

Case Study

DISCIPLINARY LIABILITY OF JUDGES FOR VIOLATION OF ETHICAL REGULATIONS IN UKRAINE: PRACTICAL ASPECTS

Yurii Prytyka* and **Maryna Stavniichuk**

ABSTRACT

Background: This article is devoted to the study of the disciplinary liability of judges for violations of ethical norms, which constitutes an integral part of the institute of legal responsibility of judges. It highlights the relationship between the violation of ethical norms by a judge and the negative consequences that occur as a result.

Based on a detailed analysis of the current practice of bringing judges to disciplinary responsibility for violating ethical norms, the article identifies characteristic features of the wording in the relevant decisions and addresses their specific shortcomings.

The conclusions drawn can contribute to the improvement of both the normative provisions regulating this issue and their effective law enforcement in disciplinary proceedings. Given that this issue is of national interest, the findings may also support the development of a more robust system for holding judges accountable.

Methods: The study employed analytical, normative and comparative methods. The analytical method was used to analyse the practice of bringing judges to disciplinary responsibility for violating ethical norms and related judicial cases. The normative method allowed for a review of the legal framework and provisions that regulate the grounds for disciplining judges for violations of ethical norms. Finally, with the help of the comparative method, the authors compared the practical aspects of initiating the procedure for initiating disciplinary proceedings by different groups of subjects authorised to do so, as well as contrasted the language used in decisions regarding the application of disciplinary measures on judges.

Results and Conclusions: *The article demonstrates that in the issue of holding judges accountable for violations of judicial ethics, the normative framework plays a crucial role in response to new social challenges. However, the practical application (disciplinary and judicial) holds special and decisive importance. Examples of these are considered in detail, and conclusions are drawn regarding the regularities in the use of grounds for judicial responsibility in general formulations. In terms of the nature of the misconduct and the damage caused to the status of the judge and the authority of justice, the fact of public disclosure of the circumstances surrounding the judge's offence is of great importance.*

Based on a systematic analysis of legislation and disciplinary cases, several features of bringing a judge to justice for violation of ethical norms have been allocated.

1 INTRODUCTION

Among the basic principles of a modern democratic society in which the rule of law is proclaimed, one of the fundamental principles is the principle of independence of courts and judges. The basic principles of legal regulation of the status and responsibility of judges are defined in the Constitution of Ukraine in Chapter 8 "Justice".¹ By granting judges broad powers to consider and fairly resolve conflicts, the state and society naturally impose on them a significant burden of responsibility to the public. The pressing need to study the characteristic features of disciplinary liability of a judge for violation of ethical norms is explained, in particular, by the modern social need to restore confidence in the judiciary, as well as the increasing public demand for fair justice in the context of the development of the legal system of Ukraine to fulfil the requirements for European Union accession.

The Report presented by the European Commission within the framework of the 2024 EU Enlargement Package, which contains progress assessments made by candidate and potential candidate states, underscores the importance of judicial reforms in Ukraine. The report highlights the need for the High Council of Justice (hereinafter the HCJ) to improve the reasoning and uniformity of practice in disciplinary cases. It stresses that disciplinary offences relating to judges' conduct need to be defined more precise, in line with the Council of Europe's Group of States against Corruption (GRECO) recommendations.²

1 Constitution of Ukraine no 254k/96-VR of 28 June 1996 (amended 1 January 2020) <<https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>> accessed 15 May 2024.

2 European Commission, *Commission Staff Working Document: Ukraine 2024 Report Accompanying the Document: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of Regions 2024, Communication on EU Enlargement Policy* SWD/2024/699 final (30 October 2024) <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52024SC0699>> accessed 06 November 2024.

Notably, a recent survey underscores the gravity of this issue, revealing that only 25% of respondents trust the judiciary, while a substantial 72% lack confidence in it.³ Disciplinary liability, one aspect of a judge's legal liability, alongside civil, administrative and criminal liability, focuses on holding judges accountable for ethical violations. This framework addresses the relationship between the violation of ethical norms by a judge in their "pure form" and the negative consequences they face as a result. Other types of legal responsibility for a judge, while not directly concerned with ethical violations, indirectly demonstrate this relationship.

2 NORMATIVE REGULATION OF ETHICAL STANDARDS OF CONDUCT OF JUDGES

The peculiarity of normative regulation of judicial ethics at the national level is the "vertical" nature of consolidating the relevant norms, starting with the state constitution, the applicable law regulating the status of judges, and the code of ethics. This naturally affects the degree of abstraction or concretisation of the norms.

The current state of legal regulation regarding the disciplinary liability of judges for violating the norms of judicial ethics is marked by a wide range of legally provided grounds with an ethical basis. The juridization of integrity as an ethical category, its consolidation at the constitutional level as a requirement for a judge and its embodiment in various provisions of the current Law of Ukraine "On the Judiciary and the Status of Judges," actually reflects the public demand for morality and ethics of the judiciary formed after the events in Ukraine in 2013-2014. However, in relation to judges, integrity largely focuses on their property status and behaviour in substantive relations.

The study of the peculiarities of holding a judge accountable for ethical violations must begin with a clear definition of ethical standards. These standards serve as universal, stable guidelines, ideas, and beliefs that crystallised from public morality and were specified by the professional environment. Their source lies in an individual's personal understanding of public morality, the value of justice, and their capacity for moral development and self-restraint. When these ethical principles transform into a system of values, they acquire the status of rules for a certain social group with a professional status – judges. By establishing a single space in which the behaviour of representatives of the judicial community is regulated, taking into account historically formed beliefs about the meaning and ideals of justice, they stimulate and motivate judges to choose the optimal behaviour model tailored to the specific circumstances and situations they face.

3 'Success or Not? How Ukrainians Assess Law Enforcement Reforms and the EU's Support' (*European Union Advisory Mission (EUAM) Ukraine*, 28 October 2024) <<https://www.euam-ukraine.eu/news/success-or-not-how-ukrainians-assess-law-enforcement-reforms-and-the-eu-s-support/>> accessed 06 November 2024.

Therefore, this paper proposes considering the specifics of bringing a judge to disciplinary responsibility for violating these ethical standards of conduct. To summarise, judicial ethics are a system of universal norms, values, rules, and formulas that guide judges' behaviour in specific circumstances. These standards take into account personal ideas about morality, ethics of judicial activity, ideals of justice, and the significance of a judge's professional status in society.

