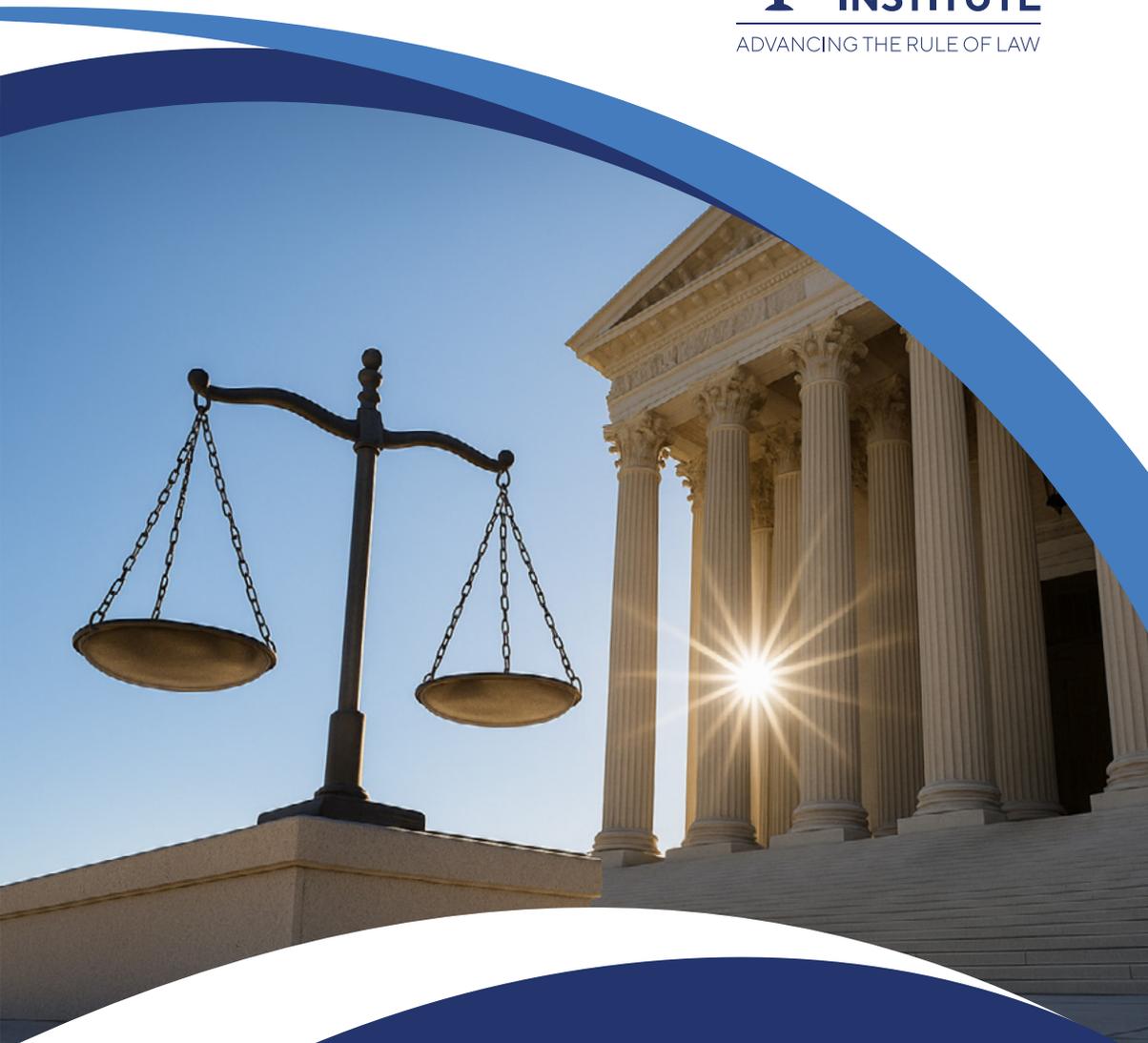




ADVANCING THE RULE OF LAW



**GUIDELINES ON
ALTERNATIVES TO
EXTRAORDINARY
JUDICIAL VETTING**



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FOREWORD

Judicial independence and judicial integrity are fundamental to the rule of law and core European values. Across Central and Eastern Europe, jurisdictions have taken different paths in pursuing these goals. While the two values are ultimately complementary, efforts to uphold them have at times created significant tension within national judiciaries. This is especially evident in the context of extraordinary judicial vetting. This tension has become more apparent in the experiences in implementing extraordinary vetting of existing judges, as some legal experts see this effort as a necessary step towards addressing judicial integrity, while others see this effort as potentially well meaning, but ultimately harmful to judicial independence.

When the CEELI Institute published the *Guidelines on Judicial Vetting* in March 2024, it quickly became evident that this was among the most urgent and widely debated rule of law issues in the region. After more than a decade of efforts across the region to pursue extraordinary vetting, there is now a substantial body of national experience to inform a broader question: what are the alternatives to vetting?

The CEELI Institute is therefore proud to present this companion publication, the *Guidelines on Alternatives to Judicial Vetting*. This volume explores comparative experiences from across the region and identifies best practices for considering credible alternatives. It reflects CEELI's longstanding commitment to supporting reform through peer-to-peer engagement and regionally grounded expertise. We are grateful to the many judges and legal experts who contributed their time pro bono to produce this essential resource.

We hope the Guidelines and the accompanying *Compendium of CEE Experiences* will help inform and support policymakers, judiciaries, and legal experts alike as they examine the available options in this critical area. Drawing on recent national experiences, this effort aims to support reforms that meaningfully reinforce both judicial independence and judicial integrity. As debates around vetting and its alternatives continue, comparative analysis and context-specific solutions remain essential to building and sustaining public trust in the judiciary.

Robert R. Strang
Executive Director
The CEELI Institute

RECOMMENDATIONS

ON ALTERNATIVES TO JUDICIAL VETTING

A. Strengthening Regular Accountability Mechanisms as Alternatives to Vetting

1. Strengthen existing judicial accountability mechanisms:

Alternatives to vetting should focus on reinforcing existing accountability structures within the judiciary¹, rather than replacing them. Strengthening independent judicial appointment commissions, increasing transparency in selection criteria, and promoting continuous professional development are essential to ensuring judicial integrity and public trust without compromising judicial independence.

2. Differentiate alternatives to vetting from full-fledged vetting:

Unlike full-fledged vetting, which entails the re-evaluation of current judicial officials, alternatives to vetting operate within the judiciary's existing framework. These measures should enhance the accountability and professionalism of judges utilizing existing accountability tools without creating unnecessary risks to judicial autonomy or public confidence.

3. Alternatives to vetting can be categorized into two groups of regular and extraordinary mechanisms:

- **Group 1: *Strengthening Regular Accountability Mechanisms*** – Enhancing existing judicial self-governance structures and mechanisms, ensuring transparent appointment and promotion processes, and implementing integrity and performance assessments.
- **Group 2: *Extraordinary Alternative Measures*** – Exceptional reforms addressing systemic corruption and accountability failures, implemented only when regular mechanisms prove insufficient, and ensuring non-interference with judicial independence.

4. Use alternatives to vetting as a primary mechanism before resorting to full-fledged vetting:

The primary goal of alternatives to vetting is to strengthen judicial accountability while respecting the principles of judicial independence and impartiality. Vetting should be considered only as a last resort measure if alternative mechanisms fail to address systemic issues such as corruption.

¹ When used herein, the term “judiciary” encompasses both judges and prosecutors in specific jurisdiction rather than countries.

5. Define clear, measurable, and legally precise criteria for alternative judicial accountability measures:

Alternative mechanisms must rely on clearly defined, legally precise, and measurable criteria to avoid vague or overly general terms. Performance evaluations and accountability procedures should include clearly defined objectives, institutional responsibilities, measurable indicators, established timeframes, transparent data collection and analysis methods, and a structured assessment framework. Such clarity helps prevent misuse or arbitrary implementation.

6. Safeguard judicial independence by protecting against external and internal pressures:

Alternative accountability mechanisms must preserve judicial autonomy by protecting judges from both external influences (e.g., executive or political actors) and internal pressures (such as directives from senior judges, court presidents, or division heads). Judicial autonomy must extend beyond judicial decision-making to institutional management, ensuring that accountability measures reinforce independence rather than undermine it.

7. Ensure judicial impartiality and independence by applying the European Court of Human Rights (ECtHR) standards and clear methodologies:

Alternatives to vetting and regular accountability measures must strictly comply with the ECtHR's four-pronged test for judicial independence, assessing the method of tribunal members appointment, length of their terms, safeguards against external pressures, and external perceptions of independence. Additionally, impartiality should be evaluated using both subjective criteria (personal biases in individual cases) and objective standards (safeguards preventing legitimate doubts about impartiality). Merit-based judicial appointments must align with ECtHR jurisprudence, specifically the three-step test ensuring compliance with Article 6 of the European Convention of Human Rights (ECHR) regarding the tribunal established by law.

8. Clearly define the role and limits of external and international experts and distinguish security checks from vetting:

Involving external or international experts in judicial appointment and dismissal processes does not inherently breach judicial independence, provided their roles are clearly defined within a transparent legal framework, including the principle of irremovability and procedural safeguards. Additionally, security checks, intended as preventive pre-appointment integrity assessments, must be clearly distinguished from security vetting, which involves ongoing post-appointment evaluations and greater risks of executive interference. Security checks should follow transparent, proportional, and clearly defined criteria, substantiated by credible evidence, with procedural safeguards to prevent arbitrary or politically motivated decisions.

Extraordinary Alternative Measures as a Last Resort

9. Use extraordinary alternative measures only in exceptional circumstances and with proper safeguards:

Extraordinary alternative measures should be considered only when standard accountability mechanisms have failed and there is compelling evidence of systemic corruption or judicial dysfunction. These measures must be one-time interventions with clearly defined objectives, strict legal safeguards, and mechanisms to prevent misuse. To ensure legitimacy, periodic reviews, timelines, and exit strategies must be built into their implementation.

10. Engage civil society and international organizations to ensure legitimacy and effectiveness:

National authorities should conduct broad consultations with civil society, international organizations, and judicial associations before implementing extraordinary measures. Transparent discussions strengthen public trust, and ensure reforms align with international best practices. Public participation in judicial selection, including open consultations, public hearings, and recorded proceedings, can further enhance transparency and inclusivity.

11. Define and regulate the role of international experts in judicial processes:

International experts may play a role in advising on judicial appointments, disciplinary proceedings, and integrity assessments, but their involvement must be clearly defined in legal frameworks. Their function should remain advisory and evaluative, ensuring final decisions are made by national judicial institutions.

12. Monitor judicial appointment and dismissal processes to ensure transparency and accountability:

National authorities should establish monitoring mechanisms to prevent undue influence in judicial selection and removal processes. This can include trial monitoring by civil society organizations and independent oversight by judicial bodies. Structured evaluations should ensure that extraordinary measures transition into sustainable, regular judicial accountability mechanisms over time rather than becoming indefinite interventions.

B. On Judicial Disciplinary Liability

13. Ensure that disciplinary mechanisms reinforce judicial integrity without undermining independence:

Judicial disciplinary mechanisms should serve as a corrective measure, ensuring adherence to ethical and professional standards while preserving judicial independence. They must not deter judges from making impartial decisions or expose them to political pressure.

14. Clearly define misconduct to prevent the misuse of disciplinary mechanisms:

Disciplinary proceedings should focus exclusively on professional misconduct or serious ethical breaches that compromise judicial integrity. They must not be used to challenge judicial decisions or legal interpretations, except in cases of malice, willful disregard of the law, or gross negligence.

15. Differentiate disciplinary liability from criminal, civil, and administrative proceedings:

Disciplinary proceedings should be distinct from criminal trials, civil litigation, and administrative procedures to prevent their misuse. Criminal accountability should apply only to violations of the criminal code, while disciplinary measures address ethical breaches and professional conduct within the judiciary.

16. Distinguish between disciplinary liability and criminal proceedings, while ensuring fair procedures and due process:

Disciplinary proceedings should serve a corrective function rather than impose punitive measures, remaining distinct from criminal prosecution except in cases of serious misconduct that rises to the level of criminal behavior (e.g., corruption, bribery). While disciplinary hearings may follow less formal procedures than criminal trials, they must still uphold fair trial principles, including the right to defense, impartial adjudication, and proportionality in sanctions.

17. Distinguish between disciplinary liability and civil or administrative disputes:

Civil proceedings involve private disputes, while administrative cases address institutional compliance and regulatory enforcement. Judicial disciplinary actions should be kept separate from these processes to prevent arbitrary scrutiny of judges.

18. Uphold fair trial rights in judicial disciplinary proceedings:

Judicial disciplinary processes must adhere to Article 6 of the ECHR, ensuring procedural fairness, transparency, proportionality in sanctions, and the right to appeal before an independent and impartial tribunal. Furthermore, the guarantees under Article 6(1) ECHR apply not only to the main disciplinary proceedings but also to the suspension of a judge in the context of disciplinary proceedings, as a suspension also constitutes a determination of civil rights and obligations.²

Principles on Judicial Disciplinary Liability

19. Preserve judicial independence while ensuring accountability and institutional legitimacy:

Judicial disciplinary mechanisms must protect judges from undue influence by external actors, including the executive, legislature, and internal judicial

² See *Paluda v. Slovakia*, Appl. No. 33392/12, 23 May 2017, paras 33-34

pressures. Judges should be accountable for their conduct, but disciplinary systems must not be misused as tools of political retaliation or arbitrary punishment. Judicial disciplinary institutions must maintain both formal legitimacy (rooted in constitutional/legal frameworks) and functional legitimacy (earned through transparency, accountability, and public trust).

20. Clearly define the scope of disciplinary liability and ensure proportionality in sanctions:

Judges should be held accountable only for conduct that directly affects their judicial duties or undermines public confidence in the judiciary. Freedom of expression, privacy, and judicial decision-making authority must be safeguarded. Sanctions must be proportional to the severity of misconduct, distinguishing between minor infractions and serious breaches of judicial ethics to prevent a chilling effect on judicial independence.

21. Ensure fairness and independent oversight in disciplinary proceedings:

Disciplinary measures must not be arbitrary or disproportionate. However, such a complaint should go through a filtering mechanism before disciplinary procedures against a judge can be undertaken.³ Furthermore, appeal mechanisms must comply with ECtHR jurisprudence, allowing judges to challenge disciplinary sanctions before an independent and impartial tribunal in order to prevent arbitrary decisions.

22. Safeguard the independence and impartiality of disciplinary bodies:

To prevent conflicts of interest, the roles of investigation, prosecution, and adjudication must be strictly separated. Investigative bodies should be distinct from decision-making authorities and must remain free from political influence. Final disciplinary decisions must be made by independent judicial authorities, ensuring that those involved in investigations do not also participate in decision-making.

23. Ensure a high standard of proof, uphold the presumption of innocence, and prevent politically motivated disciplinary actions:

Given the serious consequences disciplinary sanctions can have on a judge's career, cases must be based on substantial and credible evidence, requiring a high standard of proof before any penalties are imposed. Judges must be presumed innocent until proven otherwise, with the burden of proof placed on the investigative body, ensuring that judges are not required to prove their innocence. Procedural safeguards must prevent politically motivated or arbitrary disciplinary actions, and broad or vague allegations, such as "unethical behavior" or "breach of oath," should not be used to shift the burden of proof onto judges.

³ See the European Charter on the statute of judges (1988), para. 5.3 and CCJE Opinion No. 3 (2002), paras. 67 and 68. Also point 23 of OSCE ODIHR Warsaw Recommendations states that court chairpersons should not have the power either to initiate disciplinary proceedings or to adopt disciplinary measures, but they may file a complaint to a competent body.

- 24. Safeguard freedom of expression while maintaining judicial dignity:**
Judges should exercise their freedom of expression under Article 10 of the ECHR while respecting necessary restrictions to preserve judicial impartiality and public confidence.
- 25. Protect judges from disciplinary measures used to suppress dissent:**
Disciplinary actions must not be used to silence judges who speak out on judicial reforms or the defense of judicial independence, provided their statements are consistent with judicial ethics. Judges not only may, but should speak out publicly to support judicial independence.
- 26. Respect judges' right to private life and fair trial guarantees:**
Judges' private conduct should remain free from disciplinary scrutiny unless it directly undermines public trust in judicial impartiality, such as criminal or unethical behavior.
- 27. Clearly define grounds for disciplinary liability and prevent arbitrary enforcement:**
Judicial misconduct must be strictly limited to actions that undermine judicial independence, impartiality, or integrity. Judges should not be sanctioned for decisions that have a basis in law, even if controversial or later reversed by appeal. Grounds for disciplinary liability must be established in advance to prevent politically motivated retaliation, and disciplinary provisions should never be applied retroactively.
- 28. Set clear thresholds for judicial misconduct to prevent misuse of disciplinary measures:**
Disciplinary sanctions should apply only to severe ethical or professional breaches. Minor procedural errors, delays, or administrative inefficiencies should not lead to disciplinary action unless they indicate systematic neglect or malice. Judicial rulings should not serve as grounds for disciplinary sanctions, except in cases of clear malice, willful disregard of the law, or gross negligence, as legal errors should be addressed through appeals, not disciplinary actions.

Transparency

- 30. Ensure transparency in disciplinary proceedings while protecting judicial rights and public trust:**
Disciplinary decisions should be published and anonymized where necessary to increase judicial accountability while safeguarding judges' rights. Transparency helps reinforce public trust in the judiciary by demonstrating that disciplinary measures are applied fairly and consistently. However, premature disclosures during investigations should be avoided to prevent unwarranted reputational harm, ensuring that decisions are made public when final.

31. Use clear communication strategies to prevent misinformation and political manipulation:

Judicial institutions must provide plain-language explanations of disciplinary processes and rulings to counter misrepresentation and political misuse of judicial accountability measures. Effective communication ensures that disciplinary proceedings are understood by the public and prevents external actors from distorting the integrity of the judiciary.

GLOSSARY OF TERMS

Alternatives to Vetting: Measures aimed at enhancing judicial accountability by strengthening judicial systems without resorting to comprehensive re-evaluation processes of judicial officials that could undermine judicial independence.

Extraordinary Alternative Measures: Exceptional, one-time interventions, such as integrity checks, implemented when regular accountability mechanisms fail to address systemic judicial corruption or severe integrity deficiencies of the whole judiciary, not just individual judges. They include rigorous procedural safeguards and defined exit strategies. These measures are not full-fledged vetting, as they address specific systemic issues without broadly re-assessing all judicial officials, unlike full-fledged vetting, which involves comprehensive, systematic evaluations with broader risks to judicial independence.

Full-fledged Vetting: An extensive re-evaluation procedure involving comprehensive assessments of judges' integrity, assets, and professional competence, typically implemented as a last resort when alternative measures fail. (See Guidelines on Judicial Vetting)

Security Checks: Pre-appointment integrity evaluations identifying potential risks such as corruption, external influence, or conflicts of interest. These are distinct from security vetting, which may involve ongoing executive-influenced evaluations after appointment. (See Guidelines on Judicial Vetting)

Disciplinary Liability: Accountability mechanisms addressing professional misconduct or severe ethical breaches by judges. These proceedings must be corrective, impartial, proportionate, and distinct from criminal, civil, or administrative proceedings.

ABBREVIATIONS

AC – Appeal Chamber (Albania)

CCJE – Consultative Council of European Judges

CCPE – Consultative Council of European Prosecutors

CISD – Classified Information Security Directory (Albania)

COE – Council of Europe

CoJ – Council of Judges of Ukraine (Ukraine)

ECHR – European Convention on Human Rights

ECtHR – European Court of Human Rights

FBI – Federal Bureau of Investigation

HCJ – High Council of Justice (Ukraine)

HIDAACI – High Inspectorate of Declaration and Audit
of Assets and Conflict of Interests (Albania)

HJPC – High Judicial and Prosecutorial Council (Bosnia and Herzegovina)

HQCJ – High Qualification Commission of Judges (Ukraine)

ICCPR – International Covenant of Civil and Political Rights

IJC – Independent Judicial Commission (Bosnia and Herzegovina)

IJPC – Independent Judicial and Prosecutorial Commission (Kosovo)

IMO – International Monitoring Operation (Albania)

IOs – International Observers (Albania)

IPN – Institute of National Remembrance (Poland)

IQC – Independent Qualifying Commission (Albania)

JSAP – Judicial System Assessment Program (Bosnia and Herzegovina)

KJC – Kosovo Judicial Council (Kosovo)

KPC – Kosovo Prosecutorial Council (Kosovo)

MPs – Members of Parliament (Poland)

NABU – National Anti-Corruption Bureau (Ukraine)

PACE – Parliamentary Assembly of the Council of Europe

PC – Public Commissioner (Albania)

SCJ – Supreme Court of Justice (Moldova)

SCM – Superior Council of Magistracy (Moldova)

SCP – Superior Council of Prosecutors (Moldova)

SJC – Supreme Judicial Council (Poland)

SOA – Security Intelligence Agency (Croatia)

SPC – State Prosecutorial Council (Serbia)

UNCAC – United Nations Convention Against Corruption

UNSCR – United Nations Security Council Resolution

USKOK – State Prosecutor’s Office for Organized Crime and Corruption (Croatia)

VC – Venice Commission

VONS – Committee for the Defense of the Unjustly Prosecuted (Czech Republic)

INTRODUCTION TO THE GUIDELINES

Trust in courts can take generations to build, but only moments to destroy.

