct (disciplinary offences) after referral from the disciplinary boards. If the Court considers that another sanction (penalty), other than permanent removal must be imposed to the Judge, the Court shall impose this sanction (penalty) without taking into account the referral decision of the disciplinary board.

The Supreme Disciplinary Board, provided for in Article 91 of the Greek Constitution, is competent to hear cases of judicial misconduct at first instance and on appeal and impose all disciplinary sanctions (penalties), except permanent removal, on any Judge from the Supreme Court (Areios Pagos), the Council of State and the Court of Audit, while there are provisions for nine-member and seven-member disciplinary boards that are competent to hear cases for disciplinary offences and impose all disciplinary sanctions (penalties), except permanent removal, on Judges of the Courts of Appeal. Lastly, the five-member disciplinary boards of the Courts of Appeal (Civil and Administrative) are competent to hear cases for disciplinary offences at first instance and impose all disciplinary sanctions (penalties), except permanent removal, on Judges of the particular rank and up until Judges in the court of first instance and Junior Prosecutors in the court of first instance.

*3) Which disciplinary penalties can be imposed on judges in your country? Is the disciplinary penalty of removal from office among them? Can a judicial conviction for a crime lead to a penalty of removal from office?*

3) Disciplinary sanctions (penalties) that can be imposed on Judges include: (a) formal written warning; (b) monetary fine of two (2) days of net earnings up to a total of three (3) months net wages; (c) temporary removal from ten (10) days up to six (6) months and d) permanent removal.

Permanent removal is imposed on particularly serious cases of judicial misconduct (disciplinary offences), when the conditions under which the judicial misconduct has been committed and the degree of fault of the persecuted confirms that the Judge had no perception whatsoever of his/her basic obligations as a Judge or when the misconduct seriously and adversely affects the prestige of the judiciary

*4) In the disciplinary proceedings against judges in your country, is a fair trial granted? Is there an appeal against the decision imposing a disciplinary penalty on judges? During the disciplinary proceedings, can the judge be suspended from office? Does the judge who is suspended during disciplinary proceedings continue to earn a salary normally or does the judge suffer any reduction in income?*

4) In Greece, the Judge against whom disciplinary proceedings have been initiated, enjoys all the guarantees of a fair hearing. During the disciplinary proceedings, the Judge may be temporarily removed from his duties only after a final decision and at the same time may be deprived of only half of his monthly wages. The decisions of the disciplinary boards may be appealed, however, when the disciplinary board finds that the Judge is guilty of judicial misconduct and the sanction (penalty) of permanent removal must be imposed, the board refers the case, with a reasoned decision, to the competent court. This decision is not subject to appeal or any other legal remedy, and it is immediately sent together with the relevant case (trial) bundle to the president of the above competent court and new proceedings are being initiated, in which proceedings the respondent (accused) Judge may appear either in person or either together with a lawyer (or have a lawyer represent him/her instead) and make submissions.

*5) Were there any recent changes regarding disciplinary proceedings that may be considered to infringe upon judicial independence in your country? If so, were those changes introduced by legislation, or were existing laws applied differently? Please specify.*

5) The Code of Court Organisation and Status of Judges has recently been amended and extensive changes have been made, but no changes were made to disciplinary proceedings that limit judicial independence.