The Code of Judicial Ethics, approved in 2013 by the XI (regular) Congress of Judges of Ukraine, has become a marker in assessing the moral aspect of the judicial profession. It sets a foundation for the development of the status of judges in Ukraine in the context of moral guidelines and values. Its adoption reflects the domestic judicial community's awareness of the importance of ethical rules of conduct for judges, albeit relatively recent, compared to similar documents in other countries.⁴

At the same time, the practice of bringing judges to disciplinary responsibility indicates the need to introduce a clearer definition in the legislation of the grounds for disciplinary liability related to violations of judicial ethics. There is also a need to strengthen the requirements for disciplinary liability, as well as to adopt clear rules, standards and procedures for considering complaints about improper conduct by judges and making decisions based on the results of these complaints. In particular, it is necessary to update the Code of Judicial Ethics, ensure a uniform practice of its application, and establish additional grounds for terminating the powers of a judge, in particular in cases of committing behaviour that discredits the title of a judge or undermines the authority of justice. Furthermore, there is a need to introduce an effective mechanism for monitoring the lifestyle of judges, particularly regarding the obligation to confirm the legality of the sources of their property.⁵

Since June 2016, when the "new" Law of Ukraine "On the Judiciary and the Status of Judges" was adopted, which took a "revolutionary" approach to the issue of bringing judges to disciplinary responsibility, Part 1 of Article 106 contains 19 paragraphs of various grounds for holding a judge accountable. Thus, the juridization of integrity as an ethical category, its consolidation at the constitutional level as a requirement for a judge (Article 127 of the Constitution of Ukraine) and its embodiment in various provisions of the current Law of Ukraine "On the Judiciary and the Status of Judges" were a direct response to the public demand for greater morality and ethics within the judiciary, which emerged in the wake of the events in Ukraine during 2013-2014.⁶

4 Code of Judicial Ethics (2013) 3 Bulletin of the Supreme Court of Ukraine 27.

5 Decree of the President of Ukraine no 231/2021 of 11 June 2021 'On the Strategy for the Development of the Justice System and Constitutional Justice for 2021–2023' [2021] Official Gazette of Ukraine 23/2963.

6 Iryna D Kondratova, 'Genesis of Judge's Responsibility for Violation of Ethical Norms' (Current Challenges and Actual Problems of Judicial Reform in Ukraine: V International conference, Chernivtsi, 29 October 2021) 40.

To restore public confidence in the credibility of the courts and support Ukraine's path to EU integration, it is crucial to ensure compliance with high international standards of judicial conduct. Foremost among these standards are the Bangalore Principles of Judicial Conduct,⁷ which provide judges with guidance and establish a regulatory framework for judicial behaviour. Additional foundational documents include the *Basic Principles on the Independence of the Judiciary*,⁸ endorsed by UN General Assembly resolutions 40/32 and 40/146 in November and December 1985, as well as the *Commentary on the Bangalore Principles of Judicial Conduct* (2007).⁹ Furthermore, *Opinion No. 3* of the Consultative Council of European Judges (CCJE)¹⁰ highlights principles related to judicial ethics, incompatible behaviour, and impartiality.

Together, these principles assert that judges must be held accountable for their conduct by independent and impartial institutions that uphold judicial standards.

3 ANALYSIS OF THE PRACTICE OF BRINGING JUDGES TO JUSTICE FOR VIOLATIONS OF ETHICAL NORMS

The disciplinary practice of applying Paragraph 3 of Part 1 of Article 106 of the Law of Ukraine “On the Judiciary and the Status of Judges” – the so-called “ethical” norms – demonstrates that on this basis, a judge may be brought to disciplinary responsibility for unethical behaviour that discredits the judge’s title and undermines the authority of justice, both in the administration of justice and beyond. In cases involving judicial misconduct within the administration of justice, there is often a parallel violation of procedural law, leading to the qualification of the judge’s actions as misdemeanours under various provisions of Part 1 of Article 106 of the Law of Ukraine “On the Judiciary and the Status of Judges”. In such cases, the judge is held accountable based on the totality of the corpus delicti.

In cases of misconduct outside judicial proceedings, disciplinary actions are typically taken when the judge faces either administrative or criminal liability or when the relevant procedures for investigating the fact of improper conduct of a judge are ongoing. In this case, regardless of their outcome, the judge is held disciplinarily

7 ECOSOC, *The Bangalore Principles of Judicial Conduct* (UN 2018) <<https://www.unodc.org/documents/ji/training/bangaloreprinciples.pdf>> accessed 06 November 2024.

8 *Basic Principles on the Independence of the Judiciary* (1985) ST/HR/1/Rev.6(Vol.I/Part1) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-independence-judiciary>> accessed 06 November 2024.

9 The Judicial Integrity Group, *Commentary on the Bangalore Principles of Judicial Conduct* (2007) <<https://rm.coe.int/168066d6b9>> accessed 06 November 2024.

10 *Opinion no 3* (CCJE, 19 November 2002) <<https://rm.coe.int/16807475bb>> accessed 06 November 2024.

responsible under Paragraph 3 of Part 1 of Article 106 of the Law of Ukraine "On the Judiciary and the Status of Judges".¹¹

In line with this, Principle 6.7 of the Bangalore Principles mandates that a judge shall not engage in conduct incompatible with the diligent discharge of judicial duties, while Opinion № 3 of the CCJE reinforces that judges should behave with integrity both in office and their private lives.

Therefore, the prosecution of a judge for violation of ethical norms is marked by features that can be singled out by referring to the analysis of disciplinary and judicial practice.

On 1 January 2017, the Law of Ukraine "On the High Council of Justice" came into force, according to which the powers to consider disciplinary complaints were transferred to the disciplinary chambers of the High Council of Justice.¹² At present, compliance with the requirements of independence and impartiality during disciplinary proceedings against judges in Ukraine is ensured by Article 131 of the Constitution.

To confirm the conclusions made at the end of this section and the article regarding the peculiarities of the application of "ethical norms" by the High Council of Justice when considering the issue of bringing judges to disciplinary responsibility, statistical data will be examined.¹³

From February 2017 to August 2021, the High Council of Justice considered more than 65,000 disciplinary complaints against judges. From 2020 to 2023, the High Council of Justice received 30,485 disciplinary complaints, of which 14,045 were left without consideration and returned to the complainant.

Regarding the consequences of these complaints, the Disciplinary Chambers of the High Council of Justice opened 568 disciplinary cases between 2020 and 2023. However, only 201 decisions resulted in bringing 221 judges to disciplinary liability. The disciplinary penalties included a warning (for 110 judges), a reprimand from deprivation of the right to receive surcharges before official salary judges (for 45 judges), a severe reprimand for one month (for 37 judges), temporary suspension from the administration of justice (for 6 judges), and the petition for dismissal (for 23 judges).