In the aftermath of prolonged judicial corruption, confidence in the courts can be deeply shaken, leaving the public to perceive courts as instruments of political influence rather than institutions of justice. Facing intense demands for reform, a newly elected government might consider implementing an extensive judicial vetting process, believing that only a comprehensive purge can restore public trust in the judiciary. Typically, this approach involves dismissing judges *en masse*, with their professional futures determined by a temporary vetting commission endowed with broad discretionary powers.

While this solution may initially seem decisive, past experiences with vetting reveal substantial risks. A rapid and sweeping removal of judges can create severe judicial vacancies, stalling court proceedings for years and undermining both access to justice and overall legal stability. It also presents opportunities for mischief whereby independent judges are removed for political rather than integrity reasons.

A more sustainable and less disruptive alternative is to strengthen existing judicial accountability mechanisms. Rather than conducting full-scale vetting and mass dismissals, governments can introduce rigorous integrity checks, including regular financial and ethics audits overseen by an independent judicial body. Transparent judicial appointments and promotions, based on clearly defined criteria of merit, competence, and integrity assessed by independent commissions, further bolster accountability. At the same time, disciplinary proceedings could be strengthened to provide both consistency and fairness, ensuring that misconduct is addressed without opening the door to politically motivated removals. To further support integrity within the judiciary, a robust whistleblower protection system could encourage legal professionals and court staff to report wrongdoing without fear of retaliation. By prioritizing sustainable, systemic improvements rather than sweeping purges of judges, reform efforts can achieve lasting judicial integrity without undermining judicial independence. This approach ensures that reforms endure beyond any single political cycle, ultimately strengthening—not destabilizing—the rule of law.

This balanced approach forms the core principle behind the CEELI Institute’s *Guidelines on Alternatives to Extraordinary Judicial Vetting* (“*CEELI Guidelines*”). Major international recommendations—from the original Guidelines on Judicial Vetting, the Council of Europe’s CCJE, the Venice Commission and the European Court of Human Rights—stress that vetting should be a measure of last resort. Priority must instead be given to enhancing judicial accountability within existing legal frameworks and by institutional legal reforms.

These Guidelines provide governments with lawful, scalable tools to strengthen judicial integrity without compromising judicial independence. Developed by the CEELI Institute, these Guidelines offer practical strategies for governments, judicial actors, and policymakers

committed to preventing and combatting judicial corruption without resorting to extraordinary vetting. The chapters that follow present concrete mechanisms—such as integrity checks, performance evaluations, enhanced disciplinary processes, and transparent judicial appointments—as viable, sustainable alternatives. Rather than dismantling judicial institutions, the Guidelines aim to fortify them from within. The ultimate objective is not simply to remove unfit judges, but to strengthen existing judicial institutions so they are structurally resistant to corruption.

COMPARATIVE SNAPSHOT: EXTRAORDINARY VETTING AND ALTERNATIVE JUDICIAL ACCOUNTABILITY MEASURES

The following table provides overview of extraordinary judicial vetting and alternative accountability mechanisms. It distills the essential differences in their objectives, procedures, safeguards, and their broader, long-term implications for judicial independence.

Dimension	Extraordinary Measures	Alternative Measures
Definition	Comprehensive re-evaluation of sitting judges, often involving dismissal or reappointment	Targeted reforms that strengthen accountability within the existing judicial framework
Trigger	Deep, systemic judicial corruption or political crisis eroding public trust	Ongoing need to improve integrity, professionalism, or respond to specific misconduct
Scope	Applies broadly to all or most judges in a system	Applies selectively to appointments, promotions, or conduct reviews
Legal Basis	Exceptional constitutional or legislative measures enabling wide discretionary powers	Existing legal frameworks with procedural safeguards
External Involvement	Often includes international observers or commissions with significant decision-making roles	May involve experts or civil society in advisory or oversight capacities
Risk to Independence	High if misused; may enable political interference or purge of independent judges	Lower risk; designed to operate within safeguards protecting autonomy
Procedural Safeguards	Often limited or developed during implementation	Legally defined procedures, rights of appeal, and independent oversight
Disruption Level	High, if misused; can paralyze the judiciary and delay justice	Low to moderate; preserves institutional continuity
Public Perception	If misused, can restore or further damage trust depending on fairness and transparency	Builds trust gradually through sustained institutional integrity
Sustainability	Short-term, crisis-driven tool with limited durability	Long-term reform strategy embedded in judicial governance

CHAPTER I: REGULAR ACCOUNTABILITY MECHANISMS

Relevant Standards of Alternatives to Vetting

1. Alternatives to vetting are distinct processes designed to enhance existing accountability mechanisms within the judiciary. Unlike comprehensive vetting, which involves a thorough re-evaluation of judicial officials, these alternatives focus on reinforcing current systems to promote integrity and public trust.
2. Mechanisms such as establishing independent judicial appointment commissions, enhancing transparency in selection criteria, and promoting continuous professional development aim to strengthen accountability within the judiciary without compromising its autonomy and resorting to full-fledged vetting. By focusing on reinforcing existing structures and promoting merit-based appointments, these alternatives help maintain the delicate balance between oversight and judicial independence.
3. Alternatives to vetting uphold the principle of judicial independence by focusing on enhancing accountability mechanisms without compromising the autonomy of judges. Unlike vetting proceedings, which can be perceived as a politically influenced intrusion, alternatives to vetting operate within existing judicial frameworks.
4. To effectively implement alternatives to vetting, practitioners and policymakers should prioritize the establishment of a robust judicial system that fosters integrity and professionalism, rather than focusing solely on shielding judges from external influence.
5. Guidance from the ECtHR) underscores that judicial independence requires two key safeguards: ***independence from the executive branch*** and ***independence from litigants***.⁴ Policymakers must ensure that these principles are upheld to enable judges to make impartial decisions free from external interference or the fear of reprisal.⁵
6. Practitioners and policymakers should evaluate judicial independence using the ECtHR four-pronged test.⁶ This test examines the method of appointing tribunal members, the length of their term in office, the existence of safeguards against external pressures, and whether the tribunal appears independent to external

⁴ For additional reading on the jurisprudence of the CJEU see L. Pech, *Defending Judicial Independence in the EU*. Accessible at: <https://ceeliinstitute.org/news/defending-judicial-independence-in-the-eu>

⁵ See *Ringeisen v. Austria*, App. No. 2614/65, Judgment of 16 July 1971, Series A No. 13. Accessible at: <https://hudoc.echr.coe.int/eng?i=001-57565>.

⁶ See *Campbell and Fell v. the United Kingdom*, App. No. 7819/77, 7878/77, Judgment of 28 June 1984, Series A No. 80. Accessible at: <https://hudoc.echr.coe.int/eng?i=001-57456> Also see *Holm v. Sweden*, App. No. 14191/88, Judgment of 25 November 1993, Series A No. 279-A. Accessible at: <https://hudoc.echr.coe.int/eng?i=001-57851>

observers. Ensuring compliance with these criteria is essential for fostering public trust in judicial institutions.⁷

7. When assessing judicial impartiality, practitioners and policymakers should apply two complementary approaches. **The subjective approach** evaluates the personal convictions or biases of a specific judge in a particular case. **The objective approach** considers whether the judge provides sufficient guarantees to eliminate any legitimate doubts about their impartiality. Both approaches are essential to ensuring fairness and public confidence in the judiciary.⁸
8. Policymakers and judicial authorities should prioritize internal judicial independence, ensuring that judges are free from undue influence not only from external sources but also from within the judiciary. This includes protection from directives or pressures from fellow judges or court administrators, such as court presidents or division heads. Safeguarding internal independence is vital for maintaining the impartiality and autonomy of individual judges in their decision-making.⁹
9. When implementing alternatives to vetting, national authorities must respect the principle that there is no one-size-fits-all model for appointing judges. The ECtHR emphasizes flexibility, focusing on adherence to fundamental principles of independence and impartiality rather than prescribing a specific constitutional framework. This approach allows jurisdictions to tailor their judicial appointment systems to their unique legal traditions while safeguarding the integrity of the judiciary.
10. In all judicial appointments whether regular, under vetting, or under alternatives to vetting, the principle of merit-based appointments must be respected. Judges should be selected based on judicial skills and moral integrity.
11. When appointing judges, regardless of the specific procedure, the ECtHR three-step test announced in *Ástráðsson v. Iceland* must be followed in order to determine whether irregularities in the appointment breach the right to a tribunal *established by law*.
 - a. The *first step* examines whether there is a clear and identifiable breach of domestic legal provisions governing judicial appointments.¹⁰ Even if no

⁷ See *Luka v. Romania*, App. No. 34197/02, Judgment of 21 July 2009, ECHR 2009. Accessible at: <https://hudoc.echr.coe.int/eng?i=001-201929>

⁸ See *Piersack v. Belgium*, App. No. 8692/79, Judgment of 1 October 1982, Series A No. 53. Accessible at: <https://hudoc.echr.coe.int/fre?i=001-57557>

⁹ See *Parlov-Tkalčić v. Croatia*, App. No. 24810/06, Judgment of 22 December 2009, ECHR 2009. (para. 86). Accessible at: <https://hudoc.echr.coe.int/eng?i=002-1194>

¹⁰ See *Ástráðsson v. Iceland* [GC], App. No. 26374/18, Judgment of 1 December 2020, ECHR 2020. para. 244 - 245). Accessible at: <https://hudoc.echr.coe.int/eng?i=001-206582>

manifest breach exists, there may still be a violation if the appointment process, while formally compliant, undermines the purpose of Article 6 ECHR.

- b. The *second step* evaluates the breach in light of the principles of judicial independence, separation of powers, and the rule of law. Technical breaches that do not affect the essence of judicial independence are unlikely to meet the threshold for a violation.¹¹
 - c. The *third step* considers the legal consequences of the breach for the individual's rights under the ECHR. If national courts fail to address these irregularities appropriately, the ECtHR may step in to evaluate their impact, especially in cases of arbitrary or unreasonable findings.¹²
12. Involving individuals from outside the judiciary or international experts or alternatives to vetting appointment bodies is not inherently a breach of the principle of a tribunal established by law. However, the legal framework must clearly establish such bodies, ensure their members are irremovable during their terms absent misconduct, and provide robust procedural safeguards to uphold judicial independence.¹³
13. In judicial proceedings, more specifically the participation of individuals outside of the judiciary or international experts in the composition of vetting bodies does not constitute a violation of the principle of tribunal established by law as long as there is sufficient legal basis to establish such bodies, and the law provides that members of such bodies are irremovable absent misconduct for their (short) term in office.¹⁴

Breakout Box 1

Summary: Pre-Vetting Process in Albania

Albania's Law No. 96/2016 establishes a rigorous pre-vetting process to ensure transparency and ethical rigor in judicial appointments. Candidates seeking admission to the School of Magistrates undergo thorough asset and background checks, with financial integrity and potential ties to organized crime carefully examined. Key institutions, including the High Inspectorate for the Declaration and Audit of Assets, the National Bureau of Investigation, and the State Intelligence Service, collaborate to gather and assess critical information. Candidates are disqualified if their financial declarations are unjustifiable, if they fail to disclose assets or provide false information, or if they have connections to organized crime. Transparency is reinforced by granting candidates the right to inspect their files and appeal adverse decisions.

¹¹ See *ibid* at para. 246-247.

¹² See *ibid* at para. 248-251.

¹³ See *Baka v. Hungary* [GC], App. No. 20261/12, Judgment of 23 June 2016, ECHR 2016. Accessible at: <https://hudoc.echr.coe.int/eng?i=002-11088>

¹⁴ See *Xhoxhaj v. Albania*, App. No. 15227/19, Judgment of 9 February 2021, ECHR 2021. Accessible at: <https://hudoc.echr.coe.int/fre?i=001-208053>

Councils of the Judiciary

14. When considering alternatives to vetting, collaboration with councils of the judiciary (where they exist) is essential to ensure that such measures align with constitutional principles and respect for judiciary's independence.
15. Councils of the judiciary play a pivotal role in maintaining the balance of power by preventing and counteracting undue influence from the legislative and executive branches in judicial appointments and dismissals. For alternatives to vetting to be effective, these councils must remain independent and transparent while fostering meaningful collaboration with other national authorities. As regulatory bodies for judicial self-governance, councils should work alongside reform initiatives to ensure that new mechanisms enhance accountability without compromising the judiciary's autonomy or impartiality, thereby strengthening public trust in the justice system.
16. Every country chooses its model for judicial appointments. Once a model is established through constitutional provisions or domestic legislation, it must be strictly followed. Any reforms to the judicial appointment process must not undermine the fundamental right to an independent and impartial tribunal established by law, as guaranteed by Article 6 of the ECHR.
17. The standards of the ECtHR emphasize that any fundamental alteration in the election process for judicial members of the council of the judiciary, combined with the premature termination of the terms of office of the previous members, undermined the council's independence.¹⁵ The ECtHR explicitly noted that reforms to judicial systems should not erode the independence of the judiciary and its governing bodies.¹⁶

Ordinary and Extraordinary Alternatives

18. Alternatives to vetting focus on strengthening existing regular judicial accountability mechanisms to provide a sustainable and balanced approach to enhancing judicial integrity and public trust. Unlike judicial vetting, which can be disruptive, these measures reinforce established frameworks that promote accountability through consistent, continuous, and transparent processes.
19. These alternatives should encompass reform measures aimed at addressing the lack of accountability and widespread corruption in the judiciary. These measures can be categorized into two groups:

¹⁵ See *Grzęda v. Poland [GC]*, App. No. 43572/18, Judgment of 15 March 2022, ECHR 2022. para. 348. Accessible at: <https://hudoc.echr.coe.int/fre?i=001-216400>

¹⁶ *Ibid.*

- a. ***Strengthening Existing Ordinary Accountability Mechanisms*** – These measures serve as alternatives to judicial vetting by enhancing existing accountability frameworks within the judiciary.
 - b. ***Extraordinary Alternative Measures*** – While exceptional in nature, these measures remain consistent with the principle of non-interference in the proper functioning of the justice system.
20. The object of the alternatives to vetting is to address lack of accountability and widespread corruption in the justice system without resorting to vetting practices, which may amount to undue interference in the independence and impartiality of the judiciary.
 21. The legal provisions regulating alternative measures should always be written in clear language, based on clear criteria and without reliance on vague or general concepts.

A. Ordinary Accountability Mechanisms

22. Practitioners and policymakers should consider structural reforms as effective alternatives to vetting for addressing concerns about corruption and judicial integrity. These reforms should prioritize long-term objectives by establishing sustainable mechanisms, including institutional safeguards, transparent procedures, and independent oversight.
23. A well-designed system for regular asset declaration can serve as a practical alternative to vetting, effectively identifying and preventing conflicts of interest within the judiciary. This mechanism enhances transparency and fosters a culture of judicial integrity, addressing concerns without the disruptions of vetting processes.¹⁷
24. To ensure fairness and sustainability, asset declaration systems must adhere to the principle of proportionality, balancing the need for transparency with the right to privacy for judges and their families. Disclosure of asset declaration information to stakeholders outside the judiciary should be limited to cases where a legitimate interest is credibly demonstrated, protecting confidential information while maintaining accountability. This approach reinforces judicial integrity through regular accountability mechanisms while safeguarding individual rights.

¹⁷ See Consultative Council of European Judges, Opinion No. 21 (2018), *Preventing Corruption Among Judges*, paras. 38-40. Accessible at: <https://rm.coe.int/ccje-2018-3e-avis-21-ccje-2018-prevent-corruption-amongst-judges/16808fd8dd>

25. The privacy of third parties, such as family members, should be even more strongly safeguarded than that of judges. To preserve judicial independence, these systems can be managed by a specialized body within the judiciary, ensuring respect for both accountability and independence.¹⁸
26. Institutional mechanisms such as an advisory body of judicial ethics might be established to promote judicial ethics, improving the effectiveness and impartiality of the disciplinary system. Such mechanisms may help standardize ethical expectations and provide consistent guidance for judges.¹⁹

a. Performance Evaluation

27. Introducing and strengthening the system of regular performance evaluations as alternatives to vetting aids the assessment of judges with regard to their adherence to legal standards, efficiency in case management, and professional behavior towards litigants and colleagues. These periodic assessments ensure that judges maintain high professional standards throughout their tenure and ensure judicial accountability without disrupting institutional continuity or independence.
28. Consultative Council of European Judges (CCJE) Opinion No. 17 (2014) reaffirms that evaluations must aim to improve the quality of justice, not to limit judicial independence.²⁰ Evaluations should enhance professional development, promote consistency, and identify training needs, but must never serve as tools of pressure or political influence.
29. Developing judicial performance criteria, applied variously in the selection, evaluation, and promotion processes contributes to maintaining professional standards throughout judicial careers and can be defined by the following categories²¹:
 - **Professional competence:** capacity to draft well-reasoned decisions, ability to properly manage court proceedings, and demonstrated knowledge of applicable law and procedures;

¹⁸ See CEELI Institute, *Guidelines on Judicial Vetting (2024)*, points 6 and 7. Accessible at: <https://ceeliinstitute.org/resource/guidelines-on-judicial-vetting>

¹⁹ Consultative Council of European Judges, *Opinion No. 3 (2002), Ethics and Liability of Judges*, paras. 45–49. Accessible at: <https://rm.coe.int/168070098d>

²⁰ Consultative Council of European Judges (CCJE). (2014). *Opinion No. 17 (2014) on the evaluation of judges' work, the quality of justice and respect for judicial independence*. Council of Europe. Accessible at: <https://rm.coe.int/opinion-n-17-2014-on-the-evaluation-of-judges-work-the-quality-of-just/16807482de>

²¹ “The Portrait of a Judge” (2021) is a multi-dimensional model of competencies to be measured during the procedures of selection, evaluation and promotion of judges. *Comparative analysis on selection, evaluation and promotion of judges: current criteria and methodology used in EU and beyond* (Project No. 2018-1-0662).

- **Personal competence:** decision-making ability, resilience under stress, openness to innovation and technological advancements;
 - **Social and communication competences:** ability to mediate, lead, communicate effectively, show respect towards parties, and explain decisions in an accessible manner;
 - **Integrity competence:** resistance to undue influence, adherence to professional ethics, and commitment to judicial independence; and
 - **Other optional competences:** including a judge's engagement with broader society and demonstrated learning agility.
30. While defining judicial excellence is crucial, effective and fair methodologies to assess these competencies are equally important. Assessments must be objective, based on clear, pre-established criteria, and include procedural safeguards to prevent arbitrariness.
 31. Assessment tools should combine quantitative data (e.g., number of decisions rendered, timeliness) with qualitative evaluations (e.g., reasoning quality, fairness, respect shown during proceedings). Tools such as structured interviews, peer evaluations, and case file reviews should be prioritized.
 32. Informal evaluations, focusing on feedback rather than sanctions, are recommended for improving judicial performance. Where formal evaluation systems exist, they must allow judges to comment on their assessments and appeal unfavorable results.
 33. Decision-makers involved in selection and evaluation should undergo specialized training in bias mitigation, objective assessment techniques, and respect for judicial independence.
 34. To enhance performance evaluations, evaluators should utilize case management data to develop meaningful performance indicators that assess court efficiency.
 35. Overreliance on statistics risks distorting judicial behavior, encouraging judges to prioritize quantity over the complexity or quality of justice. A combined methodology using statistical data contextualized with case complexity and peer review assessments is essential to ensure a more accurate reflection of judicial performance.

