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Articles

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Interpretation of the Evaluative Concept of "Integrity" as a Part of Judge Selection and Qualification Evaluation Practice

Interpretacja ocennego pojęcia prawości jako elementu praktyki wyboru i oceny kwalifikacji sędziego

ABSTRACT

Analyzing the latest scientific and practical studies, the authors examine the interpretation of the evaluative concept of "integrity" in the judge selection and qualification assessment practice. The authors emphasize that the absence of a legislative definition of the evaluative term "integrity" in the selection and qualification assessment practice does not mean that it does not meet the requirements of legal certainty. Both legislators and judiciary bodies as well as court practice, build this concept. Numerous issues of its interpretation remain unresolved, which in some cases may indicate that the legal assessment of an applicant for a juridical vacancy or a judge during the relevant procedures is unclear and unpredictable. Approval of the united criteria of "integrity" definition will help to unify the practice of applicant selection for a juridical vacancy and make the application of this evaluative

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concept more understandable and transparent. The authors emphasize that only the approval of the united criteria of the "integrity" evaluative concept definition will not solve all the problems with its explicit application. To unify this practice, hundreds of practical questions of judges/applicants for juridical vacancies must get approved answers. Therefore, the High Council of Justice of Ukraine must provide answers to very specific questions regarding the term "integrity" and publish them in a handbook.

Keywords: integrity; evaluative concepts; integrity criteria; High Council of Justice of Ukraine

INTRODUCTION

The evaluative concept of "integrity" applied by the judge and applicant for a juridical vacancy evaluation can be initially associated with the New Testament parable of the talents, which concerns two different servants: one good and faithful, and the other unfaithful and lazy.[1] The teaching of this parable is that it is not enough to be a good specialist only or to have positive human qualities only. It must be both. Both intellectual and moral criteria, i.e. professionalism and human qualities, mentioned in the Bible and used by the Public Integrity Council (PIC), Public Council of International Experts (PCIE), Ethics Council, High Qualification Commission of Judges of Ukraine (HQCJU), and High Council of Justice (HCJ).

Worth mentioning are the newest practical works, the authors of which analyzing the evaluative concept of "integrity", the authors of which are O. Ovcharenko, A. Sukhova, M. Hlomb,[2] M.V. Buromenskyi,[3] Kh. Burtnyk, T. Chyzhyk,[4] HQCJU,[5] M.L. Sereda,[6] H. Chyzhik.[7] Each of these authors' studies brings a clearer understanding of the concept of "integrity" and clearly demonstrates that the absence of its

[1] Matthew 25: 14–30.

[2] O. Ovcharenko, A. Sukhova, M. Hlomb, *Research on Practices in Application of the Integrity Category for the Selection and Qualification Evaluation of Judges: Analytical Report*, Washington 2024 (February).

[3] M.V. Buromenskyi, *Analysis of the High Council of Justice's Practices in Evaluating the Behavior of a Judge/Applicant for a Juridical Vacancy by the Integrity and Professional Ethics Requirements*, October 2023, https://hcj.gov.ua/sites/default/files/field/file/analiz_praktyky_vrp_shchodo_kryteriyiv_ocinky_etyky_i_dobrochesnosti.pdf (access: 15.4.2024).

[4] Kh. Burtnyk, T. Chyzhyk, *High Council of Justice 2.0: Reboot (Analysis of Competitive Selection for Vacant Positions and Evaluation of the Current Members)*, October 2023, https://drive.google.com/file/d/11v-SEgOw3axw9AY-25DcOjm63JwkmdV1/view (access: 15.4.2024).

[5] High Qualification Commission of Judges of Ukraine, *Analysis of the Practices in Evaluating the Behavior of a Judge/Applicant for a Juridical Vacancy by the Integrity and Professional Ethics Requirements*, 2023, https://vkksu.gov.ua/sites/default/files/field/file/analiz_praktyky_ocinky_vidpovidnosti_suddiv_i_kandydativ_na_posadu_suddi_kryteriyam_dobrochesnosti_ta_profesiynoyi_etyky.pdf (access: 15.4.2024).