For the purposes of this article, we are undoubtedly interested in the application of disciplinary liability based on violations of ethical norms. It should also be borne in mind that some of the decisions adopted by Disciplinary Chambers of the High Council of Justice contain multiple grounds for bringing a judge to trial in accordance with the law.

11 Law of Ukraine no 1402-VIII of 2 June 2016 'On the Judiciary and the Status of Judges' (amended 8 August 2024) <<https://zakon.rada.gov.ua/laws/show/1402-19>> accessed 06 November 2024.

12 Law of Ukraine no 1798-VIII of 21 December 2016 'On the High Council of Justice' (amended 15 April 2024) <<https://zakon.rada.gov.ua/laws/show/1798-19>> accessed 15 May 2024.

13 Statistics and information on bringing judges to disciplinary responsibility, see on the website: *High Council of Justice* <<https://hcj.gov.ua/>> accessed 15 May 2024.

During the specified period, the Disciplinary Chambers of the High Council of Justice approved 21 decisions (out of a total of 201 decisions) involving 27 judges (out of a total of 221 judges) in which judges were prosecuted for disciplinary liability based on the grounds defined in Paragraph 3, Part 1, Article 106 of the Law of Ukraine “On the Judiciary and the Status of Judges”. This provision addresses a judge's behaviour that defames their title or undermines the authority of justice, including matters related to morality, honesty, incorruptibility, the judge's lifestyle in compliance with their status, and observance of the other rules of judicial ethics and behaviour standards that ensure public confidence in the court. Disrespect toward other judges, lawyers, experts, witnesses or other participants in the trial process is also covered. This indicates a fairly significant volume of decisions by the High Council of Justice applying the "ethical" basis for bringing judges to justice, especially given that the use of such a ground entails the most severe disciplinary measures in accordance with the law.

When bringing judges to disciplinary responsibility or in the process of appealing such decisions to the court, the relevant practice is often guided by the decisions of the ECtHR. In the vast majority of cases, the disciplinary sanction against judges has included removal from office, as seen in cases like *Oleksandr Volkov v. Ukraine*, *Saghatelyan v. Armenia*, *Baka v. Hungary*, *Ivanovski v. the former Yugoslav Republic of Macedonia*, *Ermeni v. Hungary*, *Kamenos v. Cyprus*, *Denisov v. Ukraine*, *Sturua v. Georgia*, *Gerovska Poptsevska v. the former Yugoslav Republic of Macedonia*, *Jakšovskovski, Trifunovski v. the former Yugoslav Republic of Macedonia*, *Poposki and Duma v. the former Yugoslav Republic of Macedonia*, *Kulikov and others v. Ukraine*, *Mitrinovski v. the former Yugoslav Republic of Macedonia*, *Olujić v. Croatia*, *Ozpinar v. Turkey*. However, other penalties have also been applied.

The ECtHR's decisions highlight that the principle of judicial independence, on the one hand, involves not only the rights of judges enshrined in the ECHR but also concerns about their impartiality. A judge who has exercised his right to privacy or freedom of expression can make decisions with due impartiality. Thus, the question arises of whether a judge is free to exercise his rights under the ECHR and, if so, what the consequences of such actions will be for him as a judge.

As stated in Opinion № 3 of CCJE, a reasonable balance must be struck between the degree to which judges may be involved in society and the need to be seen as independent and impartial in discharging their duties.¹⁴ In the final analysis, it is crucial to assess whether a judge's actions, in their social context and through the eyes of a reasonable observer, could objectively compromise their independence or impartiality.¹⁵

In terms of considering the prosecution of judges for violations of "ethical norms," several cases considered by the ECtHR illustrate the potential infringement of judges' rights, particularly concerning the right to respect for private life. According to the established

14 Opinion no 3 (n 10) para 28.

15 The Judicial Integrity Group (n 9) 103.

practice of the ECtHR, the concept of "private life" does not exclude professional activity, as restrictions in this area can impact the development of a person's relationships and social identity. Therefore, such cases were considered under Article 8 of the ECHR, and it was established that dismissal from office interfered with the right to respect for private life.

In cases such as *Özpinar v. Turkey*, the ECtHR found that the judge's dismissal involved both professional and private conduct, calling into question the moral or ethical aspect of her personality and character. The Court noted that the allegations against the applicant concerned not only the fulfilment of her duties but also the public image she projected. Therefore, the proceedings in question inevitably went beyond the scope of her professional life. The ECtHR emphasised that conduct in a judge's conduct, whether in their professional or private life, that undermines their ability to command the trust and respect essential to their role can adversely affect the judiciary's reputation.

At the same time, the ECtHR also stressed that in matters relating to the private life of a public servant, the person concerned must be able to reasonably foresee the potential consequences of their private actions and benefit from appropriate safeguards. Such guarantees are particularly necessary given that professional life often intersects with private life in the strict sense of the term, making it challenging to distinguish the capacity in which a person is acting at any given time.

In this case, the ECtHR found that the minimum level of protection was not ensured in the applicant's proceedings. The Court stressed that judges facing dismissal on grounds related to private or family life should receive guarantees against arbitrariness, including the right to adversarial proceedings before an independent and impartial supervisory body. Consequently, the ECtHR concluded that the interference with the applicant's right to respect for private life was not proportionate to the legitimate aim pursued, constituting a violation of Article 8 of the ECHR.¹⁶

Regarding the procedure of disciplinary proceedings for violation of ethical norms by judges in Ukraine, it is important to highlight the principle of autonomy, which plays a significant role in such cases. According to this principle, disciplinary proceedings are considered regardless of the consideration (results of consideration) of administrative or criminal proceedings. This is clearly demonstrated by the cases we have identified where a judge faces disciplinary responsibility for committing an ethical offence outside of their procedural activities, regardless of any concurrent administrative or criminal charges.

