



IAJ – 1st STUDY COMMISSION 2026

GENERAL REPORT

Impact on judicial independence: attacks on the judiciary by politicians; what to do?

Introduction

The 2026 study of the 1st Study Commission of the International Association of Judges (IAJ-UIM) concerns **the impact on judicial independence of attacks directed against the judiciary by political actors and the possible forms of response**. The questionnaire takes as its starting point the tensions that may arise between political authorities and the judiciary and the different forms that such tensions may take: criticism or delegitimisation of the judiciary as an institution, attacks directed against individual magistrates, criticism of specific judicial decisions and the possible use, or perceived use, of institutional instruments (such as inspections, disciplinary proceedings or reforms) as forms of pressure.

The questionnaire also addresses a closely related issue: how the judiciary may respond when judicial independence or confidence in the justice system is called into question, avoiding both a silence that leaves distorted representations unanswered and forms of public exposure liable to compromise, or appear to compromise, independence and impartiality. Within this framework, judicial communication and magistrates' freedom of expression assume particular relevance, together with the duties of restraint, balance, independence and impartiality referred to in the various national responses.

Responses were received from 46 associations.

Angola, Argentina, Armenia, Australia, Austria, Brazil, Bulgaria, Canada, Cyprus, Denmark, England and Wales, Estonia, Finland, France, Georgia, Germany, Greece, Guinea, Iceland, Ireland, Italy, Kazakhstan, Liberia, Liechtenstein, Lithuania, Luxembourg, Mexico, Moldova, Mongolia, Morocco, the Netherlands, Nigeria, Norway, Paraguay, Philippines, Portugal, Romania, Senegal, Serbia, Slovenia, Spain, Sweden, Switzerland, Taiwan, United States of America and Uruguay.

For the European group, 28 reports: Armenia, Austria, Bulgaria, Cyprus, Denmark, England and Wales, Estonia, Finland, France, Georgia, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Moldova, the Netherlands, Norway, Portugal, Romania, Serbia, Slovenia, Spain, Sweden and Switzerland.

For the African group, 6 reports: Angola, Guinea, Liberia, Morocco, Nigeria, and Senegal.

For the Ibero-American group, 5 reports: Argentina, Brazil, Mexico, Paraguay and Uruguay.

For North America and Asia/Oceania, 7 reports: Australia, Canada, Kazakhstan, Mongolia, Philippines, Taiwan and the United States of America.

Methodological note. Throughout the report, the indication of individual countries is intended to make the trends and elements described immediately verifiable in the national responses. Although this indication has been made on the basis of an overall examination of the questionnaires received and with

the intention of representing the data that emerged as comprehensively as possible, it should not be understood as necessarily exhaustive: in some passages, reference to individual countries serves as an illustration of the situations described.

1. Attacks and delegitimisation

1a – Political attacks or campaigns of delegitimisation

1a) In recent years, in your country, have there been political attacks or campaigns of delegitimisation by political actors against the judiciary?

The 46 responses describe a highly differentiated international picture.

A significant number of national associations report political attacks, campaigns, delegitimising statements or other forms of political contestation of the judiciary (**Armenia, Austria, Bulgaria, England and Wales, Estonia, France, Georgia, Greece, Italy, Moldova, Romania, Serbia, Slovenia, Spain, Angola, Guinea, Liberia, Nigeria, Senegal, Philippines, Taiwan, United States, Argentina and Brazil**). The formulations are not, however, uniform: the responses range from recurring campaigns or attacks to specific episodes, occasional criticism, greater political attention without systematic campaigns, and the absence of reported attacks.

Some responses expressly qualify the phenomenon, excluding systematic or generalised campaigns while nevertheless describing episodes, criticism or tensions. This is the case, with different formulations, of **Cyprus, Denmark, Finland, Germany, Lithuania, the Netherlands, Portugal, Sweden, Morocco, Australia, Canada, Kazakhstan and Mongolia**. More specifically, **Australia** excludes widespread political campaigns; **Canada** generally excludes institutionalised or systematic campaigns; **Kazakhstan** states that there is no established pattern of systematic campaigns; **Mongolia** formally answers in the affirmative but specifies that there is insufficient official evidence to conclude that a systematic or coordinated campaign exists.

