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IN PROFESSIONAL EDUCATIONAL INSTITUTIONS**

The positions of scholars on the concept of “judicial decision quality” have been examined. Criteria for a high-quality judicial decision include justice, timeliness, justification, clarity, clear language, and an accessible style. The researchers also distinguish between objective (legal training, legal experience, qualification requirements for judicial candidates, opportunities for practicing judges to improve their skills, mechanisms for monitoring the work of judges, unrestricted public access to judicial decisions, the role of legal science in analysing judicial decisions) and subjective (the judge’s personality, salary, social guarantees, working conditions and ability to organise their work) factors that affect the quality of a judicial decision. The summaries of judicial practice and analytical work on the application of the Supreme Court’s legislation focus on the following requirements for the quality of drafting and execution of court decisions in cases on administrative offences: execution of a judicial decision with strict compliance by the court with the requirements established by law to its form and content, compliance with the legislation on the language of legal proceedings.

Normative legal acts aimed at developing a unified approach to understanding the quality of judicial decisions have been analysed. Requirements for determining the quality of a judicial decision are considered in the Conclusion of the Advisory Council of European Judges No. 11 (2008) on the quality of judicial decisions, including external environment – legislation and economic and social context (legislation, resources, actors in the judicial system and legal education), internal environment - professionalism, procedural rules, case consideration and decision-making (professionalism of the judge, procedural rules and case management, case consideration in court, elements inextricably linked to decision-making).

Judicial decisions in cases of bullying in vocational education institutions adopted in accordance with the provisions of the Code of Ukraine on Administrative Offences are considered with regard to the presence or absence of requirements for the quality of judicial decisions. It has been established that a certain number of judgements do not have the components of judicial quality.

Shortcomings of the current legislation on administrative offences have been highlighted. In particular, the outdated provisions of the Code of Ukraine on Administrative Offences; the absence of an article that would provide for the adoption of rulings by courts in the name of Ukraine in cases of administrative offences, etc.

The article analyses the judicial decisions made by courts in the period from 2019 to 2021 in cases on administrative offences involving bullying of participants in the educational process in vocational education institutions in terms of their clarity (comprehensibility) and validity. It has been highlighted that most judicial decisions contain an exhaustive list of evidence in the case; the courts comply with the requirement to find out whether an administrative offence has been committed, whether the person is guilty of committing it, whether he or she is subject to administrative liability, etc.

Key words: *judicial decision quality, justifiability of judicial decisions, minors, judicial practice, bullying, professional education.*

Original article

INTRODUCTION. Every decision of a court, regardless of the authority, must contain certain requirements, which are determined by law, practice, and theory. In theory, there are different approaches to the list of requirements, as the institution of a judicial decision is complex and multi-

faceted. The result of case consideration is always the preparation and adoption of a court decision, which must be of high quality. The quality of a judicial decision reflects one of the most important roles of the court in the life of society, the state and the level of legal culture of the population. One of

the important factors that certainly affects the quality of judicial decisions and ensures their openness and accessibility to the public is their publication in the Unified State Register of Court Decisions, the official web portal of the judiciary of Ukraine.

In 2022, the author conducted a study to monitor judicial decisions made by courts from 2019 to 2021 in cases of bullying in vocational education institutions. The analysis of the decisions (rulings on cases of administrative offences) allows us to identify shortcomings in their content, which inevitably affects their quality. After all, the quality of a judicial decision is a key consequence of the legal guarantee of judicial independence as one of the characteristics of the rule of law in any democratic society. Therefore, the relevance of this study is high.

PURPOSE AND OBJECTIVES OF THE RESEARCH. The purpose of the article is to analyze the legal literature and case law on the quality of court decisions in cases on bullying in vocational education institutions in 2019–2021. Given the purpose of the study, the following objectives need to be addressed: to study the positions of scholars on the understanding of the concept of “judicial decision quality”; to analyze the legal acts aimed at developing a unified approach to understanding the quality of court decisions; to highlight the requirements for a judicial decision to determine its quality; to analyze judicial decisions in cases on bullying in vocational education institutions.

LITERATURE REVIEW. The general issues of the quality of judicial decisions and the requirements for their adoption and execution were covered in the works of such scholars as O. Banchuk, H. Bakhareva, S. Vasyliiev, N. Derkach, A. Dryshliuk, L. Loboyko, K. Plakhotniuk, V. Semeniuk, N. Stefaniv, N. Stupnytska, V. Tertyshnyk, M. Frolov, M. Khyzhnyak and others. The scholars focused on the general characteristics of the requirements for the execution of judicial decisions in administrative, civil, criminal and other types of proceedings.