Thus, in the decision of the Third Disciplinary Chamber of the High Council of Justice dated 9 May 2021 (No. 1271/3дп/15-21), the disciplinary body emphasised: "A disciplinary

16 Council of Europe, *Review of the Practice of the European Court of Human Rights on the Protection of the Rights of Judges* (Support to the Functioning of Justice in the War and Post-War, Council of Europe Office in Ukraine 2023) <https://hcj.gov.ua/sites/default/files/field/oglyad_praktyky_yevropeyskogo_sudu_z_prav_lyudyny_shchodo_zahystu_prav_suddiv_zhovten_2023_0.pdf> accessed 15 May 2024.

offence and a criminal offence are not identical concepts. It is quite possible to bring a person to disciplinary, criminal or administrative responsibility for the same actions. This does not contradict the Basic Law, which prohibits bringing twice to legal responsibility of the same type (part one of Article 61 of the Constitution of Ukraine). The question of a person's guilt in committing a crime (criminal offence), of course, can only be decided by a court. At the same time, the exclusive authority to establish the absence or presence of elements of a disciplinary offense in the actions of a judge is vested in the disciplinary body – the Disciplinary Chambers of the High Council of Justice (Article 42 of the Law of Ukraine "On the High Council of Justice"). Accordingly, the decisions of any body, including a court verdict, cannot be binding on a disciplinary body, which has the right and at the same time is obliged to independently determine the presence of elements of a disciplinary offense in a person's actions. Moreover, A disciplinary body may not be restricted in exercising its powers in disciplinary proceedings due to the absence of a decision of the competent authority in another procedure, in particular due to the absence of a court verdict on facts that may be grounds for bringing a person to criminal and disciplinary liability at the same time. Similarly, the decision of the disciplinary body does not have any legal significance for the court when considering criminal proceedings or a case of an administrative offence. In the course of disciplinary proceedings, only the facts that may indicate the presence or absence of elements of a disciplinary offense in the conduct of a judge and the degree of his guilt are assessed. The facts and circumstances established in the course of disciplinary proceedings are relevant only for making a decision within their competence and in no way testify to the proof of a person's guilt in committing administrative or criminal offences."¹⁷

This position is consistent and applicable to all Disciplinary Chambers of the HCJ and is "cemented" by judicial practice.

In particular, the Grand Chamber of the Supreme Court considered a case involving a complaint against the decision of the High Council of Justice to uphold the decision of the disciplinary body to impose disciplinary liability on a judge under Paragraph 3 of Part 1 of Article 106 of the Law of Ukraine "On the Judiciary and the Status of Judges" in relatively similar circumstances. The Court emphasised that "during disciplinary proceedings, the facts and clarified circumstances are relevant only for the adoption of disciplinary body decisions within its competence and in no way testify to the proof of the person's guilt in committing the criminal offence incriminated to him/her. In disciplinary proceedings, the principle of autonomy applies, according to which disciplinary proceedings are considered independently of the consideration of criminal proceedings. During the consideration of a disciplinary case, the disciplinary body independently assesses the admissibility, appropriateness and validity of the evidence

17 Decision no 1271/3дп/15-21 (High Council of Justice, Third Disciplinary Chamber, 9 June 2021) <https://hcj.gov.ua/sites/default/files/field/file/1271_09.06.2021.docx> accessed 15 May 2024.

available in the materials of the disciplinary case, establishes signs of a disciplinary offence in the actions of a judge and makes a decision to bring a judge to disciplinary liability” (Resolution of the Grand Chamber of the Supreme Court as of 28 April 2021).¹⁸

An important development occurred on 24 April 2024 when the Second Disciplinary Chamber of the High Council of Justice decided to hold Judge T. disciplinarily responsible and imposed a sanction in the form of a motion for dismissal from office. Notably, despite ongoing criminal proceedings against the judge, the Second Disciplinary Chamber of the High Council of Justice determined that a disciplinary body may not be restricted in exercising its powers in disciplinary proceedings in the absence of a decision of a competent authority in another procedure. Specifically, it stayed that the absence of a court verdict by a competent body in a separate procedure – such as a court verdict on facts that could simultaneously serve as grounds for bringing a person to criminal and disciplinary liability – does not limit the disciplinary body’s authority to proceed.¹⁹

Notably, the position on this issue regarding the autonomy of disciplinary proceedings against judges continues to be upheld. Its development and justification are found in the recently adopted decisions of the new composition of the High Council of Justice. A notable example is the decision expressed on 1 May 2024 by the Third Disciplinary Chamber of the High Council of Justice based on the results of considering the disciplinary case initiated against Judge B.

Judge B., who relocated from the Russian-occupied city of Berdyansk in the Zaporizhia region to the city of Poltava, was subjected to disciplinary proceedings after the competent authorities (in particular, the Security Service of Ukraine) brought quite serious allegations and criminal charges. These charges, under Part 2 of Article 111 of the Criminal Code of Ukraine "Treason") were based on reasonable suspicion of Judge B.'s cooperation with the intelligence organisation of an enemy country (FSB).

During the disciplinary proceeding, the Third Disciplinary Chamber of the High Council of Justice established the facts and circumstances relevant to its jurisdiction. The Chamber clarified that its findings were solely for the purpose of making decisions within its competence and did not serve as evidence of Judge B.'s guilt regarding the alleged criminal offences. This approach aligns with the principle of autonomy, ensuring that disciplinary proceedings are conducted independently of any criminal proceedings. Simultaneously, the Third Disciplinary Chamber of the High Council of Justice noted that, within the powers granted to it by law, it does not determine the validity of the accusation against Judge B. but rather only examines the circumstances set out in the disciplinary complaints to assess the

18 Case no 11-238can20 (Supreme Court of Ukraine, Grand Chamber, 8 April 2021) <<https://reyestr.court.gov.ua/Review/96310157>> accessed 15 May 2024.

19 Decision no 1241/2дп/15-24 (High Council of Justice, Second Disciplinary Chamber, 24 April 2024) <<https://hcj.gov.ua/doc/doc/45142>> accessed 15 May 2024.

judge's compliance with the norms of judicial ethics and standards of conduct that uphold public confidence in the court.

From the above-mentioned decisions, we can single out one more peculiarity, which is that such a guarantee as the presumption of innocence does not apply in disciplinary proceedings:

“According to the practice of the ECtHR, it is not a violation of Article 6 of the Convention to bring to disciplinary responsibility on the basis of information about the facts established in criminal proceedings, if such information was analysed from the point of view of the rules of professional ethics, even if the person was acquitted in the criminal proceedings (see, *mutatis mutandis*, the judgment of the European Commission of Human Rights of 6 October 1982 in the case of *X. v. Austria* on the inadmissibility of application No. 9295/81) or such proceedings were closed (see, *mutatis mutandis*, the decision of the European Commission of Human Rights of 7 October 1987 in the case of *C. v. the United Kingdom* on the inadmissibility of application No. 11882/85). Moreover, the presumption of innocence guaranteed by Article 6 § 2 of the Convention applies to a procedure that is inherently criminal and in which the court concludes that a person is guilty in the criminal sense (judgment of the European Court of Human Rights of 11 February 2003 in the case of *Ringvold v. Norway*, application No. 34964/97). Therefore, this guarantee cannot be extended to disciplinary and other proceedings which, according to Article 6 § 1 of the Convention, are covered by the concept of a dispute over rights and obligations of a civil nature.”²⁰

This position was earlier affirmed in the resolution of the Grand Chamber of the Supreme Court dated 4 October 2018 in case No. 800/398/16 (P/9901/334/18).²¹

In the judgment of 24 April 2024 concerning Judge T., whose actions in “committing a fatal accident while intoxicated” on the night of 26 May 2023 were the subject of consideration by the Third Disciplinary Chamber High Council of Justice, a similar position was developed regarding cases where signs of a criminal offence may be present in the actions of the judge. Specifically, it was determined that disciplinary and criminal offences are not identical concepts. It is possible to bring a person to disciplinary, criminal or administrative responsibility for the same actions, and this does not contradict the Constitution of Ukraine, which prohibits bringing twice to the legal responsibility of the same type for the same offence (Part 1 of Article 61).

