

MARIA GRZYMISŁAWSKA-CYBULSKA

**Judicial disqualification under American law
as an element of judicial impartiality – selected issues**

Summary

Democratic states, regardless their legal system, pay utmost attention to creating guarantees ensuring a fair trial. In the US there is also a two-tier system providing for legal regulations at the federal as well as state level. In the presented discussion federal law is discussed as state law binding for one state only whilst the federal system is binding for the whole country. American regulations of the judge disqualification are rooted in the Constitution of the United States. The Constitution is the most important source of federal law and supreme with respect to other legal acts. Apart from the US Constitution, the American federal law draws from the United States Code.

Impartiality as one of the main attributes of the courts is considered particularly important in ensuring the right to the court. All other procedural safeguards and rules are rendered unimportant when a judge's intent, prior to the proceeding, is to decide in a particular way. Therefore, other mechanisms are put in place in order to guarantee the right to due process. To those belongs disqualification or recusal of judge. Civil and common law systems have permeated each other and it was interesting to investigate this measure outside of the civil law system. The American legal system turned out particularly worthy a note. This article analyses judge disqualification as a due process safeguard in the American legal system. The research into federal law, commentaries and the US Supreme Court's decisions have allowed to characterise federal disqualification of judge. The results presented in this article include the core conclusions on impartiality and disqualification within the American legal system. Additionally, they contain the impartiality principle construal and explain its role for the state and justice.

Keywords: impartiality – judge disqualification – due process