

ОЗЕРСЬКИЙ

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УДК 347.962.2

THE NATIONAL SCHOOL OF JUDGES OF UKRAINE: LEGAL AND
PSYCHOLOGICAL CONTENT OF PROFESSIONAL JUDGES TRAININGНАЦИОНАЛЬНАЯ ШКОЛА СУДЕЙ УКРАИНЫ: ЮРИДИКО-
ПСИХОЛОГИЧЕСКОЕ СОДЕРЖАНИЕ ПОДГОТОВКИ
ПРОФЕССИОНАЛЬНЫХ СУДЕЙ

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The theoretical issues of professional psychological training of the judiciary in Ukraine and the legislative, regulatory framework, which in part regulates the selection, certification and training of judges in terms of compliance with European standards and the specifics of national legislation were analyzed. In this context submitted proposals for improving the current legislation, which regulates HR component of judicial activity were provided.

В статье проанализированы теоретические вопросы профессиональной психологической подготовки судей в Украине и законодательной, нормативно-правовой базы, которая частично регламентирует отбор, аттестацию и обучение судей с точки зрения соответствия европейским стандартам и специфике национального законодательства. В этом контексте предоставлены предложения по совершенствованию действующего законодательства, которое регулирует HR составляющую судебной деятельности.

Keywords: The National School of Judges of Ukraine, judge, professional psychological training, psychologist, evaluation, justice, international standards

Ключевые слова: Национальная школа судей Украины, судья, профессионально-психологическая подготовка, психолог, оценивание, правосудие, международные стандарты

THE SUBJECT/TOPIC

Another organization - legal issues and psychological aspects of professional training of judges, including the National School of Judges of Ukraine dedicated to the work of local and foreign scientists, such V. Barco, M. Dehtyarenkovi, L. Skomorokha, I. Samsin, M. Kostytskyi, V. Kononov, V. Kovalenko, V. Mazurka, A. Martsynkevych, V. Marchak, A. Nesterenko, S. Nikolaichuk, N. Onishchuk, S. Stepanova, E. Safonov, N. Shuklinoyi, A. Chernovskoho and others, but the current state of socio-psychological determinants of professional training and evaluation of judges needs to be further investigation considering the adoption European standards of Ukrainian judiciary.

The requirements for staffing of Judges of Ukraine, which designed to administer fair justice were significantly increased, in the context of perception European standards in terms of judicial activity and reforming the judiciary, which started September 30, 2016. "An objective measure excluding the state of existing systems of selection and training of judges is impossible and established system of functioning these institutions is a key parameter in determining the quality of justice, consider I.Samsin in the context of the evaluation the quality of the judicial system of the country. The International cooperation is a great importance to the High Qualification Commission of Judges of Ukraine and the National School of Judges of

Ukraine in approaching to implementation such tasks according to the European and World standards "[1]. Therefore, "The training of judges should conform to the international standards" rightly noted V. Kovalenko [2].

The further implementation of judicial reform in Ukraine requires a thorough analysis of socio-psychological factors of professional judges, consider A.Nesterenko. [3] A reason of unlawful decisions, which were made in violation of the law, is insufficient qualification of judges and their poor level of professional training, noted O. Safonova. The basis of the functioning of justice is to ensure that the judiciary of highly qualified and highly moral judicial personnel because of the training and professional education of judges depends on the legitimacy and legality of judicial decisions [4]. Alexander Chernovskiy, adds that "the formation of professional skills of a judge formed by many factors (socio-economic, socio-psychological, organizational, etc.), where the top spot take training and psychological preparation" [5]. This scientific work dedicated to the problem, that is why its relevance is not in doubt.

