

JUDICIAL IMMUNITY – A GUARANTEE OF INDEPENDENCE AND AN ELEMENT OF ACCOUNTABILITY

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Abstract

The aim of the article is to develop a common understanding of the content of judicial immunity and thus to generate a theory on the application of this legal institution in ensuring and balancing judicial independence and accountability. Neither the separation of powers nor the judicial independence precludes the assessment of a judge's responsibility for violation of the law, however, it is in the interests of both the state and society to ensure the independent exercise of the judicial function. Therefore, there is a need to strike a balance between the independent exercise of the judicial function and the holding of judges accountable. This balance is ensured by judicial immunity. The research was carried out by using the methods of scientific research customary in legal science: literature studies, analytical, comparative, inductive and deductive research methods. The study reveals the aim of judicial immunity, describes its content focusing on two elements of the judicial immunity: non-liability and inviolability and reveals the specific requirements of judicial immunity. The study confirms that well-regulated and responsibly applied judicial immunity ensures that independence and accountability can be balanced.

Keywords: judicial immunity, judicial independence, judicial accountability, non-liability

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Introduction

Public confidence in the courts is affected not only by the actions of judges, but also by the judiciary's response to the actions or inactions of particular judges. Here not only the communication of the court but also the accountability of judges, including, if necessary, the liability of judges, play an important role. Both decisions in judicial disciplinary cases and decisions not to initiate disciplinary proceedings reveal that in practice there are difficulties in balancing the independence and accountability of judges.

There are different, often conflicting, views on the interrelation and balancing of judicial independence and accountability. The legal literature basically treats them as separate legal institutions (Geyh, 2002), considering them as mutually balancing (Seibert-Foht, 2012) or mutually supportive (Jackson, 2012; Van Dijk, 2018). Accountability is often referred to as the "other side of the coin", with judicial independence being the first (Geyh, 2012; Appleby et al. 2019; Di Federico, 2012; Burbank, 2019). Accountability also acts as a mechanism to check that judicial independence requirements are being used properly and for the purpose for which they are intended (UN GA, 2014). The UN Special Rapporteur has pointed out that independence and accountability are two complementary dimensions of an effective judicial system, between which there is a tension. This tension has also been highlighted in the legal literature (Parau, 2012). However, the idea that there is a tension between independence and accountability and that they are distinct concepts is increasingly contested (Gee et al., 2015).

Judicial accountability exists to avoid improper and unethical conduct by judges and is closely linked to judicial independence. The non-absolute nature of independence is determined precisely by the accountability that limits judicial independence (UN GA, 2014). International institutions also find it difficult to implement demands for greater accountability while at the same time protecting the independence of judges (UN GA, 2014).

One of the elements linking the two concepts is judicial immunity. The concept of judicial immunity is relatively rarely studied in the legal literature, and its role in balancing independence and accountability is not well assessed. Therefore, the paper reveals the content of judicial immunity and examines the theory behind it in order to test the hypothesis that judicial immunity provides an opportunity to balance judicial independence and accountability.

The aim of the paper is to develop a common understanding of the content of judicial immunity and thus to generate a theory on the application of this legal institution in ensuring and balancing judicial independence and accountability.

In order to achieve this aim, the author, in the first, chapter examines why judicial independence and judicial accountability clash in both theory and practice, creating the need to balance them. In the second chapter, the author discusses judicial immunity as a specific legal regulation in relation to exceptions from the general requirement of holding a judge accountable, which guarantees, first, the independence and, second, the unimpeded exercise of the judicial function and duties of the office. Chapters three and four deal respectively with the elements of judicial immunity, i.e. the non-liability and inviolability of the judge.

The research was carried out by using the methods of scientific research customary in legal science: literature studies, the analytical method, the comparative method, inductive and deductive research methods. The author has used various sources, including monographs and publications, analysed the information available in them, studied case law and interpreted legal acts.

The author has made a substantial analysis of foreign doctrine and jurisprudence, studied documents of international organisations, and the national regulation. The study uses sources that deal with the independence of judges, accountability, as well as the concept of immunity of state officials, adapting the theory to the requirements of an independent court.

The theoretical value and novelty of the study is the development of a theory of judicial immunity, as well as the research and discovery of the content of judicial immunity. This enables a balance to be struck between judicial independence and accountability when deciding in practice on judicial liability.

