THE ROLE OF A JUDGE IN THE PROTECTION OF HUMAN RIGHTS

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This article examines the role of judges in the protection of human rights within the broader framework of judicial independence, disciplinary accountability, and the purification of public authority. The study focuses on the complex balance between ensuring effective judicial responsibility and safeguarding judges from arbitrary interference by the state. Particular attention is given to the institutional and normative foundations of judicial independence as a core element of the rule of law and a prerequisite for effective human rights protection.

The research analyses Ukrainian doctrinal approaches to constitutional supremacy and judicial governance, as well as contemporary studies on disciplinary liability of judges and the protection of their professional rights, including privacy, personal data, and reputation. The article also explores the concept of purification of power in transitional justice contexts, emphasizing that such processes must comply with principles of legality, proportionality, and judicial independence.

A significant part of the study is dedicated to the case law of the Court of Justice of the European Union and the European Court of Human Rights. The jurisprudence in cases such as "Associação Sindical dos Juízes Portugueses v. Tribunal de Contas" (C-64/16), "A.K. and Others v. Supreme Court of Poland" (C-585/18 et al.), and "European Commission v. Poland" (C-791/19) demonstrates that judicial independence is a structural requirement of the EU legal order. Similarly, the ECtHR decisions in "Oleksandr Volkov v. Ukraine", "Baka v. Hungary", "Denisov v. Ukraine", and "Kudeshkina v. Russia" confirm that disciplinary measures against judges must not be used as instruments of pressure and must comply with strict standards of fairness and proportionality.

The article concludes that judicial independence and accountability are not opposing values but mutually reinforcing components of a functioning legal system. It argues for the necessity of balanced disciplinary mechanisms, effective institutional safeguards, and alignment with European human rights standards, especially in the context of Ukraine's ongoing reforms and post-war recovery.

Keywords: judicial independence, human rights, disciplinary liability, rule of law, Court of Justice of the European Union, European Court of Human Rights, judicial reform.

Formulation of the Problem

The role of a judge in the modern legal system goes far beyond the formal application of legal norms. In my view, a judge represents a key figure in ensuring real, not merely declarative, protection of human rights. This becomes especially evident in states undergoing institutional transformation, where the judiciary is simultaneously expected to guarantee justice and to undergo reforms.

In Ukraine, this dual expectation is particularly visible. On the one hand, there is a clear public demand for accountability, integrity, and so-called "purification of public authority." On the other hand, there is an equally important need to preserve judicial independence and prevent undue interference by the state.

This creates a tension that is not easy to resolve. Excessive control over judges may undermine judicial independence, while insufficient accountability may erode public trust. I believe that finding a balance between these two dimensions is one of the key challenges for the development of the rule of law.

The purpose of this article is to examine the role of judges in the protection of human rights, to analyze the need for accountability and purification of public authority mechanisms, and to explore how to prevent state arbitrariness in disciplinary proceedings against judges.

Analysis of Doctrinal Studies

The issues of judicial independence and accountability have been widely discussed in Ukrainian legal scholarship. Research on the supremacy of constitutional norms [1] emphasizes that judicial activity must be grounded in constitutional principles, which simultaneously guarantee independence and establish limits of lawful judicial conduct.

A number of recent studies by Liudmyla Deshko focus on judicial disciplinary liability and the protection of judges' rights, including privacy, personal data, and professional reputation. In particular, the analysis of the case law of the Court of Justice of the European Union highlights the importance of safeguarding these rights in disciplinary proceedings [2]. Another important research direction concerns disciplinary reforms in European states, including Poland [4]. These studies demonstrate that disciplinary mechanisms may function not only as accountability tools but also, in certain circumstances, as instruments of pressure on the judiciary. The issue of purification of public authority has also been studied in the context of democratic transition processes [6]. It is generally recognized that such measures may be justified, but only if they comply with the principles of legality, proportionality, and individual responsibility.

Furthermore, research on judicial governance institutions, particularly the High Council of Justice, emphasizes their role in maintaining a balance between judicial independence and accountability [7].

In my opinion, these studies collectively demonstrate the need for a balanced approach, where independence and accountability are not opposing values but interconnected elements of the same constitutional system.

Presenting the Main Material

A judge plays a decisive role in the protection of human rights, as judicial decisions often represent the final stage at which rights can be effectively restored. This is particularly relevant in cases where other state institutions fail to provide adequate protection. However, the ability of a judge to perform this function directly depends on judicial independence. Without independence, judicial decisions risk being influenced by external factors, including political pressure. At the same time, independence cannot be understood as immunity from responsibility.