36. Assessments should focus exclusively on judicial competencies, without reviewing the substantive correctness of individual decisions, which would otherwise infringe judicial independence. Evaluation bodies should be composed of judges or judicial councils rather than representatives of the executive or legislature, in line with best practices recommended by the CCJE and international standards.

b. Integrity Checks

37. Ordinary integrity checks serve as a mechanism to ensure judicial accountability, uphold judicial standards, and maintain public trust in the judiciary. These checks involve systematic evaluations of judicial conduct, financial transparency, and adherence to ethical and professional principles.

38. These checks are designed to be preventive rather than punitive, aiming to uphold judicial integrity and improve public confidence in the judiciary.

39. Integrity checks as alternatives to vetting can be understood in two distinct contexts. The first is a screening mechanism for candidates seeking positions within judicial self-governance bodies and specialized institutions, such as judicial councils. In this capacity, integrity checks serve to screen candidates' suitability without constituting a comprehensive judicial vetting process. The second context applies to sitting members of these self-regulating bodies, where integrity checks function as a form of vetting. While this approach is more comprehensive than the initial screening of candidates, it remains more limited than full-scale judicial vetting, as it does not extend to the judiciary as a whole.²²

40. Ordinary integrity checks are standard and generally uncontroversial extensive vetting procedures should be reserved for exceptional cases. Such measures must balance the need to uphold integrity with the preservation of judicial independence.

41. Integrity checks as such are not directly addressed or regulated by any binding international laws. However, they receive useful discussion in non-binding legal frameworks (soft law) and jurisprudence.²³

42. Integrity checks is not lustration. Lustration aims to remove from public office individuals, who had strong connections to previous non-democratic regimes, and were involved in infringes of human rights, either because they cannot be

²² For further details on integrity checks, resee the CEELI's *Guidelines on Judicial Vetting*. Accessible at: <https://ceeliinstitute.org/resource/guidelines-on-judicial-vetting>

²³ See European Commission for Democracy through Law (Venice Commission), *Compilation of Venice Commission Opinions and Reports Concerning Vetting of Judges and Prosecutors*, CDL-PI(2022)051, 19 December 2022, para. 40. Accessible at: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2022\)051-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2022)051-e)

trusted to serve a new democratic government or because they are deemed unfit to represent it.²⁴

43. A legislative foundation should be enacted to mandate integrity checks aligned with international standards. The mandate and scope of these checks must define criteria for competence, independence, and ethical conduct.²⁵ The body conducting integrity checks must be independent from executive or legislative branches to avoid conflicts of interest and ensure fairness. Further, integrity checks must rely on standardized and objective criteria, such as compliance with financial disclosure laws and ethical standards, avoiding arbitrary decisions.
44. Another type of integrity check is a conflict-of-interest check. These should identify political affiliations, family ties, and business interests that could compromise independence, and ensure candidates disclose any prior associations with political entities. To detect potential conflicts effectively, mechanisms such as automated systems for monitoring declarations, random audits, and analysis of public information should be implemented.

c. Security Checks

45. Distinction must be made between *security checks*, which serve as an additional layer in evaluating integrity by identifying potential vulnerabilities, risks of undue influence, or conflicts of interest that could threaten a judge's independence and impartiality, and *security vetting* practices, which involve periodic post-appointment assessments of judges and interference by the security service in the appointment or dismissal processes of judges. For further guidance on security vetting practices, refer to the *Guidelines on Judicial Vetting*.²⁶ The purpose of security checks is to identify risks such as conflicts of interest, external influence, or susceptibility to corruption, ensuring that candidates or sitting judges do not compromise the integrity or independence of the judiciary.
46. Security checks in this context involve reviewing criminal records and associations with potentially corrupt individuals or organizations. These checks include background reviews to identify red flags like undisclosed financial interests or criminal ties, completion of security questionnaires detailing affiliations and assets, collaboration with security agencies for risk assessments, and an appeals process allowing candidates to challenge adverse decisions.
47. Background checks ensure that judges and prosecutors avoid inappropriate contacts with organized crime, as such relationships undermine national security, public safety, and the rule of law. Such legislation aims to restore judicial

²⁴ See *id.* at paras. 15-21.

²⁵ See *id.* para. 41.

²⁶ See CEELI Institute, *Guidelines on Judicial Vetting* (2024), paras. 32-40. Accessible at: <https://ceeliinstitute.org/assets/resources/ceeli-guidelines-judicial-vetting.pdf>

independence, uphold the rule of law, and build public trust in these institutions, in line with Article 8 ECHR's permitted limitations on private life.²⁷

48. Clear, predefined thresholds, such as significant financial discrepancies or connections to organized crime, ensure that disqualifications are based on substantial and objective evidence.
49. Security checks must balance safeguarding judicial independence and respecting privacy rights. Over-reliance on security agencies, particularly those influenced by the executive branch, is not recommended and could undermine judicial independence, and overly invasive procedures might infringe on privacy and provoke resistance from the judiciary.²⁸

d. Asset Declarations

50. Asset declarations are regular tools for promoting judicial accountability and preventing corruption, and can be used as alternatives to judicial vetting. They allow authorities to monitor and detect potential conflicts of interest, illicit enrichment, or unethical behavior among judges, reinforcing public confidence in the judiciary.
51. Their purpose is to ensure transparency in their financial dealings, detect and prevent corruption, illicit enrichment, and conflicts of interest, and serve as a key tool for maintaining judicial integrity. The contents of financial disclosures should include personal and family assets such as properties, vehicles, bank accounts, investments, and valuables; liabilities including debts, loans, and mortgages; income sources, including salaries, side incomes, business interests, and gifts above a specified legal threshold; and significant transactions, such as major asset purchases or sales.
52. The process involves several critical steps where declarations are submitted to integrity or anti-corruption bodies for analysis, where they undergo a thorough review for accuracy and completeness. Financial data is then cross-checked against official records, such as tax filings and bank statements, to identify any discrepancies. If significant inconsistencies or undeclared assets are detected, further investigations are initiated to determine whether misconduct has occurred. In some jurisdictions, asset declarations are partially or fully disclosed to the public, promoting transparency and fostering trust in the judiciary.

²⁷ See Venice Commission, *Amicus Curiae Brief for the Constitutional Court on the Law on the Transitional Re-Evaluation of Judges and Prosecutors (The Vetting Law)*, Opinion No. 868/2016, CDL-AD(2016)036, adopted at the 109th Plenary Session, Strasbourg, 12 December 2016. Accessible at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)036-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)036-e)

²⁸ See Venice Commission, *Opinion on the Introduction of the Procedure of Renewal of Security Vetting through Amendments to the Courts Act (Croatia)*, adopted at the 130th Plenary Session, Venice and online, 18–19 March 2022, paras. 16–18. Accessible at: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2022\)005-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2022)005-e)

53. Judges or judicial candidates who fail to submit timely declarations or provide false information, should be subject to a disciplinary proceeding and face penalties such as fines, suspension, or dismissal from the office. Disqualification from judicial positions, in any case should not be automatic, unless the national constitution requires it. In severe cases, where corruption or illicit enrichment is evident, individuals may be subject to criminal prosecution, reinforcing the importance of adherence to these accountability measures.

B. Extraordinary Accountability Mechanisms

54. Although exceptional in nature, these measures are carefully designed to uphold the delicate balance of judicial independence and accountability, ensuring they remain fully aligned with the principle of non-interference in the proper functioning of the justice system.

55. Because alternative measures of an extraordinary nature, and, while not amounting to full-fledged vetting, remain exceptional solutions, they should be approached with caution. Implementing such measures under normal conditions can create significant tensions within the judiciary. National authorities should carefully evaluate these risks before considering their adoption.²⁹

56. Extraordinary alternative measures should be utilized and justified as a one-time measure, and national authorities should produce convincing evidence the inherent shortcomings of the regular accountability measures to justify them.³⁰

57. Broad consultations with relevant stakeholders, including civil society, are strongly encouraged to ensure the legitimacy and effectiveness of the reforms.³¹

a. Involvement of International Experts

58. Engaging international experts as advisors in appointment or disciplinary proceedings ensures that these processes are conducted with the highest degree of transparency, fairness, and adherence to international standards.

59. International experts can play a pivotal role in the establishment and strengthening of anti-corruption institutions by providing invaluable support in

²⁹ See Venice Commission, Interim Opinion on the Draft Constitutional Amendments on the Judiciary, CDL-AD(2015)045, paras. 98–100. Accessible at: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2015\)045-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)045-e)

³⁰ See also Group of States Against Corruption (GRECO), Fourth Evaluation Round Report, paras. 65 and 110. Available at: rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/16809fec2b.

³¹ See OSCE Office for Democratic Institutions and Human Rights (ODIHR), Interim Opinion on the Draft Law on the Reform of the Supreme Court of Justice and the Prosecutor's Offices of the Republic of Moldova, 16 October 2019, paras. 57–58. Accessible at: <https://www.osce.org/odihr/440411>

critical processes such as the selection and evaluation of judges. Their involvement should be directed to focus on assessing the professional integrity of candidates, ensuring that only individuals of high ethical standards are considered for these crucial roles.

60. The expertise of the international experts can extend to designing and administering qualification examinations that rigorously evaluate the candidates' legal knowledge, judicial temperament, and overall professional competence.
61. International experts can serve on evaluation panels tasked with reviewing candidates for judicial appointments or evaluating the conduct of judges facing disciplinary actions. Their role can provide comparative insights, ensuring the criteria used align with the best international practices for judicial ethics, competence, and independence. In addition to their advisory roles, international experts can provide training to local judicial councils, appointment committees, or disciplinary boards. This ensures that domestic stakeholders are equipped with the skills and knowledge to conduct proceedings in line with international norms.
62. The role of international experts in extraordinary alternatives to vetting, including their competencies and responsibilities, can be guided by the existing standards applicable to vetting procedures. These standards are drawn from the jurisprudence of the ECtHR and the Venice Commission's position on vetting processes, as exemplified in the case of *Xhoxhaj v. Albania*. This includes considerations of the legitimacy of international experts' involvement and their accountability within the vetting framework.
63. Granting international experts significant authority in determining the eligibility of candidates does not equate to a loss of sovereignty.³² Sovereignty can be preserved by implementing a system that requires a qualified majority for decisions, whether to uphold a disqualifying veto or to endorse a candidate, ensuring a balanced and collaborative process.
64. The role of international experts must be clearly defined. *Xhoxhaj v. Albania* case may be used as guidance, where the ECtHR noted that the findings and opinions of international observers (the IMO) held the procedural value of expert reports; they could influence the decision-making process but did not possess direct evidentiary value. The ECtHR concluded that the involvement of the international community, through mechanisms like the IMO, was instrumental in enhancing the transparency and credibility of the process, thereby supporting Albania's efforts to combat corruption within its judiciary.

³² At the High Anti-Corruption Court in Ukraine, six members from the Council of International Experts assist the High Qualification Commission of Judges in the selection of judges.

65. Members of the vetting bodies must be required to annually disclose their assets publicly, with ongoing monitoring of their financial transactions and a potential waiver of communication privacy related to their duties.³³
66. To ensure the legitimacy of foreign experts' involvement in judicial appointments, it is crucial to establish clear legal criteria that define which international donors participate, verify their representativeness within the international community, and set standards for their nomination processes.³⁴
67. In implementing extraordinary alternatives to vetting, civil society organizations play a vital role in assisting international experts by providing local insights and analyzing extensive data sets, which are integral to conducting thorough integrity checks. Involvement of civil society fosters transparency and accountability by monitoring government actions and advocating for openness.

b. Monitoring of Judicial Appointment and Dismissal Processes

68. Employing monitoring mechanisms for judicial appointment and dismissal processes to ensure transparency, fairness, and accountability within the judiciary should be crucial. These processes require careful oversight to prevent undue influence, corruption, and inefficiencies that can undermine public trust in the justice system. Effective monitoring can highlight systemic weaknesses, identify patterns of misconduct, and provide valuable data for reform efforts.
69. Involvement of independent (domestic or international) organizations in trial monitoring can serve as a powerful tool to strengthen domestic judicial systems, increase public and external oversight of the justice system, and address sensitive areas such as alleged corruption.
70. Public hearings or comments for judicial nominees allow for broader input and help ensure that appointees are held to high ethical and professional standards.

³³ See *supra* note 19, paras 5-10.

³⁴ Transparency International, Anti-Corruption Helpdesk Answer, Judicial Appointments: Corruption Risks and Integrity Standards, Author: Guilherme France, Reviewer(s): Matthew Jenkins and Alvin Nicola, Transparency International Indonesia, 20 September 2023, pp. 14–17.

CHAPTER II: DISCIPLINARY LIABILITY OF JUDGES

INTRODUCTION

71. Judicial disciplinary measures are a vital tool for maintaining the integrity and accountability of the judiciary. They must be carefully balanced to protect the individual rights of judges and safeguard the functional legitimacy of their role. Disciplinary liability should not undermine judicial independence or deter judges from performing their duties impartially. Instead, it should serve as a corrective measure, ensuring adherence to ethical standards while fostering public trust in the judiciary.
72. Disciplinary proceedings require clarity and precision to maintain their distinct role within the legal system. They must be clearly differentiated from criminal, civil, or administrative cases to uphold the judiciary's unique position. Misconduct should be precisely defined, ensuring that only actions incompatible with judicial office are subject to sanction. The CCJE emphasizes the need for clear definitions and procedural safeguards to prevent the misuse of disciplinary mechanisms.³⁵
73. Disciplinary proceedings should focus exclusively on professional misconduct or major breaches of ethical standards that compromise the integrity of the judiciary. Importantly, they are not a forum to challenge judicial decisions or interpretations of the law, even when these are controversial, except in cases of malice, willful disregard of the law, or gross negligence.³⁶ Allowing disciplinary proceedings to serve as a means to contest judicial rulings would undermine judicial independence and expose judges to external pressure, deterring them from making impartial decisions.³⁷
74. The ECtHR emphasizes fair hearing rights, proportionality in sanctions, and procedural safeguards, including the right to appeal. The ECtHR notes the need for transparency and the protection of judges' rights under Articles 6 and 10 of the ECHR.³⁸ The ECtHR's Engel criteria³⁹ justify the distinction between

³⁵ See *supra* note 13., paras 24-25.

³⁶ See Consultative Council of European Judges (CCJE), Opinion No. 18 (2015), p. 37. Accessible at: rm.coe.int/ccje. Also see Council of Europe, Recommendation CM/Rec(2010)12, para. 66. Accessible at: <https://rm.coe.int/cmrec-2010-12-on-independence-efficiency-responsibilites-of-judges/16809f007d>

³⁷ See Consultative Council of European Judges (CCJE), Opinion No. 27 (2024) on the Disciplinary Liability of Judges, CCJE(2024)5, Strasbourg, 6 December 2024. Accessible at: <https://rm.coe.int/opinion-no-27-2024-of-the-ccje/1680b2ca7f>

³⁸ See *Oleksandr Volkov v. Ukraine*, App. No. 21722/11, Judgment of 9 January 2013, ECHR 2013. Accessible at: <https://hudoc.echr.coe.int/fre?i=001-115871> See also *Kudeshkina v. Russia*, App. No. 29492/05, Judgment of 26 February 2009, ECHR 2009. Accessible at: <https://hudoc.echr.coe.int/fre?i=001-91501>

³⁹ See *Engel and Others v. the Netherlands*, App. No. 5100/71, Judgment of 8 June 1976, ECHR 1976., paras. 62-64. Accessible at: <https://hudoc.echr.coe.int/eng?i=001-57479>

disciplinary actions and criminal, civil and administrative proceedings.

75. One of the main challenges in disciplinary proceedings is the potential overlap with criminal, civil, and administrative proceedings. The distinction between these types of proceedings is essential to prevent their misuse.

The Nature of Disciplinary Proceedings

76. The nature of criminal proceedings is focused more on targeting violations of law with punitive objectives and are governed by strict procedural safeguards.⁴⁰ The nature of civil litigation revolves around the resolution of private disputes, focusing on remedies or compensation unrelated to judicial ethics. The nature of the administrative proceedings is to deal with institutional compliance and operational management, not with professional misconduct. Disciplinary action must remain tightly focused on ethical breaches that threaten judicial integrity. These processes should not be misused to challenge judicial independence.⁴¹
77. Legislation often uses overly broad or general terms to define unethical behavior because it is impossible to anticipate and codify every specific instance of misconduct. Human behavior and ethical dilemmas are highly nuanced, and a set of rigid rules might not reflect the complexity of real-life scenarios. By relying on general terms, the law provides a framework that allows flexibility and adaptability.⁴²
78. Decision-makers (such as judges or disciplinary committees' members) must consider the context of each case when it comes to such proceedings. They should evaluate the background, circumstances, intentions, and potential impacts of the behavior in question. This reliance on judgment ensures that the law can address unique situations fairly, but it also demands a high level of professionalism, impartiality, and consistency from those tasked with enforcing ethical standards.⁴³

Core Principles on Judicial Disciplinary Liability

79. **The accountability of the judiciary** must be balanced with its independence to ensure that disciplinary mechanisms are consistent with the principles of the rule of law and the proper administration of justice. The following core principles

⁴⁰ See *above*.

⁴¹ See *supra* note 13, paras 23, 24, 25.

⁴² See Venice Commission, *Opinion on the Draft Code of Judicial Ethics of the Republic of Kazakhstan*, Opinion no. 841/2016, CDL-AD(2016)013, adopted at the 107th Plenary Session, Strasbourg, 13 June 2016. Accessible at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)013-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)013-e)

⁴³ *Ibid* para 13-15.

outline how disciplinary liability should be structured to maintain this balance while safeguarding judicial accountability.

- 80. Proper administration of justice** is the primary purpose of judicial disciplinary liability. This requires that disciplinary systems address misconduct effectively without interfering with the judiciary's ability to perform its constitutional functions. Accountability mechanisms must reinforce public trust in the judiciary by demonstrating that judges adhere to the highest ethical and professional standards, ensuring fairness, impartiality, and competence in decision-making.
- 81. Preserving the Independence of the Judiciary means that** accountability mechanisms must avoid undue influence from external actors, such as the executive or legislative branches, or from internal pressures within the judiciary. Independence must be safeguarded at all stages of the disciplinary process, from initiation to decision-making and appeals, ensuring that judges can perform their duties without fear of retaliation or arbitrary punishment.
- 82. The scope of disciplinary liability must be clearly defined and consistent with the rule of law.** Judges should only be held accountable for conduct that directly affects their judicial duties or undermines public confidence in the judiciary. Disciplinary liability must not be used to penalize judicial decisions or infringe on judges' rights, such as freedom of expression or privacy, unless these rights are abused in ways that harm judicial integrity. Clear, predictable, and fair criteria for disciplinary liability ensure that accountability measures do not compromise judicial independence.
- 83. Disciplinary proceedings must be governed by well-defined procedural rules that ensure transparency, impartiality, and fairness.** The institutions involved in these proceedings, including investigative bodies, disciplinary councils, and review bodies, must operate independently of political influence and adhere to procedural safeguards. The separation of investigative, prosecutorial, and adjudicative functions is critical to maintaining impartiality and public confidence in the process.
- 84. Sanctions for judicial misconduct must be proportionate to the nature and severity of the misconduct.** Accountability mechanisms should distinguish between minor infractions and serious breaches of judicial ethics or professional duties. Proportionality ensures that sanctions effectively address misconduct without creating a chilling effect on judicial independence or undermining the judge's ability to function in their role.

