

DOI <https://doi.org/10.30525/2592-8813-2024-3-4>

CURRENT STATUS AND TRENDS IN THE CONSTITUTIONAL AND LEGAL REGULATION OF JUDICIAL INDEMNITY IN EUROPEAN COUNTRIES

Serhii Demchenko,

*Member of Parliament of Ukraine,
Verkhovna Rada of Ukraine (Kyiv, Ukraine)*

ORCID ID: 0009-0004-4059-3549

1303sad@gmail.com

Abstract. The subject of the study is a scientific analysis of the current state and trends of constitutional and legal regulation of judicial indemnity in European countries. **The methodology of the research** consists of a combination of general and special scientific methods chosen with regard to the purpose and subject of the study: dialectical, analytical and synthetic, systemic and structural, legal and dogmatic, legal interpretation and comparative legal methods. **The purpose** of the study is to reveal the peculiarities of the constitutional and legal regulation of judicial compensation on the example of modern European countries. **The results of the study** prove that there are both common and specific features in the constitutional and legal regulation of judicial indemnity in modern European countries. **Conclusions.** Judicial indemnity is an important element of constitutional and legal regulation of the status of judges in European countries. It is not absolute and is characterized by a number of legal limitations. For the most part, in the context of constitutional and legal regulation in European countries, it is not the institution of judicial indemnity, but rather the right to express one's own opinion and the absence of responsibility for such expression, more or less limited by legal norms. Depending on the way in which the provisions on judicial immunity are anchored in the system of constitutional and legal regulation of different European countries, the following main models can be conditionally distinguished: 1) Constitutional-centric: a model in which national constitutions contain some initial, defining, albeit relatively few specific legal provisions on judicial immunity, which are developed in special laws and acts on judicial ethics and court decisions; 2) legislative: a model in which, in the absence of direct constitutional regulation, the main emphasis is placed on special laws on the judiciary and/or on the status of judges, the provisions of which are detailed in acts of judicial ethics; 3) judicial or judicial-centered: a model in which the provisions of legal acts do not contain direct legal regulation of judicial indemnity, and its principles are established in acts of the judiciary.

Key words: judicial indemnity, freedom of expression, constitutional and legal regulation, judiciary, status of a judge, European Union, the concept of «cooling effect».

Introduction. The constitutionally proclaimed strategic course of Ukraine towards European integration (On Amendments, 2019), which has significantly intensified the demand for a fair and independent judiciary in society, strong national pro-European political and legal traditions (Savchyn, 2014), and the incomplete judicial reform in the country determine both the scientific, theoretical, and practical value of understanding and taking into account the accumulated progressive experience of European countries in this area when improving the constitutional and legal regulation of the institution of judicial indemnity in Ukraine. Such an approach also seems to be particularly important in connection with the actualization of the tasks of improving the constitutional and legal status of judges in Ukraine (Kravchuk, 332–367), and finding ways of its modernization. The Strategy for the Development of the Judicial and Constitutional System for 2021–2023 sets the task of identifying areas for improvement of the provisions of the Constitution and laws of Ukraine, priority measures for the modernization of the judiciary, the status of judges and judicial proceedings on a par with the task of «ensuring the coordination and balance of the improvement process, taking into account the further harmonization of national legislation with the legislation of the European Union» (Strategy, 2021). The results of such a course should include, in particular, «ensuring the independence of judi-

cial institutions from any political influence and their accountability to society, continuing the implementation of international standards and best practices of the Council of Europe and the European Union» (Strategy, 2021).

The main common features of constitutional and legal regulation of judicial compensation in modern European countries

Scientific analysis of the experience of constitutional and legal regulation of judicial compensation in modern European countries shows that such regulation has both common and distinctive features. In particular, European law provides all the grounds for the formulation of the doctrine of limited judicial indemnity, which is based on the limited right of a court to freely express its opinions. This approach is embodied, first of all, in Article 10 of the ECHR (Convention, 1950) and in the jurisprudence of the ECtHR, which has repeatedly emphasized the limited nature of such indemnity. When establishing the judicial indemnity in the European countries, the legislator assumed that: 1) such indemnity is a constitutional and legal guarantee of independence of a judge, unhindered and effective exercise of his powers, defense of his position, free expression of will in making judicial decisions; 2) ensuring the possibility of free expression of will in court does not mean permissiveness in expressing irresponsible personal opinions and making arbitrary judicial decisions; 3) judicial indemnity is intended to ensure that a judge has an independent position in the course of judicial activity, which a priori Analyzed in their systemic context, the constitutional provisions of virtually all European countries create a kind of legal «framework» for judicial indemnity, which is limited by structural, status and competence elements of the constitutional regulation of the exercise of judicial power in the state.