Other responses do not report attacks or campaigns of delegitimisation in the terms set out in the questionnaire (**Iceland, Liechtenstein, Luxembourg and Norway**).

Mexico presents a methodologically particular situation: the association's response brings together the responses of 18 Local Judicial Powers (*Poderes Judiciales Locales*) and preserves their diversity. In this case, ten acknowledge attacks, campaigns of delegitimisation or pressure, while others provide negative responses.

1b – Main forms of attacks and campaigns of delegitimisation

1b) If yes, briefly indicate the main forms (e.g.: delegitimisation of the function and/or of the magistrate as a person and/or of the decision; use of institutional instruments – inspectors, disciplinary proceedings, legislative reforms – perceived as pressure).

Among the responses describing relevant episodes, the most frequently indicated form is criticism or delegitimisation of specific judicial decisions (**Armenia, Austria, Bulgaria, Cyprus, England and Wales, Finland, France, Germany, Greece, Ireland, Italy, Lithuania, the Netherlands, Portugal, Serbia, Spain, Sweden, Switzerland, Angola, Guinea, Morocco, Nigeria, Senegal, Australia, Canada, Mongolia, Philippines, Taiwan, United States, Argentina, Brazil, Mexico, Paraguay and Uruguay**). In this context, in some cases it is emphasised that the contestation remains focused on the content or effects of the decision; in other cases, however, the national responses indicate that the

contestation extends to the legitimacy and impartiality of the judge or judicial body that issued the decision.

A second form of attack recurring in the reports consists of attacks directed personally against individual magistrates, sometimes through the media and social media and, in some cases, accompanied by threats or harassment (**Armenia, Austria, Finland, France, Germany, Greece, Ireland, Italy, the Netherlands, Serbia, Liberia, Nigeria, Senegal, Australia, Philippines, Taiwan, United States, Argentina, Brazil, Mexico, Paraguay and Uruguay**).

Other reports also describe attacks against the judiciary as an institution, through allegations of bias, politicisation, corruption or illegitimacy (**Bulgaria, Germany, Greece, Italy, Romania, Liberia, Nigeria, Senegal, Canada, Taiwan, United States, Argentina and Brazil**).

In some reports, institutional instruments or processes are placed in the context of political pressure or interference: inspections or disciplinary proceedings, appointment or promotion procedures, budgetary measures, impeachment, legislative reforms or changes to judicial organisation (**Armenia, Bulgaria, Estonia, France, Italy, Lithuania, Romania, Serbia, Slovenia, Liberia, Taiwan, United States, Argentina, Mexico and Paraguay**).

These elements are not described in the same way in all reports: in some cases, they are indicated as actual or perceived forms of pressure; in other cases, the existence of their systematic use is expressly excluded.

Morocco also reports tensions connected with certain legislative reforms in the judicial sector that have prompted debate concerning the protection of judicial independence from the executive. **Canada** also reports criticism and controversy concerning the judicial appointment process, including political statements favouring selection criteria more closely aligned with the policy priorities of the government of the day. **Argentina** reports the use of media outlets and social media, funded exclusively or predominantly by the State according to the national response, to delegitimise judicial decisions, judges, judicial officials and representatives of judicial associations. **Brazil** identifies, as an extreme manifestation of the institutional tensions described, the invasion and severe damage, on 8 January 2023, of the buildings of the Federal Supreme Court, Congress and the Presidency of the Republic during acts described in the response as anti-democratic.

2. Institutional instruments of protection and response

2a – Existing instruments

2a) Are there, in your legal system, institutional instruments to respond to delegitimation, attacks or political pressure? (e.g.: interventions by the self-governing body of the judiciary; protection mechanisms against any instrumental use of disciplinary proceedings).

2b) If yes, indicate very briefly how they operate and who may activate them.

The responses show considerable variety in the instruments through which the different legal systems may respond to attacks, delegitimation or pressure directed against the judiciary.