Only a court can decide whether a person is guilty of committing a criminal offence and whether *corpus delicti* exists. Disciplinary proceedings cannot replace criminal proceedings.

20 Case no 11-238can20 (n 18).

21 Case no 800/398/16 (P/9901/334/18) (Supreme Court of Ukraine, Grand Chamber, 4 October 2018) <<https://reyestr.court.gov.ua/Review/77136529>> accessed 15 May 2024.

The exclusive authority to establish the absence or presence of elements of a disciplinary offence in a judge's action is vested in the disciplinary body – the Disciplinary Chambers of the High Council of Justice (Article 42 of the Law of Ukraine “On the High Council of Justice”). Accordingly, the disciplinary body has both the right and the obligation to independently determine the presence of elements of a disciplinary offence in a person's actions. A disciplinary body may not be restricted in the exercise of its powers in disciplinary proceedings through the absence of a decision of the competent authority in another procedure, in particular, due to the absence of a court verdict on facts that may be grounds for bringing a person to be a criminal and disciplinary liability at the same time.²²

Regarding proof in disciplinary cases, when assessing the circumstances of the case and the evidence provided, the disciplinary body is guided by the standard of “beyond reasonable doubt”. This standard has been interpreted and justified in the decisions of the Disciplinary Chambers of the High Council of Justice, particularly in cases where disciplinary responsibility was not imposed under Paragraph 3 of Part 1 of Article 106 of the Law of Ukraine “On the Judiciary and the Status of Judges,” resulting in the termination of proceedings. As stated in one such decision: “... When choosing the standard of proof to be used in disciplinary proceedings, and taking into account the public law nature of disciplinary liability, the “beyond reasonable doubt” standard should be preferred to the “balance of probabilities” standard. It means that there should be no reasonable doubt about the reliability of the fact (the guilt of the person). This is not to say that its credibility is not in doubt, but it does mean that all alternative explanations for the evidence presented are unduly unlikely. The proof should be based on a set of sufficiently reliable, clear and consistent assumptions or similar irrefutable presumptions of facts” (Decision of the Second Disciplinary Chamber of the HCJ dated 5 October 2020 No. 2771/2дп/15-20).²³

The Resolution of the First Disciplinary Chamber of the High Council of Justice dated 13 March 2020 (No. 770/1дп/15-20) reproduces a similar position in a broader interpretation: “As stated in the Resolution of the Grand Chamber of the Supreme Court of 8 October 2019 in case No. 9901/855/18, when choosing the standard of proof to be used in disciplinary proceedings, and taking into account the public law nature of disciplinary liability, one should give preference to the standard “beyond a reasonable doubt” over the standard “Balance of probabilities”. It means there should be no reasonable doubt about the fact's reliability (the person's guilt). This is not to say that its credibility is not in doubt, but it does mean that all alternative explanations for the evidence presented are unduly unlikely. The basis of the “beyond a reasonable doubt” standard is the

22 Decision no 1241/2дп/15-24 (n 19).

23 Decision no 2771/2дп/15-20 (High Council of Justice, Second Disciplinary Chamber, 5 October 2020) <<https://hcj.gov.ua/doc/doc/1414>> accessed 15 May 2024.

fundamental value of society – it is worse to condemn the innocent than to allow the guilty to escape punishment. Accordingly, a society that values the good name and freedom of everyone should not condemn a person when there are reasonable doubts about his guilt. This approach is consistent with the European Court of Human Rights case law. Thus, paragraph 55 of the European Court of Human Rights judgment of 15 February 2012 in the case of "Hrynenko vs. Ukraine" states that when evaluating evidence, the European Court usually applies the standard of proof "beyond any reasonable doubt". However, the proof must be based on a set of sufficiently reliable, clear and consistent assumptions or similar irrebuttable presumptions of facts."²⁴

At the same time, according to the recommendation of the Council of Europe set out in its report "On the System of Disciplinary Proceedings and Liability of Judges in Ukraine" (June 2023), the standard of proof to impose a disciplinary sanction on a judge is not required to be the same as the standard to convict a defendant in a criminal procedure. Thus, invoking the standard of proof of "beyond any reasonable doubt" might potentially hinder the effective functioning of the disciplinary liability system for judges, as it may create an obstacle to imposing any disciplinary sanction due to the high threshold of proof required. This being said, special attention should be paid, particularly when the sanction to be imposed is the judge's dismissal.²⁵

It is noteworthy in this regard that the position of the High Council of Justice in recent decisions has increasingly considered the public's opinion, the condemnation of society and media publicity in determining whether a judge has violated ethical norms. According to the High Council of Justice, public trust in the entire judicial system as a whole suffers when a judge's conduct receives widespread negative attention, undermining the authority of justice, which is the basis for the application of disciplinary liability.

As an example, in its decision of 24 April 2024 regarding Judge T., the Third Disciplinary Chamber of the High Council of Justice highlighted that the status of a judge imposes an additional burden of responsibility for personal behaviour. In this case, the improper actions of Judge T., who was involved in "committing a fatal accident while intoxicated," received significant media coverage and negative public assessment. The High Council of Justice noted that such circumstances not only harmed the authority of Judge T. and that of the court he headed but also undermined public confidence in the judicial system as a whole.

24 Resolution no 770/1дп/15-20 (High Council of Justice, First Disciplinary Chamber, 13 March 2020) <<https://hcj.gov.ua/doc/doc/4672>> accessed 15 May 2024.

25 Council of Europe, *Report on the System of Disciplinary Proceedings and Liability of Judges in Ukraine* (June 2023) <<https://rm.coe.int/report-on-the-system-of-disciplinary-proceedings-and-liability-of-judg/1680af07af>> accessed 07 November 2024.