I would argue that judicial accountability is an essential element of the rule of law. Judges must comply with legal standards, ethical requirements, and professional discipline. At the same time, accountability mechanisms must be designed in such a way that they do not create opportunities for arbitrary interference.

The concept of purification of public authority, actively discussed in Ukraine, reflects the need to restore public trust in state institutions. In the judicial sphere, this involves assessing the integrity and professionalism of judges. In my view, such processes are justified in transitional contexts. However, they must be conducted with strict adherence to legal guarantees.

A key risk is that disciplinary procedures may be used selectively or for political purposes. This concern is not merely theoretical. European practice demonstrates that disciplinary mechanisms may become tools of influence over the judiciary if adequate safeguards are not ensured.

Therefore, disciplinary proceedings against judges must meet the following standards: clear legal grounds for liability; transparency of procedures; right to defense; proportionality of sanctions.

I would also emphasize the importance of protecting judges' personal and professional rights. Disciplinary proceedings may affect

not only career status but also reputation and private life. Therefore, safeguards related to personal data and reputation must be strictly observed.

Another important aspect is the institutional framework. Bodies responsible for judicial discipline must be independent and impartial, and their composition and functioning must exclude external influence.

In the context of wartime, these issues become even more sensitive. On the one hand, the state may seek to strengthen institutional control. On the other hand, any weakening of judicial independence may have long-term negative consequences for the legal system.

The balance between judicial independence and accountability is not purely theoretical. It has been extensively developed in the case law of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR).

In «Associação Sindical dos Juízes Portugueses v. Tribunal de Contas» [9], the CJEU held that judicial independence is an essential component of effective judicial protection. In «A.K. and Others v. Supreme Court of Poland» [10], the Court emphasized that even formally established bodies may fail to meet independence standards if their composition raises doubts regarding impartiality. In «European Commission v. Poland» (Disciplinary Regime for Judges) [11], the Court found that disciplinary mechanisms must not be used as instruments of pressure against judges.

The ECtHR in «Baka v. Hungary» [12] ruled that the dismissal of a court president due to critical statements violated judicial independence and freedom of expression. In «Oleksandr Volkov v. Ukraine» [13], the Court identified systemic deficiencies in disciplinary proceedings, including lack of independence and impartiality of the deciding body. In «Denisov v. Ukraine» [14], the Court clarified standards for interference with a judge's professional life, emphasizing legality and necessity requirements. In «Kudeshkina v. Russia» [15], the Court protected a judge who publicly criticized interference in judicial activity, reaffirming the importance of freedom of expression for judges.

Taken together, these judgments establish a consistent legal approach: judicial independence is a binding legal requirement that must be ensured through institutional guarantees and fair procedures.

The issue of purification of public authority in the post-war context is particularly sensitive. On the one hand, there is a need to restore public trust in the judiciary. On the other hand, there is a risk of excessive interference in judicial independence.

In my view, reforms should not replace independence with control but should strengthen both independence and accountability simultaneously.

The Ukrainian legal framework governing judicial independence, disciplinary liability of judges, and mechanisms of purification of public authority is primarily based on constitutional provisions and a set of specialized laws regulating the judiciary and its governance bodies.

At the constitutional level, Article 6, Article 19, Article 55, and Article 126 of the Constitution of Ukraine establish the foundational guarantees of judicial independence, the obligation of public authorities to act within the limits of law, and the prohibition of undue influence on judges. In particular, Article 126 explicitly states that judicial independence is guaranteed and that influence on judges in any manner is prohibited [1]. In my view, this constitutional provision forms the core normative barrier against arbitrary interference, although its practical effectiveness depends on implementing legislation.

A central legislative act is the Law of Ukraine "On the Judiciary and Status of Judges," which defines the institutional framework of the judicial system, guarantees of independence, procedures for appointment and dismissal of judges, and disciplinary liability mechanisms. The law establishes that disciplinary proceedings must be based on clear legal grounds, respect procedural guarantees, and ensure the right to a fair hearing. At the same time, it introduces a system of disciplinary bodies operating within the judicial governance structure.

The Law of Ukraine "On the High Council of Justice" regulates the status, composition, and powers of the High Council of Justice, which is the key body responsible for judicial

discipline and appointment procedures. This institution plays a dual role: it safeguards judicial independence while simultaneously exercising disciplinary control. In my opinion, this dual function creates a structural tension, because the effectiveness of guarantees depends on the actual independence of this body from political influence.

A particularly sensitive area is the legislative framework governing judicial accountability during integrity assessments and qualification evaluations. The Law of Ukraine "On the Judiciary and Status of Judges" introduced mechanisms of qualification assessment aimed at ensuring professional competence and integrity of judges. While these mechanisms are formally designed as tools of purification of public authority, their implementation has raised concerns regarding procedural fairness and predictability of evaluation criteria.

