

Financial and ethical integrity of judges

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Received: 2025-06-02

Accepted: 2025-07-05

DOI: <https://doi.org/10.5281/zenodo.18093751>

Abstract. The article highlights the issue of the financial and ethical criterion of the integrity of judges as a factor in the renewal of the judicial corps and the reform of the judiciary in Ukraine.

It is stated that the institution of the integrity of the judicial system in democratic states has a primary role, since the latter is endowed with the potential of the highest judicial protection of human rights and public institutions of the state. Ukraine's democratic aspirations and the European integration direction of the development of social reality require the implementation of the principles of the rule of law, judicial independence and the integrity of the judiciary in modern Ukrainian politics.

The author indicates that in the context of independence, the standard of integrity requires not only to foresee and ensure the absence of political, but also economic pressure. This includes an appropriate financial, economic and infrastructural base for the performance of their powers not only by judges, but also by other representatives of the judiciary, including decent remuneration for this category of employees. Such a requirement will ensure not only the functioning of the justice system, but also serves as a significant warning against manifestations of financial dishonesty, i.e., corrupt acts.

It is positioned that the integrity of judges is of priority importance for reforming the judicial system and building a democratic society. The presence of clear organizational, legal and institutional means to guarantee integrity creates the basis for solving such urgent problems.

It is stated that financial and ethical integrity are two main criteria for such an institution. The financial integrity of judges consists in the need to comply with anti-corruption legislation, eliminate and prevent conflicts of interest, and personal control over the financial sphere. We propose to understand ethical integrity as the internal qualities of a representative of the judicial corps, which ensure the performance of their official duties and the administration of justice in accordance with the principles of morality, justice, the rule of law, with compliance with high ethical standards that are characteristic of modern society and the representation of such behavior in extra-professional life.

Keywords: integrity of judges, judiciary, financial integrity, ethical behavior, morality, corruption.

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Problem statement

The judiciary is an independent authority for the administration of justice in order to uphold the law and justice. This is an immutable axiom of the modern the state and legal system.

The importance of judicial integrity is undeniable. It is considered a component of the legitimacy of the judiciary, a condition for making well-founded judicial decisions, and a prerequisite for public trust.

The institution of the integrity of the judicial system in democratic states has a primary role, since the latter is endowed with the potential of the highest judicial protection of human rights and public institutions of the state. The judiciary has the authority to review and ultimately overturn the decisions of any other state institution. Without integrity, the judiciary will remain weak in bringing offenders to justice; in ensuring the return of embezzled public funds; in ensuring compliance with the human rights of vulnerable groups; and in protecting the due rights of investors. In other words, ensuring compliance with the rules of integrity in all state bodies will be ineffective if the judicial system lacks integrity; and citizens will not trust the rule of law. Therefore, the priority of the modern state is the integrity of judges.

The effective functioning of the judicial system is of key importance for modern Ukraine in the conditions of war and for the post-war reconstruction of the state. The issue is especially relevant in view of the European aspirations of our state.

Research status. The problems of renewing the judiciary, implementing positive world standards of justice, openness and accessibility of public administration bodies were studied by scholars specializing in the field and in general theoretical approaches. Within the framework of the national doctrine, this issue was analyzed by such specialists as I. Zharovska, N. Ortynska, V. Kovalchuk, L. Sopilnyk, T. Mikhailina and others.

However, many normative and law-enforcement shortcomings in the process of renewing the judicial system remain unnoticed, which is why the work is so urgent.

The purpose of the work is to highlight the financial and ethical criteria of the integrity of judges as a factor in renewing the judicial corps and reforming the judiciary in Ukraine.

Presentation of the main provisions

International institutions and states with a high level of democratic development have long emphasized the principle of integrity as a key one in the implementation of justice. The Recommendations of the Public Integrity Council of the Organization for Economic Cooperation and Development underline the importance of integrity as vital to public administration, the protection of public interests and the strengthening of fundamental values such as commitment to pluralistic democracy based on the rule of law and respect for human rights, and that integrity is the cornerstone of an overall system of good governance, and that updated guidance on public integrity should accordingly promote coherence with other key structural elements of public governance [1].