The Clash Between Judicial Independence and Judicial Accountability in Theory and Practice

Judicial independence has been examined from different perspectives in the legal literature (Bustos Gisbert, 2022). It is often claimed that "judicial independence is not a privilege" (Satversmes tiesa, 2010). This is based on the idea that judicial independence is guaranteed by various safeguards that may appear to be privileges, such as financial security, security of tenure, judicial immunity etc.

Like other guarantees of judicial independence, judicial immunity is not conceived as a privilege for judges. The Supreme Court of Canada (SCC) has pointed out that "as such, judicial independence belongs not to judges, but to the public. The guarantees are not intended to be a means for judges to improve their working conditions" (Supreme Court of Canada, 2016). The Constitutional Court of the Czech Republic has taken a narrower and more precise view of the addressees of judicial independence, stating that the guarantees of judicial independence are conceived [...] for the benefit of those for the protection of whose rights the courts were established" (Constitutional Court of the Republic of the Czech Republic, 2010). The European Court of Human Rights (ECtHR), in accordance with Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), has assessed the judicial independence from the perspective of *the rights of persons involved in court proceedings* and not from that of *judges' subjective right* to have their own independence guaranteed and respected by the State (European Court of Human Rights, 2016). Guarantees of judicial independence are not special human rights conferred on a particular individual judge, they do not extend the scope of human rights of a judge and they do not increase the level of protection enjoyed by an individual entitled to human rights who holds the office of a judge.

A judge, like any other official or institution, is responsible for the exercise of power and the performance of his public duties. **The legal responsibility** of the judge for his actions, i.e. civil, criminal and disciplinary liability, together with the **responsibility of the judge, the court and the judiciary for the use of power**, i.e. the duty of public officials to explain, justify and legitimise the use of power in the performance of their public duties, constitute **judicial accountability** – one of the requirements of judicial independence. Legal responsibility refers to cases where a judge violates the law or ethical norms and has legal consequences, i.e. disciplinary, criminal or civil liability. Neither the separation of powers nor the judicial independence precludes the assessment of a judge's responsibility for violation of the Constitution or other laws, however, it is in the interests of both the state and society to ensure the smooth (unhindered), free and independent exercise of the judicial function (US Supreme Court, 1980). Therefore, there is a need to strike a balance between the independent exercise of the judicial function on the one hand, and the holding of judges accountable for breaches of the law on the other. This balance is ensured by judicial immunity, which is one of the guarantees of judicial independence and, at the same time, an integral element of judicial accountability.

The question of whether it is possible and permissible to reassess a court's decision when deciding on a judge's responsibility is increasingly debated. The law provides for the possibility of disciplining a judge for wilful misconduct in a court case and for failure to perform his or her duties or gross negligence in a court case (Tiesnešu disciplinārās atbildības likums, 1994). The independence of the judge in disciplinary proceedings is safeguarded by statutory procedures and guarantees (Court of Justice of the European Union, 2019), but not by a prohibition on reviewing the judge's conduct if it is revealed by the content of the judgment. The legal literature also indicates that certain forms of judicial conduct cannot be monitored and errors remedied through the appeal process (Fiss, 1993; Benvenut, 2023; Kosar et al., 2023). However, the divergence in practice between the decisions of the Disciplinary Board to examine the content of a court decision (Tiesnešu disciplinārkolēģija, 2021) and the refusal to initiate disciplinary proceedings in the same circumstances indicating that judicial independence does not allow the content of a court decision to be examined in disciplinary proceedings (Rīgas apgabaltiesa, 2022), points to the need for a common theory on this issue.

The judiciary has also debated judicial error and the limits of judicial independence, asking openly "when can we start raising the alarm that a judgment contains gross errors?" and pointing out the link between the independence of a judge and his responsibility for the quality of his work (Torgāns, 2019).

This shows that one of the guarantees of judicial independence – judicial immunity – is being used to limit judicial accountability. This also reveals a lack of understanding of how the judicial immunity works and of its limits in ensuring independence and holding a judge accountable.

Therefore, in order to examine whether it is possible to ensure a balance between independence and accountability when applying judicial immunity, the author reveals the content of judicial immunity and the basic principles (theory) of the application of this legal institution.

Judicial Immunity

Immunity is a specific constitutional legal regulation regarding exceptions to the general requirement of official's, including a judge, liability (Venice Commission, 2013d). It guarantees, firstly, the independence of the judge and, secondly, the unimpeded performance of the judicial function and the duties of the office.

