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THE ISSUE OF THE CONSTITUTIONALITY OF A JUDGE'S CRIMINAL LIABILITY FOR MAKING A KNOWINGLY WRONGFUL DECISION

The article deals with the issue of the compatibility of Article 375 of the Criminal Code of Ukraine with the constitutional principle of the rule of law. It is noted that judges should be held legal responsibility for their actions in the case of a crime or disciplinary offense. Attention is drawn to the fact that the international and constitutional guarantees of the independence of judges do not impede the disciplinary or criminal prosecution of a judge in the case of gross negligence or a conduct which is incompatible with the rank of judge.

Based on the analysis of the judicial practice and scientific developments singled out the current problems that exist in the process of accusing a judge of deliberately making an unlawful sentence, judgment, order or decree. Specialists do not have a common approach to the types of court decisions that are the subject of this crime, the interpretation of the category deliberately, the understanding of serious consequences and the moment of the end of a criminal act.

It is alleged that the difficulties in applying the provisions of Article 375 of the Criminal Code of Ukraine are due, in particular, to the lack of official interpretation by the Constitutional Court of Ukraine of the phrase «as unjust» contained in the provisions of Article 62 (4) of the Constitution of Ukraine, as well as the absence of legislative criteria for declaring a judge decision as unjust.

The paper finds that the concept of «unjust decision» is evaluative, but the construction of Article 375 of the Criminal Code of Ukraine does not have sufficient

substantive deficiencies that may be grounds for recognition this article as it is contrary to the constitutional principle of the rule of law. It is concluded that the Verkhovna Rada of Ukraine has to fill the legislative gap by fixing the normative understanding of the concept of «unjust decision» and also to amend the Criminal Procedure Code of Ukraine on enhancing the guarantees of the independence of judges while entering information about their crimes in the Unified Register of Pre-trial Investigations.

Keywords: unjust decision, criminal liability of the judge, guarantees of independence of the judge, review of the court decision, rule of law, legal certainty.

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