In civil proceedings, the requirements for the content of a court decision have been the subject of research by such civilists as: M. Gurvych, P. Zavorotko, M. Shtefan, P. Serhiyko, M. Tkachov, V. Shcheglov and others. It should be noted that O. Shymanovych (2009) paid attention directly to the study of such features as legality, validity, completeness, certainty, unconditionality, clear language with observance of the procedural form.

A. Marchenko (2018) focused on the judge’s knowledge of, on the one hand, formal requirements for judicial decisions: the form of the judg-

ment and the procedure for its preparation, the presence of clear wording in an understandable language, and, on the other hand, substantive requirements: the judge’s legally justified and motivated position on the parties’ claims in statements of claim, appeals or cassation appeals.

Practical advice on writing court decisions, in particular, the criteria for a quality court decision, were considered by R. Kuibida and O. Syroid (2013). They co-authored a manual to help judges acquire skills in drafting judgments, which contains practical tasks and examples from the case law of both national courts and the European Union.

Problematic aspects of the theoretical and procedural distinction between the concepts of “motivation” and “justification” of a judicial decision (as theoretical and procedural aspects) were considered by K. Mudrytska (2022). According to the researcher, the analysis of case law has revealed procedural problems related to the implementation by judges of the imperative requirements for judicial decisions regarding the rule of law, legality, reasonableness and, in particular, the ambiguous understanding by judges of their reasonableness and motivation, which are often simply identified.

The author of this study has analysed national legislation in the field of anti-bullying in previous works, and monitored judicial decisions (2019–2021) in relevant cases of administrative offences in vocational education institutions (Yushkevych, 2022).

Foreign scholars have conducted many studies on the quality of judicial decisions. V. Skujeniece (2003) studied the factors affecting the quality of judicial decisions. In particular, the author discusses the concept of assessing the quality of judicial decisions and pays attention to four analytical categories that allow conceptualising the quality of a judicial decision, have a high quality and methodological strategy for measuring this concept. Judicial decisions allow for a substantive analysis of judges’ activities. In his article on the quality of judgments in supreme courts, S. Basabe-Serrano (2016), as he noted, tried to assess the quality of judgments of 152 judges of supreme courts from 11 Latin American countries. Taking the basic ideas of the theory of legal argumentation, a quality judgement is defined as one in which the judge applies a rule, interprets it within the scope of the dispute under consideration, and justifies his or her decision using legal precedents and legal doctrine. Based on expert surveys in 11 Latin American countries, the author shows that judges from Costa Rica and Colombia have the highest quality judgments, while judges from Ecuador, Uruguay, and Bolivia have the lowest quality

judgments. The aim of the research project by M. Bencze and G. Yein Ng (2019) was to find answers to the following questions: what is expected of a court decision; what are the aspects, standards or scales that can illuminate and assess the quality of judges' work using traditional research methods in the philosophy of law.

These studies focused on various requirements for the content of a court judgment, which arise from the tasks of the judicial process. The requirement of the quality of a judgement remains poorly researched today and requires a separate study.

METHODOLOGY. The use of general theoretical and specialised scientific research methods made it possible to comprehend the content of the concept of “judicial decision quality” and to achieve the research objective. Thus, the general scientific method of analysis made it possible to consider the positions of scholars and practitioners regarding the understanding of the concepts of “judicial decision quality”, “well-grounded judgment”, and “reasoned judgment”. Using the dialectical method, the author comprehends the sources of law on the quality of a court decision, and clarifies the content of the concept of “judicial decision quality” at the international and national levels. The importance of the existence of the concept of “judicial decision quality” was realised through the use of the epistemological method.

The method of ascending from the abstract to the concrete helped to consider the need for the state (authorised entities) to take into account the training of legal professionals – judges, police officers, prosecutors and other participants in court proceedings, as Ukrainian legislation requires fundamental changes to the Code of Ukraine on Administrative Offences (hereinafter – the CUAO) and bylaws on drafting and adjudicating court decisions, etc.

The comparative legal method was used to demonstrate the unanimity in the understanding of the concept of “judicial decision quality” not only in Ukraine, but also in other countries.

The author characterises the main approaches of national courts to drafting and adopting judicial decisions in cases of bullying in vocational education institutions using the system analysis method.