[6] M.L. Sereda, *Generalization of the Public Integrity Council's Practices for 2019*, Kyiv 2020.

[7] H. Chyzhik (ed.), *Generalization of Public Integrity Council's Practices in Analysis of Meeting the Professional Ethics and Integrity Requirements by the Applicants for the Supreme Court Juridical*

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legislative definition does not mean that this concept does not meet the requirements of legal certainty. Both legislators and judiciary bodies and court practice build this concept. Numerous issues of its interpretation remain unresolved, which in some cases may really indicate that the legal assessment of an applicant for a juridical vacancy or a judge during the relevant procedures is unclear and unpredictable.

The present authors aim to examine the interpretation of the evaluative concept of "integrity" as a part of judge selection and qualification evaluation practice.

The methodology of the research is based on general scientific and special legal methods, in particular the dialectical method, systems analysis and theoretical generalization. They all have been used during the analysis of the application of the evaluative concept of "integrity" as a part of judge selection and qualification evaluation practice.

RESEARCH AND RESULTS

The concept of "integrity" is evaluative, so its meaning, like any other evaluative concept, is determined by considering specific circumstances.[8] To understand it, subjective notions and human qualities, their experiences, values, moral qualities, religious beliefs and worldviews are of great importance.[9] We also want to emphasize how significantly society's functioning impacts the evaluative concept of "integrity" standards. For example, travel to the temporarily occupied regions of Ukraine or the aggressor country has not been counted as something illegal or a circumstance characterizing a person's integrity before the full-scale Russian invasion. In this context, there will always be different approaches to how to do a proper interpretation of "integrity".

According to the M.N. Greenstein's *Handbook for Judicial Nominating Commissioners* of 1984, the evaluative concept of "integrity" is interpreted through such terms as "honesty", "probity", "ethical behavior" and "adherence to high moral principles".[10] According to the Central and Eastern European Law Initiative (CEELI) in Prague, integrity is an "internal human quality" and "acting based on certain principles and values".[11]

Vacancies, 2018, https://grd.gov.ua/wp-content/uploads/2020/08/Uzagalnennia-praktyky-GRD.pdf (access: 15.4.2024).

[8] V.O. Rybalko, *Estimates in the Criminal Procedural Law of Ukraine*, Lviv 2017, https://dspace.lvduvs.edu.ua/bitstream/1234567890/2468/1/rubalko%20monogr.pdf (access: 25.4.2024), pp. 9–26.

[9] V.O. Rybalko, A.O. Rybalko, N.Ye. Makovetska, A.V. Prylutska, *Interpretation of Evaluative Concepts in the High Council of Justice's Practice*, Lviv 2022.

[10] See A. Kulibaba, *The Concept of Integrity as a Key Criterion During the Selection of Applicants for Judge Vacancies*, "Entrepreneurship, Economy, and Law" 2018, no. 2, pp. 212–217.

[11] See *ibidem*.

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According to V. Fedorovych, the evaluative concept of "integrity" must be interpreted by using such terms as "professional honesty", "dignity", "fairness", "tactfulness" and "professional duty".[12] At the same time, O. Hryshchuk believes it would be "moral qualities and adherence to ethical standards".[13] To describe the concept of integrity, S. Hlushchenko used the following terms: "honesty", "truthfulness", "probity", "personal dignity", "sincerity", "good faith", "modesty", "openness" and "transparency",[14] and S. Zhukov interpreted it with "high ethical standards, in particular professionalism, competency, independence, impartiality, and probity".[15]

According to the Basic Principles of the PCIE, "integrity" is evaluated with such terms as "morality", "honesty" and "probity". The PIC Indicators evaluate "integrity" with "independence", "impartiality", "honesty", "probity", "adherence to ethical standards", "equality" and "diligence".[16]