GOALS/OBJECTIVES

The main goal of this work is to study the legislative framework of the National School of Judges of Ukraine in terms of its staffing and isolating gaps of legal regulation in this area. The purpose of the presented scientific work is consistent with the ch. 6 h. 1 Art.105 (title - The task of the National School of Judges of

Ukraine) of the Law of Ukraine "On the Judicial System and Status of Judges" (2016) in which one of the objectives of the National School of Judges of Ukraine defined - "the research on improving the judicial system and status of judges and justice" [6]. According to Section. 3.2. Charter of the National School of Judges of Ukraine (2015), were assigned such duties as: ensuring the quality of training and skills development for the judicial system, by the way of the organization of compulsory and optional training; conduction the regular evaluation of judges on the results of their training; improving the efficiency of research, scientific and technical work [7].

METHODOLOGY

Analysis of scientific papers in the field of administrative and legal science, management theory, legal psychology, theory and practice of judicial activities in Ukraine, and own studies show that: the results of research of professional and psychological aspects of staffing the judiciary Ukraine exist in fragmentary form and cannot be directly used in scientific, educational and law-making. It is insufficiently developed the theoretical substantiation of the main areas of professional training of judges according to the European standards.

RESULT

"In the context of globalization of information space, improvement of various technologies and methods of work, evaluation of legislation and law enforcement practices, introducing new and improving existing methods of protection violated rights society expects of the judges appropriate level of mastery of complex knowledge and skills necessary to perform their duties. Proper training of judicial candidates and judges is a prerequisite for a competent judiciary. Such training is also a guarantee of future independence and impartiality of judges, a prerequisite for society to respect the judiciary" [8].

In accordance with the "Concept of professional psychological training at the National School of Judges of Ukraine" (2014) the professional psychological training in NSJU promotes a judicial candidates and judges professionally important, moral, ethical and business skills, provides psychological readiness for future judges to judicial activities, and aimed at preventing professional deformation and prevent the development of burnout among active judges (ch.1.1.) [9]. The latest one could rectify at introducing a system NSJU to psychological training aimed at neutralizing deformation and professional burnout judges. Currently, paragraph 4.7. "Regulations on the preparation and periodic training of judges at the National School of Judges of Ukraine" (2016) states that "a mandatory part of training programs for judges to maintain qualification is training. Taking into account needs of NSJ and RV NSJ course developers, who conducted the training, take place in it as coaches, moderators, facilitators [10].

The psychological component in the preparation and evaluation of judges has significant value because the psychological determinants cause all vector of professional activity of the judge. That is why, in ch. 5.2. (Title - Improving the professional level judges) "Strategies of reforming the judiciary and related legal

institutions in 2015 - 2020" (2015) emphasized the improvement of staffing the court staff and implementing effective mechanisms for research information about judicial appointment in terms of integrity and other qualities [11]. Just in design terminology "other money" was invested the psychological evaluation criteria of judges and their professional psychological training.

In support of this, it is necessary to bring the current edition ch. 3. Art. 85 (title - Stages of qualification evaluation) of the Law of Ukraine "On the Judicial System and Status of Judges" (2016), where noted that for the purpose of formation of the judicial dossier (dossier of judicial candidate) The High Qualification Commission of Judges of Ukraine may decide to implement and conduct other tests to check the personal moral and psychological qualities, general skills of the judge (judicial candidate) [6]. Introducing the psychological examination for the candidates, as aptly noted Alexander Chernovskiy, increase requirements for individual judges, whose professional activities related to participation in the most difficult social and legal relations, which arising in the administration of justice and reduce the number of judicial mistakes, which are sometimes exclusively psychological origin, which leads to loss of credibility of the judiciary [5].