The empirical basis of the study is the scientific works of experts in various branches of law. The normative basis is the Constitution of Ukraine, acts of international law, national legislation.

RESULTS AND DISCUSSION. It is worth noting that according to clause 3–1, part 1, Article 1

of the Law of Ukraine “On Education”¹ and Article 173-4 of the Code of Administrative Offences², bullying is an action or inaction of participants in the educational process to use various types of violence against minors, underage persons and/or other participants in the educational process, which usually causes damage to mental or physical health. Participants in the educational process in vocational education institutions licensed by the Ministry of Education and Science of Ukraine, such as lyceums, training centres, centres, vocational schools, etc. are no exception (Yushkevych, 2022).

An analysis of the Unified State Register of Court Decisions allows us to conclude that cases of bullying, in particular against participants in the educational process in vocational (vocational-technical) education institutions, make up a certain part of all court decisions. Thus, in three years (2019–2021), national courts considered 19 cases involving vocational education students.

The international community has developed a position on the quality of judicial decisions. According to the Consultative Council of European Judges (hereinafter referred to as the CCJE), judges should take into account certain requirements when drafting a court decision, as defined by the general principles of judicial systems and practices of different countries. This allows to resolve the dispute by providing the parties with legal certainty and to develop judicial practice to ensure social harmony.

The CCJE has adopted Conclusion No. 11 (2008)³ on the quality of judgments, which is a key component of the quality of justice. A good quality judgement is a judgement that is delivered in a fair, speedy and understandable manner.

According to V. Skujeniec (2003), courts apply the law, administer justice in disputes that come before them, and perform three important

¹ On Education : Law of Ukraine dated September 5, 2017 No. 2145-VIII // Database (DB) “Legislation of Ukraine” / Verkhovna Rada (VR) of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/2145-19> (accessed: 30 August 2023).

² Code of Ukraine on Administrative Offenses : Law of Ukraine dated December 7, 1984 No. 8073-X // DB “Legislation of Ukraine” / VR of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/80731-10> (accessed: 30 August 2023).

³ Conclusion No. 11 (2008) of the Advisory Council of European Judges to the attention of the Committee of Ministers of the Council of Europe on the quality of judicial decisions. URL: https://court.gov.ua/userfiles/visn_11_2008.pdf (accessed: 30 August 2023).

functions in a democratic society. The first function is to provide clear answers to litigants about who is right and who is wrong and why. The second is to effectively communicate their arguments to decision-makers, who need to know how to change their decision to be consistent with the court's interpretation of the law. And the third function is to report their decisions effectively to the general public, so that a person who is going to file a lawsuit knows exactly what to expect from the court. The quality of judicial opinions is positively or negatively affected by how well the courts are able to fulfil these functions.

It should be stated that the modern national court practice is also guided by the factors of quality of court decisions identified by the CCJE. For example, the Resolution of the Grand Chamber of the Supreme Court (Case No. 261/0/15-18)¹ states that a high-quality court decision can prevent the emergence of other disputes, facilitate the understanding of the content of the decision, and guarantee the absence of arbitrariness.

According to R. Kuibida and O. Syroid (2013), a quality judicial decision should be fair, timely, motivated, clear, written in a clear language and accessible. The authors believe that justice as a ground for changing or cancelling a decision includes validity (a matter of fact) and legality (a matter of law). Although there are opinions that the justice of a court decision combines all legal requirements that a court decision must meet (comprehensive, legitimate, legal, reasonable, complete, enforceable, final, categorical, unconditional, fair, certain, etc.) (Khyzhniak, 2019). Timeliness of a court decision means its adoption within a reasonable time; precision means clarity, avoidance of ambiguous interpretation; clear language means absence of grammatical, spelling, punctuation and other language errors; accessible style means comprehensibility, clear and simple language of a court decision, although each judge chooses his or her own style.

In his study, V. Skujeniec (2003) outlines the difference between objective and subjective factors that influence the quality of a judgement. Objective factors are closely related to the judge's ability to hear cases and to present this process in a judgement. These include: legal training, legal experience, qualification requirements for judicial candidates, opportunities for practicing judges to

improve their skills, mechanisms for monitoring the work of judges, unrestricted public access to court decisions, and the role of legal science in analysing judicial decisions. Subjective factors, such as the judge's personality, salary, social guarantees, working conditions and ability to organise their work, may in some cases also affect the overall quality of a judge's work. A judge is also only human and wants to work in a well-organised environment, live in prosperity and social security. A subjective factor such as the corruption of a judge can have a particularly negative impact on the quality of a court decision. In such cases, serious doubts may arise as to whether the decision is based solely on the provisions of the applicable law, on what is right and fair, or whether it is in favour of one of the parties to the conflict or the agreed interests of both parties.