Numerous individual country reports indicate judicial councils, governing or self-governing bodies or other judicial institutions with functions, variously configured, of protecting independence or responding to interference and pressure (**Armenia, Bulgaria, Estonia, France, Georgia, Ireland, Italy, Lithuania, Luxembourg, Moldova, Portugal, Romania, Serbia, Slovenia, Spain, Angola, Guinea, Morocco, Nigeria, Senegal, Canada, Kazakhstan, Mongolia, Philippines, Taiwan, United States, Brazil, Mexico and Paraguay**). The forms of intervention described are not uniform and

include, depending on the legal system, specific protection mechanisms, safeguards within disciplinary proceedings, reports to the competent authorities, security measures, public statements and other forms of institutional communication.

In several legal systems, protection mechanisms are ensured through interventions by presidents of courts, senior members of the judiciary or structures responsible for institutional communication (Bulgaria, England and Wales, France, Greece, Romania, Slovenia, Nigeria, Australia, Canada, Brazil, Mexico and Paraguay).

Alongside these instruments, in numerous countries professional associations of magistrates intervene through statements, public positions or other initiatives aimed at protecting judicial independence or supporting the magistrates concerned (**Austria, Bulgaria, Germany, Greece, Italy, Moldova, the Netherlands, Portugal, Romania, Serbia, Slovenia, Spain, Guinea, Liberia, Senegal, Australia, Taiwan, Argentina, Brazil, Paraguay and Uruguay**).

The different forms of protection may therefore coexist within the same legal system, and the responses do not necessarily identify a single institutional actor competent to respond.

Some responses expressly state that there is no specific or formal institutional mechanism intended to respond to political attacks or campaigns of delegitimisation (Austria, Denmark, Estonia, Finland, the Netherlands, Norway, Sweden, Switzerland, Australia, Canada, Senegal and Uruguay). In many of these same legal systems, however, other forms of protection or response are described through judicial bodies, senior judicial authorities, court administrations, professional associations, security instruments or public communication.

The absence of a mechanism specifically designed to respond to delegitimisation does not therefore, in the national responses, amount to the absence of any possibility of intervention.

The methods by which mechanisms and instruments of reaction and response are activated vary considerably. In several systems, the magistrate concerned may report the interference, apply to the competent body or otherwise trigger a form of protection (**Armenia, Bulgaria, Georgia, Ireland, Moldova, Spain, Morocco, Senegal, Kazakhstan, Mongolia, Philippines, Mexico and Paraguay**). In other cases, the possibility of action on the competent body's own initiative or activation by other actors is also indicated: in **Bulgaria**, for example, the mechanism may also be activated by the general assembly of judges, the president of the court or a professional association; in **Georgia**, the High Council of Justice may also act on its own initiative; in **Spain**, the Public Prosecutor may also intervene. In **Brazil**, court presidents may intervene institutionally in defence of the judiciary and its members; the *Conselho Nacional de Justiça* may act within the scope of its constitutional powers, while judicial associations may intervene through public statements and, where admissible, through judicial or administrative proceedings. **Argentina** reports that disciplinary proceedings against judges and judicial officials are initiated by formal complaints alleging misconduct or offences committed in the exercise of their functions, and that those concerned may respond and submit evidence in their defence.

3. Communication by magistrates: possibilities and limits

3/3a – Rules on communication and nature of the sources

Are there, in your legal system, rules (laws, regulations, codes of ethics, soft law, supranational legislation) governing the communication of magistrates, both at institutional level and at extra-institutional level?

If yes, specify whether:

a) they are binding rules or soft law

The responses describe very different regulatory frameworks, often composed of sources of a different nature that may coexist.

In numerous legal systems, constitutional or legislative provisions coexist with codes of ethics, codes of conduct, guidelines, recommendations and other soft-law instruments (among others: **Austria, Bulgaria, France, Germany, Ireland, Italy, Liechtenstein, Lithuania, Moldova, the Netherlands, Norway, Spain, Guinea, Liberia, Morocco, Nigeria, Senegal, Australia, Canada, Kazakhstan, Mongolia, Philippines, Taiwan, United States, Brazil, Mexico, Paraguay and Uruguay**).