EU soft law acts in the constitutionalization of judicial compensation

The results of the implementation of common legal approaches to the formulation of constitutional and legal principles of judicial indemnity can be traced at the level of key legal documents on the functioning of the judiciary and the status of judges, which were formulated by pan-European institutions on the basis of the generalization of the accumulated judicial and legal experience of various European countries. In addition, the constitutional doctrine of judicial indemnity in European countries is based on polymorphism and multisource nature of its consolidation. In particular, the provisions of EU soft law acts are of great importance. A number of international documents containing recommendations on judicial immunity stipulate that the granting of immunity to judges in connection with their judicial functions is primarily related to the need to ensure the proper administration of justice. First of all, it should be noted that European law identifies itself with the fundamental principles of the rule of law, in particular with the freedom of expression, which is considered to be a fundamental basis of a democratic society (Opinion, 2006). The key to the legal framework of judicial indemnity is the universal formula on the essence of the right to freedom of expression for everyone, enshrined in Article 10 of the ECHR. At the same time, the exercise of these freedoms, being subject to duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of confidential information, or for maintaining the authority and impartiality of the court (Convention, 1).

International legal instruments on judicial ethics provide that judicial immunity is directly related to the scope of the right of freedom of expression of judges. Principle 8 of the Basic Principles on the Independence of the Judiciary states that «in accordance with the Universal Declaration of Human Rights, members of the judiciary, like other citizens, have the right to freedom of expression, opinion, association and assembly, provided that, in the exercise of these rights, judges shall at all times conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and

independence of the judiciary» (Basic Principles, 1985). The right of judges to freedom of expression is also emphasized in the Bangalore Principles of Judicial Conduct (Bangalore Principles, 2006). The European Charter on the Status of Judges of 1985 recognizes the right of judges to express their views in order to avoid «excessive rigidity and inflexibility» which could create barriers between the public and the judges themselves (European Charter, 1985). The Opinion of the European Court of Justice of 2.12.2022 No. 25 on the freedom of expression of judges (Opinion, 2022) emphasizes that judges should exercise restraint in the exercise of their right to freedom of expression; stresses the need to strike a balance between the right of an individual judge to freedom of expression and the legitimate interest of a democratic society in maintaining public confidence in the judiciary; provides for the obligation of judges to observe professional secrecy; focuses on the exercise of the right to participate in the discussion of legislation; suggests refraining from any political activity.

The role of ECHR jurisprudence in the development of constitutional and legal regulation of judicial indemnity in European countries

An important role in the constitutional and legal development and implementation of judicial indemnity is played by the jurisprudence of the ECtHR, which has become an important source of constitutional law for EU member states (Synytsyn, 2019). Since the ECtHR's 1999 judgment in *Wille v. Liechtenstein*, the Court has significantly consolidated its jurisprudence on the scope of judicial indemnity under Article 10 ECHR in close connection with the interpretation of the principle of judicial independence. Thus, the ECtHR has deeply rooted the independence of the judiciary in its analysis of permissible limitations on judicial indemnity. After the judgment in the case of *Baca v. Hungary* (2016) (the «*Baca v. Hungary* judgment»), this connection became even more apparent. Thus, the ECHR jurisprudence has formulated the concept of a «chilling effect», the meaning of which is that the fear of prosecution of judges for their opinions has an impact on the exercise of freedom of expression, especially among other judges who wish to participate in public discussions on the administration of justice (*Baca v. Hungary* Judgment). Thus, the meaning of the «chilling effect» is the negative impact of any state action on judges, which leads them to avoid exercising the full range of rights deriving from the judicial function, for fear of being subjected to state persecution, which may lead to sanctions or informal consequences, such as threats, attacks or defamation campaigns (Pech, 2021). It is the «fear of reprisals that has a chilling effect on the exercise of freedom of expression and, in particular, risks discouraging judges from expressing criticism of State institutions or policies...», which can sometimes «jeopardize the independence of the judiciary» (Judgment in *Baca v. Hungary*).