Based on the above definitions, "integrity" is interpreted with the help of other evaluative concepts. However, defining one evaluative concept through another does not ease its understanding.[17]

During a webinar for judge assistants, "Actual Problems of Prevention and Fighting the Corruption in Ukraine, Legal Regulation of the Conflict of Interest, and Ensuring Integrity", organized by the National Juridical School of Ukraine on 27 February 2024, the co-author of this article offered judge assistants to pass a survey. Ninety-six judge assistants of all levels took part. According to its results, 70.8% of respondents lack a legislative definition of the evaluative concept of "integrity", and only 29.2% showed no interest in such a definition in a law (see Table 1).

Table 1. Should there be an official definition of "integrity" in the legislation? (96 respondents)

Responses	%
Yes, since its absence in the current legislation causes a violation of the principle of legal certainty	70.8
No, since "integrity" is not a legal category but a moral and ethical one. Any such definition would be too general and too discrete. It is more important to establish a practice of use of this concept	29.2

Source: Authors' own elaboration.

[12] V. Fedorovych, *General Theoretical Approaches to Determining Dishonest Behavior of a Judge in the National Anti-Corruption System*, "National Law Journal: Theory and Practice" 2015, no. 6, pp. 14–17.

[13] O. Hryshchuk, *Judicial Integrity through the Lens of Modern Social Transformations*, "The Word of National Juridical School of Ukraine" 2022, no. 1, p. 20.

[14] S. Hlushchenko, *Novels of Judicial Reform: Concept of Judicial Ethics and Integrity in Context of Qualification Evaluation of Judge (Candidate on Position of Judge)*, "Journal of Civil and Criminal Procedure" 2016, no. 6, pp. 70–83.

[15] S. Zhukov, *Administrative and Legal Support for the Integrity of Judges: Problems of Theory and Practice*, Kyiv 2019 (qualification scientific work on the rights of the manuscript), p. 407.

[16] See M.V. Buromenskyi, *op. cit.*, p. 7.

[17] V.O. Rybalko, *Estimates in the Criminal Procedural Law of Ukraine*, 2016, http://virtuni.education.zp.ua/info_cpu/sites/default/files/aref_Rybalko.pdf (access: 25.4.2024).

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At the same time, it is worth mentioning, despite the results of the survey conducted at the beginning of the webinar, closer to its end, the participants discussed not some theoretical issues regarding a more precise definition of the evaluative concept of "integrity" but specific cases of behavior that could be considered integral or non-integral. It is another confirmation of A.M. Miroshnychenko's idea that interpreting evaluative concepts is a matter of practice, and a list of cases of their application would make more sense than an abstract discussion about their meaning.[18]

Assisting lawyers asked different questions: Does a positive conclusion about the non-integral behavior of a judge have to influence the career of their assistants? Does the Juridical Ethics Code include the actions of retired judges? Would a positive conclusion about the non-integral behavior of an applicant for a judge vacancy automatically mean their non-integrity for new competitions in the future? These and hundreds of other questions about which kind of behavior of judges/applicants for judge vacancies confirm their non-integrity remain controversial. However, the mentioned survey contained some open questions for judge assistants (see Tables 2–5).

Table 2. A judge has been confirmed to be non-integral. Must this influence the future career of their assistants applying for judge vacancies? (96 respondents)

Responses	%
No, if the assistants did not take any part in the illegal activities of the judge, they must not experience any negative consequences of a court's decision regarding the judge	67.7
Yes. A judge assistant works on draft decisions, so if a judge was charged for making a non-motivated or clearly illegal decision, it is also clear that the assistant was aware of it	3.3
It all depends on the assistant's involvement and awareness, particularly whether the assistant pointed out the illegality of specific procedures or decisions made by the judge	3.0
The assistants are not responsible for anything	26.0

Source: Authors' own elaboration.

