



University of Tehran Press

Comparative Law Review

Homepage: <https://jcl.ut.ac.ir>

Online ISSN: 2423-3404

Volume: 17, Issue: 1
Spring & Summer
2026

Standards for Assessing the Independence of Judges of National Courts (A Comparative Study of the Jurisprudence of the *IACtHR* and the *ECJ*)

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Article Info

Article Type:

Research Article

Received:

2025/10/11

Received in revised form:

2025/12/06

Accepted:

2026/05/10

Published online:

2026/06/22

Keywords:

Independence of Judges, Fair Trial, Rule of Law, Inter-American Court of Human Rights, European Court of Justice.

Abstract

The independence of judges constitutes one of the fundamental pillars of democratic systems and a core principle of human rights, ensuring that judges can exercise their functions freely and impartially, without any interference, pressure, or influence from political, executive, economic, or other external authorities. This principle is not only a prerequisite for the realization of fair trials but also serves as a guarantor of the proper administration of justice, the protection of fundamental rights, and the cultivation of public confidence in the judiciary. A comparative examination of the jurisprudence of the Inter-American Court of Human Rights and the Court of Justice of the European Union demonstrates that these two judicial bodies have played a pivotal role in guiding judicial reforms and supporting national judicial systems by establishing specific criteria and standards that effectively safeguard the independence of judges. One of the most significant dimensions of this framework is the process of appointment and promotion of judges, which must be transparent, equitable, and based on objective criteria of merit to ensure that qualified individuals have fair access to judicial office and that judicial selection is insulated from political or economic considerations. The security of tenure of judges constitutes another essential element of the independence of judges, requiring guarantees for continuity in office, merit-based advancement, and protection against arbitrary removal. Any violation of this principle not only jeopardizes the independence of judges but also poses a serious threat to fundamental rights and the proper administration of justice. The jurisprudence of the Inter-American Court of Human Rights emphasizes that the security of judicial tenure is not merely a professional regulation but an integral component of fundamental human rights, without which the independence of judges cannot be realized, as

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judges must be able to perform their duties without fear of suspension or removal. Accordingly, judges may be removed only under exceptional circumstances, such as serious dereliction of duties, established professional incompetence, or the commission of grave misconduct, and always following a transparent and fair procedure. These protections apply to both permanent and temporary judges, as the absence of minimum security renders temporary judges particularly vulnerable to direct or indirect pressures, thereby undermining the independence of judges.

In addition to tenure security, judges must enjoy immunity from external pressures and influences to ensure that they decide solely on the basis of case facts, legal reasoning, available evidence, and applicable law. Any form of threat, pressure, or intervention, whether direct or indirect, by political authorities, executive bodies, or other influential entities constitutes a violation of the independence of judges and a serious threat to justice and impartial adjudication. In this regard, distinguishing between undue interference and legitimate criticism is crucial. Constructive and reasoned critique of judicial decisions within the framework of freedom of expression is permissible, whereas criticism accompanied by threats, intimidation, or malicious intent constitutes an infringement of the independence of judges. Judicial impartiality, encompassing both subjective and objective dimensions, complements the independence of judges, and the assessment of judicial performance requires concurrent attention to institutional independence and impartiality, as these components mutually reinforce one another. At the European level, the Court of Justice of the European Union has examined criteria for judges' immunity from external pressures, including administrative, financial, and supervisory influences, emphasizing that even the appearance of independence plays a critical role. A court may be structurally independent, yet judicial behavior or institutional dependencies may undermine the perceived independence, whereas judges may be individually independent while their institution exhibits dependencies that compromise overall independence.

Furthermore, the existence of disciplinary and removal mechanisms constitutes another key component in safeguarding the independence of judges. Such mechanisms should be applied only in exceptional circumstances and based on serious misconduct, with strict adherence to the principles of fair trial, legal clarity, and the independence of decision-making authorities. Judicial removal should never be arbitrary or politically motivated, and disciplinary measures must be predictable, proportionate, and ensure the effective right of defense. Disciplinary bodies themselves must possess full independence and remain free from the influence of interested parties or institutions, thereby preventing disciplinary procedures from being instrumentalized as tools of political pressure. These requirements are clearly articulated in the jurisprudence of both the Inter-American Court of Human Rights and the Court of Justice of the European Union, demonstrating that the independence of judges, whether at the individual or institutional level, is contingent upon tenure security, transparent appointment and promotion processes, immunity from external influence, and clear and lawful disciplinary mechanisms. Comparative

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	analysis further indicates that by providing precise frameworks and explicit requirements for the selection, support, and oversight of judges, these two judicial bodies have significantly contributed to strengthening the rule of law and enhancing the quality of fair adjudication, obligating states to establish impartial and transparent structures for the appointment, promotion, and protection of judges. Such frameworks ensure that judicial decision-making is conducted free from political, executive, or economic pressures, thereby maintaining public trust in the independence of judges and in judicial impartiality. In addition to actual independence, the concept of the “appearance of independence” is of critical importance; the independence and impartiality of judges must not only exist in practice but also be perceivable and recognizable by the public. Attention to the operational functioning of judicial institutions and societal perceptions of judicial independence indicates that the realization of justice extends beyond formal structures and statutory compliance; it requires the practical assurance of the independence of judges at all levels and in all forms. Ultimately, safeguarding the independence of judges, ensuring transparency in appointment and promotion processes, securing tenure, providing immunity from external pressures, and maintaining fair disciplinary mechanisms constitute essential prerequisites for fair trials, the enhancement of judicial system quality, and the reinforcement of public confidence in judicial institutions. Given the worrying trends at the global level and the efforts of certain governments to undermine the independence of judges or to instrumentalize it, the role of international bodies in monitoring and supporting national judicial systems has assumed heightened importance. Recourse to the criteria established in the jurisprudence of the Court of Justice of the European Union and the Inter-American Court of Human Rights constitutes an effective means of strengthening the rule of law at the national level. States are therefore obligated to adhere to these standards to fully realize human rights, justice, and the rule of law, thereby enabling the judiciary to fulfill its role in upholding democratic governance and human rights principles independently and impartially. Consequently, it may be concluded that these two judicial bodies, by providing precise criteria and effective requirements for assessing the independence of judges, have played a fundamental role in establishing and consolidating the rule of law, advancing justice, and enhancing the quality of fair adjudication at both the national and international levels.
How To Cite	Rasteh, Morteza; Kooshki, Gholamhassan; Mirkamali, Seyed Alireza; Ghaedi, Saeed (2026). Standards for Assessing the Independence of Judges of National Courts (A Comparative Study of the Jurisprudence of the IACtHR and the ECJ). <i>Comparative Law Review</i> , 17 (1), 1-23. DOI: https://doi.com/10.22059/jcl.2026.403178.634813
DOI	10.22059/jcl.2026.403178.634813
Publisher	The University of Tehran Press.