At the same time, the ECtHR has formulated some universal requirements for the implementation of judicial indemnity: 1) judges «may be expected to exercise restraint in the exercise of freedom of expression in all cases where the authority and impartiality of the judiciary may be called into question»; 2) the dissemination of even accurate information by judges must be done in a moderate and appropriate manner; 3) the judiciary, in so far as it relates to the exercise of its judicial function, is obliged to exercise the utmost care in the cases it deals with in order to preserve its reputation as an impartial judge (Judgment in the case of *Baca v. Hungary*); 4) the judiciary, in the exercise of its judicial function, is obliged to exercise the utmost care not only in the cases it deals with, but also in the cases it deals with, in order to preserve its reputation as an impartial judge (Judgment in the case of *Baca v. Hungary*). Hungary); 4) the judiciary, in the exercise of its judicial function, must exercise the utmost care not only in the cases it hears, but also in criticizing other judges; 5) the nature and severity of the penalties imposed are elements to be taken into account when measuring the proportionality of the interference (*Affaire Di Giovanni v. Italie*); 6) judges may be held liable for violations related to their freedom of expression, provided that this is not done in retaliation for the exercise of this fundamental right (*Miroslava Todorova v. Bulgaria*); 7) the right of judges to freedom of expression to consider issues related to the functioning of the judiciary may be transformed into a

corresponding obligation to speak out in defense of the rule of law and the independence of judges when these fundamental values are threatened (*Miroslava Todorova v. Bulgaria*). These requirements should be applied in the constitutional and legal doctrine and practice of the EU Member States.

The main models of constitutional and legal anchoring of judicial immunity in European countries

Turning to the analysis of the elements which are special in the constitutional and legal entrenchment of judicial indemnity in European States, it should be emphasized that, from the formal legal point of view, the scope of such indemnity, the level of its legal entrenchment (in constitutions and laws, or only in laws and acts of the judiciary) are different, details and methods of its consolidation, which is due to different historical and legal traditions, different roles of the judiciary in society, different ways of objectification in the common law right to freedom of expression, different levels of political and legal culture, etc. For example, in the UK and Scandinavian countries, only general rules on freedom of expression are fixed, and judges formally have full freedom of expression, taking responsibility for processing relevant information and protecting information such as personal data or witness protection (Rosales C.M., Vargas O.R., 2022, 67). In the United Kingdom, no one has the right to hold a judge liable for anything he or she says in the course of administering justice; a judge is also not liable for orders given or decisions made, even if they are erroneous, if they are made within the jurisdiction (Sopilnyk R.L., 2021). In Italy, Liechtenstein, Norway, Portugal, Slovenia, Sweden, Romania, Hungary and Croatia, judges are not criminally liable for acts committed in connection with the performance of their official duties, except for corruption offenses (Dissenting Opinion of Judge H. Yurovska of the Constitutional Court of Ukraine). A somewhat broader scope of regulatory framework for judicial indemnity is characteristic mainly of post-socialist (Central and Eastern European countries) and post-authoritarian European (Spain, Portugal, Greece) states. At the same time, it is noticeable that the constitutional and legal regulation of judicial indemnity is not stable, but rather a dynamic legal phenomenon, which, in particular, depends on the judicial reforms in the states (Hungary, Poland, Slovakia), which have a rather different focus and public support (Čuroš R., 2023; Cheesman S.J. and Badó A., 2023).

Depending on the way the provisions of judicial indemnity are enshrined in the system of constitutional and legal regulation of different European countries, the following main models can be conditionally distinguished 1) constitutional-centered: a model in which national constitutions contain some initial, defining, albeit relatively few special legal provisions on judicial indemnity, which are developed in special laws and acts of judicial ethics and court decisions; 2) legislative a model in which, in the absence of direct special constitutional regulation, the main emphasis is placed on special laws on the judiciary and/or on the status of judges, the provisions of which are detailed in acts of judicial ethics and other acts of the judiciary; 3) judicial-centric: a model in which the provisions of legal acts (constitutions and laws) do not contain direct legal regulation of judicial indemnity, and its principles are defined in acts of the judiciary (codes of judicial ethics, etc.). Let us consider them in more detail.