Table 3. Does the Code of Juridical Ethics also cover the activities of retired judges? (96 respondents)

Responses	%
No	25.0
Yes. However, such judges cannot be charged with disciplinary offences	41.7
There should be defined a judge discharge procedure in the case of violating ethics rules in the legislation	32.3
Retired judges cannot be charged with disciplinary offences under any circumstances, and there cannot be any exceptions	1.0

Source: Authors' own elaboration.

[18] A.M. Miroshnychenko, *Judicial Discretion, Miscarriage of Justice, and Judicial Arbitrariness (through the Lens of Legal Liability of Judges) – Scientific and Practical Manual*, Kyiv 2020, p. 31.

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Table 4. A person is confirmed non-integral while nominating for a specific judge vacancy. Does it mean the person must be automatically proclaimed non-integral for all future nominations? (94 respondents)

Responses	%
No, since certain circumstances could not exist anymore (conviction spent, previously non-declared assets later declared, integrity criteria changed, etc.)	83.0
No, since we cannot do it like in the Soviet times when there were "politically unreliable people"	11.7
Yes	5.3

Source: Authors' own elaboration.

Table 5. Which of the following conduct examples speak for the non-integrity of judges/applicants for judge vacancies? (96 respondents)

Responses	%
Intervene in the automated case distribution system	70.8
Make decisions or take actions politically motivated or based on a personal interest	79.2
Visit the Russian Federation and temporarily occupied territories of Ukraine	58.3
Ties with politicians	27.1
Use personal contacts to be promoted or get unearned preferences	68.8
Get honorary weapons (except for actual awards for honor and heroism)	5.2
Refuse to judge some cases	34.3
Support the so-called dictatorship laws of 16 January 2014 on banning peaceful protests	41.7
A judge publicly supports a party in a case	70.8
Decide a case in favor of a specific person so that the decision differs from decisions made in similar cases or do some actions to complicate or prolong the case in an unmotivated matter	56.3
Systematically decide cases in favor of a specific person	42.7
Irregular judgment practice in favor of a specific person	36.5
Have a partial attitude to a specific party	65.6
Declare false information in an integrity declaration	79.2
Participate in a European Court of Human Rights case that Ukraine has lost	10.4
Make arbitrary decisions	59.4
Declare false information in a family declaration	69.8
Have doubtfully acquired equities	60.4
Declare false information in a nominating application	70.8
Non-informing about having a conflict of interest and (or) taking no measures to avoid it	65.6
Sabotage against the judicial reform	32.3
Possess non-declared equities	78.1
Lack of compliance between the lifestyle and declared income	62.5
Hide assets from being declared	77.1
Lack of reaction to non-integral conduct of one's colleagues	29.2
Academic non-integrity	27.1
Take action despite a conflict of interest	63.5
Non-ethical expressions and conduct	60.4
Impudent communication with journalists	33.3
Violate the principle of publicity of the court proceedings	42.7
Make decisions from outside of one's workplace	36.5
Fail to comply with the requirements for reasonable timeframes for case judgment	25
Fail to comply with the European Court of Human Rights practices	16.7
A judge went on the side of the aggressor state against Ukraine; a judge's conduct supports the aggressive actions of other states against Ukraine; a judge is a collaborator	66.7