Ukraine's democratic aspirations and the European integration direction of the development of social reality require the implementation of the principles of the rule of law, judicial independence, and judicial integrity in modern Ukrainian politics.

It is important for developing countries that strive for democratic values to define a clear institutional, legal, and organizational structure for the integrity of the judiciary. Integrity criteria (indicators) play a significant role in this process. According to the official OECD website, the Public Integrity Indicators are the first set of internationally agreed data designed to promote the dissemination of best practices in building integrity systems by comparing country indicators and exchanging best practices. The Public Integrity Indicators initiative was created by the OECD Working Group on Integrity and Anti-Corruption to enable

member countries to move from indicators based on subjective assessments to objective data [2].

These indicators are based on two basic principles - judges must administer justice independently and impartially. This can be ensured by creating financial (economic) and moral and ethical factors for the implementation of proper activities by representatives of the judiciary.

In the context of independence, the standard of integrity requires not only the absence of political pressure, but also economic pressure. This includes an appropriate financial, economic and infrastructural base for the performance of their powers not only by judges, but also by other representatives of the judiciary, including decent remuneration for this category of employees. Such a requirement will ensure not only the functioning of the justice system, but also serves as a significant warning against manifestations of financial dishonesty, i.e. corruption.

Therefore, we take the position that financial and ethical integrity are the primary essential features of the issue under study. Let us consider them in more detail.

Having analyzed the concept of financial integrity in the context of legalistic legal understanding, it can be determined that it generally concerns the requirement to submit declarations. In fact, the financial integrity of judges consists in the need to comply with anti-corruption legislation, eliminate and prevent conflicts of interest, and personal control over the financial sphere (this also applies to family members of a representative of the judicial corps).

The system of financial monitoring and electronic declaration also requires improvement. Its development should be based on the maximum use of automated analysis tools and integration with international databases, which will reduce dependence on the human factor and increase the accuracy of identifying potential corruption risks. In addition, it is worth ensuring the standardization of declaration verification procedures and transparency of public reporting in order to strengthen public control over the financial condition of civil servants of the judiciary [3, c.687].

A high level of professional culture of judges makes it impossible for corruption schemes to flourish, forms the legal culture of judges and court staff, and creates significant obstacles to bribery and abuse of power. The criterion of financial integrity of judges is the main factor in combating negative manifestations of corruption in the state, forms the legitimacy of the judicial branch of government, and protects justice from violations of the law.

The importance of ensuring judicial integrity is indicated in political and legal documents issued by regulatory bodies of national jurisdiction. The Anti-Corruption Strategy for 2021-2025 indicates that, according to the data of a standard survey on the level of corruption, the most priority area of the fight against corruption for both business (57% of respondents) and the population of Ukraine (52% of respondents) is to cleanse the judicial system of corruption [4].

It is important to understand the complexity of the integrity issue. On the one hand, these are the internal intentions of an individual employee, on the other hand, the very functioning of the entire paradigm of the judiciary as a whole can provide a guaranteed honest environment. In conditions when the public authority organization as a whole functions improperly, it is problematic to demand the integrity of an individual employee.

In this context, it is important to agree with the position of O. Bulgakova that «It is advisable to consolidate the norms of the complex concept of integrity in relation to the specifics of individual actors in the sphere of public administration in regulatory documents not only from the standpoint of requirements for the activities or personal characteristics of an individual public employee. It is necessary to use a comprehensive approach to the introduction of integrity from the standpoint of understanding the institutional honest

environment of the organization, created by the entire set of individual elements of the organization's activities or management system in a specific sector of public administration, which will contribute to increasing the efficiency of public governance» [5, c.11]

«The effectiveness of the institution of control in the field of public administration of the judiciary is largely determined not only by its organizational structure and functional content, but also by the ability to prevent systemic risks that undermine public trust in justice. Among such risks, a key place is occupied by corruption manifestations that can level the results of reforms and reduce the authority of judicial institutions. Therefore, one of the leading areas of control is the formation and application of anti-corruption mechanisms that are integrated into the general system of integrity management of the civil service of the judiciary» [3, p.691].