Constitutional-centered model of judicial indemnity

The countries representing the first model include: Portugal, Ukraine, Croatia, Bulgaria, Montenegro, Albania, Armenia, and Slovenia. For example, in Slovenia, the Constitution contains a categorical prohibition: none of the participants in a court proceeding may be held liable for an opinion expressed in the course of making a court decision (Article 134(1) of the Constitution of the Republic of Slovenia). The Constitution of Portugal (Article 216(2)) stipulates that a judge shall be exempt from liability for his or her decisions, except in cases provided for by law. The application of disciplinary measures against him/her is within the powers of the Supreme Council of the Magistracy

(Constitution of the Portuguese Republic). Instead, in Armenia, a judge cannot be held liable for an opinion expressed in the administration of justice or a judicial act rendered, unless there are signs of a crime or disciplinary violation (part two of Article 164 of the Constitution of Armenia) (Constitution of the Republic of Armenia). Thus, in these two countries, the law should establish cases when it is allowed to bring a judge to justice, including for decisions rendered or opinions expressed. In contrast, according to part four of Article 126 of the Constitution of Ukraine, a judge cannot be held liable for a court decision, except for a crime or disciplinary offense (Constitution of Ukraine, 1996). In other words, this refers only to exceptional cases of holding a judge accountable for his or her decision, but not for the opinions expressed.

Several countries limit the prosecution of freedom of expression to criminal sanctions. For example, the Croatian Constitution excludes criminal prosecution, arrest and punishment of a judge for expressing an opinion or voting in a court decision, except in cases of violation of the law by the judge (Article 119, Part One) (Constitution of the Republic of Croatia). For them, as well as for members of Parliament, Article 75 of the Constitution provides for the institution of indemnity. A similar provision is contained in Article 132 of the Constitution of Bulgaria, which states that judges shall not be criminally liable for the opinions they express and the votes they cast in court decisions (Constitution of the Republic of Bulgaria). Thus, a literal interpretation of the respective constitutional provisions in these countries does not exclude the possibility of exposing judges to other types of legal liability for their opinions and decisions. In addition to Slovenia, the constitutions of other European countries provide for limited judicial immunity: Judges are not liable either for their decisions or for the opinions and decisions they express, but certain exceptions can still be established by law. Thus, the constitutional consolidation of immunity is based on the norms that guarantee such constitutional protection of social relations in the field of justice «in order to prevent actions that are contrary to the purpose of justice and to prevent the issuance of a judgment that by its very nature cannot be an act of justice» (Gdanski, 2023, 275). Such immunity has the characteristics of functional immunity: it applies exclusively to actions related to the issuance of a court decision and the performance of the judge's professional duties (Havroniuk, 2019, 85), i.e. it does not go beyond the temporal framework of the court proceedings.

It is noteworthy that in several European countries, judicial indemnity is even more limited and applies only to judges of higher (supreme) and/or constitutional courts. The Constitution of Albania addresses this issue in Article 137 and provides that «a judge of the Supreme Court shall enjoy immunity in respect of opinions expressed or decisions taken in the exercise of his functions» (Constitution of Albania). Article 86 of the Constitution of Montenegro provides that the President of the Supreme Court, the President and the judges of the Constitutional Court shall enjoy the same immunity as members of Parliament (Constitution of Albania). However, these provisions have the character of exceptional regulations, since the prevailing concept in Europe is the equal legal status of all professional judges (Opinion No. 3, 2002), and therefore approaches to legal fixation of an identical set of components of judicial immunity, applicable to all judges regardless of their place in the judicial hierarchy. It is important to note that none of the constitutions of European states provides for specific types of limitations of judicial immunity, the grounds and procedure for their imposition, as well as the bodies authorized to apply such limitations under the law. It is believed that each state has a wide margin of discretion to determine the need to restrict the freedom of speech of judges, but should not allow disproportionate measures (Barnych, 2021, 122–123).

Legislative model of judicial immunity

The second group of countries includes those in which judicial immunity is established not at the level of national constitutions, but only at the level of special laws on the status of judges or on the judicial system. For example, there are legal obligations for judges in many European coun-

tries, including Andorra, Austria, Croatia, the Czech Republic, Denmark, Estonia, France, Germany, Iceland, Liechtenstein, Lithuania, Malta, Moldova, Norway, the Netherlands, Poland, Portugal, Slovakia, Romania, Slovenia, Turkey, and Ukraine (Report on the Freedom of Expression of Judges, 2015). These legal obligations impose different levels of restrictions on the freedom of expression of judges in different countries.