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Responses	%
The expenditures and assets of a judge and his/her family members do not correspond to their declared income	62.5
There are doubts about the legality of the judge's property acquisition	56.3
A judge's communication with parties beyond the court can be evaluated as corruption	50
A judge committed a crime (no corruption)	50
A judge committed an administrative infringement	22.9
An applicant for a judge vacancy did not inform about the facts of being charged for violating the Criminal, Administrative or Disciplinary Code	62.5
There is an active criminal case against a judge	38.5
A criminal case against a judge was closed not due to rehabilitating circumstances	27.1
Favoritism	29.2
A judge has a conflict of interest or judges a case containing a personal interest	60.4
A judge externally or administratively influences other judges or makes decisions under such influence	52.1
A judge participates in some activities or expresses thoughts that can negatively impact the public trust in their impartiality	46.9
A judge depends (externally or internally, directly or indirectly) on any national or foreign governmental entity, body, government, or private person, which can be considered losing the judge's independence	50
A judge gets instructions from third parties and does not avoid situations that can be considered obstacles to his/her juridical functions and negatively influence the public trust in the judge's independence	53.1
Be a public person beyond the court activities, including participation in political discussions	47.9
Violate regarding rulings on securing claims	20.8
Violate the principle of equality of all parties in the face of law and court, the principle of competition between the parties, and their freedom to present evidence to the court and to prove its convincing nature before the court	44.8
Create obstacles to other judges' administration of justice not intended to influence the administration of justice	39.6
Speak obscene language outside the performance of judicial duties	40.6
Insult other judges on social media	38.5

Source: Authors' own elaboration.

Different answers in the above tables can be explained by the fact that the PIC, PCIE, HQCJU and Ethics Council still use different "integrity" criteria.

The PIC applies *Indicators If a Judge (an Applicant for a Judge Vacancy) Doesn't Meet the Criteria of Integrity and Professional Ethics*, revised by a PIC resolution of 16 December 2020.[19] This document has a similar structure to *The Bangalore Principles of Judicial Conduct* of 19 May 2006.[20] Based on these principles, the PIC evaluates "integrity" by the following criteria: independence; impartiality; honesty and probity; adherence to ethical standards; equality; diligence.

[19] Public Integrity Council, *Indicators If a Judge (an Applicant for a Judge Vacancy) Doesn't Meet the Criteria of Integrity and Professional Ethics*, revised by a PIC resolution of 16 December 2020, https://grd.gov.ua/wp-content/uploads/2020/12/Indykatory-HRD-vid-16.12.2020.pdf (access: 15.4.2024).

[20] Supreme Council of Ukraine, *The Bangalore Principles of Judicial Conduct*, 19.5.2006, https://zakon.rada.gov.ua/laws/show/995_j67#Text (access: 15.4.2024).

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The PCIE follows the *Basic Principles of the Public Council of International Experts Regarding Integrity, Knowledge, and Skills of Applicants for the Anti-Corruption Court Judge Vacancies*, adopted by Protocol No. 4 of 28 December 2018. The PCIE evaluates one's "integrity" by two criteria with their own indicators. Criterion 1 – Integrity (morality, honesty, and probity) – has the following indicators: Indicator 1 – material well-being; Indicator 2 – obligation to declare their well-being; Indicator 3 – independence; Indicator 4 – professional ethics; Indicator 5 – violating other regulations; Indicator 6 – worth to be a judge. Criterion 2 – Knowledge and Skills to Judge Cases – has the following indicators: Indicator 7 – knowledge of anti-corruption means; Indicator 8 – complicated cases; Indicator 9 – juridical activities.

The HQCJU follows the Regulation about the Order and Methods of Qualification Evaluation, Indicators of Meeting the Qualification Evaluation Criteria, and Means to Set the Criteria, adopted by the HQCJU Resolution No. 143/zp-163a of 3 November 2016.[21] The HQCJU evaluates one's "integrity" by the following criteria:

1. Whether expenditures and assets of a judge and his/her family members correspond to their declared income.
2. Whether the way (level) of living of a judge and his/her family members corresponds to their declared income.
3. Whether the behavior of a judge corresponds to the anti-corruption legislation.
4. Whether there are circumstances according to Points 1, 2, 9–12, 15–19 Section 1 Article 106 of the Law of Ukraine "On the Judiciary and the Status of Judges".
5. Whether a judge has been brought to justice for committing offences or crimes indicating the judge's non-integrity.
6. Whether a judge has non-secured material liabilities that can have a substantial impact on his/her way of judgment.