Judicial immunity in the context of judicial proceedings, like judicial independence, is established for the benefit of the public, as it is in its interest that the judge be free to perform his function independently and without fear of consequences. While litigants can protect themselves from judicial errors by taking their complaints to an appeal court without resorting to suits for personal liability (European Court of Human Rights, 2015). While this is the best way to protect rights, it is in the interest of the judiciary itself that judicial errors are identified and responded to appropriately, including, if necessary, holding the judge accountable for the errors (Lurie, 2023).

Not only the ECtHR, but also national courts have linked judicial immunity to the public interest. For example, the Australian Supreme Court has noted that immunity is conferred not as a perquisite of judicial office for the private advantage of judges, but for the protection of judicial independence in the public interest (High Court of Australia, 2005). The US Supreme Court made a similar point as early as 1869 (US Supreme Court, 1869). A judge's errors may be corrected on appeal, but he should not have to fear that unsatisfied litigants may hound him with litigation charging malice or corruption (US Supreme Court, 1967).

Various international standards provide that judges enjoy a certain degree of immunity from civil or criminal jurisdiction (UN GA, 2020). Judicial immunity stems from the principle of judicial independence, and aims at shielding judges from any form of intimidation, hindrance, harassment or improper interference in the performance of their professional functions (Celotto, 2020). The UN Special Rapporteur has pointed out that, without a certain degree of immunity, prosecution or civil claims could be used as a retaliatory or coercive measure to erode independent and impartial decision-making by diverting the court's time and resources from the execution of regular duties (UN GA, 2020). The Supreme Court of Canada narrows this aim of protecting the judge from undue influence by stating that the rationale behind the doctrine of judicial immunity is to protect the judge from influence from the parties to the case rather than from influence from the public authorities, which is the most important aspect of independence. Immunity shields the judge against actions for words, acts, or omissions in the exercise of his judicial function and ensures that the judge can be free in his own mind and independent in deciding the case (Supreme Court of Canada, 1990).

Thus, immunity is one of the guarantees of judicial independence (Supreme Court of Canada, 1989; Supreme Court of Canada, 1990) and an integral element of judicial accountability. This guarantee is aimed at ensuring that the judge can perform his duties without fear of undue influence. Judicial immunity is not absolute and operates only to the extent necessary to protect judicial independence. Total immunity would undermine confidence in the judiciary (Van Dijk, 2021; Atmor et al., 2024), so it is important not to confuse immunity with impunity and irresponsibility (UN GA, 2014). Moreover, immunity provisions protect the office, not the person who holds the office (Oellers-Frahm, 2005).

The judicial immunity consists of two elements: **non-liability and inviolability**. Inviolability is usually linked to **criminal liability**. In turn, non-liability – with **civil liability**. This classification was originally applied to the immunity of members of parliament, but it is fully consistent with immunity as a general legal institution. The institution of immunity is described in constitutional law as an independent legal institution. It consists of provisions that exempt persons, specified in the constitution or other laws, from certain legal obligations and liability, and establish a specific (different from the general) procedure for holding these persons responsible, in order to enable them to perform their functions. Therefore, the theoretical considerations on the immunity of members of parliament and of the president apply *mutatis mutandis* also to the immunity of judges (Jurcēna et al., 2017; Jurcēna et al., 2020).

A judge, like any other person, can be held **criminally liable**, i.e. he must be punished for any criminal offence he has committed. Whether the offence is connected with the judicial function or is not, such acts of a judge may not be "covered" by immunity. A judge must be liable for all offences (Venice Commission, 2013c). The purpose of immunity is not to protect the judge from prosecution, but to protect against false accusations aimed at exerting pressure on the court. In all other cases, procedural immunity must be waived by the competent judicial authority (Venice Commission, 2013c). The decision to waive immunity should be based on whether there is a real likelihood that the allegations are false. The Court needs sufficient safeguards to ensure its independence and its ability to judge impartially; the guarantee of lifetime tenure would be meaningless if a judge had to fear false and unfounded accusations (Venice Commission, 2013c).

Several international documents provide rules on the **civil liability of judges** (United Nations, 1985). The ECtHR also considers that certain privileges and immunities from civil liability are compatible with Article 6(1) of the European Convention on Human Rights (European Court of Human Rights, 2012). The legal literature points out that some form of limitation of civil liability is an element of judicial independence and explains the reasons for limiting the civil liability of judges (Plank, 1996). In Germany this exception regarding civil liability is attributed to the need to ensure the rule of law (Seibert-Fohr, 2012).