For example, in Croatia, according to Article 9 of the Judiciary Act, a judge may not be prosecuted, detained, or punished for expressing an opinion or voting during a trial; a judge may be detained without the permission of the SJC only if he or she has committed a crime punishable by imprisonment for five years or more and has been arrested at the scene of the crime in progress; judges have the privilege of not testifying about the content of a meeting or other circumstances that they must keep as official secrets. At the same time, the law contains some limitations on judicial immunity: 1) a judge's conduct may not harm his or her dignity or the dignity of the judiciary, nor may it call into question his or her professional impartiality or the independence of the judiciary (Article 58); 2) a judge may not disclose information about the parties to a dispute, their rights, obligations or legitimate interests that he or she has learned in the course of performing judicial duties; A judge is obliged to keep secret any information that has not been disclosed during the trial (Article 59).

In Germany, the Judicature Act of 1972 provides for special duties of judges and the «maintenance of independence». In practice, public political statements by a judge are not excluded, but a judge should not mention his or her position when publicly expressing political views. In case of breach of duty, a judge may be subject to disciplinary action (Report on Freedom of Expression of Judges, 2015). According to Article 43 of the Law, judges are required to keep their deliberations and votes secret, even after their term of office has ended. Thus, the freedom of expression of judges in Germany is limited only to the issuance of a court decision and the absence of liability for these actions (German Judicature Act).

In Austria, Article 57 of the 1961 Law on the Service of Judges and Public Prosecutors contains the most important obligation related to the freedom of expression of judges – the obligation of loyalty to the state and the law. Violation of this obligation constitutes a disciplinary offense. Depending on the severity of the misconduct, disciplinary measures may include a reprimand, a fine, transfer to another position, or even dismissal. However, as in Germany, this provision does not exclude public political statements by judges (Report on the Freedom of Expression of Judges, 2015).

According to Article 2 of the Hungarian Act CLXII of 2011 on the Legal Status and Remuneration of Judges, judges are subject to the same immunity as members of Parliament. According to Article 37 of the Act: 1) judges shall protect classified information both during and after their term of office (exemption from this obligation may be granted only by a body duly authorized by law); 2) judges shall remain irreproachable and honest in their conduct and shall not engage in any conduct that may undermine public confidence in the judiciary or degrade the prestige of the judiciary. Outside of their official duties, judges are not allowed to comment publicly on pending or completed cases, especially cases in which they have presided (Article 43 of the Law).

In Romania, according to the 2004 Law on the Status of Judges, judges are obliged to refrain from expressing or manifesting their political convictions (Article 8), may not publicly express their opinions on ongoing proceedings and may not comment on the verdicts in the cases they are considering (Article 9) (Law No. 303/2004). Instead, according to Article 19 (3) of the Law of the Republic of Moldova on the Status of Judges of 1995, a judge is not liable for his opinions expressed in the course of his official duties or for court decisions rendered in the course of his official duties, unless he has been found guilty of a criminal offense by a court (Law on the Status of Judges. No. 544-XIII). The Law of Bosnia and Herzegovina «On the High Council of Judges and Prosecutors» in Article 87 states that a judge cannot be prosecuted, arrested or detained, or subject to civil liability for opinions expressed or decisions made within the scope of his or her official duties (Milinković, 2023, 344).

At the same time, according to Article 56(15) of the Law, a judge shall be disciplined for making any comments during the consideration of a case in any court that may reasonably be expected to prejudice or obstruct a fair trial. Similarly, Article 56(4) provides that a judge is subject to disciplinary action if he or she discloses confidential information obtained in the course of performing the duties of a judge. One of the disciplinary offenses is behavior in or out of court that degrades the dignity of the office of judge (Article 56(22) (Milinković, 2023, 345).

As can be seen from the above examples, European countries demonstrate two polar approaches to the regulation of judicial indemnity by law: in some cases, it is a question of non-limitation of liability for statements during the trial, while in other countries such statements are expressly prohibited by law and entail disciplinary liability.