The Ethics Council follows the *Evaluation Methods for the High Council of Justice Members/Candidates to the High Council of Justice by the Professional Ethics and Integrity Criteria*, adopted by the Resolution No. 5 of the Ethics Council of 9 December 2021.[22] According to Point 1.3 of the Evaluation methods, the "integrity: indicators are:

1) independence – self-reliance by decision-making, ability to make independent judgments while being under different kinds of pressure;

[21] https://old.vkksu.gov.ua/userfiles/doc/poriadok_ta_metod.pdf (access: 15.4.2024).

[22] The Ethics Council, *Evaluation Methods for the High Council of Justice Members/Candidates to the High Council of Justice by the Professional Ethics and Integrity Criteria*, 9.12.2021, https://ec.court.gov.ua/userfiles/media/new_folder_for_uploads/ec/methodology_EC.pdf (access: 15.4.2024).

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2) honesty – having high moral qualities and being truthful in professional and everyday life;
3) impartiality – lack of negative or positive pre-formed subjective thoughts or attitudes to someone or something, ability to make impartial, fair, objective judgments despite having some sympathy, antipathy, or shared opinions;
4) good faith – accurate, careful and responsible performing one's duties, indicating professional integrity.

It is not only about different structures of the regulations of the PIC, PCIE, HQCJU and Ethics Council they are guided by. It is about their unequal practices. The reason is that these entities differently evaluate the importance of one or another violation while evaluating whether a judge or an applicant for a juridical vacancy satisfies the "integrity" indicators. For example, during the competition with 120 juridical vacancies at the courts of cassation of the Supreme Court announced on 7 November 2016 the HQCJU confirmed 38% of PIC's conclusions regarding applicants who didn't correspond to the professional ethics and integrity criteria. The HQCJU acknowledged that such a low level of confirmation speaks for differences in evaluating the same events and the absence of the united criteria for the grade of the manifestation of such events.[23]

Judges and applicants have a right to understand what claims they may face.

To have the same practice of the application of "integrity" criteria (standards or indicators), the HCJ created a workgroup on 8 February 2024 to develop the United Indicators for Estimating the Integrity and Professional Ethics of Judges (applicants for juridical vacancies).[24] After consultations with the HQCJU, the Juridical Council of Ukraine and the Public Integrity Council, the HCJ got empowered to approve the United Indicators for Estimating the Integrity and Professional Ethics of Judges (applicants for juridical vacancies) as amended the Law of Ukraine "On the High Council of Justice" in December 2023.[25] The development and approval of the united criteria (indicators) for estimating integrity and professional ethics are also mentioned in the State Anti-Corruption Program 2023–2025.[26]

[23] High Qualification Commission of Judges of Ukraine, *op. cit*.

[24] Resolution No. 375/0/15-24 of the High Council of Justice of 8 February 2024 "On creation a workgroup to develop the United Indicators for Estimating the Integrity and Professional Ethics of Judges (applicants for juridical vacancies)", https://hcj.gov.ua/doc/doc/43695 (access: 15.4.2024).

[25] Act No. 3511-IX of 9 December 2023 on amendments to the Law of Ukraine "On the Judiciary and the Status of Judges" and some other laws of Ukraine regarding the improvement of juridical career-related procedures, https://zakon.rada.gov.ua/laws/show/3511-20#n326 (access: 15.4.2024).

[26] Resolution No. 220 of the Cabinet of Ministers of Ukraine of 4 March 2023 "On the Approval of the State Anti-Corruption Program 2023–2025", https://zakon.rada.gov.ua/laws/show/220-2023-%D0%BF#Text (access: 15.4.2024).