In this regard, any judge must accept the constraints related to the observance of ethical standards imposed on him in accordance with his status. These restrictions may seem burdensome to the average citizen, but a judge must comply with such limits voluntarily and knowingly.²⁶

This conclusion aligns with the international principles of judicial conduct, specifically the Bangalore Principles of Judicial Conduct, which assert that the behaviour and conduct of a judge must reaffirm the public's faith in the judiciary's integrity. Accordingly, a judge is also required to lead an exemplary life outside the courtroom. A judge must behave in public with the sensitivity and self-control demanded by the judicial office, as a display of injudicious temperament undermines the justice process and is inconsistent with the dignity of judicial office.

On 1 May 2024, the Third Disciplinary Chamber of the High Council of Justice, in its consideration of the disciplinary case against Judge B., accused of high treason (investigative actions are currently underway to prosecute this judge), highlighted a critical principle regarding the disciplinary liability of a judge. The Chamber noted that not all behaviour indicating a judge's non-compliance with the norms of judicial ethics and standards of conduct is sufficient for disciplinary action. Instead, only behaviour that discredits the title of a judge or undermines the authority of justice constitutes the objective basis for such a disciplinary offence.²⁷

This decision strongly reflects the principles repeatedly mentioned in international documents, which assert that a breach of an ethical standard should not, by itself, lead to disciplinary proceedings. Rather, the relevant conduct must constitute a disciplinary offence subject to the disciplinary process. To justify disciplinary proceedings, misconduct must be serious and flagrant, exceeding mere non-compliance with professional standards set out in guidelines.²⁸

A systematic analysis of decisions made by disciplinary and judicial bodies on bringing judges to disciplinary responsibility under Paragraph 3 of Part 1 of Article 106 of the Law of Ukraine, "On the Judiciary and the Status of Judges", allows us to draw attention to another significant aspect regarding the motivation of these decisions and the justification adopted by these bodies.

When assessing a judge's conduct as failing to meet the high standards of judicial ethics, violating ethical norms of judicial conduct, discrediting the title of a judge and undermining the authority of justice and public confidence in the court, jurisdictional authorities often base their conclusions on the provisions from the Law of Ukraine "On the Judiciary and the Status of Judges" alongside the general provisions of the Code of Judicial

26 Decision no 1241/2дп/15-24 (n 19).

27 Decision no 1336/3дп/15-24 (High Council of Justice, Third Disciplinary Chamber, 1 May 2024) <<https://hcj.gov.ua/doc/doc/45337>> accessed 15 May 2024.

28 Opinion no 3 (n 10) para 60.

Ethics. However, these references are limited to the most abstractly formulated articles of the Code, particularly Articles 1 and 3, which stipulate that a judge must be an example of strict compliance with the requirements of the law and the rule of law, the judicial oath, and high standards of conduct to strengthen public confidence in the judiciary's honesty, independence, impartiality and fairness. Furthermore, they state a judge must make every effort to ensure that, in the opinion of a sensible, law-abiding and informed person, his demeanour is impeccable.²⁹

Thus, out of dozens of analysed decisions of the High Council of Justice Disciplinary Chambers, only one decision, in addition to the above-mentioned general provisions of the Code of Judicial Ethics, provided the content of its norms governing the conduct of a judge in the administration of justice.

In its decision dated 27 November 2020 (No. 3279/1дп/15-20), the First Disciplinary Chamber of the High Council of Justice invoked Articles 8, 9 and 10 of the Code of Judicial Ethics, which state that a judge, when administering justice, should not allow manifestations of disrespect for a person on the grounds of race, gender, nationality, religion, political views, socio-economic status, physical disabilities, etc., and allow others to do so. Judges are required to perform their duties impartially and refrain from conducting any actions or statements that may lead to doubts about the equality of professional judges, people's assessors, and jurors in the administration of justice. A judge must administer justice within the limits and in accordance with the procedure determined by the procedural law, and at the same time, show tact, politeness, restraint and respect for the participants in the trial and other persons.

Assessing the judge's behaviour through the prism of the above provisions, the disciplinary body noted that "by making derogatory remarks about the plaintiff, his minor daughter and representative, Judge B. demonstrates arrogance and points out the plaintiff's ignorance of the current legislation, which contradicts the requirements for the conduct of a judge during a trial".³⁰

In addition, both the disciplinary authority and the Supreme Court always reference key international and domestic guidelines on judicial conduct. These include the Bangalore Principles of Judicial Conduct and CCJE Opinion No. 3 (2002) on the principles and rules governing the professional conduct of judges, particularly the issues of ethics, incompatible conduct and impartiality. Occasionally, reference is also made to the Basic Principles on the Independence of the Judiciary, endorsed by UN General Assembly Resolutions 40/32 and 40/146 of 29 November and 13 December 1985, and to the Commentary to the Code of Judicial Ethics, approved by the CJU Decision No. 1 of 4 February 2016.

29 Code of Judicial Ethics (n 4) art 3.

30 Decision no 3279/1дп/15-20 (High Council of Justice, First Disciplinary Chamber, 27 November 2020) <https://hcj.gov.ua/sites/default/files/field/file/3279_27.11.2020.docx> accessed 15 May 2024.

Thus, the studies of practice suggest that this approach to motivating decisions related to disciplinary responsibility for judges' violations of ethical norms is traditional for domestic justice. In motivating decisions, jurisdictional authorities typically do not refer to specific norms of ethics violated by the judge but use general formulations.

4 CLASSIFICATION OF GROUPS OF INITIATORS OF DISCIPLINARY PROCEEDINGS

It is impossible to analyse the peculiarities of holding judges accountable for violations of ethical rules of conduct without examining who initiates disciplinary proceedings against a judge.

Our analysis gives grounds for asserting that the composition of the initiators of disciplinary proceedings on the issue under study differs depending on the field of activity in which the judge commits unethical behaviour—whether it occurs during or outside the administration of justice.