An important element of the expansion of judicial indemnity is the fact that the laws of a number of European countries provide for the right of judges to express a dissenting opinion when making a collegial court decision. The possibility of expressing an individual opinion ensures the internal independence of judges, i.e. their autonomy from other members of the panel, allows judges to maintain their intellectual honesty, giving them the right to disagree with a decision whose arguments and conclusions they do not share. From this perspective, the right to publish dissenting opinions can contribute to judicial independence as well as to the legitimacy of courts in the eyes of the public (Brennan, 1986; L'Heureux-Dubé, 2000). Therefore, individual opinions strengthen the autonomy of the judiciary and judicial indemnity. At the same time, the secrecy of individual voting of a judge is preserved only in 7 (Belgium, France, Italy, Luxembourg, Malta, the Netherlands, Austria) of the 27 EU member states, while the remaining 20 allow publication of individual (dissenting) opinions.

Judicial (court-centered) model of judicial indemnity

Finally, the third model is the most differentiated, from the legal point of view, model of constitutional and legal regulation of judicial indemnity, where constitutional and legislative provisions are combined with rather detailed corporate rules contained in acts of judicial ethics, which are usually of a mandatory nature and whose violation entails the application of legal (mainly disciplinary) liability to judges. Therefore, let us consider some examples of such acts in the context of enshrining certain constitutional and legal elements of judicial indemnity.

An example of a concise formulation of the elements of judicial indemnity at the level of ethical requirements is the Code of Ethics for Members of the Judiciary of Malta of 2004, which states that members of the courts may not discuss cases pending in court (Article 12); they must also not act in a manner that may imply political bias (Article 25) (Code of Ethics for Members of the Judiciary). Instead, the Code of Judicial Ethics of Croatia (2005) stipulates that a judge must refrain from making statements or comments that may undermine the fairness of the judgment in the proceedings and create the impression of bias (Article 5); he or she may not disclose confidential information that has become known to him or her in the course of performing official duties and may not express his or her opinion on individual pending court proceedings; when making public statements or commenting on public events through the media, judges must strive to express

Judicial indemnity is regulated in more detail in the 2005 Code of Judicial Ethics of Bosnia and Herzegovina: 1) while exercising the right to freedom of expression, a judge must always behave in a manner that preserves the dignity of the judicial office, impartiality and independence of the judiciary (Article 4.3); 2) judges must not demonstrate any religious, political, national or other affiliation while performing their official duties (Article 4.4); 3) a judge shall not make any comments, publicly or privately, either on a case in which he/she is or could be involved, or on the cases of another judge, which could justifiably raise doubts about his/her impartiality or could represent undue influence (Article 2.4); 4) a judge may publicly express his/her views in order to improve legislation and the legal system, comment on social phenomena, but taking into account the principles of impartiality and independence of judges (Article 2.4a) (Milinković, 2023, 345). Generally comparable to these guide-

lines are the provisions of the 2006 Lithuanian Code of Ethics for Judges, which states that a judge: 1) should avoid public speeches when it is possible to predict the outcome of a case, and should not discuss the pending case with the parties to the proceedings outside the court; 2) in communication with the public and the media, a judge should not express a personal point of view on specific cases; 3) a judge should strictly observe the requirements for the security of state or official secrets and other information that is not publicly available, not disclose confidential information obtained during the trial; 4) he/she may not use information obtained in court proceedings in violation of the law in his/her public activities and private life (Code of Ethics of the Judges of the Republic of Lithuania).