For some countries, the response expressly distinguishes binding rules from non-binding or soft-law instruments.

More specifically, alongside national sources, several responses refer to international or supranational principles and instruments, including the *Bangalore Principles*, the *UN Basic Principles on the Independence of the Judiciary*, *CCJE Opinion No. 25 (2022)*, the *Código Iberoamericano de Ética Judicial* and other regional or international standards. In some legal systems, opinions and recommendations issued by judicial ethics bodies or judicial institutions are also referred to, contributing to the concrete definition of the criteria applicable to magistrates' communication.

Not all legal systems, however, have rules specifically devoted to judicial communication: some responses instead describe the application to this field of general principles relating to freedom of expression and of the duties arising from judicial office (for example: **Iceland and Sweden**).

3b – Participation in public debate

b) magistrates are allowed to intervene in public debate, including on issues relating to justice, independence or the rule of law

Many responses recognise a space for magistrates to participate in public debate, particularly on the administration of justice, the functioning of courts, judicial independence and the rule of law, within the limits arising from judicial office (**Armenia, Bulgaria, Cyprus, Finland, France, Germany, Greece, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Moldova, the Netherlands, Norway, Romania, Serbia, Slovenia, Spain, Angola, Guinea, Morocco, Nigeria, Senegal, Kazakhstan, Mongolia, Taiwan, United States, Argentina, Brazil, Mexico, Paraguay and Uruguay**).

The scope of this possibility is not, however, uniform. Some responses place the possibility for magistrates to intervene primarily within a professional, academic or institutional context: **Georgia** specifically refers to scientific and professional debates; **Cyprus** to academic, professional and institutional discussions; **Taiwan** indicates, among other things, academic writing, lectures and professional publications. In **Liberia**, the response draws a clear distinction between individual communication, in respect of which it indicates particularly broad restrictions, and collective and institutional communication, entrusted also to the Chief Justice and the judicial association. In **England and Wales**, the focus is primarily on the convention limiting judges' public comments, particularly on their own decisions, government policies, public appointments and individual cases. **Australia** calls for particular caution in relation to political controversy, except for matters directly concerning the functioning of the courts, judicial independence or the administration of justice.

The overall picture therefore shows spaces for expression configured in different ways:

- in some legal systems, individual intervention is expressly recognised;

- in others, it is more extensively channelled through institutional, associative, academic or professional forms.

3c – Specific limits

c) specific limits exist

Despite the diversity of national rules, the responses frequently refer to certain criteria and limits connected with magistrates' exercise of freedom of expression.

Among the most frequently mentioned limits are independence and impartiality and, in some responses, also the appearance of impartiality (Armenia, Bulgaria, Cyprus, Finland, Germany, Ireland, Italy, Lithuania, Moldova, the Netherlands, Norway, Romania, Spain, Guinea, Morocco, Nigeria, Senegal, Canada, Kazakhstan, Mongolia, Philippines, Taiwan, United States, Argentina, Brazil, Mexico, Paraguay and Uruguay).

Numerous questionnaires also refer to confidentiality, professional secrecy or the secrecy of deliberations (Armenia, Denmark, Finland, Italy, Moldova, the Netherlands, Spain, Guinea, Morocco, Nigeria, Senegal, Mongolia, Mexico and Paraguay).

A further recurring limit concerns pending proceedings, cases liable to come before the magistrate, or comments on individual cases or on the magistrate's own decisions (Armenia, Austria, Cyprus, Finland, England and Wales, Georgia, Italy, Lithuania, Moldova, the Netherlands, Serbia, Slovenia, Spain, Guinea, Morocco, Nigeria, Senegal, Canada, Australia, Mongolia, Philippines, Taiwan, United States, Argentina, Brazil, Mexico, Paraguay and Uruguay).