The summaries of the Supreme Court's case law focus on the following requirements for the quality of judicial decisions in cases of administrative offences: execution of the court decision in the sense of strict compliance by judges with the requirements for content and form established by law, compliance with the legislation on the language of court proceedings (Marchuk, Rudnyk, Shevchenko, 2013).

An analysis of the requirements contained in the CCJE Conclusion No. 11 (2008) on the quality of judgments² allows us to emphasise the following. Firstly, according to subparagraphs 11-13 of paragraph 1 "Legislation" of Section A "External environment: legislation and economic and social context" of Part I "Factors determining the quality of judicial decisions", judicial decisions are mainly based on laws that define the rights of participants in the judicial process, the procedure (procedure) for making judicial decisions. The quality of judicial decisions depends on frequent changes and imperfections in legislation.

In the context of the current legislation on bringing to administrative responsibility for bullying, it should be noted that the Code of Ukraine on Administrative Offences is amended from time to time, but this does not reflect the current state of legal regulation of public relations. The legal community constantly emphasises the need to systematically update the content of this regulatory act. Therefore, the CCJE recommends that national parliaments evaluate and monitor

¹ Resolution of the Grand Chamber of the Supreme Court dated November 28, 2019 : case No. 261/0/15-18, proceedings No. 11-557cap18 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/86435732> (accessed: 30 August 2023).

² Conclusion No. 11 (2008) of the Advisory Council of European Judges to the attention of the Committee of Ministers of the Council of Europe on the quality of judicial decisions. URL: https://court.gov.ua/userfiles/vism_11_2008.pdf (accessed: 30 August 2023).

the quality of the current legislation (it should be clear and easy to apply, accessible and understandable), which will contain transitional provisions that will enable judges to put them into effect and, accordingly, make quality court decisions.

It should also be noted that the current CUAO does not contain a provision according to which Ukrainian courts must make judicial decisions (rulings in cases of administrative offences) in the name of Ukraine on the basis of part 5 of Article 124 of the Constitution of Ukraine¹, the Law of Ukraine “On the Judicial System and Status of Judges”² (Marchuk, Rudnyk, Shevchenko, 2013).

Another disadvantage of the CUAO is that it does not contain requirements for the quality of a judicial decision – a ruling on a case of administrative offences. Unlike, for example, the Criminal Procedure Code of Ukraine³, which, according to part 1 of Article 370, requires legality (adopted by a competent judge), validity (adopted on the basis of objectively established circumstances), motivation (proper, sufficient grounds for adopting a judicial decision) (Derkach, 2013).

Secondly, according to paragraphs 15-19 “Actors in the judiciary and legal education” of Section A “External environment: legislation and economic and social context” of Part I “Factors determining the quality of judgments” of CCJE Conclusion No. 11 (2008), a quality judgment depends on the quality of professional (legal) education of the authorised bodies (police, prosecutors, lawyers, court clerks, jurors, etc.) involved in the case. The quality of the action and decision of each authorised body in this chain is important for the result – the adoption of a quality judgement. Therefore, the CCJE emphasises the quality of legal education of legal professionals.

With regard to Ukrainian judges and other professionals involved in court proceedings, it can be argued that police officers, for example, do not properly draw up reports on administrative of-

fences in bullying cases, which results in judges returning the materials on administrative offences for revision (Hryb, 2021). An administrative offence report is one of the sources of evidence in an administrative offence case, and therefore compliance with the rules for its preparation is mandatory. Article 256 “Content of the report on administrative offence” of the Code of Administrative Offences⁴ and the Instruction on the preparation of materials on administrative offences by the police⁵ regulate specific columns in the report on administrative offence that must be filled in. In practice, there are many cases when a court receives a report on an administrative offence with an empty column “date, time, place of commission and essence of the administrative offence”, with no information on: the systematic nature (recurrence) of the act; actions and consequences caused to the victim by the offender, while the offence for which liability is established by Art. 173-4 of the Code of Administrative Offences provides for the presence of the victim of the offence, the systematic factor and the form of action or inaction that led to specific consequences⁶.