In cases where the violation of ethical norms occurs in the course of the administration of justice, the complainants are typically participants in the proceedings, such as parties to the trial, lawyers, or prosecutors. In this regard, the Consultative Council of European Judges (CCJE) has highlighted the importance of the issue, specifically “of what measures can be taken by persons who believe that they have suffered as a result of a judge's professional error. These persons should have the right to lodge their complaint with the person or body responsible for initiating disciplinary proceedings. However, they may not have the right to initiate or insist on the initiation of disciplinary proceedings on their own. There must be a filter, otherwise judges will often be subject to disciplinary proceedings initiated by a disgruntled party to the proceedings.”³¹

Assessing the national legislation and local acts regulating the activities of the High Council of Justice for the existence of these filters, it can be stated that such mechanisms are adequately established both procedurally and through legally defined guarantees supported by appropriate liability measures. For instance, Article 107 of the Law of Ukraine “On the Judiciary and the Status of Judges” provides clear provisions in this regard: “It is not allowed to abuse the right to appeal to the body authorised to carry out disciplinary proceedings, including initiating the issue of responsibility of a judge without sufficient grounds, using such a right as a means of pressure on a judge in connection with the administration of justice. If an attorney files a knowingly groundless disciplinary complaint, such an attorney may be subject to disciplinary liability in accordance with the law. Disciplinary proceedings against a judge may not be initiated on the basis of a complaint that does not contain

31 Opinion no 3 (n 10) .

information about the presence of signs of a disciplinary offense of a judge, as well as on the basis of anonymous statements and reports.³²

The procedure for disciplinary proceedings, which includes a preliminary examination of disciplinary complaints, incorporates several safeguards to prevent groundless actions against judges. For example, if the disciplinary complaint lacks information about the signs of a disciplinary offence or does not include a reference to factual data (such as testimonies or documents), it may be returned during the preliminary verification stage of the disciplinary complaint by a member of the Disciplinary Chamber of the High Council of Justice, as outlined in Articles 43 and 44 of the Law of Ukraine “On the High Council of Justice”.

However, the Council of Europe, in the aforementioned report, suggests considering the acceptance of disciplinary complaints when they appear to be grounded, even if the complainant does not include the relevant evidence. The report questions whether disciplinary oversight is overly restricted by requiring complainants to identify themselves and provide evidence. While allowing anonymous complaints could lead to potential harassment of judges, refusing to proceed with a *prima facie* reasoned complaint simply because the complainant has not provided evidence does not seem appropriate for ensuring the integrity of the justice system. Many complainants may not have direct access to such evidence or the power to summon witnesses, and such restrictions can limit the ability of court users and citizens to actively contribute to overseeing the judicial process and ensuring accountability.³³

The range of persons who can file complaints about violations of the rules of judicial ethics by judges outside the judicial process is more diverse due to the legislative approach that grants any person the right to file a disciplinary complaint against a judge. Based on the analysis, three distinct groups of individuals have emerged among the initiators of disciplinary proceedings regarding unethical behaviour by judges unrelated to the administration of justice:

- 1) public authorities that have become aware of the unlawful conduct of a judge by virtue of the exercise of their powers;
- 2) individuals who, by virtue of their own initiative and desire, exercise the function of public control over the activities of courts;
- 3) the heads of the courts by virtue of the exercise of their administrative powers.

Thus, the first group includes the bodies of the High Qualification Board of Judges of Ukraine, the Security Service of Ukraine, the National Anti-Corruption Bureau of Ukraine, and the National Police of Ukraine. At the same time, the latter predominates, as the vast majority of complaints pertain to unethical behaviour resulting from the circumstances of traffic accidents involving either the direct participation of judges or their presence.

32 Law of Ukraine no 1402-VIII (n 11).

33 Council of Europe (n 25).

Generally, all situations are accompanied by the judge's state of alcohol intoxication, which has a proven or probable nature with a considerable degree of assumption. However, in the eyes of an outside observer, this did not raise any doubts.

A separate group of initiators in disciplinary proceedings consists of persons acting either on their own behalf or on behalf of public organisations to exert public control over the activities of judges. It should be noted that from a historical point of view, this represents a characteristic feature of the modern development of the domestic judiciary. Public control is generally a positive trend that seeks to eliminate and prevent the causes that give rise to inconsistencies between the activities of the authorities and certain social norms, ensuring compliance with both written and unwritten regulations.³⁴

However, it is crucial that public initiatives related to judges are implemented in compliance with the principle of independence. The entities initiating such actions must be guided solely by the principles of competent and conscientious performance of their assigned duties while avoiding any form of material, moral, forceful influence or dependence.³⁵

Finally, the disciplinary practice of prosecuting judges for violations of ethical standards includes cases where the complainant is the head of the court. This approach is ambiguously perceived within judicial teams, largely due to corporate culture. In addition, a hidden point in such complaints is the potential for pressure from the head of the court on the judge, which raises questions about the objectivity of such complaints.

Therefore, the disciplinary body must thoroughly and comprehensively examine the materials related to the disciplinary complaint and provide an objective assessment of them. Simultaneously, the existing decisions made by the disciplinary body, resulting from the consideration of the complaint by the head of the court, indicate that these typically pertain to the unethical behaviour of colleagues regarding non-compliance with service discipline and neglect in the performance of their official duties.

5 APPLICABLE SANCTIONS IN CASES OF PROOF OF UNETHICAL BEHAVIOR OF A JUDGE

The Consultative Council of European Judges notes that in common law legal systems with a small, homogeneous judiciary comprised of senior and experienced legal practitioners, the only formal sanction that can be applied – though typically only in an unlikely eventual emergency – is dismissal. However, informal warnings or discussions can also be effective.

34 AS Krupnyk, 'Public Control: Essence and Mechanisms of Implementation' (2007) 1 Theoretical and Applied Issues of State Formation <https://novyi-stryi.at.ua/gromkontrol/KRUPNYK_A_pro_grom_kontrol.pdf> accessed 15 May 2024.

35 Oksana Z Khotynska-Nor, 'Public Control as a Factor in the Development of the Judicial System' (16) 4 Journal of Civil and Criminal Justice 108.

In other countries, where the judiciary is larger and, in some cases, less experienced, it is considered appropriate to establish a gradation of formally defined sanctions, sometimes even with the possibility of applying financial penalties.³⁶

As for the national normative regulation of this issue, it is necessary to apply in accordance with the provisions of Article 109 of the Law of Ukraine “On the Judiciary and the Status of Judges”, which stipulates that if a violation of ethical norms by a judge is qualified under Paragraph 3 of Part 1 of Article 106 of this Law, then in practice one of two types of disciplinary sanctions can be applied. The first type involves a petition for temporary suspension of the judge from the administration of justice, accompanied by the deprivation of the right to receive additional payments to the judge’s official salary. Additionally, the judge is required to attend a refresher course at the National School of Judges of Ukraine for a refresher course. Afterwards, a further qualification assessment is conducted to determine the judge's ability to administer justice.

