

Answers from Sweden to the questionnaire 2022 of the 1st Study Commission IAJ-UIM

Disciplinary proceedings and judicial independence

Introductory remarks

The Parliamentary Ombudsmen, (Justitieombudsmän, JO) are appointed by the Swedish parliament. The Chancellor of Justice (Justitiekanslern, JK) is appointed by the Government. The Parliamentary Ombudsmen and The Chancellor of Justice are, among many other things, the supervising authorities for the courts and judges.

In the constitution it's stated that no authority, also not the parliament, may decide the ruling of the court in an individual case or how the court shall interpret the law in a particular case. In the light of that regulation JO and JK are very reluctant in their supervision concerning courts and judges application of the law in a specific case.

JO and JK can criticize a judge or a chief judge/president and report the judge to The Government Disciplinary Board for Higher Officials (Statens ansvarsnämnd) for disciplinary proceedings. They can also prosecute a judge for breach of duty.

The chief judge/president of the court can also initiate disciplinary proceedings against a judge in their court to The Government Disciplinary Board for Higher Officials.

A litigant cannot initiate disciplinary proceedings against a judge.

The initiator of the disciplinary proceedings is not involved in the proceedings.

If a matter concerning a judge is reported to the The Government Disciplinary Board for Higher Officials, the board investigates the case. Within the scope of the investigation the board can ask for opinions from the judge or the court.

The questions and answers

1) What kind of allegation can justify disciplinary proceedings against judges in your country:

a. an individual's behavior only in the workplace or also in his/her private life?

An individual's behavior both in the workplace and in his or her private life can justify disciplinary proceedings against a judge.

A judge can be forced to leave office if he or she has committed a crime or grossly or repeatedly neglected his or her official duties and shown that he or she is unfit to hold the office. It's also possible to

give a judge who intently or out of negligence neglects his och her employment obligations a disciplinary sanction – warning or salary deduction. Justices of the Supreme Court are exempt the latter disciplinary sanctions.

- b. Can the content of the decisions taken by judges also lead to disciplinary proceedings?

Yes but it's very rare.

- c. Can judges be charged criminally for the content of their judicial decisions under any circumstance?

Yes.

- 2) Which body is responsible for disciplinary proceedings against judges in your country?

The Government Disciplinary Board for Higher Officials examines matters concerning disciplinary responsibility, reports for prosecution, dismissal, suspension and compulsory medical examination regarding government employees in senior positions. The Government Disciplinary Board for Higher Officials is the organ that tries cases against judges except the justice of the supreme courts. The Supreme Administrative Court tries cases concerning justices at the Supreme Court and vice versa.

- a. Is the body that carries out the disciplinary procedure the same one that imposes the penalties?

Yes

- b. What is the composition of the body responsible for disciplinary proceedings?

The Government Disciplinary Board for Higher Officials is an authority (administrative body) that is led by a board composed of five members. Both the chairman and the co-chairman must have experience from working as a judge. It is not stated anything about the qualifications of the other members. At the moment the chairman of the board is the president of Svea Court of Appeal and the co-chairman is a former justice of the Supreme Administrative Court. The rest of the board constitutes of a member of the Swedish parliament, a former member of the Swedish parliament and a chief legal adviser.

3) Which disciplinary penalties can be imposed on judges in your country?

Warning, salary deduction or removal from office.

a. Is the disciplinary penalty of removal from office among them?

Yes.

b. Can a judicial conviction for a crime lead to a penalty or removal from office?

Yes

4) In the disciplinary proceedings against judges in your country, is a fair trial granted?

a. Is there an appeal against the decision imposing a disciplinary penalty on judges?

No, but the judge can bring an action before a court. That kind of action, however, is considered a civil case. The other party is the state.

b. During the disciplinary proceedings, can the judge be suspended from office?

Yes.

c. Does the judge who is suspended during disciplinary proceedings continue to earn a salary normally or does the judge suffer any reduction in income?

The judge continues to earn the same salary.

5) Were there any recent changes regarding disciplinary proceedings that may be considered to infringe upon judicial independence in your country?

No.

Best regards,

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The Swedish association of judges