Reports on administrative offences also sometimes contain general phrases about “committing acts of a psychological nature”, without specifying what actions of the perpetrator have been used to commit such violence⁷. Thus, the judge cannot conclude that the protocol on the administrative offence contains all the necessary information to be considered a proper and sufficient act of prosecution, which establishes all the necessary circumstances of the case. In accordance with the provisions of Article 62 of the Constitution of Ukraine⁸, the prosecution is based on

⁴ Code of Administrative Offences : Law of Ukraine dated December 7, 1984 No. 8073-X // DB “Legislation of Ukraine” / VR of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/80732-10> (accessed: 30 August 2023).

⁵ About the approval of the Instruction on the preparation of materials on administrative offences by the police : order of the Ministry of Internal Affairs of Ukraine dated November 6, 2015 No. 1376 // DB “Legislation of Ukraine” / VR of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/z1496-15> (accessed: 30 August 2023).

⁶ Resolution of the Sviatoshyn District Court of Kyiv dated June 12, 2023 : case No. 759/6787/23, proceedings No. 3/759/3450/23 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/111734562> (accessed: 30 August 2023).

⁷ Ibid.

⁸ The Constitution of Ukraine : Law of Ukraine dated June 28, 1996 No. 254к/96-BP // DB

¹ The Constitution of Ukraine : Law of Ukraine dated June 28, 1996 No. 254к/96-BP // DB “Legislation of Ukraine” / VR of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вп> (accessed: 30 August 2023).

² On the Judicial System and Status of Judges : Law of Ukraine dated July 7, 2010 No. 2453-VI // DB “Legislation of Ukraine” / VR of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/2453-17> (accessed: 30 August 2023).

³ The Criminal Procedural Code of Ukraine : Law of Ukraine dated April 13, 2012 No. 4651-VI // DB “Legislation of Ukraine” / VR of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/4651-17> (accessed: 30 August 2023).

proper and admissible evidence obtained by legal means, and all circumstances must be properly verified.

Thirdly, according to Section B “Internal Environment: Professionalism, Procedural Rules, Case Hearings and Judgments” of Part I “Factors Determining the Quality of Court Decisions” of the CCJE Conclusion No. 11 (2008), a quality judgment depends on the professionalism of the judge, court procedures, record keeping, etc.

For example, subparagraph 24 of paragraph 2 “Procedural rules and case management” of the CCJE Conclusion No. 11 (2008) contains provisions on the clarity, transparency, and compliance with the requirements of the European Convention on Human Rights¹ of the procedural rules on the basis of which a court decision is rendered.

Despite the outdated nature of the CUAO, an analysis of its provisions allows us to identify the components that make up the content of a judicial decision in cases of bullying, namely, decisions on administrative offences: Article 251 “Evidence” (report on an administrative offence, explanation, expert opinion, material evidence, readings of technical devices and technical means), Article 252 “Evaluation of Evidence” (the judge must evaluate the evidence according to his or her own conviction), Article 256 “Content of the Report on an Administrative Offence” (the judge must determine the fact of the offence), Article 280 “Circumstances to be clarified in the consideration of an administrative offence” (the judge must determine the fact of the offence). 256 “Content of the Protocol on Administrative Offence”, Art. 280 “Circumstances to be clarified in the course of consideration of the case on administrative offence” (it is necessary to clarify the fact of the offence, the guilt of the person in committing the offence, circumstances aggravating or mitigating administrative liability, etc.²

Fourthly, according to subparagraph 26 of paragraph 2 “Procedural rules and case management” of Part I “Factors determining the quality of judgments” of the CCJE Conclusion No. 11 (2008),

“Legislation of Ukraine” / VR of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вр> (accessed: 30 August 2023).

¹ European Convention on Human Rights dated November 4, 1950 // DB “Legislation of Ukraine” / VR of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/995_004 (accessed: 30 August 2023).

² Code of Administrative Offences : Law of Ukraine dated December 7, 1984 No. 8073-X // DB “Legislation of Ukraine” / VR of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/80732-10> (accessed: 30 August 2023).

a quality judgment is the observance of reasonable time limits for its adoption. It should also be borne in mind that the speed of judgement delivery is not the only requirement, but one of many others.

According to Part 2 of Article 38 of the Code of Administrative Offences³, if cases of administrative offences are under the jurisdiction of a court (judge), the term for imposing a penalty is three months from the date of the offence. An analysis of judicial decisions for three years (2019–2021) in cases of bullying in vocational education institutions shows different timeframes for consideration of these cases – from 5 to 270 days. For example, in case No. 661/1882/21, the proceedings lasted five days⁴, No. 310/9951/19 – 15 days⁵, No. 243/1542/19⁶ and No. 310/8342/19⁷ – 30 days, No. 346/1032/19⁸ and No. 752/3899/19⁹ – 45 days, No. 306/296/20 –

³ Ibid.