Criminal Proceedings versus Disciplinary Proceedings

85. Disciplinary proceedings should serve a corrective purpose, focusing on upholding the dignity and accountability of the judicial office rather than penalizing violations of criminal law. These proceedings should address misconduct such as unethical behavior, procedural negligence, or actions that undermine the judge's professional image.
86. Disciplinary proceedings should follow less formal procedures than criminal trials while adhering to fair trial principles. These include the right to a defense, impartial adjudication, proportionality in sanctions, and the right to appeal before a body meeting the criteria of Article 6 of the ECHR.
87. Criminal accountability, by contrast, addresses acts that violate the law and threaten public order or individual rights. Governed by criminal codes and procedures, it entails punitive measures such as imprisonment or fines, reflecting society's response to unlawful behavior.
88. As punitive and deterrent measures, criminal proceedings involve both the accused's potential loss of liberty and broader public interest considerations and therefore require rigorous safeguards, including the presumption of innocence, the right to legal representation, strict adherence to procedural fairness, and proof beyond a reasonable doubt.⁴⁴

Break-out Box 2: The Engel Criteria

The **Engel criteria**, articulated by the ECtHR, is used to determine whether proceedings fall under the disciplinary or criminal law areas under Article 6 of the ECHR. These criteria ensure that the right to a fair trial is applied not only to formal criminal proceedings but also to quasi-criminal and certain disciplinary matters. They underline the broad scope of Article 6 protections, extending fair trial rights beyond traditional criminal law to safeguard individuals in diverse legal and disciplinary contexts. The first consideration is the classification of the offense under national law, which examines whether the offense is deemed „criminal“ or „disciplinary“ under domestic law. While classification is relevant, it is not decisive, as the ECtHR evaluates the nature and severity of the offense. The second element is the nature of the offense, which focuses on whether it is inherently criminal. This involves assessing whether the provision applies to the general public or specific groups (e.g., military personnel or professionals) and whether the offense protects broader societal interests, which often suggests a criminal nature. Finally, the severity of the penalty is crucial, particularly if the penalty involves imprisonment, which indicates a criminal charge. Even non-custodial penalties, such as fines or disciplinary sanctions, however, may be deemed criminal if they are sufficiently severe or punitive.

⁴⁴ See *supra* note 30, paras. 108-117.

89. The criteria are applied cumulatively, meaning an offense may still be classified as criminal even if only some of these elements support that conclusion. For example, a disciplinary violation under national law could fall within the criminal scope of Article 6 if it carries significant penalties or broader societal implications, such as corruption or money laundering. Conversely, internal disciplinary measures with minor consequences may not meet the threshold for criminal prosecution.
90. Ethical breaches that rise to the level of criminal behavior, such as corruption or bribery, must be addressed through criminal prosecution to uphold public confidence in the judiciary.

Civil and Administrative Proceedings versus Disciplinary Proceedings

91. Civil proceedings and disciplinary proceedings serve entirely different purposes and address fundamentally distinct matters. Civil proceedings involve disputes between private parties, either natural persons or legal entities. They are governed by civil procedural law and typically aim to provide remedies to address violations of legal rights or obligations.
92. Administrative proceedings address disputes involving administrative authorities and natural or legal persons, as well as conflicts between administrative bodies. These cases typically concern the exercise of public powers, regulatory enforcement, or the protection of individual rights.
93. Administrative procedures and laws should be applied to administrative law matters and cases, not to disciplinary proceedings.
- Mixing administrative and disciplinary proceedings risks undermining judicial independence by exposing judges to undue scrutiny for institutional failures. This overlap may also lead to arbitrary disciplinary action, particularly when administrative inefficiencies are used as a pretext for ethical violations.
 - Where administrative sanctions significantly affect the rights or freedoms of an individual, the Engel criteria may apply to ensure adequate procedural safeguards similar to those in criminal proceedings.

Framework of Disciplinary Proceedings

94. The CCJE emphasizes that while the judiciary, like other branches of government, must provide explanations for its actions and assume responsibility for them, judicial accountability must be understood in a specific way. It means judges are required to give reasons for their decisions

and explain their conduct in relation to cases they adjudicate, but it does not imply subordination to or control by another branch of government. Judicial independence and accountability are not conflicting principles, but they must be carefully balanced. If the judiciary were accountable in the sense of being subject to another branch, it would compromise its ability to impartially uphold the law, particularly in cases involving those very state powers. Judicial accountability, therefore, reinforces, rather than diminishes, the judiciary's role as an independent guarantor of justice.⁴⁵

95. Constitutions provide a formal source of legitimacy, which further can be complemented with functional legitimacy. Functional legitimacy refers to the acceptance and recognition of an institution or authority based on its effectiveness in fulfilling its intended functions and meeting societal expectations.
96. Every Council of the Judiciary, along with the judiciary it represents, must build and maintain public trust through transparency, accountability, and excellence in its work. During conflicts with other branches of government, public support will largely depend on the Council's perceived legitimacy.⁴⁶
 - a. Formal legitimacy arises from constitutional frameworks and lawful appointments of its members, ensuring that a Council for the Judiciary is firmly rooted in the legal order.
 - b. Functional legitimacy, on the other hand, stems from public trust, earned through transparent, accountable, and excellent performance of judicial and administrative functions. Both forms of legitimacy are equally vital and must complement one another.
97. There are two systems of disciplinary proceedings: council system and court system. In the council system, judiciary councils should retain the authority to make final decisions on disciplinary matters, allowing a broad range of actors—such as ministries of justice, court presidents, parties, individuals, or lawyers—to initiate proceedings. In the court system, disciplinary tribunals should handle this role, with proceedings initiated by entities like the ministries of justice or prosecutor general. Both systems should ensure accessibility by allowing complaints of judicial misconduct to be submitted formally or informally to the initiating bodies, without restrictions on who can submit them, thereby promoting diverse and effective oversight.

⁴⁵ See *supra* note 29, paras. 14, 15 and 16.

⁴⁶ See Consultative Council of European Judges, Opinion No. 24 (2021): *Evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems*. Accessible at: <https://www.coe.int/en/web/ccje/-/the-ccje-adopts-opinion-no-24-2021-on-the-evolution-of-the-councils-for-the-judiciary-and-their-role-in-independent-and-impartial-judicial-systems>

98. Appeal procedures should align with ECtHR jurisprudence, requiring the appeal body to be an independent and impartial tribunal. Most jurisdictions have implemented safeguards to ensure the independence of investigative and decision-making bodies in disciplinary proceedings, though risks of politicization remain in some systems.
99. It is essential to separate the roles of investigating, initiating, and adjudicating disciplinary matters to avoid conflicts of interest. The investigatory body should be distinct and tasked with receiving complaints, collecting evidence, and determining whether sufficient grounds exist to initiate proceedings. To ensure independence, this body must operate free from political influence.
100. Final disciplinary decisions should be made by an independent authority, free from executive or legislative interference. Disciplinary body members must meet strict standards of independence and impartiality, with appointments overseen by an independent authority primarily composed of judges elected by their peers. To prevent conflicts of interest, those involved in investigations or prosecution must not participate in decision-making.

Individual Rights of Judges

a. Freedom of Expression

101. Judges should exercise their right to freedom of expression under Article 10 of the ECHR while respecting necessary restrictions that preserve the dignity of the judicial office and maintain public confidence in the judiciary. Public comments or actions should avoid undermining impartiality, appearing politically biased, or damaging the judiciary's reputation.
102. Disciplinary measures should not be used to suppress legitimate expressions of opinion, particularly those concerning judicial reforms or the defense of judicial independence. Judges should be encouraged to speak out on matters affecting the judiciary's independence, as recognized by the ECtHR, provided that their statements are consistent with judicial ethics.
103. Judges should be free to exercise their rights to private life and expression, provided these rights are not abused in ways that harm public confidence in the judiciary. Disciplinary measures should be proportionate to the nature of the misconduct, clearly distinguishing between minor ethical lapses and serious breaches that might warrant removal from the office.

b. Right to Private Life and Fair Trial

104. Judges' personal lives and choices, protected under Article 8 of the ECHR, should remain free from disciplinary scrutiny unless private conduct significantly undermines public trust in their impartiality or the judiciary's integrity. Any disciplinary measures affecting a judge's private life must be carefully justified, avoiding arbitrary or disproportionate actions.⁴⁷
105. While judges, as public figures, are held to higher standards of personal conduct due to their role's impact on the judiciary's reputation, the distinction between private behavior and professional accountability must be respected. Avoid unnecessary intrusion into judges' private lives to ensure their right to privacy is upheld.
106. Disciplinary proceedings against judges must fully comply with the right to a fair trial, ensuring access to an independent and impartial tribunal. Judges facing disciplinary actions must be provided with sufficient time and resources to prepare their defense effectively.

Burden of Proof in Disciplinary Proceedings

107. A high standard of proof is particularly important in the context of judicial discipline, given the potential consequences for the individual judge's career and the integrity of the judiciary as a whole. In disciplinary cases, the standard of proof typically falls between two thresholds: balance of probabilities (where misconduct is more likely than not) and clear and convincing evidence (requiring a high degree of probability). This ensures that disciplinary actions are based on strong evidence while safeguarding judicial independence and protecting against arbitrary or politically motivated sanctions.
108. The burden of proof lies solely with the complainant or the investigative body, ensuring that judges are not required to prove their innocence. This principle is essential to upholding judicial independence and protecting judges from arbitrary or politically motivated actions.
109. Judges must be presumed innocent until proven otherwise, in line with Article 6 of the ECHR. The party bringing allegations must provide sufficient evidence to substantiate their claims. The burden of proof should balance holding judges accountable for serious misconduct while safeguarding them from undue or frivolous accusations. Disciplinary proceedings should not become tools for harassment or retaliation.

⁴⁷ See *Volkov v. Ukraine*, App. No. 21722/11, Judgment of 9 January 2013. Accessible at: <https://hudoc.echr.coe.int/fre?i=001-115871>

110. Given the significant impact of disciplinary sanctions, including dismissal or reputational harm, the burden of proof should reflect the gravity of the allegations and penalties involved.
111. Adherence to procedural safeguards, including the presumption of innocence and proper allocation of the burden of proof, as emphasized by the CCJE, avoid unfairly burden judges with disproving vague or politically motivated allegations. Cases involving alleged bias, conflicts of interest, or extrajudicial conduct require clear procedural rules to ensure the investigative body meets its burden of proof without shifting the burden to the accused judge.
112. Allegations framed in broad terms like „unethical behavior“ or „breach of oath“ risk shifting the burden of proof to judges. Procedural safeguards should ensure allegations are specific and supported by clear evidence to avoid subjective interpretations.

Grounds for Disciplinary Liability

113. Grounds for disciplinary liability should aim to uphold judicial integrity, independence, and public confidence while respecting judges' rights and independence in decision-making. These grounds must be clearly defined to avoid arbitrary enforcement.⁴⁸
- **Judicial misconduct** refers to actions or failures to act that occur within the scope of a judge's professional responsibilities. This includes abuse of authority, such as misusing judicial power to favor certain parties or achieve personal goals; gross negligence or malice involving consistent disregard for legal standards or intentional misapplication of the law; incompetence, such as chronic delays in decision-making or a lack of due diligence; and bias or partiality that compromises fairness.
 - **Extrajudicial misconduct** covers behavior outside judge's official duties that could erode public confidence in the judiciary. This includes unethical conduct, such as corruption or dishonesty; conflicts of interest that compromise impartiality; criminal behavior that brings disrepute to the judiciary; and inappropriate public behavior, such as making politically charged statements or expressing bias on social media. While judges have the right to a private life, actions in their personal lives that significantly damage public trust can justifiably lead to disciplinary proceedings.
114. Disciplinary frameworks must strike a balance between holding judges accountable for misconduct and protecting judicial independence. Judges should not face disciplinary actions for decisions with a basis in law, even if

⁴⁸ See *supra* note 16, para. 34.

controversial or later reversed in appeal, to ensure that accountability for misconduct does not suppress judicial independence.

115. Grounds for disciplinary liability must be established in advance, and their retroactive application should be strictly prohibited. Changes to disciplinary provisions should include clear transitional safeguards to prevent misuse for political or personal retaliation.
116. Open-ended formulations in disciplinary provisions should be interpreted by independent and impartial disciplinary bodies to ensure consistency, fairness, and transparency. Published and well-reasoned decisions should clarify ambiguous terms and establish caselaw. General or vague terms like “unethical behavior” or “breach of oath” must be defined precisely to prevent arbitrary interpretation. Disciplinary provisions should minimize uncertainty and protect against subjective or politically motivated enforcement.
117. Transparent disciplinary mechanisms, guided by clear rules and supported by published decisions, are essential to building public confidence and safeguarding judicial independence.

Check List

Category	Do	Don't
Grounds for Liability	Define clear legal grounds for disciplinary actions, avoiding vagueness or overbreadth.	Don't create retroactive grounds for liability or use vague terms like „unethical behavior.“
	Limit liability to undermining judicial independence, impartiality, or core judicial values.	Don't punish judges for decisions regarding the interpretation of law, evidence, or facts (except of malicious or grossly negligent actions). Using the European law tools, especially submitting the preliminary reference to CJEU, is not a ground for disciplinary liability.
	Respect the right to private life and the freedom of expression.	Don't use liability as a means to penalize judges for expressions of opinion on legal matters or justice reforms or legitimate private behavior.
	Clearly distinguish between ethical breaches and actions warranting disciplinary sanctions.	Don't treat violating the code of ethics as a sole ground for disciplinary proceedings.
Procedural	Apply procedural guarantees, ensuring fair trial rights.	Don't overlook procedural fairness or deprive judges of the ability to defend themselves adequately.

Category	Do	Don't
	Respect equality of arms and right to legal representation.	Don't breach judges' right to effectively participate in disciplinary proceedings.
Grounds for Liability	Maintain confidentiality during investigations to protect all reputations before decisions are made.	Don't compromise the confidentiality of ongoing investigations.
	Conduct hearings publicly unless the judge requests confidentiality.	Don't reveal the information that might impair the judges right to privacy and family life.
	Publish reasoned disciplinary decisions with anonymization where necessary for data protection.	Don't fail to provide an in-depth, exhaustive, and clear reasoning to the decisions of the disciplinary body.
Timelines and Limits	Introduce statutory time limitations for initiating disciplinary actions.	No institution or competent authority should have the option to leave matters open-ended without a clear time limit.
	Resolve cases within a reasonable timeframe to avoid undermining judicial credibility.	Don't allow delays that jeopardize the effectiveness of the disciplinary process.
Appeals	Ensure judges have the right to appeal disciplinary decisions and sanctions to the body fulfilling the criteria of the tribunal established by law.	Don't deny judges the right to challenge or seek remedies for adverse disciplinary outcomes.
Independence	Prevent political influence by ensuring disciplinary mechanisms operate independently of the executive.	Don't allow external institutions and bodies to influence or control proceedings.
	Implement filtering systems for unfounded complaints.	Don't misuse disciplinary proceedings to intimidate or apply undue pressure on judges.

Thresholds for Judicial Misconduct

118. Disciplinary sanctions should only be imposed for misconduct that meets a defined threshold of severity.

119. Actions that merely „affect the court's activity“ or reflect administrative inefficiencies do not meet this threshold and should not result in sanctions. Overextending disciplinary measures risk undermining judicial independence and chilling judicial discretion.

120. Disciplinary sanctions must only apply to misconduct that significantly undermines judicial independence, impartiality, or public confidence in the judiciary. Minor administrative errors or inefficiencies should not trigger disciplinary proceedings.⁴⁹
121. The threshold for misconduct must be defined to include only actions that significantly undermine public confidence in the judiciary or its core values, such as impartiality, integrity, or competence.
122. The behavior must go beyond minor ethical lapses or procedural errors that do not impact judicial independence or fairness. The criterion must exclude acts that are administrative in nature or that result from ordinary human error without malice, willful neglect, or gross negligence.
123. Judicial decisions, including controversial rulings or legal interpretations, should not serve as grounds for disciplinary action. The proper avenue for addressing legal errors is through the appeals process, except in cases of clear malice, willful disregard of the law, or gross negligence. Disciplinary mechanisms must not be misused to challenge judicial reasoning or exert undue influence over judicial decision-making, as this would erode judicial independence and compromise the rule of law.

Ethical Standards and Disciplinary Standards

124. Ethical standards serve as guidelines for promoting professionalism and integrity within the judiciary, whereas disciplinary procedures are designed to address serious breaches of conduct.
125. Ethical standards should be codified as separate from grounds for disciplinary liability. Their primary aim is to inspire ideal conduct and enhance the judiciary moral framework, while professional rules of conduct establish enforceable obligations to address misconduct. Judges should not face disciplinary action solely for failing to meet ethical standards unless their behavior directly undermines public trust or judicial values.⁵⁰
126. Ethical standards aim to inspire ideal conduct and enhance the judiciary's moral framework, while professional rules of conduct establish enforceable obligations to address misconduct. Ethical standards often address broader aspirational values, such as promoting public confidence or maintaining dignity, without prescribing specific actions. Professional rules of conduct are specific, focusing on concrete behaviors and prohibiting actions that undermine the judiciary's integrity or impartiality.

⁴⁹ See European Network of Councils for the Judiciary (ENCJ), *Minimum Judicial Standards V: Disciplinary Proceedings and Liability of Judges*, ENCJ Report 2014–2015, p. 25.

⁵⁰ See *Supra* Note 12 at 17-18.

127. Conflating the two undermines the judiciary's independence, as the enforcement of ethical standards through disciplinary measures could lead to overreach and political interference. Ethical standards must be clearly distinguished in law from behaviors that justify disciplinary sanctions.⁵¹
128. In cases where ethical standards and professional rules converge, particularly concerning extrajudicial conduct that risks compromising public trust in the judiciary—the threshold criterion must still be applied. The aim is to differentiate between unethical behavior, which may warrant guidance or corrective measures, and serious violation, which may justify disciplinary sanctions.
129. This separation is essential to prevent ethical standards from being misused as tools for judicial discipline.

Transparency

130. Transparency plays a pivotal role in maintaining the balance between ethical standards and professional rules of conduct. The formulation of both ethical standards and professional rules should involve broad consultation with the judiciary, legal professionals, and relevant stakeholders. This participatory approach ensures that the resulting standards and rules are reflective of judicial values and practical realities.
131. Ethical standards and professional rules must be accessible and clearly communicated to judges and the public. Publishing these in official reports or judicial codes increases transparency and reinforces public confidence.
132. Disciplinary mechanisms must be transparent, with clear criteria for initiating and deciding cases. Proceedings should follow established procedural safeguards, including the judge's right to be heard, the presumption of innocence, and the availability of appeals.
133. The results of disciplinary actions, along with reasoning and anonymization where necessary for data protection, should be made public.
134. Engaging civil society through clear communication is essential for maintaining public trust and ensuring the legitimacy of the judiciary. Transparent communication fosters accountability and allows the public to understand and support judicial processes.
135. Disciplinary proceedings should generally be public to promote transparency, certain circumstances may necessitate confidentiality to protect the rights

⁵¹ See *Supra* Note 15, para. 35.

of the judge or other parties involved. This approach ensures that transparency does not compromise the fairness of the proceedings.

136. Judicial spokespersons or communication offices should provide timely, accurate information about disciplinary proceedings, ensuring that the process is well understood. The judiciary should leverage official websites, public reports, and media engagement to clarify complex legal issues and prevent speculation. Social media and digital platforms can also serve as tools for public outreach, offering explanations of key judicial decisions and countering misinformation. While transparency should be the default, clear guidelines must govern the extent to which disciplinary cases are disclosed, particularly during investigations where confidentiality protects both the judge and the integrity of the process.
137. Clear communication ensures that judicial accountability is not weaponized for political purposes. This underscores the need for judicial institutions to clearly articulate **why** disciplinary actions are taken and what safeguards exist to prevent abuse. If the judiciary does not lead this conversation, external actors—such as political institutions or media outlets—will fill the void, often distorting the reality of judicial accountability efforts. A well-structured communication strategy can prevent these misrepresentations while reinforcing the judiciary’s independence and ability to ensure accountability for abuse.
138. Transparency must be carefully balanced with fairness. Premature disclosure of disciplinary investigations can harm judges’ careers and reputations, especially if allegations turn out to be baseless. While the final outcomes of disciplinary actions should be made public, the judiciary must ensure that its procedures remain independent and insulated from political or media pressure. Disciplinary actions must not be used as a tool to intimidate or silence judges, underscoring the need for impartial oversight by an independent body. Public confidence in the judiciary will not be achieved through spectacle or public shaming but through a system that is both transparent and procedurally sound.
139. Media sensationalism can distort facts, leading to public outrage over minor infractions or misplaced distrust in judicial institutions. Additionally, legal jargon and procedural complexity can make it difficult for the public to fully grasp the nuances of judicial discipline. The judiciary must invest in accessible and plain-language explanations of its processes to ensure that engagement with the media and civil society is meaningful.
140. Building partnerships with legal education initiatives, media groups, civil society organizations, and independent watchdog groups can also improve how judicial accountability measures are communicated to the public.