In our view, the gap or shortcomings in the current Law of Ukraine "On the Judicial System and Status of Judges" (2016) is the provision of special training of judicial candidate (art. 77), since the definition of ch. 3 turns out that such special training (12 months) actually reduced to "zero", instead State budget of Ukraine spent at the last [6]. "The candidates receive a certificate by the High Qualification Commission of Judges of Ukraine sample for the results of special training. Passing of special training by the Candidates means the successful passing of education training program." (ch. 5 of the Law) [6]. Then, NSJ send materials about candidates who have been trained, to the High Qualification Commission of Judges of Ukraine for taking the qualification examination (ch. 6) [6]. The qualification examination is the attestation of a person who was trained and intend to be recommended for appointment as a judge (ch. 1, Art. 78 of the Law of Ukraine "On the Judicial System and Status of Judges" (2016)). [6]

The question arises, why do we need to conduct such special training in NSJ, if you need to re-pass qualifying examination? (it is the identification of the appropriate level of theoretical knowledge and level of professional skills of a candidate, including the results of special training program and the grade of its ability to administer justice). We consider that the final exam in NSJ need to be simultaneously enrolled in a qualifying exam, and the graduates of such special training will be automatically allowed to participate in the competition for the employment of vacant posts of judges on the basis of ranking candidates on the results of the qualifying examination, drawn up on completion of training at NSJ. It should agree with the opinion of S. Stepanova who consist that "the system of training and selection of judges is need of restructuring, which implements the provisions of international law into national legislation according to the international experience that will

improve the mechanism for the appointment and subsequent professional efficiency of judges [12].

CONCLUSIONS

If we consider professional, especially psychological training of judges, it should be noted that a department of scientific and methodological support psychological training of judges operate in the NSJ, whose leader is an experienced legal psychologist, scientist-practitioner J. Irkhin [13]. The department was created to increase level of professional psychological competence of judicial personnel and their adaptability to the requirements of judicial activity. The priorities of the Department are: scientific and methodological support and maintenance of professional psychological training of judicial candidates and judges according to the "Concept on national standards for judicial education" (2016) [8] providing the introduction and implementation of professional psychological training with accordance to "Concept on professional psychological training in NSJ" [13].

Since the beginning of the introduction of a standardized training program for judges appointed for the first time (1-2 years as a judge) employees of the Department developed and successfully tested such training as "Psychological adaptation to judicial activities," which aims to give candidates for judicial office necessary psychological baggage of knowledge that improve the level of professional psychological readiness for judicial activity. Since April 2015 Psychologist operating room has been open, where currently provide the necessary psychological help for judges and court staff in overcoming stress and psychogenic effects of stress related to the performance of official duties. [13] "Certainly, the most effective, it would be a special psychological service in the judicial system of Ukraine." noted by M. Dehtiarenko. The alternative condition of realization the psychological preparation as a direction of psychological support judicial activities can be introduction to each state judicial institution such post as Court psychologists [14]. Furthermore, this psychologist, among other duties, could be invited to the evaluation of judges or judicial candidates.

The evaluation of judges should be based on such objective criteria: professional competence (knowledge of law, ability to conduct the court hearing, the ability to write reasoned decisions), personal competence (the ability to practice with the volume of work, the ability to make decisions, the openness to new technologies), social competence, the ability to mediate disputes, respect for parties to the proceedings and leadership capacity for those whose position it is necessary (according to ch. 33 Opinion number 17 (2014) on evaluation of judges, the quality of justice and respect for the judicial independence of the Consultative Council of European Judges (t. Strasbourg, 24 October 2014). The evaluation should not be based only on quantitative criteria. The quality, not only the number of decisions, of a judge has to be a key element of individual assessment [15].

The Law of Ukraine "On the Judicial System and Status of Judges" (2016) partly fulfilled this point, it defines such criteria of qualification evaluation of judges

(ch. 2, Art. 83 (title - Objectives and grounds for qualification evaluation)): professional competence (knowledge of law and management, the ability to conduct the court hearing, the ability to interpret the law and to adopt a court decision), personal competence (the ability to practice with the volume of work, self-organization), social competence (balance, stress resistance, communicative), professional ethics, integrity and the ability to administer justice in the appropriate court for the aforementioned criteria (ch. 1, Art. 83 of the Law of Ukraine "On the judicial System and status of judges" (2016)) [6]. The regular assessment during recent stay on posts, which is conducted to identify the individual needs of judges for improvement, stimulating it to maintain the qualification at the appropriate level and professional growth is established at the level of law for judges in Ukraine. The procedure and methodology for evaluation of the qualification, indicators of compliance with the criteria of qualification assessment and means of installation approved by the High Qualification Commission of Judges of Ukraine (According to Art. 83 of the Law of Ukraine "On the Judicial System and Status of Judges" (2016)) [6].