Judge's Non-liability

Non-liability (non-accountability) or "functional immunity", means immunity in relation to the performance of the duties of the office, i.e. the official is shielded from liability for his actions and decisions (Nitu, 2011). Non-accountability ensures that a judge is able to take the decisions necessary for the impartial administration of justice independently and the smooth performance of his duties. The limits of immunity must be very narrow, covering only those acts which are within the scope of the official's powers and only those acts which do not constitute elements of a criminal offence (Макарова et al., 2012). The US Supreme Court in *Nixon v. Fitzgerald*, referring to the doctrine of absolute immunity developed in the English legal system, held that it is in the public interest to require officials to be immune from liability (US Supreme Court, 1982). Without this guarantee, officials might shy away from exercising their discretion for fear of offending an individual, even though bold and immediate action would be in the public interest as a whole. Non-liability continues beyond the end of the term of office and is unlimited in time. A judge subject to this element of immunity will never be liable for acts and decisions taken in good faith in the exercise of the judicial function and in the performance of his judicial duties (Constitutional Court of Kosova, 2011).

A judge's disciplinary, civil and criminal liability for judicial acts is limited in order to avoid indirect influence on the administration of justice (Seibert-Fohr, 2012). In Australia, the conditions of functional immunity apply not only to judicial functions, but also to the administrative functions and other duties of a judge. The Court attributes the extension of immunity to the importance of judicial independence in the performance of the various official duties of a judge (High Court of Australia, 2005). In the Court's view, the immunity requirements should apply to all functions that should be exercised free from any influence (administrative activities, which are related to the institutional independence of the court), as the fear of possible sanctions is also a certain influence (High Court of Australia, 2005).

Germany also has limits to the judge's functional immunity. In order to ensure judicial independence while guaranteeing effective access to justice, the case law distinguishes between the outer sphere of judicial exercise, which is subject to supervision, and the inner sphere, which cannot be subject to the judge's legal responsibility. Only for the formal manner in which the judicial function is carried out – observance of time limits, treatment of the parties, conduct of the proceedings – a judge can be held accountable, but not for the content of the decisions taken (Seibert-Fohr, 2012). However, in the interests of the rule of law, it is exceptionally permissible to assess a judge's liability in relation to the administration of justice (for example, the application and interpretation of the law). Such action, which is required by the rule of law and which is not regarded as interfering with judicial independence, is permissible and even necessary in exceptional cases where there is a manifest misapplication of the law, which infringes a person's right to due process (Seibert-Fohr, 2012). The outer sphere of the judicial function is extended to the form and shape of the judicial decision, notwithstanding the fact that the decision itself is part of the core judicial function, which cannot be subject to liability. Decisions and actions of the judge related to due process, such as setting a hearing date in advance, taking too long to hear a case, may also be subject to disciplinary review. However, non-judicial functions, such as personal conduct and administrative duties, are not protected by judicial independence and are therefore fully subject to disciplinary supervision. The distinction between the inner and outer spheres of the core judicial function has given rise to debate. Critics consider that this distinction is not sufficiently clear (Seibert-Fohr, 2012)

International courts have also attempted to draw the boundaries of functional immunity in the light of the issues before the court when assessing whether the independence of judges has been impaired. For example, the Court of Justice of the European Union (CJEU) adhered that a judge cannot be held liable for a decision to make a reference for a preliminary ruling to the Court (Court of Justice of the European Union, 2022a). According to the ECtHR, the prohibition on holding a judge liable for interpretation of the law, assessment of facts or weighing of evidence does not apply in cases where judicial acts have been done with malicious intent (European Court of Human Rights, 2023) or corruptly and the judge's guilt has been established in a final criminal conviction (European Court of Human Rights, 2015). The Court

also extends immunity to the performance of the duties of the president of the court (European Court of Human Rights, 2015).

The international documents provide that a judge enjoys personal immunity for acts or omissions committed in good faith in the exercise of a judicial function. Judges can only be held liable if they knowingly commit a criminal offence (e.g. accepting a bribe) in the course of their duties (Central Council of the International Association of Judges, 1999; Council of Europe, 2010). For offences committed outside their judicial office, judges are subject to liability, including criminal liability, in the same way as any other person (CCJE, 2010). The Venice Commission also considers that a judge's functional immunity is not absolute, but can and should be limited (Venice Commission, 2013).