The second type of sanction applies when the judge’s unethical behaviour qualifies as a significant disciplinary offence or gross neglect of the duties, which is incompatible with the status of a judge or indicates their inconsistency with the position held. In such cases, a motion to dismiss a judge from office is made.

It is important to note that lighter sanctions, such as a warning, reprimand or severe reprimand with a corresponding deprivation of the right to receive additional payments to the judge's official salary, may not be applied in these cases.

A study of specific cases of bringing judges to such responsibility gives grounds to conclude that applying the most severe sanction in these categories of cases is justified – a motion to dismiss a judge from office, which should not be considered a violation of the principle of proportionality. Such “severity” is due to the decisive importance of the moral “face” of a judge and the image of a fair trial in society, which are of particular relevance in the context of the formation and development of public trust in judicial power in the state. As the High Council of Justice has repeatedly noted in its decisions, “an act that can be regarded as a minor offence committed by a judge in relation to others receives wide publicity and undermines his authority and calls into question the integrity of this judge and the judicial system as a whole”.³⁷

Thus, in approximately every third case, a motion to dismiss a judge from office is applied as a sanction for unethical behaviour that has been classified as a significant disciplinary offence or gross neglect of duties, behaviour that is incompatible with the status of a judge or indicates his/her inconsistency to uphold the position. Therefore, in practice, most violations of judicial ethics, which discredit the title of a judge and harm the authority of

36 Opinion no 3 (n 10).

37 Decision no 1058/0/15-21 (High Council of Justice, 18 May 2021) <<https://hcj.gov.ua/doc/doc/1365>> accessed 15 May 2024.

justice, are qualified by a disciplinary body as a significant disciplinary offense or gross neglect of duties. Judges who violate ethical norms are often subject to a motion for dismissal from office within the framework of disciplinary proceedings.

6 CONCLUSIONS

An analysis of judicial practice, practice bringing judges to disciplinary responsibility for violation of ethical norms, as well as the results of the study of the problem of disciplinary liability of judges in the course of previous studies, allow us to distinguish the characteristic features inherent in the institute of disciplinary liability. These features highlight its role as an integral part of the broader institution of legal responsibility of judges.

The specific features of judges' disciplinary liability for violating ethical rules are the general nature of the rules and the lack of precise criteria that define unethical behaviour as a disciplinary offence; the manifestation of subjectivity by the disciplinary body in assessing the judge's behaviour; and the possibility that judges' liability for breaching ethical rules may combine with liability for procedural violations or apply separately if the offence was committed outside of the administration of justice.

Thus, the study of the characteristic features of disciplinary liability for judges who violate ethical norms, along with an analysis of judicial practice on this issue, has enabled the authors to make key generalisations and conclusions about the key features and pressing issues related to holding judges accountable for ethical violations. One of the primary findings of the study is that the professional activity of a judge is one of the few spheres of state activity regulated not only by the norms of legislative acts, which oblige a judge to act on the basis and within the framework of laws, but also by the norms of morality, which constitute the ethical basis of behaviour, ensuring the judge's authority in society.

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AUTHORS INFORMATION

Yurii Prytyka*

Dr. Sc. (Law), Prof., Head of Civil Procedure Department of Taras Shevchenko National University of Kyiv, Vice President of the International Commercial Arbitration Court (ICAC), Kyiv, Ukraine

yurii.prytyka@knu.ua

<https://orcid.org/0000-0001-5992-1144>

Corresponding author, responsible for conceptualization, formal analysis, funding acquisition, methodology and writing – original draft.

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Maryna Stavniichuk

Cand. of Legal Sciences, Vice-president of the World Congress of Ukrainian Lawyers, Kyiv, Ukraine

Member of the European Commission "For Democracy through Law" (Venice Commission) (2009 - 2013)

stav.marina@gmail.com

<https://orcid.org/0009-0007-8273-1323>

Co-author, responsible for methodology and writing – review & editing.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Практичне дослідження

ДИСЦИПЛІНАРНА ВІДПОВІДАЛЬНІСТЬ СУДДІВ ЗА ПОРУШЕННЯ ЕТИЧНИХ НОРМ В УКРАЇНІ: ПРАКТИЧНІ АСПЕКТИ

Юрій Притика* та Марина Ставнійчук

АНОТАЦІЯ

Вступ. Ця стаття присвячена дослідженню дисциплінарної відповідальності суддів за порушення етичних норм, яка є невід'ємною частиною інституту юридичної відповідальності суддів. Висвітлюється взаємозв'язок між порушенням суддею етичних норм і негативними наслідками, які виникають внаслідок цього.

У статті визначено характерні особливості формулювання відповідних рішень та виявлено їхні окремі недоліки на основі детального аналізу існуючої практики притягнення суддів до дисциплінарної відповідальності за порушення етичних норм.

Зроблені висновки можуть сприяти вдосконаленню як нормативних положень, що регулюють цей інститут, так і їхньому ефективному застосуванню у дисциплінарному провадженні. Враховуючи те, що це питання становить національний інтерес, результати можуть також сприяти розробці більш надійної системи притягнення суддів до відповідальності.

Методи. У дослідженні використано аналітичний, нормативний та порівняльний методи. За допомогою аналітичного методу проаналізовано практику притягнення суддів до дисциплінарної відповідальності за порушення етичних норм та пов'язані з цим судові справи. Нормативний метод дозволив переглянути законодавчу базу та положення, які регулюють підстави притягнення суддів до дисциплінарної відповідальності за порушення етичних норм. Нарешті, за допомогою порівняльного методу автори дослідили практичні аспекти ініціювання процедури відкриття дисциплінарного провадження різними групами уповноважених на це суб'єктів, а також порівняли формулювання рішень щодо застосування заходів дисциплінарного стягнення до судді.

Результати та висновки. У статті обгрунтовано, що у питанні притягнення суддів до відповідальності за порушення суддівської етики вирішальну роль відіграє нормативна база як відповідь на нові суспільні виклики. Проте практичне застосування (дисциплінарне та судове) має особливе та вирішальне значення. Детально розглянуто такі приклади та зроблено висновки щодо закономірностей використання підстав відповідальності суддів у загальних формулюваннях. З точки зору характеру проступку та шкоди, завданої статусу судді та авторитету правосуддя, велике значення має факт публічного оприлюднення обставин вчинення суддею правопорушення.

На основі системного аналізу законодавства та дисциплінарних справ виділено декілька особливостей притягнення судді до відповідальності за порушення етичних норм.

Ключові слова: верховенство права, суддя, етичні норми, дисциплінарна відповідальність, правосуддя, судоустрій, судова влада, демократія, інститути публічної влади, національна правова традиція.