In recent years, the most detailed requirements for judicial indemnification have been included in the latest legal acts on judicial ethics. For example, the Code of Judicial Conduct of Hungary of 2015 (the Code of Judicial Conduct) contains quite extensive binding norms in this area: 1) a judge may express his or her opinion if it does not undermine the dignity of the court or the judicial profession, as well as the rules regarding statements to the press; 2) confidential information obtained by a judge in his or her capacity as a judge should not be used or disclosed to anyone else; 3) a judge should not criticize the instructions of a higher court in front of the parties; he or she should not express a different point of view; 4) a judge should avoid humiliating a lower court in his or her decisions and should not undermine the prestige of the judicial profession; 5) a judge shall not otherwise criticize the decisions of his/her colleagues, but at the same time he/she may evaluate them or express a constructive opinion in scientific, educational or other professional activities; 6) he/she shall refrain from expressing in words any differences between the parties, sympathy or leniency during the trial, as well as from comments that would indicate a failure to fulfill obligations, and from making decisions in the political or other interests of himself/herself or his/her colleagues; 7) being in a managerial position, a judge shall refrain from any behavior, comments or actions that may offend the human dignity of subordinates (Articles 4–7). Instead, the Code of Ethical Conduct for Bulgarian Judges of 2023 combines binding norms with prohibitive and permissive ones: 1) a judge has no right to make public statements or comments during the consideration of a case; 2) a judge has no right to discuss this process with the parties, their legal representatives, other participants or third parties, except in cases provided by law; 3) A judge shall provide the public with objective, timely and understandable information in accordance with the requirements of the law; 4) a judge shall explain to the public, personally or through the media, the reasons for his or her decisions in cases of public interest; 5) a judge shall not denounce or intrigue against his or her colleagues and officials, but shall openly express his or her position; 6) a judge shall not have the right to publicly express a preliminary opinion on specific cases; 7) a judge shall have the right to freely express his/her personal opinion in the media and social networks on issues that are not directly prohibited by law; 8) when expressing his/her personal opinion, a judge shall be obliged to adhere to the principles and rules of this Code.

As can be seen from the analysis of the above-mentioned provisions of the legal acts of the judicial branch regulating the compensation of judges, this regulation has the following features: 1) it is more detailed and clarifying in relation to the norms of the legal acts in the field of the activity of judges; 2) it combines prohibitive, authoritative and permissive norms; 3) there is a noticeable increase in the volume of such regulation, which seems to be complementary to the actual legislative regulation of the issues of the compensation of judges; 4) issues of judicial indemnification within the judicial process are regulated in an extrajudicial manner together with the right to freedom of expression; 5) regulation of relevant issues in different countries is characterized by common approaches (as a rule, prohibition of disclosure of secret or confidential information, criticism of colleagues, disclosure of information before a court decision, etc.).

Conclusions. The constitutional and legal regulation of judicial indemnity in European countries is a remarkable legal phenomenon, which contributes to the institutional strengthening of the judiciary, the increase of its authority in society and the awareness of the high mission of judges in the estab-

lishment of the rule of law. At the same time, the concept of «judicial compensation» is practically not used in modern European legislation. For the most part, constitutional and legal regulation is not about the institution of judicial indemnity, but rather about the right to express one's opinion and the absence of responsibility for such expression, more or less limited by legal and/or corporate norms. This legal approach concentrates several crucial constitutional and legal ideas that are relevant in the context of our study: 1) judicial immunity is considered in the context of the concept of subjective human rights and appears to be derived from the fundamental human right of freedom of expression; 2) this immunity belongs to professional judges in accordance with the concept of good faith: Everything a judge says is a manifestation of his or her conscientious attitude to his or her professional duties, until the contrary is proven in accordance with the procedure established by law; 3) the freedom of expression of a judge may take place both in his or her judicial (procedural) and extrajudicial activities; 4) the State guarantees judges against prosecution for their statements both in and out of court; 5) judicial immunity is not absolute: The scope of its protection varies according to the legislation, the rules of judicial ethics, the specifics of the judicial system, the authority of the judiciary in society and the State, the established judicial practice, the legal traditions, etc.

Depending on the way in which the provisions on judicial indemnity are anchored in the system of constitutional and legal regulation of different European countries, the following main models can be conditionally distinguished: 1) constitutional-centered: a model in which national constitutions contain some initial, defining, albeit relatively few, specific legal provisions on judicial indemnity, which are developed in special laws and acts of judicial ethics and court decisions; 2) legislative a model in which, in the absence of direct special constitutional regulation, the main emphasis is placed on special laws on the judiciary and/or on the status of judges, the provisions of which are detailed in acts of judicial ethics and other acts of the judiciary; 3) legal or judicial-centered: A model in which the provisions of legal acts (constitutions and laws) do not contain direct legal regulation of judicial indemnity, and its principles are defined in acts of the judiciary (codes of judicial ethics, etc.).

The development of constitutional and legal regulation of judicial compensation is characterized by the following trends 1) strengthening of the influence of supranational judicial legislation (in particular, through the ECHR) on the determination of the scope of judicial indemnity; 2) detailing of restrictions on judicial indemnity; 3) increase in the number of restrictions on judicial indemnity.

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