Other responses emphasise the dignity or authority of the judiciary, public confidence, moderation, restraint or prudence (among others: Armenia, Austria, Cyprus, Finland, France, Germany, Greece, Ireland, Italy, Liechtenstein, Lithuania, Moldova, Norway, Spain, Canada, Philippines, United States, Guinea, Morocco, Senegal, Argentina and Brazil).

Restrictions concerning political or party-political activity also recur (Armenia, Bulgaria, Cyprus, Estonia, Georgia, Germany, Greece, Italy, Moldova, Serbia, Spain, Angola, Guinea, Liberia, Morocco, Nigeria, Kazakhstan, Mongolia, Philippines, Taiwan, Argentina, Brazil, Mexico, Paraguay and Uruguay), as do specific references to caution or to the magistrate's duties in the use of social media (Austria, Finland, Liechtenstein, Canada, Mongolia, Philippines, Senegal, Brazil, Paraguay and Uruguay).

Taken together, the responses therefore highlight the recurrence of certain common limits, articulated in accordance with the respective national rules.

3d – National and supranational case law

3d) Are there, in your legal system, judicial decisions (national or supranational) that have acknowledged the legitimacy of public intervention by magistrates in defence of independence or the rule of law and/or have defined the limits of magistrates' freedom of expression?

Several responses refer to national judicial decisions that have addressed, directly or in the context of broader issues, magistrates' freedom of expression, the limits arising from judicial office or the possibility of intervening publicly. National precedents are indicated, among others, in the responses from Germany, Greece, Serbia, Spain, Australia, Canada, Kazakhstan, Philippines, Taiwan and

Switzerland. The **United States** specifies that there are no explicit decisions concerning the public communication of federal judges but separately refers to *Republican Party of Minnesota v. White*, concerning the freedom of expression of a candidate for state judicial office in the context of an election campaign.

Supranational case law also assumes particular relevance. Among the decisions of the European Court of Human Rights most frequently referred to are: *Baka v. Hungary*, *Żurek v. Poland*, *Wille v. Liechtenstein*, *Miroslava Todorova v. Bulgaria*, *Danileț v. Romania* and *M.D. and Others v. Spain* (cited in the responses from **Bulgaria, Italy, Moldova, Norway, Romania, Spain** and also **Morocco**).

The responses from the Inter-American area (**Argentina, Brazil, Mexico and Paraguay**) refer, among others, to *López Lone y otros v. Honduras*, *Rico v. Argentina*, *Urrutia Laubreaux v. Chile* and *Ríos Avalos y otro v. Paraguay*. **Mexico** also refers to *Baka v. Hungary* and *Kudeshkina v. Russia*.

Some questionnaires instead refer, separately from judicial decisions, to opinions or disciplinary decisions, or materials from ethics bodies (**Estonia** mentions the Ethics Council, **Slovenia** the Judicial Ethics Commission, **France** an *avis* of the *Conseil supérieur de la magistrature*, and the **United States** the Advisory Opinions).

4. Disciplinary and ethical liability

4a/4b – Liability and competent bodies

In your system:

a) can the violation of communication rules entail disciplinary and/or ethical liability?

b) which body is competent to decide on the disciplinary proceeding or on the ethical/deontological proceeding?

A substantial proportion of the responses indicate that a violation of the rules or duties applicable to magistrates' communication, in the circumstances provided for by the respective legal systems, may entail disciplinary and/or ethical consequences (**Armenia, Austria, Bulgaria, Cyprus, Denmark, England and Wales, France, Georgia, Germany, Greece, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Moldova, the Netherlands, Norway, Portugal, Romania, Serbia, Slovenia, Spain, Angola, Guinea, Liberia, Morocco, Nigeria, Senegal, Canada, Kazakhstan, Mongolia, Philippines, Taiwan, Argentina, Brazil, Mexico, Paraguay and Uruguay**).

The formulations adopted are not, however, identical.