The Law of Ukraine "On Prevention of Corruption" also plays an indirect but significant role in shaping judicial accountability. It establishes ethical standards, asset declaration requirements, and liability for corruption-related violations. Although these measures are necessary for ensuring integrity, I believe they must be applied with particular caution in relation to judges, so as not to transform anti-corruption mechanisms into instruments of undue pressure.

Another important element is the Law of Ukraine "On Restoration of Trust in the Judiciary in Ukraine," which initiated early-stage purification reforms in the judicial system. This law introduced temporary mechanisms of dismissal and re-evaluation of judges. However, from a legal perspective, it raised questions regarding compatibility with the principle of judicial independence and guarantees of tenure.

In addition, the Law of Ukraine "On the Constitutional Court of Ukraine" provides specific safeguards for judges of the constitutional jurisdiction, including special disciplinary procedures and enhanced guarantees of independence. This differentiation reflects the recognition of the special role constitutional adjudication within the judicial system.

In my opinion, the overall legislative framework demonstrates an attempt to balance two competing objectives: ensuring judicial accountability and preserving judicial independence. However, the effectiveness of this balance is not guaranteed solely by normative design. It depends heavily on institutional practice and the degree of political neutrality of governance bodies.

A key structural issue is that disciplinary mechanisms are concentrated within bodies that are simultaneously involved in judicial administration. This creates a potential risk of functional overlap between governance and control. European standards, as reflected in the case law of the Court of Justice of the European Union and the European Court of Human Rights, require that disciplinary procedures be insulated from political influence and based on clearly defined, predictable criteria.

In my view, Ukrainian legislation would benefit from further refinement in several directions: strengthening procedural guarantees in disciplinary proceedings; clarifying and narrowing disciplinary grounds to prevent broad interpretation; ensuring institutional independence of disciplinary bodies; improving transparency of qualification and integrity assessments; reinforcing judicial self-governance mechanisms.

These legislative improvements are particularly important in the context of European integration, where compliance with standards of judicial independence is not only a constitutional requirement but also a condition of trust in the judiciary as part of the European legal space.

Conclusions

A judge plays a central role in the protection of human rights. Judicial independence is a necessary condition for the effective functioning of justice. At the same time, judicial accountability is an essential element of a democratic legal system.

The main challenge lies in achieving a proper balance between these two elements.

I believe that an effective system must include: clear legal standards; independent disciplinary bodies; procedural safeguards; alignment with European legal principles.

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Карапетян А.Р.

РОЛЬ СУДДІ У ЗАХИСТІ ПРАВ ЛЮДИНИ

У статті досліджується роль судді у захисті прав людини в контексті забезпечення балансу між незалежністю судової влади, дисциплінарною відповідальністю суддів та процесами очищення публічної влади. Основна увага приділяється проблемі співвідношення між необхідністю ефективного контролю за діяльністю суддів і потребою гарантування їхньої незалежності від будь-якого свавільного впливу з боку держави.

Проаналізовано доктринальні підходи українських науковців щодо верховенства конституційних норм у системі права, а також сучасні дослідження дисциплінарної відповідальності суддів і захисту їхніх прав, включаючи право на приватність, захист персональних даних та професійну репутацію. Окремо розглянуто концепцію очищення влади в умовах трансформаційних процесів, яка, на думку автора, повинна реалізовуватися виключно з дотриманням

принципів верховенства права, пропорційності та правової визначеності.

Значну увагу приділено практиці Суду ЄС та ЄСПЛ. Зокрема, у рішеннях «Associação Sindical dos Juízes Portugueses v. Tribunal de Contas» (C-64/16), «A.K. and Others v. Supreme Court of Poland» (C-585/18 та ін.), «European Commission v. Poland» (C-791/19) підкреслено, що незалежність судової влади є структурним елементом правопорядку ЄС. У практиці ЄСПЛ у справах «Олександр Волков проти України», «Бака проти Угорщини», «Денісов проти України», «Кудешкіна проти Росії» сформульовано стандарти, відповідно до яких дисциплінарні процедури щодо суддів не можуть використовуватися як інструмент тиску та повинні відповідати вимогам справедливого суду.

Зроблено висновок, що незалежність та відповідальність судді є взаємопов'язаними елементами єдиної системи правосуддя. Запропоновано необхідність формування збалансованого механізму притягнення суддів до дисциплінарної відповідальності, посилення інституційних гарантій та імплементації європейських стандартів у національну судову систему України.

Ключові слова: незалежність судді, права людини, дисциплінарна відповідальність, верховенство права, Суд ЄС, ЄСПЛ, судова реформа.