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CONCLUSIONS

Approval of the united criteria of "integrity" definition will help unify the practice of applicant selection for a juridical vacancy and make the application of this evaluative concept more understandable and transparent. At the same time, we believe that only the approval of the united criteria of the "integrity" evaluative concept definition will not solve all the problems with its explicit application. To unify this practice, hundreds of practical questions of judges/applicants for juridical vacancies must get approved answers. Therefore, we think the HCJ must follow the example of the National Agency on Corruption Prevention (that adopted the up-to-date "Clarifications on Financial Integrity")[27] and adopt clarifications on the integrity of judges/applicants for juridical vacancies for corresponding procedures. The results of such work can be published as a practical handbook, as in the case of the generalization of disciplinary practices.[28]

In our opinion, future studies on the evaluative concept of "integrity" will contain both theoretical research dedicated to the delimitation of the evaluative concepts of "professional ethics" and "integrity" as well as specific practical requests on its application.

For example, judges and applicants for juridical vacancies must understand in which cases the information about their expenses and their correspondence to the income would be considered unconvincing; which violations against the procedure rules would be considered substantial; which violation against the professional ethics would indicate that an applicant doesn't meet the integrity requirements; which sources of information and time or territorial limitations effect the evaluation process.

Important further research areas for the evaluative concept of "integrity" are the development of tools for verifying information about judges and judicial candidates; development of recommendations for evaluating judicial candidates coming from the academic and lawyer communities. It is important to study the evaluative standard of proof, namely "reasonable doubt", recently introduced by the Law of Ukraine "On the Judiciary and the Status of Judges", previously used in practice by judiciary bodies and competition commissions but only adopted in a law in December 2023.

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[27] Clarification on Financial Integrity: Application of specific provisions of the Law of Ukraine "On Corruption Prevention" regarding the measures of financial control (submitting declarations, informing about substantial changes in material well-being, informing about opening a bank account in a foreign currency) of 13 November 2023, No. 4 (as amended), http://surl.li/rprxk (access: 15.4.2024).

[28] High Council of Justice, *The Generalized Practices of Consideration by the High Council of Justice and Its Disciplinary Branches in Reviewing Disciplinary Cases Involving Judges (Based on the Cases of 2017–2021)*, 2023, https://hcj.gov.ua/sites/default/files/field/1012-3web.pdf (access: 15.4.2024).

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Further studies of the concept of "integrity" and its application in competitions should combine the analysis of specific manifestations of the behavior of applicants for juridical vacancies with the relevant criteria characterizing and determining such compliance with their activities and behavior.

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ABSTRAKT

Analizując najnowsze badania naukowe i praktyczne, autorzy badają interpretację ocennego pojęcia prawości w praktyce wyboru i oceny kwalifikacji sędziego. Autorzy podkreślają, że brak ustawowej definicji ocennego terminu „prawość" w praktyce wyboru i oceny kwalifikacji nie oznacza, że nie spełnia wymagań pewności prawnej. Pojęcie to budują zarówno legislatorzy, jak i organy orzekające oraz praktyka sądowa. Wiele spraw związanych z jego wykładnią nadal oczekuje na rozwiązanie, co w niektórych przypadkach może wskazywać, że prawna ocena aplikanta lub sędziego w trakcie odpowiednich procedur jest niejasna i nieprzewidywalna. Przyjęcie jednolitych kryteriów definicji „prawości" pomoże ujednolicić praktykę wyboru aplikantów sądowych oraz zwiększyć zrozumiałość i przejrzystość stosowania tego ocennego pojęcia. Autorzy podkreślają, że samo przyjęcie jednolitych kryteriów ocennego pojęcia prawości wciąż nie rozwiąże wszystkich problemów z jego jednoznacznym stosowaniem. Aby tę praktykę ujednolicić, setki praktycznych pytań sędziów/aplikantów sądowych muszą uzyskać potwierdzone odpowiedzi. Dlatego Najwyższa Rada Sprawiedliwości Ukrainy musi podać odpowiedzi na bardzo konkretne pytania dotyczące terminu „prawość" i opublikować je w podręczniku.

Słowa kluczowe: prawość; pojęcia ocenne; kryteria prawości; Najwyższa Rada Sprawiedliwości Ukrainy

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