CHAPTER III: CENTRAL AND EASTERN EUROPEAN EXPERIENCES

Chapter III outlines the legal frameworks, procedures, and practical experiences of selected Central and Eastern European (CEE) jurisdictions concerning alternatives to judicial vetting. It provides an overview of how different jurisdictions have addressed issues of judicial accountability and integrity. For more comprehensive information, readers are referred to the Compendium of CEE Experiences, which accompany these Guidelines. This supplementary Compendium, available on the CEELI Institute's website, offers an in-depth analysis of specific experiences, legislative reforms, disciplinary practices, and evaluation mechanisms implemented across the surveyed jurisdictions.

The reports below and the information contained in the Compendium were prepared by judges from their respective jurisdictions in order to provide local context. While the views expressed in Chapter III and in the Compendium are those of the judges who drafted them, the CEELI Institute and the authors of this publication are deeply appreciative of the pro bono efforts of these experts in providing this comparative survey.

ALBANIA

The Albanian Constitution provides a detailed framework for judicial accountability, emphasizing the operation of specialized anti-corruption courts and a robust vetting process. Specialized courts handle cases against high-ranking officials, ensuring accountability at all levels of governance. Judges appointed to these courts and new judges entering the system must undergo thorough asset reviews, financial scrutiny, and background checks. Candidates for the judiciary must complete the School of Magistrates and pass preliminary integrity evaluations. Disciplinary accountability is embedded in the Constitution, granting the High Judicial Council (HJC) authority to dismiss judges for serious misconduct, subject to appeal before the Constitutional Court. The High Judicial Council oversees judicial appointments, performance evaluations, and disciplinary procedures. Its composition—six judges elected by peers and five lay members selected by the Assembly—seeks to ensure a balanced, independent approach. Complementing the HJC, the High Justice Inspector (HJI) independently investigates complaints, inspects courts, and initiates disciplinary actions, further strengthening judicial accountability.

The Law on the Organization and Functioning of Institutions for Combating Corruption and Organized Crime imposes strict conditions on judges in specialized roles. Appointments require lengthy background checks, asset monitoring, and consent for surveillance of financial transactions and telecommunications. An Ad Hoc Committee verifies candidates' compliance, consisting of prosecutors, judges, and investigators monitored by the Ombudsperson. Judges are subject to periodic monitoring post-appointment, with irregularities flagged for investigation. Breaches of confidentiality or misconduct lead to dismissal to ensure high ethical standards.

Performance evaluation is institutionalized through the Law on the Status of Judges and Prosecutors, providing rules for regulating judicial appointments, rights, obligations, and disciplinary accountability. Entry into the judiciary requires candidates to pass rigorous pre-vetting, including asset and background checks by various state institutions. Performance is periodically assessed, with ratings ranging from „very good“ to „incapable.“ Judges rated „incapable“ may face consequences such as salary reductions or disciplinary referral. The evaluation considers case complexity, statistical performance, and self-assessments, aiming for fairness and professional growth. Disciplinary procedures are detailed and guided by principles of fairness, proportionality, and protection of judicial independence. Misconduct is classified into three categories: violations during function, conduct outside function harming the judiciary's reputation, and criminal offenses. Sanctions range from private warnings and public reprimands to salary reductions, demotions, and dismissals, depending on the severity of misconduct. Judges have the right to appeal disciplinary decisions to the competent court, ensuring oversight and procedural fairness.

Investigations into misconduct are initiated by the High Justice Inspector, who gathers evidence through cooperation with state institutions and seeks to ensure confidentiality. Statutes of limitations and strict procedural timelines safeguard the process. Suspensions

may occur automatically in cases involving criminal charges or upon request when continued service could undermine proceedings. Public hearings by the HJC maintain transparency, with final decisions published while respecting privacy standards. The Disciplinary Register records outcomes, serving as a tool for monitoring accountability over time. Albania's framework reflects a serious commitment to safeguarding judicial integrity through performance evaluations, integrity and security checks, and strong disciplinary systems. While substantial, the system relies on ongoing vigilance to ensure that standards of independence, fairness, and transparency are continuously upheld.

ARMENIA

Armenia's judicial accountability framework is grounded in its Constitution and key legislative acts, seeking to ensure the independence, transparency, and integrity of the judiciary. Judicial accountability mechanisms are managed primarily through the Supreme Judicial Council (SJC), while broader integrity and ethical oversight falls under the Corruption Prevention Commission (CPC). Together, these institutions seek to maintain a balance between safeguarding judicial independence and ensuring judges meet high professional and ethical standards.

The Supreme Judicial Council (SJC) holds primary responsibility for judicial appointments, disciplinary proceedings, and the efficiency and proper functioning of courts. Judges are appointed based on a transparent merit-based system, with procedures designed to prevent political interference. Disciplinary liability is rooted in constitutional and statutory provisions, with judges subject to accountability for serious violations of judicial duties, unethical conduct, or actions undermining public confidence. Disciplinary proceedings are initiated by the SJC or, in some cases, the Ministry of Justice, based on complaints or findings of misconduct. Proceedings seek procedural fairness, including the judge's right to be heard and the possibility to appeal decisions.

Performance evaluations are formally established but less systematically implemented compared to other mechanisms. Judicial performance assessments primarily occur through case reviews, efficiency reports, and complaint evaluations, rather than through regular, institutionalized evaluations tied to career advancement. Ongoing discussions aim to strengthen this area and better link evaluations with promotion and training measures.

Integrity checks are a critical part of Armenia's accountability system. The Corruption Prevention Commission (CPC) plays a central role by overseeing asset and interest declarations of judges and ensuring that no conflicts of interest exist. Judges are required to submit regular declarations regarding their assets, income, and business interests. The CPC conducts random and risk-based verifications, and it can initiate administrative proceedings in cases of false declarations, concealment, or conflicts of interest. The CPC also conducts broader background checks focusing on ethical behavior, lifestyle assessments, and affiliations that might compromise judicial impartiality.

Security checks are not systematically described in judicial legislation but are applied indirectly through integrity and anti-corruption measures. Candidates for judicial office are subject to background screening, including criminal record checks and financial monitoring, ensuring that judges with ties to organized crime, serious financial irregularities, or ethical breaches are filtered out before appointment. However, systematic periodic rechecks during judicial service are not emphasized.

Disciplinary accountability is enforced through a structured, transparent process. Grounds for disciplinary liability include breaches of professional duties, unethical conduct, and violations of judicial ethics. Sanctions range from reprimands and fines to dismissal in severe cases. Disciplinary decisions by the SJC are subject to judicial review, safeguarding judges' rights to appeal and ensuring that decisions adhere to due process guarantees. The Code of Judicial Ethics further guides acceptable conduct, and breaches of these principles form the basis for disciplinary action.

Challenges remain in Armenia's system, particularly regarding the uniform application of performance evaluations and the strengthening of transparency in disciplinary proceedings. While legal standards are comprehensive, public trust in judicial accountability mechanisms continues to develop, driven by efforts to strengthen the independence and credibility of the SJC and the CPC. Reforms focusing on institutional transparency, strengthening evaluation mechanisms, and ensuring the autonomy of anti-corruption bodies are essential to sustaining the gains made in judicial accountability.

BULGARIA

Judicial accountability in Bulgaria is regulated through the Constitution, the Judicial System Act (JSA), and various secondary laws, with oversight primarily vested in the Supreme Judicial Council (SJC). The Supreme Judicial Council functions as a personnel body through its two chambers – the Judicial Chamber for judges and the Prosecutorial Chamber for prosecutors. The structure of the Council and its chambers does not ensure balance nor minimize the risk of political influence – on the contrary, in the Judicial Chamber a majority of members are elected by the National Assembly, which therefore wields direct political influence over the personnel authority. Disciplinary proceedings against judges are governed by clear rules under the Judicial System Act. Judges can be held liable for misconduct, serious breaches of official duties, unethical behavior, or actions damaging the prestige of the judiciary. Disciplinary actions may be initiated by the Minister of Justice, court presidents or the Prosecutor General. Sanctions include reprimands, salary reductions, demotions, and dismissal in cases of serious violations. Disciplinary cases are adjudicated by the SJC's Judicial Chamber, with judges entitled to full procedural safeguards, including the right to be heard, access to case files, and appeal to the Supreme Administrative Court.

Performance evaluations are incorporated into the judicial career system. Judges undergo mandatory assessments before attaining tenure or promotion. Five years after initial appointment, judges are evaluated to determine eligibility for irremovability status.

Evaluations consider case quality, complexity, efficiency, reasoning, and public behavior. The process involves a combination of self-evaluations, assessments by direct supervisors, and peer reviews. A negative evaluation may delay or block career advancement, although procedural guarantees ensure that judges can challenge unfavorable assessments. It is important to note that the procedures for the attestation and the evaluation of judges follow a formalistic approach, with 99% of judges receiving the highest possible rating. This represents a challenge that the Bulgarian judicial system has been unable to resolve for more than 20 years.

Integrity checks are part of the broader judicial oversight regime, largely administered through the Inspectorate to the SJC. The Inspectorate conducts verifications on declarations of assets, conflict of interest disclosures, and reports of ethical breaches. Judges must submit asset and interest declarations annually. The Inspectorate has the authority to initiate investigations based on inconsistencies, lifestyle audits, or external complaints and can forward findings for disciplinary or criminal action. The Inspectorate's checks of asset declarations and conflicts of interest are formalistic and are used as a means of exerting pressure on non-compliant judges. In over 10 years, there has not been a single case in which the Inspectorate has identified corrupt behavior by a judge based on an asset declaration review.

Security checks for judges are not systematically emphasized in Bulgarian legislation. Background checks are conducted prior to appointment, primarily focused on verifying any criminal records and ethical standards. No formal system of periodic security checks during service exists; however, major lifestyle inconsistencies or serious allegations may trigger deeper investigations through the Inspectorate. Asset declarations are a critical component of Bulgaria's integrity system. Judges are required to declare their assets, incomes, liabilities, and any business interests of close relatives. The anti-corruption framework, particularly following EU recommendations, strengthens the obligation to declare and publicize judicial wealth, aiming to detect and deter corruption risks within the judiciary. Unjustified wealth or serious omissions may lead to disciplinary or criminal proceedings.

While Bulgaria's legal framework for judicial accountability is detailed and aligns with European standards, challenges persist. Concerns include the politicization risks within the SJC, inconsistent application of disciplinary measures, and public skepticism toward the effectiveness of integrity checks. Recent judicial reforms have aimed to increase transparency, including greater publication of disciplinary decisions and enhanced roles for independent judicial bodies in key proceedings. The strengthening of regular performance evaluations, robust enforcement of integrity and asset monitoring mechanisms, and continued reform of the SJC structure remain central priorities for further reinforcing judicial independence and accountability in Bulgaria.

BOSNIA AND HERZEGOVINA

Judicial accountability in Bosnia and Herzegovina is primarily overseen by the High Judicial and Prosecutorial Council (HJPC), a central body established to safeguard judicial independence while seeking to ensure the integrity, efficiency, and professionalism of the judiciary. The HJPC's authority is set by the Law on the High Judicial and Prosecutorial Council and supplemented by its internal regulations, shaping the procedures for judicial appointments, disciplinary proceedings, and ethics oversight. Disciplinary proceedings for judges are conducted under the HJPC's mandate, with the Office of the Disciplinary Counsel (ODC) playing a crucial role. The ODC investigates complaints about judicial misconduct and initiates disciplinary proceedings when necessary. Judges may be held liable for serious breaches of duty, unethical conduct, abuse of office, or actions damaging the public image of the judiciary. Sanctions range from written warnings and salary reductions to dismissal from office. The proceedings ensure due process rights, including the right to defense, public hearings, and the ability to appeal decisions to the HJPC's Second Instance Disciplinary Panel and further to the Court of Bosnia and Herzegovina.

Performance evaluations of judges are acknowledged in the judicial system but are not as systematically developed or connected to career progression as in some other jurisdictions. Periodic assessments focus primarily on case management efficiency, backlog reduction, and general productivity, rather than comprehensive qualitative evaluations of legal reasoning or ethical behavior. Efforts to establish stronger links between evaluation results and promotion processes are ongoing but remain limited. Integrity checks form part of broader judicial oversight efforts. Judges are required to disclose personal financial information, including asset declarations, but comprehensive lifestyle audits and continuous integrity monitoring mechanisms are underdeveloped. The HJPC has adopted rules on the declaration of assets and conflicts of interest, but enforcement has sometimes been inconsistent. Investigations into integrity concerns are usually triggered by specific complaints or external findings rather than proactive reviews.

Security checks are not a formal, systematic feature of judicial accountability in Bosnia and Herzegovina. Initial vetting during appointment includes criminal record checks, but there is no structured re-screening or security monitoring of judges during their tenure. However, judges working on sensitive organized crime and corruption cases may be subject to informal security assessments coordinated with law enforcement agencies when necessary. Asset declarations are mandatory, and judges must regularly submit reports detailing their income, real estate, movable property, and business interests. Public access to these declarations has been a point of contention, with calls for greater transparency from civil society and international organizations. The current system provides limited public disclosure, aiming to balance transparency with personal security, but there is a recognized need for improvement to enhance public trust.

Despite the legal and institutional frameworks, Bosnia and Herzegovina's judicial accountability system faces persistent challenges. These include political interference risks, delays in disciplinary proceedings, limited transparency in handling asset declarations, and public skepticism toward judicial integrity. Strengthening the operational independence of the HJPC, improving the effectiveness of disciplinary proceedings, and enhancing the transparency of asset monitoring mechanisms are crucial reforms needed to reinforce judicial accountability and public confidence in the judicial system.

CROATIA

Judicial accountability in Croatia is primarily regulated by the *Act on Courts* and the *Act on the State Judicial Council*. Secondary regulations include the *Code of Judicial Ethics and the Rules of Procedure of the State Judicial Council*. The State Judicial Council (SJC) conducts disciplinary procedures and decides on disciplinary liability of the judges. Disciplinary offenses include irregular performance of judicial duties, failing to act in accordance with decisions protecting the right to a trial within a reasonable time, engaging in incompatible activities, causing disruptions in court operations, violating official secrecy, harming the reputation of the court or judicial duties, failing to submit an asset declaration or providing false information on the declaration, refusing to undergo assessments of fitness for judicial duties, and violating personal data protection regulations. One specific offense authorizes court president to initiate disciplinary proceeding if the judge did not render the number of decisions established by the Framework Guidelines for the Work of Judges within a one-year period or has performed their judicial duties in a disorderly manner, without justifiable reason. These Framework Guidelines for the Work of Judges are determined by the minister competent for judicial affairs followed by a non-binding opinion of the General Session of the Supreme Court of Croatia.

Furthermore, the *Code of Judicial Ethics* outlines fundamental ethical principles for judicial conduct and includes procedures for addressing breaches. However, breaches of the code are not directly sanctioned. Authorized bodies that may initiate disciplinary proceedings include the president of the court or a judge authorized to manage affairs of the court, the president of the higher court and the Supreme Court, or the minister competent for judicial affairs or the Judicial Council (established at county courts and high specialized courts). Possible disciplinary sanctions include a reprimand (*ukor*), a fine amounting to one-third of the judge's salary for a period ranging from one to twelve months, or dismissal from duty. Judges have the right to appeal against disciplinary decisions to the Constitutional Court. Filing an appeal automatically postpones execution of the decision.

CZECH REPUBLIC

After the Velvet Revolution and the creation of the Czech Republic in 1993, the judiciary underwent significant reforms to establish independence and accountability. The legal framework for judicial discipline is primarily based on Act No. 6/2002 Coll. on Courts and Judges, and Act No. 7/2002 Coll. on Proceedings in Matters of Judges, Public Prosecutors,

and Court Executors. Disciplinary proceedings are handled by the Supreme Administrative Court, ensuring judicial accountability while respecting procedural fairness. If procedural gaps arise, the Criminal Procedure Code applies subsidiarily. Disciplinary proceedings are adjudicated by panels of six members: judges from the Supreme Administrative Court and Supreme Court, a lower court judge, a prosecutor, a member of the Bar Association, and a legal scholar. Judicial Councils at each court serve advisory roles, supporting ethical standards and suggesting candidates for disciplinary panels. Disciplinary cases can be initiated by the President of the Republic, the Minister of Justice, court presidents, or the Ombudsman. Grounds include breaches of duty, behavior undermining judicial dignity, or actions damaging public trust. Proposals must be filed within six months of learning of misconduct and within three years of its occurrence. Sanctions include reprimands, salary reductions, removal from leadership roles, or dismissal from the judiciary. Judges have guaranteed procedural rights, including legal representation, public hearings, present evidence, and receipt of a reasoned decision.

Performance evaluations are not a central element of judicial career management. Although Judicial Councils address ethics and court presidents monitor efficiency, no systematic regular performance appraisal system is embedded. Reforms are considering stronger evaluation mechanisms as part of broader judicial reforms. Integrity checks exist but are relatively limited. Judges must meet high moral and professional standards and are subject to background screening before appointment. However, no structured, ongoing integrity checks or lifestyle audits exist beyond appointment vetting. Ethical standards are defined but somewhat broadly, leaving room for inconsistent interpretations during disciplinary proceedings.

Security checks for judges are minimal. Initial background vetting verifies criminal records but no formal, periodic security checks are conducted during service. Sensitive appointments rely on internal evaluations without an institutionalized security verification system. Transparency is a cornerstone of disciplinary proceedings. Hearings are public unless confidentiality or security concerns require closure. Media and civil society representatives may attend, subject to practical limitations. Final disciplinary decisions are published on the Supreme Administrative Court's website, strengthening public trust through openness. However, criticism persists regarding the limited publicity of panel deliberations and inconsistent media reporting, which can distort public perceptions of the judiciary.

Appeals against disciplinary decisions were abolished in 2008, creating a single-instance system. While constitutional complaints remain possible, the absence of a regular appeal process raised fairness concerns. The ECtHR recognized the system's compliance in *Grosam v. Czech Republic*, but noted its weaknesses.⁵² Amendments in 2024 introduced a two-instance system effective January 1, 2025. Now, High Courts serve as first-instance disciplinary courts, with appeals reviewed by the Supreme Court or the Supreme Administrative Court. A unified panel ensures consistency of disciplinary jurisprudence.

⁵¹ *Grosam v. the Czech Republic [GC]*, no. 19750/13, Judgment of 1 June 2023. <https://hudoc.echr.coe.int/eng?i=002-18566>

Despite a sound framework, challenges persist. Criticisms focus on the lack of clear ethical standards, limited training for disciplinary panel members, and risks of political pressure from court management. Judicial Councils have an advisory role but lack decisive powers to prevent abuses. Recent reforms introducing a two-instance structure, plea agreements, and broader procedural safeguards aim to enhance fairness and bolster public confidence. Strengthening professional training for disciplinary panels, clarifying ethical norms, and increasing transparency remain essential for ensuring a fully accountable and independent judiciary.

GEORGIA

Judicial accountability in Georgia is governed by the Constitution and the Organic Law on Common Courts. The High Council of Justice serves as the main body for judicial appointments, promotions, disciplinary liability, and overall court governance. Following extensive reforms in the 2010s, Georgia sought to strengthen judicial independence while also establishing mechanisms for transparency and accountability.

Judges can be held disciplinarily liable for breaches of judicial ethics, violations of procedural duties, delays in delivering decisions, or conduct undermining the dignity of the judiciary. Disciplinary actions can be initiated by the Independent Inspector, members of the HCJ, or based on complaints from individuals or institutions. Cases are adjudicated by the Disciplinary Committee of Judges, with the right to appeal to the Disciplinary Chamber of the Supreme Court. Sanctions range from notices and reprimands to salary reductions, transfer to a lower court, or dismissal in severe cases. The framework provides judges with procedural guarantees, including the right to a defense, access to evidence, a public hearing, and an appeal.

Performance evaluations are a formal and regular part of judicial careers. Judges undergo periodic assessments based on criteria including case management, quality of decisions, legal reasoning, and professional conduct. Evaluations directly influence promotions, reappointments, and leadership selection within the judiciary. Transparency in evaluation criteria and procedures has improved with the recent reforms, but concerns persist regarding consistency and potential subjectivity. Integrity checks are increasingly integrated into the judicial system. Candidates for judicial office must undergo thorough vetting, including asset declarations, background investigations, and lifestyle audits. Sitting judges are subject to ongoing monitoring through asset disclosure requirements and the work of the State Audit Office and other oversight bodies. Integrity-related complaints can trigger separate proceedings or disciplinary action if misconduct is uncovered.

