

# Trump Administration Moves to Decertify Outspoken Immigration Judges' Union

By [Christina Goldbaum](#) Aug. 10, 2019



The Justice Department has moved to decertify the union of immigration judges, whose members have sometimes been critical of Trump administration policies. Sarah Silbiger/The New York Times

The Justice Department has moved to decertify the union of immigration judges, a maneuver that could muffle an organization whose members have sometimes been openly critical of the Trump administration's immigration enforcement agenda.

The department filed a petition on Friday asking the Federal Labor Relations Authority to determine whether the union, the National Association of

Immigration Judges, should have its certification revoked because its members are considered "management officials" ineligible to collectively organize, according to a Justice Department spokesman.

The move suggested escalating tensions between overwhelmed immigration judges desperate for greater resources and a Justice Department pushing them to quickly address a backlog of immigration cases.

"This is a misguided effort to minimize our impact," said Judge Amiena Khan, vice president of the judges' union, which has publicly criticized the use of a quota system in immigration court and other attempts to speed up proceedings.

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"We serve as a check and balance on management prerogatives and that's why they are doing this to us," said Judge Khan.

Unlike other federal judges who are part of the judicial branch, immigration judges are appointed by the attorney general and are employees of the Justice Department. Though sitting judges are prohibited from speaking publicly about issues that could be considered political, representatives of the immigration judges' union can speak publicly about Justice Department policies on behalf of its members.

This is not the first time an administration has challenged the organization. The Clinton administration also tried to decertify the immigration judges' union, a move that the Federal Labor Relations Authority rejected, according to former immigration judges.

Both Judge Khan and the union president, Judge Ashley Tabaddor, [have spoken out repeatedly](#) against what they say is an attempt to turn

immigration judges from neutral arbiters of the law to law enforcement agents enacting the White House's policies. They have called for immigration judges to be independent of the Justice Department.

Last year, the union criticized the department's quota system, which required immigration judges to complete 700 cases per year, as well as a move to bar judges from an administrative tool they had previously used to reduce their caseloads. The union says the focus on efficiency impedes judges' ability to work through complicated cases and could affect the due process rights of immigrants in court.

The pressure to hear more cases more quickly amounts to "psychological warfare," [Judge Tabaddor said last year](#).

Addressing some of the union's concerns, the Justice Department has tried to tackle the backlog, which now totals more than 830,000 cases, by hiring more immigration judges. Judges appointed by President Trump now make up 43 percent of the nation's immigration judges, a larger share than under any of his five predecessors, according to a [recent analysis by The Associated Press](#). A large number of his appointees are former military or Immigration and Customs Enforcement lawyers, the analysis found.

But that hiring has not been accompanied by other necessary support, Judge Khan said.

"I can't work alone, I am reliant on support staff," said Judge Khan. "Right now there are two judges to one support staff person," which has delayed the progress of cases despite the additional judges, she said.

The judges' union plans to officially respond to the Justice Department's petition once it receives official notification from the Federal Labor Relations Authority.

If the attempt to decertify the union is successful, it could leave judges

without recourse for their already overwhelming workload, judges said.

“The union won’t be able to help judges with overall working conditions at a time when most all judges would tell you working conditions are worse now than they have ever been,” said Paul Schmidt, a former immigration judge.

Judge Khan called the Justice Department’s petition part of “a systematic attack on unions” representing federal employees under the Trump administration. Last year, Mr. Trump [signed a series of executive orders](#) that rolled back the workplace role of unions for at least two million federal workers and made it easier to fire them. The administration said the move would make the government more efficient.

The Justice Department’s recent petition will most likely prompt an investigation by the Federal Labor Relations Authority, according to a department spokesman.

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