Currently, the National School of Judges of Ukraine prepared the draft "Procedure and methodology of the regular assessment» (the Project) and self-assessment of the judge. If we analyze the Project arises a question of the individuals of the evaluation (ch. 2 Project) because they singled out only: teachers (coaches) of NSJ; the judge; other judges of the relevant court; public associations, while such individual of evaluation as a professional psychologist stayed unnoticed, for example from the department of scientific and methodological support psychological training of judges in NSJ.

This is real gap of "project", because the psychologist can objectively evaluate, by his psychological knowledge and skills, such parameters as mastering judge knowledge, abilities, skills based on the results of training; analytical skills, ability to evaluate information; the ability to interact with colleagues (ability to negotiate, to work in a team, to work under pressure, etc.); communication skills (spoken language and skills); strong judge sides; judge's recommendations of the self-passed directions or additional training (p. 3 Project) [16]. However, the absence of professional psychological knowledge of the above-mentioned individuals of evaluation could be perceived as a fact of impartiality. Such reservations expressed by the Scientific O. Safonova, who proposes to provide removal of any appraiser who conducts professional evaluation of judges, through impartiality [4].

NSJ is necessary for qualified evaluation of judges, because by its order working groups of experienced judges, university professors, scientists, NSJ workers and others who have a high level of knowledge in the respective field of law based on their specialization were created according to the need of standardized software (this should include programs of evaluation of judges), - ch. 4.2.2. "Regulations on the preparation and periodic training of judges at the National School of Judges of Ukraine" (2016). For the quite formulated definitions suitable are such specialists in law as legal psychologists

with appropriate practical and theoretical experience in the aforementioned evaluation methods [10].

Sadly, that the legislators did not mention to the psychological component of judges evaluating in ch. 4. 16-1 of the Law of Ukraine "On Amendments to the Constitution of Ukraine (on justice)", which came into force on September 30, 2016. «The compliance of judge's position is assessed only on the criteria of competence, professional ethics or integrity» - regular the article [17]. In these criteria do not mention a psychological component, which is surely important for evaluation of judges as provides an estimate personality, with its professional and psychological qualities and professional life to further the implementation of the authority judicial activities. We consider that this list must be added by such parameters moral-psychological characteristics of the candidate, because such indicators as psychological burnout and professional deformation in assessing a candidate must take into the evaluation).

On this occasion we maintain the position of the scientific - Alexander Chernov, who believes that without a proper psychological assessment and characteristics of personality it is impossible to predict professional success of future activities. According to the author, the need of psychological examination of a candidate is caused by: [5] the increased requirements for individual of judges, whose professional activities related to participation in the most difficult social and legal relations, which are arising in the course of justice; the great responsibility and seriousness of the consequences of judicial mistakes that lead to the loss of credibility of the judiciary as a whole; the significant material costs related to the appointment and dismissal of judges who were unable to adapt to work.

To conclude, "the main task of professional psychological selection of judicial candidates is to assess the suitability of a candidate for professional psychological and psychophysiological indicators and on this basis of long-term forecasting efficiency of its subsequent activity. The basis of selection is the psychological evaluation of individual mental characteristics of a candidate to determine their degree of compliance with the requirements and specifics of judicial activity. The psycho-physiological selection includes diagnosing of physiological properties of the nervous system, temperament, individual personality traits of a candidate and his psychomotor, emotional and volitional qualities and level of mental stability. Therefore, the development and justification of methods of professional psychological selection of candidates for judges should be based on a study of professional activity of judges, including the identification of psychological characteristics such activities and complex study of professionally important psychological qualities" [18].

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