Security checks are applied selectively. Candidates for judicial office, especially in higher courts or sensitive judicial positions, undergo background screenings conducted by the relevant security authorities. These checks focus on verifying criminal records, associations with criminal groups, and threats to judicial independence. However, continuous

periodic security screening for all sitting judges is not systematically implemented. Asset declarations are a critical element of judicial transparency in Georgia. Judges must submit detailed declarations of property, income, and financial interests annually. These declarations are subject to verification by the State Audit Office and, in cases of suspicion, may trigger administrative or disciplinary proceedings. Public access to asset declarations is permitted by law.

Despite significant improvements in legislation, challenges to full judicial accountability persist in practice. Concerns about political influence over the HCJ, selective use of disciplinary proceedings, and inconsistencies in performance evaluations have been raised by civil society organizations and international partners. Efforts to enhance the independence of the disciplinary and evaluation bodies, to make appointment and promotion processes fully merit-based, and to ensure greater protection for judges facing political pressure are ongoing priorities.

Georgia's reforms have laid the legal groundwork for a more accountable judiciary, but the full realization of an independent, transparent, and fair judicial accountability system depends on continued strengthening of institutional independence, procedural guarantees, and consistent application of standards.

HUNGARY

Judicial accountability in Hungary is governed by a combination of constitutional and statutory norms. The primary legal framework includes the Act CLXII of 2011 on the Legal Status and Remuneration of Judges and the Act CLXI of 2011 on the Organization and Administration of Courts. Disciplinary proceedings are further regulated by secondary norms, particularly the Rules of Procedure of the Service Courts, approved by the National Judicial Council (NJC). This dual framework ensures consistency across all judicial levels, establishing clear disciplinary procedures, rights, and responsibilities. Disciplinary proceedings are adjudicated by two specialized service courts: the Service Court of First Instance at the Budapest Regional Court of Appeal and the Service Court of Second Instance at the Kúria (Supreme Court). Judges appointed to these courts serve nine-year terms. Cases of judicial misconduct are adjudicated through panels of three judges in non-public hearings to protect confidentiality. Disciplinary actions can be initiated by court presidents, the President of the Kúria, or the President of the National Office for the Judiciary (NOJ), depending on the judge's position. Grounds include breaches of professional duties or damage to the judiciary's reputation. Sanctions range from reprimands and salary downgrades to dismissal from office, with appeals allowed within the service court system but not to ordinary courts. Judges facing proceedings may be suspended, particularly if criminal charges or serious allegations are involved. Performance evaluations are tied to broader judicial oversight but are less emphasized compared to the disciplinary framework. Judges' professionalism is evaluated through court management practices, annual reporting obligations, and compliance reviews. The service courts submit annual reports on disciplinary proceedings to the NJC, covering statistics, procedural

compliance, and outcomes. However, these performance data focus more on compliance rather than detailed merit-based assessments of judicial quality.

Integrity and security checks are not systematically embedded beyond initial appointments. While judges must adhere to ethical standards under the Code of Ethics for Judges (adopted in 2022), there are mandatory asset declarations for judges every 3 years under strict supervision of the court presidents and - at the final instance - of the National Judicial Council. Security screenings are also mandatory in some special judicial positions (court presidents, vice presidents, judges allowing secret data gathering, etc.). Disciplinary proceedings are guided by procedural guarantees, but challenges persist. Hearings are closed to the public, limiting transparency. Appeals are confined within the service court structure, with no external judicial review except through constitutional complaints based on human rights violations. Procedural shortcomings, such as unclear safeguards for accessing evidence, discretionary initiation of proceedings, and lack of independent procedural regulations, have raised concerns regarding fairness and legal certainty. Suspension decisions can affect judges before final rulings, raising issues about the presumption of innocence.

Institutional tensions have also undermined judicial independence. The crisis between the NJC and the NOJ President in 2018 revealed structural vulnerabilities. Obstruction in service court appointments and political interference in judicial governance strained the system's integrity. Disciplinary proceedings were at times misused to intimidate judges advocating for judicial independence, creating a chilling effect. Public protests by judges in 2024 against politically influenced changes were met with further attacks by judicial leadership, exacerbating fears about the erosion of judicial autonomy.

Despite having a detailed disciplinary framework, Hungary's judiciary faces persistent challenges in ensuring transparency, procedural fairness, and genuine independence from political interference. Strengthening safeguards for disciplinary proceedings and enhancing protections for freedom of expression within the judiciary are essential for rebuilding trust and reinforcing judicial accountability in Hungary.

KOSOVO

Judicial accountability in Kosovo is structured around the Constitution and a set of 2018 reforms, including the Law on Courts, the Law on the Kosovo Judicial Council (KJC), and the Law on Disciplinary Liability of Judges and Prosecutors (LDLJP). The KJC plays a central role in managing judicial appointments, disciplinary proceedings, court administration, and judicial inspections. A 2019 regulation by the KJC further refined disciplinary procedures, ensuring a clearer and more structured process for handling complaints and investigations. Disciplinary proceedings are governed by the LDLJP, which defines offenses such as bias, conflicts of interest, improper public statements, improper political activity, and behavior damaging public confidence. Proceedings are initiated by the appropriate „competent authority“—typically court presidents or the President of the Supreme Court—depending on the judge's rank. Complaints may also be submitted by the Ombudsman.

Investigations are carried out by panels composed of three randomly selected judges from a roster maintained by the KJC. Sanctions include private and public reprimands, salary reductions, transfers, or proposals for dismissal. Final disciplinary decisions imposed by the KJC can be appealed directly to the Supreme Court, which reviews cases with suspensive effect through three-judge panels.

The KJC promotes proactive ethical guidance through its Advisory Committee for Judicial Ethics, offering non-binding advice to judges on potential ethical dilemmas, such as extra-judicial activities or conflicts of interest. Integrity checks are incorporated into the system through the requirement for judges to comply with the Code of Professional Ethics and seek to maintain high standards of conduct. Judges participate in the regular asset declaration regime as public officials within the Anti-Corruption Agency. Integrity is primarily enforced through complaint-triggered investigations and disciplinary actions.

Security checks are limited. No periodic security screenings are mandated after appointment. The disciplinary process focuses on individual behavior breaches rather than systemic vetting or security oversight. However, accusations involving misuse of office or connections to criminal activity are addressed through disciplinary panels and can lead to severe sanctions. Transparency is a growing strength of Kosovo's judiciary. While disciplinary hearings remain closed to the public, final decisions—excluding non-public reprimands—are published on the KJC website in Albanian and Serbian. The website allows public access to decisions and statistics on judicial discipline, enhancing public understanding and oversight. Disciplinary data and case outcomes are now systematically recorded and monitored.

Challenges persist. The broad discretion given to court presidents to initiate disciplinary proceedings raises concerns about procedural fairness and inequality of arms. Judges currently lack effective means to challenge the decision of the “competent authority” on initiation of disciplinary investigations. Reports in 2023 and 2024 recommended legislative reforms to better align Kosovo's disciplinary framework with European standards, enhance procedural clarity, and reinforce the specialization of investigation bodies.

Kosovo's judiciary has made significant progress in strengthening judicial accountability, particularly in transparency and internal ethical guidance. However, reforms aimed at clarifying procedural safeguards, limiting discretionary abuse, and fully harmonizing disciplinary proceedings with European best practices remain crucial for consolidating trust in judicial independence and integrity.

LITHUANIA

The disciplinary liability of judges in Lithuania is rooted in the Constitution, the Law on Courts, the Code of Ethics for Judges, and regulations adopted by the Judicial Council. Disciplinary standards aim to maintain the dignity and accountability of the judiciary while respecting judicial independence. Judicial misconduct encompasses both improper professional conduct and actions outside of judicial duties that could damage public trust.

A judge's independence is protected, meaning disciplinary measures cannot target legal interpretations or case decisions themselves but focus on negligence, improper conduct, and breaches of ethical obligations. The Judicial Ethics and Disciplinary Commission investigates allegations of misconduct, while the Judicial Court of Honour adjudicates cases and imposes disciplinary sanctions.

Disciplinary proceedings may be initiated by the Judicial Council, the Judicial Ethics and Disciplinary Commission, court presidents, or any other individual aware of misconduct. Grounds for disciplinary actions include behavior demeaning to judicial office, breaches of the Code of Ethics, and political activity incompatible with judicial duties. Proceedings must commence within three months of reporting the alleged violation and no later than three years from its occurrence. Disciplinary sanctions range from censure to dismissal, and severe cases may result in proposals for impeachment. Appeals against Court of Honour decisions can be submitted to the Supreme Court of Lithuania within ten days. However, there are gaps in legislation regarding the appeal procedure, leading to the application of civil procedure rules *mutatis mutandis*.

Integrity checks are incorporated through the Code of Ethics, which sets high standards for judicial conduct based on international and European guidelines. Ethical awareness is further promoted through the Commission's consultative role. Judges may seek advice on complex ethical issues, and over fifty such official ethical consultations have been issued to date. While there is no systematic security clearance or asset verification regime for sitting judges beyond appointment requirements, ongoing ethical evaluations and complaints-driven accountability mechanisms serve to uphold judicial integrity.

Transparency of proceedings is generally strong. Hearings of the Judicial Ethics and Disciplinary Commission and the Judicial Court of Honour are public unless privacy or security concerns require otherwise. Final decisions are published on the National Courts Administration website, ensuring public access while respecting data protection requirements. Press releases accompany decisions, and disciplinary statistics are publicly reported. Nonetheless, debates remain over the selection of lay members to disciplinary bodies, transparency in appointments, and whether restrictions on judicial freedom of expression are too broadly interpreted, as recent disciplinary cases such as GT1-11/2021 and GT1-8/2022 illustrate.

Challenges persist in ensuring full procedural safeguards. The rules for the appointment of public representatives to disciplinary bodies are vague, leaving room for politicization. The law also does not formally require the Chairperson of the Judicial Ethics and Disciplinary Commission to be a judge, though this is respected in practice. Calls for reform emphasize the need for greater legislative clarity on appeals, selection procedures, and the strengthening of human resources to support ethical consultations. Strengthening these areas would further enhance fairness, independence, and public confidence in Lithuania's judicial accountability system.

MOLDOVA

Moldova's legal framework for judicial accountability is built on the Constitution (1994), the Law on the Status of Judges (No. 544/1995), the Law on the Superior Council of Magistracy (SCM) (No. 947/1996), and the Law on the Disciplinary Liability of Judges (No. 178/2014). Judges can be sanctioned for professional misconduct, including breaches of the Code of Ethics adopted in 2015. Functional immunity is limited, as the state may recover damages for gross negligence or intentional misconduct. Disciplinary offenses and sanctions are defined, while protecting judicial independence from interference with judicial decision-making.

The Judicial Inspection investigates complaints against judges and initiates disciplinary cases before the Disciplinary Board. Composed of judges and civil society representatives, the Board adjudicates cases and imposes sanctions. Appeals are heard by the SCM, a mixed body of judicial and lay members, which can uphold, revise, or annul Disciplinary Board decisions. Final appeals go to a special panel of the Supreme Court of Justice, which reviews both facts and law. Public hearings, publication of decisions, and video-recordings enhance transparency. Disciplinary offenses include failure to abstain, human rights violations, or serious ethical breaches. Sanctions range from warnings to dismissal, applicable to both active and retired judges. Proceedings must begin within three years of the offense, with special deadlines for cases revealed by court judgments. Judges enjoy procedural rights, including the right to be heard, access evidence, and appeal decisions. The Judicial Inspection must conclude investigations within 60 days; the Disciplinary Board and SCM must decide cases within 60 and 30 days, respectively. SCM decisions can be challenged before the Supreme Court within 30 days.

Performance evaluations and integrity monitoring are addressed through separate processes, while professional ethics violations are assessed by a dedicated Ethics Commission under the SCM. No systematic security clearances or financial audits are conducted post-appointment, although civil liability may follow disciplinary or criminal convictions. In 2023, the Judicial Inspection received 1,152 complaints but proposed sanctions in only 30 cases (2.6%). Disciplinary sanctions were applied in just four cases, with no dismissals recommended. Most violations involved breaches of human rights or imperative legal norms. ECtHR judgments, such as *Catana v. Moldova* (2023) and *Manole v. Moldova* (2023), criticized aspects of the disciplinary system, especially the lack of independence of disciplinary bodies in earlier cases.

Despite reform efforts, challenges persist. The disciplinary process remains lengthy and resource-intensive even for minor offenses. The Judicial Inspection's dependence on the SCM undermines its autonomy. Overlapping roles between the Disciplinary Board and SCM delay proceedings, and excessive publicity can harm judges' reputations before final decisions. Future reforms should aim to reinforce the independence of the Judicial Inspection, streamline minor disciplinary cases, ensure confidentiality until decisions are final, and balance complainants' rights to prevent harassment of judges.

NORTH MACEDONIA

The Republic of North Macedonia regulates judicial accountability through the Constitution, the Law on Courts, the Law on the Judicial Council, the Judicial Council's Rules of Procedure, and the Judicial Code of Ethics. The Constitution establishes the basis for judicial independence, allowing dismissal for serious disciplinary offenses or unprofessional conduct, as determined by the Judicial Council. The Law on Courts and the Law on the Judicial Council provide detailed rules for disciplinary processes, outlining grounds such as violations of ethics, failure to perform duties, abuse of office, or misconduct damaging public trust.

The Judicial Council oversees disciplinary proceedings, initiates investigations *ex officio* or upon complaints, and determines sanctions. Investigations are conducted by a Commission of Rapporteurs randomly selected from Council members. Judges facing proceedings are entitled to procedural guarantees, including the right to defense. Sanctions include reprimands, salary reductions, suspensions, or dismissal. Hearings are conducted confidentially to protect judges' reputations, though final decisions are published unless confidentiality is necessary. The Judicial Code of Ethics underlines impartiality, independence, and integrity as essential standards of judicial conduct.

Performance evaluations, promotions, and integrity checks are regulated separately through updated rules, including the revised Rulebook on Judicial Candidate Ranking and Guidelines for Calculating Effective Working Hours. Temporary assignments and additional judicial activities are now considered in performance evaluations. No formal security checks or financial audits are imposed post-appointment, but incompatibility with other public offices is strictly regulated.

The disciplinary system faces challenges: political influence risks persist due to the method of Judicial Council appointments; opacity and delays undermine public trust; inconsistent handling of complaints remains problematic; and fear of retaliation continues to affect judicial independence. Although about 85%-90% of complaints are dismissed, many are based on dissatisfaction with court rulings rather than misconduct. Reforms have introduced individual explanations for decisions, public reporting of activities, stricter deadlines, and civil society participation in oversight.

Judges may appeal disciplinary sanctions to the Appeals Council within the Supreme Court within 15 days. Appeals Councils consist of judges selected by lot, ensuring a degree of impartiality. If a violation of human rights is established by the ECtHR, the judge can seek to reopen the case within 30 days. Appeals Council decisions and key Judicial Council decisions are published to strengthen transparency and accountability. In 2024, notable cases included the dismissal of a judge elected to the State Commission for the Prevention of Corruption and the controversial denial of suspension rights to another judge, highlighting tensions between judicial independence, procedural consistency, and evolving accountability frameworks. Despite reforms, concerns remain regarding the uniform application of procedures and the safeguarding of judicial independence. Further improvements are needed to reinforce credibility and public trust in the judiciary.

POLAND

The disciplinary liability of judges in Poland is regulated by the Law on the System of Common Courts, originally introduced in 1928 and updated several times, including significant revisions in 1985, 2001, and 2015. Under the long-standing framework, judges could face disciplinary action for serious misconduct, blatant legal violations, or conduct unbecoming the judicial office, with penalties ranging from reprimands to dismissal. Following 2015, judicial changes significantly altered disciplinary procedures. Judges opposing these changes and raising preliminary questions to the Court of Justice of the European Union (CJEU) faced intensified disciplinary actions. In 2019, the so-called „Muzzle Law“ expanded disciplinary offenses to include questioning the legitimacy of judicial appointments and engaging in public activities deemed inconsistent with judicial independence. During this period, political influence affected the system. Judges who defended judicial independence faced multiple, politically motivated proceedings. These changes sparked national and international criticism, culminating in the CJEU’s 2021 order suspending the Disciplinary Chamber of the Supreme Court. Under EU pressure, the Disciplinary Chamber was abolished and replaced by the Chamber of Professional Liability. Key reforms clarified that referring questions to the CJEU, interpreting EU law, and assessing judicial independence are no longer disciplinary offenses. After 2023, the Minister of Justice appointed independent disciplinary prosecutors tasked with reviewing and terminating improperly initiated cases.

Currently, judges are liable for manifest contempt of the law, obstruction of judicial authority, or conduct undermining the dignity of judicial office. Sanctions include warnings, reprimands, salary reductions, pecuniary fines, transfer to another position, or dismissal. Special prosecutors for judicial disciplinary matters, appointed by the Minister of Justice, initiate proceedings, conduct preliminary inquiries, and bring cases before disciplinary courts at the Courts of Appeal or the Supreme Court. Proceedings are public but can be closed to protect sensitive interests. Disciplinary courts at appellate courts and the Supreme Court adjudicate first- and second-instance cases. Disciplinary proceedings generally follow criminal procedure standards, allowing for witness testimony, defense representation, and appeal mechanisms.

Recent amendments restored legal certainty, although complete reform remains necessary. Future plans aim to eliminate the „Muzzle Law“ provisions and establish a fully transparent and independent disciplinary system to uphold judicial independence and comply with European legal standards.

SERBIA

The disciplinary responsibility of judges in Serbia is regulated by the Law on Judges, the Law on the High Judicial Council (HJC), and the Rulebook on Procedure for Establishing Disciplinary Responsibility of Judges and Court Presidents. The 2008 introduction of disciplinary liability as a distinct accountability category marked a major development, further refined by constitutional reforms and legislative updates in 2022–2023. Judicial

discipline aims to preserve independence while ensuring professional standards are upheld. Disciplinary offenses include negligent performance of judicial duties and conduct damaging the reputation or impartiality of the judiciary. The Code of Ethics, built on seven principles (independence, impartiality, competence, dignity, commitment, freedom of association, and adherence to ethics), supplements these standards. Disciplinary bodies include the Disciplinary Prosecutor, Deputies, and the Disciplinary Commission; all appointed by the HJC following public calls. First-instance proceedings are confidential unless the judge requests publicity. Judges have the right to remain silent, engage legal representation, propose and challenge evidence, and appeal. Sanctions include warnings, salary reductions up to 50% for one year, and a ban on promotion for up to three years. Serious offenses can result in dismissal. Appeals are filed to the HJC within eight days, and dismissal decisions may be challenged before the Constitutional Court.

Proceedings are to be governed by principles of fairness, urgency, and due process. Judges cannot be held accountable for systemic failures like excessive caseloads or understaffing. A claim of a breach of the Code of Ethics must first be assessed by the Ethics Committee before formal disciplinary charges can be considered. However, the term “major violation” remains vague, allowing inconsistent application. Decisions are published in anonymized form on the HJC website.

While Serbia’s disciplinary framework aligns with CCJE standards, weaknesses include non-transparent appointment processes, resource shortages delaying proceedings, and broad legal language complicating consistent interpretation. Nonetheless, the system offers significant procedural safeguards, defined offenses and sanctions, multiple review layers, and training initiatives to strengthen professional conduct.

SLOVAKIA

The Slovak Republic, since its establishment in 1993, has developed a disciplinary framework for judges rooted in its Constitution and evolving through significant reforms. Initially, disciplinary jurisdiction was divided among regional courts, higher military courts, and the Supreme Court. In 2001, Act No. 385/2000 Coll. on Judges and Lay Judges centralized disciplinary jurisdiction at the Supreme Court, except for Constitutional Court judges and heads of supreme courts, who remained under the Constitutional Court’s authority. The Constitution was amended in 2021 to establish the Supreme Administrative Court (SAC), which now exercises disciplinary jurisdiction over judges of general and administrative courts. Disciplinary matters are currently governed by Act No. 432/2021 Coll., known as the Disciplinary Court Code, ensuring a uniform and structured legal framework aligned with international standards.