Article 13 of the Law on Judicial Power reveals the content of the functional immunity of a judge in Latvia, inter alia, by providing that a judge shall not be held financially liable for damages suffered by a person participating in a case as a result of an unlawful or unjustified court judgment. No action may be brought against the judge who heard the case if a person considers that the court's decision is unlawful or unfounded. In the cases provided for by law, the state shall pay damages (Likums "Par tiesu varu", 1992). The Law on Disciplinary Liability of Judges states that a judge may be held liable to disciplinary action for intentional violation of law during examination of a matter in court, failure to perform his duties of employment or allowing gross negligence in the examination of a matter (Tiesnešu disciplinārās atbildības likums, 1994).

Although the main mechanism for reviewing miscarriages of justice is, as noted above, an appeal within the judicial process and not an administrative or bureaucratic process (e.g. within the disciplinary procedure of a judge), it is not the only mechanism (Jackson, 2012). Both processes are essential for the protection of the rule of law and judicial independence (Hayo et al., 2023).

Although there is a general principle that functional immunity protects a judge when he administers justice, even the law makes an exception to this principle, stating that "the revocation or modification of a court ruling shall not in itself be a reason for subjecting a judge who has participated in its acceptance to liability, if he or she has not allowed an intentional violation of law or negligence in examination of the matter" (Tiesnešu disciplinārās atbildības likums, 1994). Accordingly, the above provision allows a judge to be held disciplinary liable if the judge committed an intentional violation of the law or negligence in the proceedings.

The ECtHR has also held that the judicial immunity from liability for actions taken in the course of the administration of justice is not of a blanket or non-rebutted nature. In the present case, the ECtHR is referring to the bringing of a civil action for damages in cases where the judge's conduct is considered to have been done with malicious intent or corruptly and the judge's guilt has been established in a final criminal conviction (European Court of Human Rights, 2015).

The Court's finding that the limitation of a judge's immunity for actions in the course of judicial proceedings cannot be regarded as an arbitrary diminution of the court's jurisdiction is of fundamental importance in the present case (Fridman, 2023). Thus, the ECtHR has also pointed to the possibility of assessing the judge's actions within the framework of judicial proceedings, outside of the possibility to appeal the court's decision according to the order established by law. For this purpose, for example, in Latvia the disciplinary liability of a judge is provided by law holding a judge liable for a deliberate violation of law during examination of a case and for failure to perform his duties or for gross negligence in the examination of a case. Judicial independence in disciplinary proceedings is ensured by procedures and guarantees provided by law, but not by a prohibition to review the judge's actions if it is revealed by the content of the judgment (Court of Justice of the European Union, 2019). The legal literature also acknowledges that some forms of judicial misconduct may not be controllable and errors remedied through the ordinary appellate procedures (Fiss, 1993). For example, the Advocate General of the CJEU, Anthony Collins, has stated that a failure to comply with decisions of the Constitutional Court constitutes a disciplinary offence. Such an infringement can only be established by examining the court's decision within the disciplinary proceedings (Court of Justice of the European Union, 2022b). The CJEU has held

that "[...] the guarantee of judicial independence does not exclude the possibility that, in certain exceptional circumstances, a judge may be subject to disciplinary proceedings as a consequence of decisions taken by him" (Court of Justice of the European Union, 2022a). The requirement of independence does not exclude the possibility that a judge may be held liable to disciplinary action as a result of a judicial decision, but there must be specific exceptional cases. "It is important that these special cases be governed by objective and verifiable criteria, arising from requirements relating to the sound administration of justice, and also by guarantees designed to avoid any risk of external pressure on the content of judicial decisions and thus helping to dispel, in the minds of individuals, any reasonable doubts as to the imperviousness of the judges concerned and their neutrality with respect to the interests before them" (Court of Justice of the European Union, 2022b).

Therefore, in order to avoid the damage to the reputation of the judiciary, it is possible and sometimes even necessary to assess the specific circumstances and conduct of a judge in relation to the content of a judicial decision, within the framework of disciplinary proceedings.

Although there are certain requirements of judicial independence that must be taken into account when deciding on the application of functional immunity of a judge, the limits of non-liability must be assessed on a case-by-case basis, examining it against the objective justifying the immunity to ensure the judicial independence and impartiality, while not undermining public trust in the court.