In **Austria**, the response distinguishes between breaches of official duties and professional duties and specifies that an ethical violation may be considered a breach of professional duties. In **England and Wales**, a breach of the rules on communication may constitute judicial misconduct and lead to disciplinary proceedings. **Estonia**, by contrast, specifies that a breach of ethical rules does not directly constitute a basis for initiating disciplinary proceedings. **Finland and Sweden** state that there are no specific communication rules whose violation entails disciplinary or ethical liability, while nevertheless describing the general framework governing magistrates' liability. **Australia**, which refers to conventions and guidelines rather than specific communication rules, considers it possible that certain conduct may give rise to a complaint. The response from the **United States** instead distinguishes according to the violation and the position of the judge concerned.

The competent bodies are identified differently in the individual legal systems and include, according to the terminology used in the national responses, councils of the judiciary or their subdivisions,

disciplinary bodies and courts, Supreme Courts, judicial commissions and other specifically competent bodies.

In some systems, disciplinary and ethical functions are also assigned to separate bodies, as emerges, for example, from the responses of **Bulgaria, Moldova, Spain, Mexico and Paraguay**. In **Austria**, various actors, including the disciplinary prosecutor and the investigating judge, participate in the proceedings, while the final decision is taken by the disciplinary court. In **England and Wales**, the response identifies the Judicial Conduct Investigations Office as the body before which disciplinary proceedings may take place.

4c – National associations

4c) Does the national association of magistrates provide for forms of internal control or liability in matters of communication? (Indicate only whether they exist and in what form.)

The responses show different situations regarding the existence of forms of internal control or liability within national associations of magistrates.

Some associations provide for internal rules or mechanisms in this area. In **Greece**, the Statutes of the Greek Judges and Prosecutors Association provide for disciplinary proceedings against members, which the response specifies have never been applied in practice. In **Italy**, the *Associazione Nazionale Magistrati* has its own Code of Ethics and an autonomous internal disciplinary system. **Spain** describes internal mechanisms relating to authorised representation and an internal disciplinary regime within the association, while **Romania** indicates rules on public representation and the National Council on Professional Ethics, whose functions include ethical guidance and complaints/recommendations. In **Austria**, a member's communication may breach the Statute of the Austrian Judges' Association when it is detrimental to the association and may lead to expulsion from the association; the response specifies that such expulsion has no effect on the person's position as a judge. In **Brazil**, the Brazilian Magistrates Association does not exercise disciplinary jurisdiction over judges comparable to that of the courts or the *Conselho Nacional de Justiça*. However, the Association has its own Code of Ethics and Conduct and internal mechanisms concerning ethical standards and the governance of the Association.

In numerous other countries, the associations state that they do not have forms of internal control or liability concerning communication (**Armenia, Bulgaria, Cyprus, Denmark, England and Wales, Estonia, Finland, Georgia, Iceland, Liechtenstein, Lithuania, Luxembourg, Norway, Serbia, Slovenia, Guinea, Liberia, Morocco, Nigeria, Senegal, Mongolia, Philippines, Taiwan, United States and Uruguay**).

The absence of forms of internal control or liability does not, however, exclude associations from carrying out other activities relating to communication, guidance or support for magistrates.

The responses describe, among other things, guidance and media training (**France**), monitoring and support for colleagues involved in disciplinary proceedings (**Portugal**), ethical opinions and professional support (**Switzerland**), raising members' awareness of duties connected with judicial office (**Guinea**), organisation of the association's communication and relations with the press (**Senegal**), advisory, representative or educational activities (**Canada**), as well as statements or initiatives aimed at protecting judicial independence (**Ireland, Taiwan and the United States**). These activities are reported in the responses separately from the existence of forms of internal liability.

Paraguay does not provide for an autonomous and specific association disciplinary regime concerning the individual communication of members, but describes rules governing the institutional communication of the AMJP and reports that a protocol on communication and social media is being

prepared, including a non-punitive internal review mechanism. **Mexico** does not identify a single national association model and reports that, where internal mechanisms exist, they are limited to statutory provisions, codes of ethics or forms of association self-regulation, with consequences exclusively internal to the organisation.

Monica Mastrandrea – President

Michelle Childs – Vice-President; Alexandra Vaillant – Vice-President

Lukasz Granosik – Secretary ; Marcela Ruiz – Secretary

Maximiano do Vale – Associated board member