The disciplinary process is entrusted to disciplinary chambers within the SAC, composed of three professional judges and two lay judges. The constitutional model retains special jurisdiction for the Constitutional Court over the President and Vice-President of the Supreme Court and the Supreme Administrative Court, reinforcing the separation of powers at the highest judicial levels. Judges appearing before disciplinary chambers are

guaranteed extensive procedural rights similar to those in criminal proceedings. These include the rights to defense, to propose and examine evidence, to remain silent, and to a fair and public hearing. Disciplinary offences are classified into disciplinary misconduct, serious disciplinary misconduct, and serious disciplinary misconduct incompatible with judicial office, with sanctions ranging from warnings and salary reductions to dismissal from office. Salary reductions may reach up to 70% for a period of one year in cases of serious misconduct, while dismissal is mandatory where incompatibility with judicial office is established.

Transparency is a core principle of the Slovak disciplinary system. Hearings before the Disciplinary Chamber are public unless specific exceptions apply, and disciplinary decisions are published in anonymized form within strict deadlines. The Ministry of Justice ensures publication on an accessible official portal, and the SAC issues press summaries to enhance public awareness of important disciplinary cases. Publication rules also cover urgent measures and the suspension of administrative decisions, excluding only limited categories such as proceedings involving state secrets or technical surveillance measures.

Appeal mechanisms are limited to cases involving the most severe sanctions, such as dismissal, suspension, or disqualification. Appeals must be filed within fifteen days and have suspensive effect. Appeals are adjudicated by another five-member chamber of the SAC, composed solely of professional judges, and must result either in upholding, modifying, or annulling the initial disciplinary decision without remittal. A motion for retrial is possible within three years following the final decision, but no further remedies exist beyond this.

Despite these guarantees, several challenges persist. The appeal process remains problematic due to the limited number of SAC judges and the risk of indirect involvement in appellate decisions, affecting perceptions of impartiality. Moreover, the exclusive composition of disciplinary panels from SAC judges, without participation from general court judges, creates a structural imbalance, particularly considering the administrative court judges were initially appointed under more flexible selection rules than general court judges. Concerns have also been raised about the inquisitorial elements introduced when disciplinary chambers assess the reasons for withdrawal of disciplinary complaints, potentially blurring the roles of prosecutor and judge. Proposals for reform advocate redistributing first-instance jurisdiction to administrative courts while reserving appellate jurisdiction for the SAC, along with incorporating general court judges into disciplinary panels, to strengthen impartiality and reinforce the overall integrity of Slovakia's judicial accountability system.

SLOVENIA

Judicial accountability in Slovenia is rooted in a constitutional framework that emphasizes the dual values of independence and responsibility. The Constitution of the Republic of Slovenia enshrines the independence of judges under Article 125, binding them solely to the Constitution and the law. At the same time, Articles 131 and 132 define the

institutional and procedural foundations of the Judicial Council and the mechanisms for the dismissal of judges, reflecting a strong commitment to maintaining public trust in judicial impartiality. At the core of Slovenia's judicial accountability system stands the Judicial Council, an independent constitutional body entrusted with ensuring the integrity and professionalism of the judiciary. Composed of eleven members—six elected by judges themselves and five members on the proposal of the President of the Republic from among university professors of law, attorneys, and other lawyers by the National Assembly—the Council exercises broad powers in judicial appointments, performance evaluations, and disciplinary proceedings. Its composition, with a majority of judicial members, serves as a constitutional safeguard against political influence, reinforcing the perception of judicial impartiality.

Disciplinary procedures in Slovenia are governed by a carefully regulated framework designed to protect both judicial independence and accountability. A judge may only be dismissed under narrowly defined conditions, such as final criminal convictions, persistent incompetence, or serious breaches of duty or ethical standards. In the latter cases, a disciplinary procedure must be conducted by the Disciplinary Prosecutor and Disciplinary Court, both semiautonomous bodies attached to the Judicial Council. If the ruling by the Disciplinary Court is the termination of judicial office and the ruling is final, the termination of judicial service by law is established by the Judicial Council. Similar procedures apply in case of incompetence, where first the assessment of judge's judicial service is made by a personnel council of a higher court. If a final assessment determines that a judge is unfit for judicial service, the Judicial Council will terminate his/her position by law. Both procedures allow for legal remedies with the possibility to file a lawsuit in administrative dispute against the decision of either the Disciplinary Court or the Judicial Council.

The dismissal of a judge follows in a case of final verdict in criminal case against a judge where he/she was found guilty of crime and sentenced to serve a prison term longer than 6 months. The Judicial Council submits a formal proposal to the National Assembly to dismiss the judge. In the case of a lesser penalty the decision of the Judicial Council depends of the nature of the crime. If the crime is such that the judge is deemed personally unsuitable for judicial office, the aforementioned procedure is initiated. The Judicial Council must allow the judge concerned to provide a written explanation within fifteen days before deciding whether to proceed. If the Judicial Council, by a two-thirds majority, determines that dismissal is warranted, it submits a formal proposal to the National Assembly, which alone has the constitutional authority to remove a judge from office. This high threshold protects judges from arbitrary or politically motivated dismissals. Judges subjected to dismissal proposals have the right to initiate administrative proceedings before the Supreme Court, ensuring judicial protection and compliance with procedural fairness. Decisions of the Judicial Council are published in anonymized form, promoting transparency and reinforcing public confidence in the disciplinary process.

In 2017 with the introduction of the Judicial Council Act (adopted on 2.4.2017) the relocation of jurisdiction from the Supreme Court to the Judicial Council was made and competent bodies are Disciplinary Court and Disciplinary Prosecutor attached to the

Judicial Council. The latter provides financial resources, professional and administrative assistance and other conditions for their work. Since spring 2024, there have been efforts made to reform the legislation on Courts, Judges and Judicial Council. At the time of this publication, however, the process is not completed. The amendments to the Judicial Council Act (ZSSve) proposed in 2024, will also reshape the accountability landscape. These reforms were inter alia prompted by the Constitutional Court's finding that the Judicial Council's dual role - initiating and adjudicating disciplinary cases - violated the principle of impartiality under Article 6 of the European Convention on Human Rights. To address this, the proposed ZSSve removes the power of the Judicial Council to file an initiative to commence a disciplinary procedure. Changes will also include, for example, more Disciplinary Prosecutors, the procedure for exclusion of members of Disciplinary Court to guarantee impartiality, and the separate legal remedy in disciplinary procedures etc.

These changes will help to further ensure that disciplinary proceedings comply with international standards of fairness, bolstering the legitimacy of judicial accountability mechanisms. The reforms will also introduce more transparent procedures for the election of Judicial Council members. New regulations mandate the publication of key electoral stages, grant procedural rights to candidates, establish a special electoral dispute mechanism before the Administrative Court, and model judicial protection after Slovenia's parliamentary election law (ZVDZ). These changes enhance the democratic legitimacy of the Judicial Council, ensuring that its composition reflects both transparency and judicial self-governance. To further reinforce public trust, the ZSSve imposed extensive transparency obligations in 2017. The Judicial Council must publish decisions of public interest, submit annual reports to the National Assembly, and communicate key decisions through its website and the Official Gazette. The Ethics and Integrity Commission, along with disciplinary bodies, will be strengthened to foster a culture of ethical accountability within the judiciary.

In terms of financial independence ZSSve abolished in 2017 the previous practice whereby the Supreme Court coordinated the Council's budget. The Judicial Council drafts and submits its own budget independently, aligning Slovenia's system with good practices for institutional autonomy and safeguarding it from undue influence by other branches of government. The Slovenian system of judicial accountability is also embedded in a broader European and international framework. Judges and individuals alike can seek redress before the Constitutional Court of Slovenia if fundamental rights are infringed, and ultimately before the European Court of Human Rights if domestic remedies are exhausted. These multilayered protections help ensure that the principles of judicial independence, impartiality, and accountability are respected at both the national and European levels. Although challenges remain, particularly in ensuring consistent application of new procedural safeguards, the 2024 proposed reforms mark a decisive move towards a more transparent, professional, and impartial judiciary. Slovenia's evolving model offers important lessons for judicial systems across Europe seeking to reconcile judicial independence with effective accountability.

UKRAINE

Ukraine's commitment to strengthening judicial accountability forms a vital part of its broader efforts aimed at reinforcing the rule of law, public trust, and alignment with European standards. Facing persistent challenges from corruption and political interference, Ukraine has undertaken major judicial reforms to seek to ensure independence, transparency, and ethical standards in the judiciary. The Constitution of Ukraine, the Law on the Judiciary and the Status of Judges, and the Law on the High Council of Justice form the backbone of the country's legislative framework for judicial accountability. Significant structural reforms were introduced through the 2016 constitutional amendments and the 2023 legislative updates, which reshaped the disciplinary landscape.

The High Council of Justice (HCJ) now serves as the primary body responsible for handling disciplinary matters against judges, taking over full jurisdiction from a fragmented system involving multiple commissions. The establishment of the Service of Disciplinary Inspectors (SDI), although still in progress, represents a critical development intended to strengthen preliminary examination of disciplinary complaints. In the interim, Disciplinary Chambers of the HCJ manages these preliminary duties. Automated case distribution, reintroduced in November 2023, seeks to ensure transparency and impartiality, and is expected to be operational. Between January and September 2024, 6,048 disciplinary complaints were filed, and as of October 2024, there are 10,951 pending complaints, illustrating both the scale of the accountability effort and the extensive backlog inherited from the period when the HCJ was non-functional.

Disciplinary proceedings against judges can be initiated based on a complaint filed with the HCJ, by the High Qualification Commission of Judges (HQCJ) in specific cases, or by the Disciplinary Chamber itself. A preliminary review is conducted by a disciplinary inspector, who may either return the complaint, recommend dismissal, or propose opening a disciplinary case. Sanctions are proportionate to the gravity of the misconduct and include warnings, reprimands with or without pay deductions, temporary suspension, demotion, and dismissal. Grounds for liability are carefully defined and include denying access to justice, delays in case proceedings, ethical breaches, and serious violations of law. Judicial errors leading to reversals of decisions do not automatically entail disciplinary liability unless misconduct or negligence is proven. In the period from November 2023 to October 2024, the HCJ handled 7,175 complaints, with disciplinary actions taken against 95 judges, including dismissals in 26 cases.

Appeals against disciplinary decisions follow two avenues: extrajudicial review within the HCJ plenary and judicial review by the Grand Chamber of the Supreme Court. The HCJ plenary acts as a quasi-judicial body when reviewing Disciplinary Chamber decisions, with judges entitled to appeal any sanction and complainants permitted to appeal if authorized by the Disciplinary Chamber. Appeals must be lodged within ten days, and

the HCJ may annul, modify, or uphold decisions, with the power to impose stricter sanctions if warranted. Between November 2023 and October 2024, the HCJ issued 66 appeal decisions, illustrating its role in ensuring consistency and rectifying procedural or substantive errors at first instance. Judicial appeals to the Grand Chamber of the Supreme Court provide an additional safeguard. Grounds for judicial appeal include procedural violations, misclassification of conduct, or infringement of the judge's rights. Appeals must be filed within thirty days, and between January and October 2024, the Grand Chamber resolved 12 complaints, reversing HCJ decisions in three cases, including a dismissal and severe reprimands. Although the number of judicial appeals remains relatively small, this mechanism reinforces the right to a fair process and seeks to balance judicial independence with accountability.

Hearings before the HCJ and its Disciplinary Chambers are open to the public, and sessions are broadcast online to ensure broader accessibility. Decisions resulting from disciplinary proceedings are published on the HCJ's official website, providing public insight into the judiciary's standards and disciplinary outcomes. Although the public does not have access to confidential case materials, the publication of disciplinary decisions and press releases ensures that the broader contours of disciplinary actions are publicly available. Public involvement is further promoted by allowing individuals and organizations to file complaints, observe proceedings, and request access to published information, maintaining oversight and fostering trust in the judiciary.

Challenges persist, particularly regarding the high volume of pending complaints, capacity constraints of the HCJ, and transitional issues related to the operationalization of the Service of Disciplinary Inspectors. The legacy of delayed reforms created a backlog that strains existing resources and complicates efficient case handling. Furthermore, while the reinstatement of the HCJ's quorum and the restoration of disciplinary functions have stabilized the system, questions remain about maintaining consistent standards and managing public expectations for swift justice. The adoption of the Regulation on the Service of Disciplinary Inspectors in December 2024 represents a significant step forward, as it standardizes proceedings and terms for complaint consideration.

Despite these challenges, Ukraine's reforms demonstrate a commitment to strengthening judicial accountability while safeguarding judicial independence. The evolving disciplinary framework, coupled with increased transparency, procedural fairness, and the establishment of a specialized oversight structure, reflects Ukraine's efforts to align with European standards and uphold democratic values. In the context of broader European integration and reconstruction efforts, ensuring the judiciary's integrity remains essential for consolidating the rule of law, protecting human rights, and promoting sustainable development.

CHAPTER IV: RELEVANT CASELAW

ARMENIA

Case I. (Closed Disciplinary Hearings and the Removal of a Judge). On May 24, 2023, the Acting Minister of Justice initiated disciplinary proceedings against Judge D.H. for alleged violations of conduct rules. The Supreme Judicial Council (SJC) held closed-door hearings and terminated the judge’s authority. Judge D.H. appealed, asserting that the private proceedings violated their right to a public hearing and fair trial. The Constitutional Court agreed, ruling that disciplinary sanctions must not undermine procedural fairness or a judge’s right to be heard. Armenian law mandates fair and public hearings, allowing private sessions only when justified by significant public interest. The SJC reviews appeals within two months, with new circumstances potentially prompting reconsideration. Following Constitutional Court Decision No. SDO-1729 (May 21, 2024), the SJC permitted Judge D.H. to submit written arguments to address procedural shortcomings. However, these submissions failed to present sufficient new evidence to warrant revisiting the original decision. The SJC upheld the disciplinary sanction and termination of Judge D.H.’s authority, citing no adequate grounds for reconsideration under Article 157 of the Judicial Code. This case highlights the importance of procedural fairness, judicial independence, and adherence to constitutional principles in disciplinary proceedings.

Case II (Examination of Cases Within a Reasonable Time). Disciplinary proceedings against Judge V.M. of the Criminal Court of First Instance in Yerevan were initiated by lawyer T.K., representing I.A., on October 12, 2023. The Ethics and Disciplinary Affairs Committee proceeded with the case on December 18, 2023, and submitted a petition for disciplinary action to the Supreme Judicial Council (SJC) on February 19, 2024. The case concerned delays in criminal case No. 60186920, initiated on September 17, 2020, under part 1 of Article 242 of the RA Criminal Code. Although the case was entered into proceedings on May 12, 2021, only two hearings were held—on December 20, 2021, and January 20, 2023—before the court terminated the prosecution due to the expiration of the statute of limitations. The SJC reviewed the disciplinary petition, the Disciplinary Commission’s findings, and arguments from both parties. The Council emphasized the importance of timely judicial proceedings, as delays undermine justice and public confidence. Applying standards from the European Court of Human Rights, the Council evaluated the case’s complexity, consequences of delays, and the conduct of both the judge and other parties. It found the duration of the court proceedings—one year and eight months—to be unreasonable, violating the victim’s right to a fair hearing and discrediting the judiciary. The Council determined that Judge V.M. had committed gross negligence by failing to ensure timely case management, violating procedural law. While Judge V.M. had no prior disciplinary penalties, the SJC upheld the petition from the Ethics and Disciplinary Affairs Committee and issued a strong reprimand, considering the nature and consequences of

the violations. This case highlights the judiciary's responsibility to ensure that cases are resolved within a reasonable timeframe to prevent undue hardship on parties involved and maintain the credibility of the legal system. By addressing delays and holding judges accountable, the Supreme Judicial Council reinforces the principle that justice delayed is justice denied, while setting a precedent for prioritizing procedural efficiency and adherence to judicial standards.

Case III (Acknowledgment of a procedural rights violation by the Court of Cassation, along with an assessment of the act's minor significance.) In 2021, disciplinary proceedings were initiated against Judge S.M. of the Criminal Court of Appeals following a report from the General Prosecutor to the Minister of Justice. The Minister subsequently submitted a petition to the Supreme Judicial Council (SJC) for disciplinary action. The case involved accused Zh.S., whose appeal to overturn a detention decision was rejected by the Appellate Court. Judge S.M. determined that the evidence, particularly witness testimonies, failed to establish a direct connection between Zh.S. and the alleged act of violence against A.M. However, the Court of Cassation overturned this decision, reaffirming the First Instance Court's ruling. It criticized the Appellate Court for failing to assess the legality of the detention decision thoroughly and for neglecting to evaluate evidence related to the timing and location of the alleged crime. The Cassation Court emphasized that these errors blurred the distinction between pre-trial and trial functions, violating procedural norms. The SJC conducted disciplinary proceedings in accordance with Article 151 of the Judicial Code. It reviewed reports from the Acting Minister of Justice and the Judge's position, along with all relevant evidence. The SJC concluded that Judge S.M. exceeded his judicial authority during the pre-trial phase by misapplying the reasonable doubt standard concerning the accused's presence at the crime scene. However, the Council determined that the Judge's actions were not knowingly illegal and did not involve guilty intent, as defined by the Judicial Code. The Judge had impartially evaluated the facts and acted without an awareness of procedural errors. Despite the identified violation, the SJC ruled that Judge S.M.'s conduct did not undermine his professional suitability or discredit judicial authority. Consequently, the motion to impose disciplinary responsibility was rejected. The emphasis here that while errors in legal interpretation can occur, this decision highlights the importance of distinguishing between objective violations and willful misconduct. By rejecting the motion for disciplinary action, the SJC reinforced the principle that accountability should be measured by intent and adherence to impartiality, thereby protecting judicial independence while ensuring procedural standards are upheld.

BOSNIA AND HERZEGOVINA

The case of the former president of the basic court, the procedural challenges and inefficiencies within the disciplinary system in Bosnia and Herzegovina are emphasized. Initially, the preparatory hearing was postponed twice without any explanation, disrupting the expected timeline. When the hearing finally occurred, the main hearing was not scheduled until two months later, disregarding the mandated 15-day deadline set by the HJPC Rules of Procedure. The main hearing itself unfolded over several sessions, with significant delays between them. The final session, which concluded the evidentiary

proceedings, took place three months after the previous one, further highlighting the lack of urgency in adhering to procedural standards. Despite these prolonged proceedings, the first-instance disciplinary committee ultimately issued a decision to dismiss the disciplinary process. This decision came 44 days after the final session and was primarily based on the respondent's retirement, effectively ending the proceedings. Through this case the systemic issues within the disciplinary framework, where procedural delays and retirement often undermine the pursuit of justice, allowing judicial officeholders to evade responsibility for alleged misconduct, are clearly demonstrated. It highlights the pressing need for reforms to ensure that the principles of efficiency, accountability, and integrity are upheld in judicial disciplinary processes.

The case of the municipal court judge it is revealed that in another example where disciplinary proceedings were hindered by procedural inefficiencies and the exploitation of retirement as a means to evade accountability. The judge faced serious charges, including behavior that damaged the reputation of the judicial office and violations of the Code of Judicial Ethics. A preliminary hearing was conducted in May 2022, promptly followed by a main hearing in June. Despite this initial adherence to the procedural timeline, the proceedings encountered a significant disruption. A continuation of the main hearing was scheduled for September; however, before this could take place, the judge retired. As a result, the disciplinary process was terminated without a resolution to the charges. Through this case, the vulnerabilities within the disciplinary system are highlighted, where retirement can abruptly end proceedings, leaving allegations unresolved and undermining the principles of accountability and transparency. It underscores the critical need for structural changes to ensure that retirement does not serve as a shield against disciplinary action, preserving the integrity of the judiciary.⁵³

The case of the Cantonal Court judge highlights another troubling example of how serious allegations can be left unresolved due to procedural loopholes. The judge was accused of providing false or incomplete information in his application for a judicial position, specifically omitting a prior conditional conviction for attempted rape and causing bodily harm. These allegations, if proven, represented a grave breach of trust and professional ethics. The disciplinary proceedings progressed to the decision-making phase, where the evidence and charges were under review. However, before any resolution could be reached, the judge requested retirement. This request was promptly granted, effectively halting the proceedings and leaving the allegations unaddressed. This case underscores a systemic flaw in the disciplinary process, where retirement can preempt accountability, even in the face of severe misconduct. It emphasizes the need for reforms to close this loophole and ensure that judicial officeholders cannot evade responsibility for their actions, thereby upholding the integrity of the judiciary. Observing the procedural efficiency of the practice of terminating disciplinary proceedings due to retirement raises concerns about accountability. In several instances, judges avoided substantive rulings by retiring during ongoing proceedings. This pattern undermines the integrity of the disciplinary process and highlights the need for stricter measures to ensure accountability, regardless of retirement status.