Inviolability

Inviolability or "procedural immunity" (GRECO, 2010) is most commonly defined as the impossibility (or limited possibility) of bringing an official to criminal or administrative liability imposed by the court during his term of office (Масловская, 2008). Immunity as an element of the official's constitutional status implies limited legal responsibility (Constitutional Court of Hungary, 1991).

Immunity is practical and functional. Immunity ensures the smooth and proper exercising of the public authority (Cielēns, 1929). This requirement affects both the procedural arrangements for initiating criminal proceedings and the application of arrest, detention and other procedural measures to a judge (Constitutional Court of Kosovo, 2011). Thus, immunity has two aspects (Constitutional Court of Kosovo, 2011): the first relates to the criminal prosecution, while the second refers to various criminal procedural requirements. Immunity is limited in time; it is valid only for the term of office of the judge (Constitutional Court of Ukraine, 2003; US Supreme Court, 1997), and its scope is closely linked to the aim justifying the immunity – administration of independent and impartial justice (US Supreme Court, 1997).

As a rule, specific procedures for criminal proceedings, initiation of prosecution, arrest, detention, forcible transfer and subjecting to search are provided by law. For example, in Latvia, only the Prosecutor General may initiate criminal proceedings against a judge or a Constitutional Court judge. There may be special procedures for criminal proceedings against a judge, irrespective of whether the judge committed the offence in his official or private capacity. The purpose of the special procedure is to ensure judicial independence. In addition, as regards the lifting of immunity, certain safeguards are provided for judges: certain procedures are laid down to prevent undue influence on judicial independence (UN GA, 2020). Commencement of criminal prosecution against a judge as well as his imprisonment shall not be permissible without the consent of the Saeima (Parliament), while a judge of the Constitutional Court requires the consent of the Constitutional Court. The Constitutional Court's consent is also required for detention, forced conveyance and subjection to a search of a Constitutional Court judge, while in the case of a judge, the decision is taken by a specially authorised Supreme Court judge (Satversmes tiesas likums, 1996; Likums "Par tiesu varu", 1992). The legislation may provide for a special court to hear the case against the judge. The Belgian Constitutional Court has assessed this special procedure for criminal proceedings against a judge and found that it does not violate the principle of equality (Allemeersch et al., 2012; Constitutional Court of Belgium, 1994). The Venice Commission, in this regard, has pointed out that it should not be for Parliament to lift the immunity of judges. A judicial body such as the Judicial Council

should take this decision (Venice Commission, 2013a) and the criteria on the basis of which immunity is or is not lifted should be defined (Venice Commission, 2013b).

In deciding whether to grant procedural immunity, the inviolability of a judge must be assessed on a case-by-case basis, weighed against the legitimate aim of immunity to ensure the judge's independence and impartiality, while not undermining public trust in the court.

Unjustified application of legal liability may affect judicial independence. At the same time, the judiciary demonstrates and confirms its independence and accountability by providing an appropriate framework for immunity and applying it proportionately. A well-regulated and responsibly applied judicial immunity ensures that independence and accountability can be balanced.

Conclusions

Unjustified application of legal liability may affect adversely judicial independence. By providing an appropriate framework for immunity and applying it proportionately, the judiciary demonstrates and confirms its independence and accountability.

A well-regulated and responsibly applied judicial immunity – one of the guarantees of judicial independence and, at the same time, an integral element of a judge's legal responsibility – ensures the balance between the independent exercise of the basic judicial function, on the one hand, and the liability of a judge in the event of a violation of the law, on the other.

Although there are certain requirements of judicial independence that must be taken into account when deciding on the application of functional and procedural immunity (for example, judicial immunity is not absolute and only operates to the extent necessary to protect the judicial independence; the immunity provisions protect the office of a judge and not the person who holds that office; the limits of a judge's non-liability should be very narrow, limited to acts within the scope of the judge's powers and to acts, which do not constitute elements of a criminal offence; inviolability is limited in time; it is valid only for the term of office of the judge, and its scope is closely linked to the aim justifying the immunity – administration of independent and impartial justice) the limits of judicial non-liability and inviolability must be assessed on a case-by-case basis, examining it against the objective justifying the immunity to ensure the judicial independence and impartiality, while not undermining public trust in the court.

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