The CEELI Institute (Prague) in 2015 defined integrity as «an internal trait of a person when he acts in accordance with certain principles and values, without compromising either at work or in private life» and indicated that «in the judiciary, integrity means much more than conscientiousness. It is a duty. Integrity is analyzed from two different perspectives: the rule of law, where integrity is regarded as the professionalism of a public representative (internal integrity), and democracy, where integrity concerns the responsibility that justice and its institutions have before the public in order to gain public trust (external integrity)» [6].

Moral integrity is no less important a criterion than its financial component.

We propose to understand ethical integrity as the internal qualities of a representative of the judicial corps, which ensure the performance of their official duties and the administration of justice in accordance with the principles of morality, justice, the rule of law, with compliance with high ethical standards characteristic of modern society and the representation of such behavior in extra-professional life.

Scientists determine that «such high moral requirements are imposed on judges, which constitute judicial ethics, namely honesty, impartiality, decency, justice, prudence, independence, tact, courtesy, restraint and respect for participants in the judicial process and other persons, refraining from behavior, actions or statements that may lead to doubts about the unified status of judges, etc.» [7, c.107]

Ethical norms are a system of ideas and concepts about right and wrong behavior that require certain actions and prohibit others. Ethical requirements for the behavior of a judge are enshrined in the Code of Professional Ethics of a Judge and are a set of moral rules of behavior of a judge, with the help of which one can evaluate his actions from the point of view of such values as justice, conscientiousness, dignity, humanity, etc [8].

However, in the conditions of globalization, individualization and heterogeneity, the issue of moral and ethical assessment is subject to inconsistent representation and may be rather a problem of uncertainty and debatability. Leading scholars explain this in such a way that in situations of moral homogeneity, a number of elements related to the subjectivity of judges are tacitly common. For example, the fulfillment of open norms, such as «good faith» and «justice», sometimes requires a moral assessment, which, in turn, requires moral views. Intuition and conscience can also be considered influential in this regard. Due to the growth of moral heterogeneity, as a result of secularization and multiculturalism, distrust of these implicit elements may arise. For example, if a judge takes an oath, we do not know which God he swears to or what he fears by violating his conscience. This may lead to a call for professionalism of these previously implicit elements: judicial intuition, judicial moral assessment or judicial conscience [9, c.19].

The rules of judicial ethics, developed and approved by the bodies of the judicial community, are an important guideline in the professional and extra-professional behavior of judges. Compliance with ethical requirements is an essential duty of a judge, dictated by his constitutional and legal status. Judicial ethics, which is based on a universal moral imperative,

is an effective intra-corporate mechanism for ensuring the accountability of judges to civil society and reforming the entire judicial system.

Integrity is a crucial factor in trust. Evidence shows the link between trust and economic development, proper communication between the public sector and the public, overcoming corruption and other negative manifestations in the field of public administration. The integrity of judges in this context plays a leading role. A policy of judicial integrity, aimed at preventing corruption and promoting high standards of conduct, helps to strengthen the trust and legitimacy of those involved in political decision-making, protecting public interests and restoring confidence in the process of forming legal regulation and implementing legal policy in any area.

Conclusion

The integrity of judges is of priority importance for reforming the judicial system and building a democratic society. The presence of clear organizational, legal and institutional means to guarantee integrity creates the basis for solving such urgent problems. It is stated that financial and ethical integrity are two main criteria of such an institution. The financial integrity of judges consists in the need to comply with anti-corruption legislation, eliminate and prevent conflicts of interest, and personal control over the financial sphere. We propose to understand ethical integrity as the internal qualities of a representative of the judicial corps, which ensure the performance of their official duties and the administration of justice in accordance with the principles of morality, justice, the rule of law, with compliance with high ethical standards that are characteristic of modern society and the representation of such behavior in extra-professional life.

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