

THE PRINCIPLE OF INDEPENDENCE AND IMPARTIALITY OF INTERNATIONAL JUDGES AND ITS GUARANTEES

Zuzanna Witek's doctoral dissertation

SUMMARY

The doctoral dissertation constitutes a work within the field of public international law. It concerns the independence and impartiality of international judges, seen in the framework of the general principle of public international law and catalogs of its guarantees.

Although both the independence and impartiality of judges, as well as the guarantees that shape them, are an issue of fundamental importance for international judiciary, no comprehensive scientific study devoted exclusively to this matter, based on an analysis of the regulations of international courts, including those adjudicating outside Europe, has been developed so far. Meanwhile, an exhaustive exploration of the autonomy and impartiality of international judges within the framework of pertinent safeguards represents an exceedingly valuable and indispensable inquiry in practical terms. Devoid of the requisite assurance of judicial autonomy and impartiality, the litigants engaged in the proceedings shall be precluded from attaining equitable and just adjudication. The efficacy of the international courts shall thereby be compromised, with the principles of impartiality and independence confined to mere prescriptive admonitions and behavioral directives, bereft of normative confirmation.

Professor Jan Kolasa, in the scientific monograph entitled "Modern International Judiciary" undertook to outline the problem of the independence of an international judge. This doctoral dissertation can be perceived as an amplification of the discourse articulated by the distinguished professor, as it addresses research inquiries posited by the latter concerning pivotal issues entailed in the realization of the principles of autonomy and neutrality within the domain of international judges.

The research issues of the doctoral dissertation are multidimensional, hence it was justified to use several research methods: dogmatic, historical and comparative methods, as well as, complementary, the functional method.

The doctoral dissertation comprises an introductory section, a summary, and four discrete yet interlinked chapters, each representing autonomous and cohesive segments. The first chapter is devoted to the organization of the modern international judiciary and how it affects the formation and evolution of the principle of judicial independence and impartiality. The second chapter presents the concept of transposing the principle of judicial independence and impartiality from national law to public international law. It also argues whether independence and impartiality can be considered as a general rule of law. The third chapter analyzes the content of the principle of judicial independence and impartiality. For this purpose, the concept was identified in terms of language, system, function and purpose. The notion of independence and impartiality was subjected to examination within the framework of normative statutes, judicial precedents, instruments of soft law, and scholarly discourse. The fourth chapter, which has a practical dimension, presents the highlighted catalogs of guarantees of judicial independence and impartiality, then verifying to what extent the adopted normative solutions are compatible with the challenges of modern international judiciary and to what extent they shape and actually protect and strengthen judicial independence and impartiality. The validation of the theses and the articulation of *de lege ferenda* propositions further augment the comprehensive nature of this denouement.

Given the expansiveness of the study, the individual strands within it can serve as foundational underpinnings for more intricate examinations, encompassing both pragmatic and theoretical dimensions.

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