⁵³ *Decision of the High Judicial and Prosecutorial Council no. 04-07-7-512-1/2018 of 26/01/2018.*

GEORGIA

Case I. Decision of the Disciplinary Chamber of Supreme Court of Georgia Case #SSD-26-19 September 27, 2019⁵⁴ In September 2019, the Supreme Court of Georgia acquitted Judge M.Ts. of disciplinary charges related to alleged delays in a criminal case, finding that the delays were justified and not the result of intentional or negligent misconduct. The case, assigned to Judge M.Ts. in May 2014, faced delays due to the health condition of one defendant and the unavailability of legal counsel, resulting in 18 postponements. The judge's term expired in December 2016, further interrupting the proceedings. The case resumed upon the judge's reappointment in June 2017 and concluded with an acquittal in March 2018. The Supreme Court ruled that the delays were objectively justified and within the 36-month time limit established under the law in force at the time, despite subsequent legislative amendments reducing the limit to 24 months. The court emphasized that unjustified delays, constituting a disciplinary offense, must involve a judge's intentional or negligent failure to fulfill obligations. Since no evidence of such failure was found, the judge was not held liable. The court also noted that the legislation of Georgia does not incorporate the principle of reasonable time for case consideration. Therefore, the judge could not be faulted for not expediting the case by holding external hearings or separating proceedings, especially as no motions for such actions were filed by the parties. The lack of motions indicated that the parties did not perceive the delays as unreasonable.

Case II. Decision of the Disciplinary Board of Judges of the Common Courts of Georgia Case N1/01-2022 December 28, 2022⁵⁵ In December 2022, the Disciplinary Board of Judges of the Common Courts of Georgia found Judge T.Kh. guilty of obstructing disciplinary proceedings and imposed a reprimand as a penalty. The case arose from a 2018 disciplinary complaint filed by K.O., for which the Independent Inspector requested case materials from Judge T.Kh. on December 13, 2018. Despite repeated requests, the judge delayed submitting the materials, eventually providing them on February 7, 2019—one month and 25 days after the initial request. This delay hindered the Independent Inspector's investigation, which had a strict two-month timeframe to prepare conclusions. The High Council of Justice initiated formal disciplinary proceedings in October 2020, and Judge T.Kh. provided an explanatory note in December 2020. The Disciplinary Board determined that the judge's actions constituted deliberate obstruction, citing the judge's own admission that the materials were withheld to avoid a potentially negative conclusion by the Independent Inspector. The board emphasized that repeated intentional neglect of lawful requests is incompatible with judicial conduct, rejecting the judge's justification as insufficient. Although a separate disciplinary proceeding against Judge T.Kh. for delaying the final judgment in the same case was terminated in September 2020, the Board concluded that the delay in submitting case materials to the Independent Inspector significantly disrupted the disciplinary process. Consequently, the judge was reprimanded for behavior unbecoming of a judicial officer.

⁵⁴ Full text of the decision is accessible in the Georgian language <https://www.supremecourt.ge/old/files/upload-file/pdf/27-seqtemberi-26-19.pdf>

⁵⁵ Full text of the decision is accessible in the Georgian language http://dcj.court.ge/uploads/gadackvetilebebi/18_12_2022_101.pdf

Case III. Decision of the Disciplinary Board of Judges of the General Courts of Georgia

Case N2/01-2020 December 11, 2020⁵⁶ The case involved a lawsuit filed on July 5, 2016, seeking the registration and realization of a debtor's mortgaged property. The judge upheld the lawsuit on September 8, 2016. However, on October 21, 2016, a party appealed the decision and requested the judge's disqualification, revealing that the judge's spouse was an employee of the party and had represented the company in court. The judge admitted to the disciplinary offense, acknowledging that he should not have participated in the case. He stated he was unaware of his spouse's involvement until after the disciplinary complaint was filed. The Disciplinary Board concluded that the judge had violated the law by failing to recuse himself but found no evidence of criminal intent. The refusal to recuse was determined to be a disciplinary offense, as the judge's impartiality could have been reasonably questioned. In deciding the penalty, the Board considered the judge's previously unblemished record, good moral standing, and the lack of harm caused by the misconduct. The case had been handled without an oral hearing, and no party suffered damages as a result. The judge's refusal to recuse himself was addressed with a private letter of reprimand, reflecting the relatively minor consequences of the misconduct and the judge's overall reputation.

LITHUANIA

Case No. GT1-11/2021. The President of the Vilnius District Court initiated a disciplinary case against Judge I.Š., alleging that she violated the Code of Ethics for Judges by making public statements that disparaged the judiciary and self-governing judicial institutions. The judge had posted on Facebook, criticizing the judicial community as corrupt, career-driven, and lacking principles, in response to an article about an acquitted former judge. The Court of Honour ruled that her statements exceeded the limits of judicial freedom of expression, undermined public trust in the judiciary, and warranted disciplinary action. Judge I.Š. appealed to the Supreme Court, arguing that ethical guidelines are subjective values rather than enforceable legal norms and that disciplinary liability based on such principles threatens judicial independence. She also contended that her comments were directed at a specific situation rather than the entire judiciary. However, the Supreme Court upheld the ruling, emphasizing that judges, as public officials, are subject to higher ethical standards and must consider the impact of their statements on public confidence in the judiciary. It concluded that Judge I.Š.'s comments were generalizing, harmful to the reputation of the judiciary, and justified disciplinary sanctions.

Case No. GT1-8/2022 (S). The President of the Vilnius Regional Administrative Court initiated a disciplinary case against Judge V.B., alleging misconduct in her treatment of court employees and fellow judges. Reports indicated that she belittled, manipulated, and set unreasonable demands on staff, leading to resignations and a general reluctance to work with her. She was also accused of behaving disrespectfully towards colleagues, including raising her voice in meetings and refusing to work with certain judges due to

⁵⁶ Full text of the decision is accessible in the Georgian language, <http://dcj.court.ge/uploads/gadackvetilebebi/123.pdf>

personal disagreements. The Commission found that her actions violated multiple ethical principles, concluding that she had degraded the reputation of the judiciary. The Court of Honour confirmed that court staff and judges had experienced ongoing mistreatment from Judge V.B., including inappropriate communication, excessive demands, and an overall toxic work environment. As a result, she was found to have violated the principles of respect, decency, and exemplary behavior outlined in the Code of Ethics for Judges. The Court ruled that her actions harmed the authority of the judiciary and issued her a formal admonition. Judge V.B. appealed to the Supreme Court, contesting the finding that she had refused to fulfill her judicial duties by declining to work on a specific panel. The Supreme Court partially upheld her appeal, ruling that her request to change the panel composition did not constitute a refusal to administer justice. However, the Court upheld the conclusion that she had mistreated court staff, finding that multiple confidential testimonies and an inspection report confirmed a pattern of disrespectful behavior. The Supreme Court affirmed that her actions were incompatible with judicial ethics and that the disciplinary measures were justified.

MOLDOVA

Case 1: On 21 February 2023, the ECtHR published the judgment *Catana v. Moldova*. It concerned the disciplinary procedures against a judge that ended in 2012. The ECtHR criticized a number of legal provisions that raised doubts as to the independence of the SCM. These norms were repealed after 2012. In particular, the ECtHR highlighted that the case was not heard by an independent body, because the Supreme Court of Justice did not have full jurisdiction to review the decisions of the SCM, while the composition of the SCM (membership of the Minister of Justice and of the Prosecutor General, as well as the appointment of three law professors by the Parliament) did not provide sufficient guarantees of independence when deciding on disciplinary matters.

Case 2: On 18 July 2023, the ECtHR published the judgment *Manole v. Moldova*. The case concerns the dismissal of the judge from office for communicating to a journalist the reasons of her dissenting opinion after the operative part of the judgment was announced, but before the motivated judgment was published. The ECtHR found that the communication with the journalist was in breach of the professional duties of a judge, but concluded that the dismissal from office for the communication was disproportionate.

SERBIA

Case I. (A judge's demeanor beyond the bench, in the role of a patient)⁵⁷ Facts: Threats by the judge, who was unhappy with the fact that she was waiting in line for a medical examination, addressed to the medical workers, saying that she was the judge and would use her power to make them all lose their jobs, represent behavior unworthy of a judge and a violation of the principle of dignity. **Decision:** The Commission finds that, under Article 80 paragraph 1, indent 1, of the Law on Judges (Official Gazette no 116/08, 58/09 – US,

⁵⁷ Decision of the Disciplinary Commission HJC no 116-04-504/2017-05 December 15, 2017.

104/09, 101/10), it is a violation of the Code of Ethics to a greater extent, bearing in mind the circumstances, i.e. that the event took place in the presence of a large number of people, not only doctors but also employees of the emergency service, as well as the number and content of the threats sent with reference to the power that the judge's office provides.

Case II. (The impact of consistently exceeding reasonable deadlines for issuing written decisions in numerous criminal cases)⁵⁸ Facts: Considering the number of undone decisions in writing within reasonable terms - 7 decisions and the length of exceeding the legal and reasonable terms from 141 to 504 days, consequently, that was reflected in the serious deterioration of the reputation and public trust in the judiciary. Decision: Both the subjective and objective elements of a serious disciplinary offense from Article 90, paragraph 2, indent 3 of the Law on Judges were realized, because the judge was aware that he was obliged to issue decisions within a reasonable time and that the reputation and public trust in the judiciary could be damaged if he significantly exceeded deadlines for making decisions and this is occurred in a large number of cases.

Case III. (Violation of the principle competence and responsibility (Point 3 Code of Ethics) Facts: By persistently insisting on the lack of jurisdiction of the misdemeanor court, in contravention of a binding decision of the Constitutional Court in the same legal situation, the judge performed his judicial function unprofessionally and irresponsibly, which resulted in the expiration of the statute of limitations for misdemeanor prosecution in several cases. Decision: According to the circumstances of the specific case, starting from the previously existing generally binding decision of the Constitutional Court, the principle of judicial independence cannot be justified by persisting in making incorrect decisions that were assessed as such by the competent court in the appeal procedure, which is the only one competent to review the court decisions, after they have been perceived as irregular in the proceedings before the Constitutional Court.

SLOVAKIA

Case I. Disregarding the Binding Opinion of the Court of Appeal (Decision of the Supreme Administrative Court file no. 42Do/2/2023 of 21.3.2024) The Disciplinary Chamber initially ruled that a District Court judge had partially disregarded the binding legal opinion of the Court of Appeals, causing delays in proceedings and breaching his duty to act conscientiously. As a result, the judge was sanctioned with a 30% salary reduction for six months. However, on appeal, the petitioner sought the judge's removal from office, arguing that his actions constituted a serious disciplinary offence incompatible with his role. The Disciplinary Appeals Chamber disagreed with the initial decision and acquitted the judge, determining that his actions did not constitute a disciplinary offence under Article 34(2) (b) of the Disciplinary Procedure Code. Upon review, the Appeals Chamber found that the Regional Court's annulment decision did not include a clear, specific, or explicit legal opinion. Instead, it referred the case back for further evidence without prescribing a specific legal standard or instructions for evaluating the evidence. The Appeals Chamber

⁵⁸ Decision of the Disciplinary Commission HJC no 116-04-00520/2014-05 September 18, 2014.

concluded that disciplinary liability could only arise if a higher court provided a precise and explicit legal opinion that was subsequently disregarded. In this case, the judge's decision, based on additional evidence, did not breach any clear directive from the Court of Appeal. Thus, no disciplinary offence occurred, and the judge's original conclusions were deemed permissible.

Case II. Violation of the Obligation for Judge to be Able to Provide in a Credible Manner the Honesty of the Origin of his/hers property (Decision of the Supreme Administrative Court file no. 32D/3/2023 of 2.10.2024) The Disciplinary Chamber of the Supreme Administrative Court of the Slovak Republic found a judge guilty of a serious disciplinary offence for failing to comply with legal obligations regarding the declaration of his financial circumstances, adherence to judicial ethics, and proving the honesty of the origin of his property. As a result, the court imposed the disciplinary measure of dismissal from the office of judge. The Disciplinary Chamber determined that the judge deliberately omitted significant information in his 2020 judicial assets declaration by failing to disclose deposits in bank accounts held for his minor children. These deposits exceeded EUR 6,600 individually and EUR 16,600 in total. Additionally, the judge violated judicial ethics by lying to the Judicial Council's control commission about his recreational expenses. Furthermore, the judge failed to dispel reasonable doubts about the legitimacy of his assets during proceedings before the Control Commission and the Judicial Council. These doubts included the justification for transferring funds to his children's accounts and the sources of funds used for living expenses. In its decision, the Disciplinary Chamber concluded that the judge's inability to credibly prove the legitimacy of his property's origin constituted a serious disciplinary offence incompatible with the office of judge, warranting dismissal.

Case III. Doubts About the Origin of the Judge's Assets and Temporary Suspension of a Judge (Decision of the Supreme Administrative Court file No. 32D/9/2024 of 14.10.2024) The Disciplinary Chamber of the Supreme Administrative Court, in a closed session, decided to temporarily suspend a regional court judge following a motion by the President of the Judicial Council. This motion came after the Disciplinary Chamber's decision on October 2, 2024, which found the judge guilty of a serious disciplinary offence incompatible with the judicial office and imposed the disciplinary measure of dismissal. The judge was found to have raised and failed to resolve reasonable doubts regarding the legitimacy of the origin of his property during proceedings before the Control Commission of the Judicial Council and the Judicial Council itself. These doubts related to the justification for the origin of funds transferred to his children's accounts and funds used for living expenses. The judge's inability to credibly prove the legitimacy of his property's origin was deemed a serious breach of his obligations. In justifying the suspension, the Disciplinary Chamber emphasized the gravity of the judge's conduct, which fundamentally called into question his moral integrity and reliability. Such behavior was seen as undermining public confidence in the independent, impartial, and fair administration of justice, as well as the confidence of parties involved in proceedings presided over by the judge. The suspension was thus deemed necessary to preserve the integrity and trust in the judiciary.

Case IV. Violation of Judicial Ethics (Decision of the Supreme Administrative Court file No. 32D/6/2023 of 23.10.2024) The Disciplinary Chamber found a judge guilty of multiple disciplinary offences, including failing to meet statutory deadlines for preparing and dispatching judgments in five cases, thereby violating her duty to act conscientiously and handle cases without unnecessary delays. The Chamber also determined that she breached her obligations by engaging in conduct that undermined the dignity and respect of the judicial office and violated principles of judicial ethics. This included discussing her health problems during hearings in the presence of the parties, making inquiries unrelated to the pending cases, contacting her family during proceedings, informing her assistant about a call to the Ministry of the Interior regarding court organization, refusing to open a scheduled hearing until ordered by the Vice-President of the Court, and demonstrating a lack of familiarity with the case files during hearings. Additionally, the judge was found guilty of creating undue pressure and time stress on senior court officials by imposing an excessive number of urgent tasks, frequently contacting them by telephone during their absence, and setting unreasonably short deadlines for administrative work that were impossible to meet given the size of the case files. She further undermined the dignity of the judicial office by placing a submission in a case file that challenged a senior judicial officer's competence and experience without any relevance to the matter at hand. Her conduct toward the officer was deemed insulting and patronizing. The Disciplinary Chamber concluded that her behavior constituted serious disciplinary offences that violated the ethical and professional standards expected of a judge. The decision, given the disciplinary measures imposed, is subject to appeal by the complainant.

Case V. Violation of Judicial Ethics (Decision of the Supreme Administrative Court file No. 32D/16/2023 of 20.11.2024) The Disciplinary Chamber found a Supreme Court judge guilty of a serious disciplinary offence for reacting violently and inappropriately during a clash with another judge in a public car park. This conduct, involving a physical altercation, was deemed a violation of judicial dignity, respectability, and ethical principles. The Chamber emphasized that judges, as public figures, must exercise heightened self-control, especially in public settings.

As a long-serving Supreme Court judge, the judge was expected to serve as a role model for peers and lower court judges, both professionally and personally. Instead, his actions undermined public trust in the judiciary. To address the severity of the offence and ensure both punitive and preventive effects, the Chamber imposed a disciplinary measure of a 50% salary reduction for three months.

Case VI. – Violation of Judicial Ethics (Decision of the Supreme Administrative Court No. 41Do/2/2023 of 31.10.2023) The Disciplinary Appeals Chamber of the Supreme Administrative Court dismissed the appeal against the first-instance decision that found a district court judge guilty of a continuing serious disciplinary offence and imposed a 60% salary reduction for one year. The complainant sought the judge's removal from office, but the Appeals Chamber upheld the original penalty, considering it proportionate to the misconduct. The judge was found guilty of repeatedly violating his duty to uphold

the dignity and respectability of the judicial office, undermining public confidence in the judiciary, and failing to observe judicial ethics. His actions included refusing to wear a mask in public spaces and the courthouse, publicly asserting that laws need not be respected, and creating a negative image of the judiciary. The Disciplinary Chamber determined that the judge's behavior, characterized by deliberate and repeated violations, aggravated the harmfulness of his conduct, which was assessed as a continuing offence. The Appeals Chamber acknowledged the seriousness of the misconduct but concluded that it did not warrant removal from office, as it did not entirely deprive the judge of the moral credibility required for his judicial functions. It emphasized that the misconduct did not extend to his decision-making as a judge and reiterated that disciplinary measures must be proportionate and focused solely on the acts proven in the case. The salary reduction was deemed an appropriate and proportionate penalty.

Case VII – Alcohol in the Workplace – (Decision of the Supreme Administrative Court file No. 41Do/1/2023 dated 29.6.2024) In the first instance decision, the Disciplinary Chamber found that the judge performed her duties as a judge, signing written copies of decisions of the Court of Appeal, during working hours while under the influence of alcohol. The Disciplinary Chamber held that the judge had thereby committed a serious disciplinary offence incompatible with the office of judge. It imposed on her the disciplinary measure of removal from judicial office for that misconduct. The Disciplinary Chamber of Appeal, at a public hearing held in the presence of the parties, concluded that, in view of the time lag between the signing of the decisions and the conducting of the breath test, it was unequivocally established that the judge was already under the influence of alcohol at the time she signed the decisions in question. At the same time, the course of the previous proceedings was sufficient to establish that she was under the influence of alcohol at the time she performed the judicial function of studying the case file. For those reasons, the Disciplinary Chamber of Appeal annulled the decision of the Disciplinary Chamber of the Supreme Administrative Court, Case No. 33 D 22/2022 of 11 October 2022 and held that the disciplinary defendant was guilty of having been found to be under the influence of alcohol in the workplace and performing her duties as a judge while under the influence of alcohol during working hours. The Disciplinary Chamber of Appeal held that she committed a serious disciplinary offence incompatible with the office of a judge, and imposed the disciplinary measure of dismissal from the office of a judge pursuant to Section 117(5) of Act No. 385/2000 Coll. on Judges and Adjudicators and on Amendments and Supplements to Certain Acts, as amended by later regulations.

Case VIII. Disciplinary proceedings as a means of punishing opinion opponents. (Decision of the Supreme Administrative Court file No. 32D/22/2022 of 22.5.2023) The Disciplinary Chamber acquitted a Supreme Court judge, citing the European Court of Human Rights decision in Miroslava Todorova v. Bulgaria. The Chamber found that the disciplinary motion appeared to be aimed at punishing the judge for his critical comments on judicial reform and the new judicial map, rather than addressing genuine misconduct. The judge, a vocal critic of the reform as part of the Association of Judges of Slovakia, had clashed publicly with the complainant, who was the key architect of the reform. The

Chamber emphasized that it was not tasked with deciding who was „right“ in this debate but noted that the disciplinary motion could reasonably be perceived as retaliation for the judge’s exercise of free speech. It underscored that freedom of expression and pluralism of opinion are foundational to a democratic society and that using disciplinary proceedings to silence judicial criticism undermines the rule of law, judicial independence, and the fairness of disciplinary processes. However, the Chamber clarified that this decision does not preclude prosecuting a judge for actual misconduct unrelated to their exercise of free speech, provided there is no indication of retaliation. Applying Article 10 of the European Convention on Human Rights, the Chamber concluded that the proceedings constituted an unnecessary interference with the judge’s right to freedom of expression. By a vote of 4 to 1, the Chamber acquitted the judge, determining that his actions did not amount to a disciplinary offence.

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