

AGENDA

Judicial Independence Workshop II

Appointment procedures for the judiciary and prosecution, **administration of justice, freedom of expression of judges, freedom of association**

Malta
23-24 November 2023
ROLL project

Judicial independence is essential to ensuring access to justice and upholding human rights. Yet it is under attack or under pressure in many EU countries nowadays. This workshop will bring together experts and practitioners from eight EU Member States – Poland, Hungary, Romania, Bulgaria, Slovakia, the Czech Republic, Malta and Spain – to discuss the experience, challenges and opportunities concerning strategic litigation on these issues, the international legal framework and ways forward to better protect judicial independence. The discussions will particularly focus on appointment procedures as well as on freedom of expression and association of judges.

In order to guarantee the independence and impartiality of the judiciary, international law requires that States appoint judges through strict selection criteria and in a transparent manner. Any appointment procedure must uphold both institutional and individual judicial independence, and impartiality, both objective and subjective. These requirements stem from the principle of separation of powers and of checks and balances, which constitute indispensable safeguards to this end.

Practice shows that judges face repercussions in relation to expression of opinions, in or outside the court room, or for their role in association or protest. This raises questions as to the extent and limitations of freedom of expression and of association of judges, and how strategic litigation can and has been employed to effectively protect human rights and the rule of law in this context.

The workshop explores the situation in the eight target countries against international standards and how strategic litigation can help to align the practice with international standards.

This workshop is the second one in a series of workshops, each focusing on different aspects of judicial independence, intended to contribute to the development of the Final mapping report with recommendations on strategic litigation for practitioners in the EU.

Thursday, 23 November

9:30-9:45

Welcome and introductions

Radmila Dacic, Supreme Court Judge and ICJ Commissioner

Helen Duffy, Director of Human Rights in Practice, professor of International Humanitarian Law and Human Rights, Leiden University

Carla Camilleri, aditus

9:45-11:00

The judiciary and international law: Appointment procedures and freedom of expression

(9.45-10.00) **The independence of the judiciary – international standards** (Focus on **Appointment procedures**)

Temur Shakirov, Europe and Central Asia programme Director, ICJ

(10.00-10.15) **Freedom of expression of the judges and prosecutors**

Radmila Dacic, ICJ Commissioner

(10.15-10.30) **Litigating judicial independence - developments and challenges, mapping the landscape**

Helen Duffy, Director of Human Rights in Practice, professor of International Humanitarian Law and Human Rights, Leiden University

(10.30-11.00) Discussion

Moderated by: Karolina Babická, ICJ

COFFEE BREAK



11:30-13:00

National perspectives: discussion on developments and obstacles in litigating judicial independence, in particular **appointment procedures**

(11.30-12.15) 1-2 minute update per country

(12.15-13.00) Discussion

Moderated by: Maria Ejchart-Dubois, Lawyer and Founder, Free Courts

LUNCH



14:00-15:30

Role and autonomy of the prosecution in law and practice

(14.30-14.45) **International legal standards regarding appointments / freedom of expression of the prosecutors**

Maite De Rue, Open Society Justice Initiative

Discussion on developments, challenges and obstacles to litigation at national level

(15.05-15.45) **Discussion**

Moderated by Temur Shakirov, ICJ

COFFEE BREAK



16:00-17:30

Breakout sessions: **How to strategically litigate judicial independence: focus on appointments**

What can we learn from litigation work experience to date?

What **tools and opportunities** are available for SHRL on judicial [and prosecutorial] independence to date (eg. suitable forums/mechanisms, legal arguments, partners or allies, communication and other strategies to effect change inside and outside the courtroom...)?

Please discuss these questions, and report back to the plenary after with your main findings, on **opportunities, good practices, ways forward** for SHRL

Introduction by Karolina Babická, ICJ

Discussions in several smaller groups (In person / online)

17:30-18:00

Ways forward: Reporting back from groups

Moderated by: Helen Duffy, HRIP, Karolina Babická, ICJ

19:00 DINNER



Friday 24 November

09:30-10:30 National perspectives: discussion on developments and obstacles in litigating judicial independence, in particular **freedom of expression of judges**
Moderated by: Sylwia Gregorczyk-Abram, Lawyer and Founder, Free Courts

10:30-11:30 *Breakout sessions: Strategically litigating free expression or association (see questions above). Based on a **Freedom of expression case study** - participants can discuss in a small group potential litigation strategies*
Introduction by Karolina Babická, ICJ / Radmila Dacic, ICJ Commissioner
Discussions in several smaller groups (In person / online)

COFFEE BREAK



12:00-13:00 **Ways forward: Reporting back from groups and discussion further on ways forward**
- What would be needed for successful litigation on these issues to take place?
Moderated by: Helen Duffy, HRIP, Karolína Babická, ICJ

13:00 **CLOSING**

LUNCH



Judicial independence Workshops I.-III. Overview

- 1) Workshop in Brussels on 13-14 June 2023 on: **Institutional independence of the judiciary and autonomy of the prosecution service**, incl. Governance structures and procedures
- 2) Workshop in Malta: 23-24 Nov 2023 on: **Appointment procedures** for the judiciary and prosecution, **administration of justice, freedom of expression of judges, freedom of association**
- 3) Workshop in Prague March 2023 on: **Disciplinary procedures and accountability of judges and prosecutors and judicial ethics.**



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