⁴ Resolution of the Nova Khakovka City Court of the Kherson Region dated May 11, 2021 : case No. 661/1882/21, proceedings No. 3/661/1185/21 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/96813604> (accessed: 30 August 2023).

⁵ Resolution of the Berdiansk City and District Court of the Zaporizhzhia Region dated February 7, 2020 : case No. 310/9951/19, proceedings No. 3/310/197/20 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/87433871> (accessed: 30 August 2023).

⁶ Ruling of the Sloviansk City District Court of the Donetsk Region dated March 1, 2019 : case No. 243/1542/19, proceedings No. 3/243/598/2019 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/80200770> (accessed: 30 August 2023).

⁷ Resolution of the Berdiansk City and District Court of the Zaporizhzhia Region dated November 1, 2019 : case No. 310/8342/19, proceeding No. 3/310/2443/19 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/85377345> (accessed: 30 August 2023).

⁸ Resolution of the Kolomyia City and District Court of the Ivano-Frankivsk Region dated March 7, 2019 : case No. 346/1032/19, proceedings No. 3/346/663/19 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/80454883> (accessed: 30 August 2023).

⁹ Resolution of the Hosiiv District Court of Kyiv dated April 18, 2019 : case No. 752/3899/19, proceeding No. 3/752/2387/19 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/81358679> (accessed: 30 August 2023).

80 days¹, No. 279/3446/20 – 169 days², No. 661/4189/21 – 270 days³.

Fifthly, subparagraphs 31–44 of paragraph 4 “Elements inextricably linked to the decision-making” of Part I “Factors determining the quality of judgments” of the CCJE Conclusion No. 11 (2008) state that a quality judgment is the result of correct application of the law, process and objective assessment of the facts. In this context, judicial decisions should be clear (clear, stated in plain language for understanding their content) and substantiated (contain the logic of the judge’s reasoning, responses to the parties’ arguments, examination of the facts and evidence, references to international law and national legislation).

An analysis of judicial decisions made in 2019–2021 in cases of bullying in vocational education institutions allows to draw the following conclusions regarding their clarity (comprehensibility) and validity.

Thus, it should be noted that most court decisions contain an exhaustive list of evidence in the case. For example, the evidence in case No. 346/1034/19⁴, in addition to the offender’s personal explanations, included other written evidence available in the case file, which confirmed his guilt.

In particular, these are the data contained in the report on administrative offence series ГР № 251437 dated 28 January 2019, the message from the director of the Otynia Professional Lyceum of Energy Technologies dated 25 January 2019, a copy of the protocol № 5 dated 24 Janu-

ary 2019, a copy of the extract from the minutes of the meeting of the pedagogical council of the lyceum No. 4 dated 30 January 2019, a written statement by PERSON_1 dated 28 January 2019, where he stated that on the night between 21 January 2019 and 22 January 2019, they collectively gathered in the dormitory to educate freshmen, namely to beat them with a belt. (the offender noted that three people took an active part together with him); a copy of PERSON_1’s passport; a copy of the statements of other participants dated 28 January 2019; a written explanation of PERSON_5; a copy of the written explanation of PERSON_6, PERSON_7, PERSON_8, PERSON_9. Having heard the explanations of the offender, the legal representative of the minor, the chief specialist of the Children’s Service PERSON_10, and having studied the case file, the court ruled that PERSON_1’s actions constituted an administrative offence under Part 2 of Article 173-4 of the Code of Administrative Offences, and his guilt was proved by the case file.

However, in cases No. 242/3697/19⁵, No. 306/296/20⁶, No. 597/119/21⁷, the evidence is only protocols on administrative offences; in case No. 369/2182/19⁸, where a university student sent threats to two minors (students) via the Internet, demanding a meeting, instead of the list of evidence examined, the wording “other case materials” is provided; in case No. 752/3899/19⁹, where a student of a higher vocational school committed psychological and physical violence, the court decision contains the wording “by the materials collected in the case”; in case No. 310/9951/19¹⁰, where a student of a vocational education

¹ Resolution of the Svaliavsk District Court of Zakarpattia Region dated March 6, 2020 : case No. 306/296/20, proceedings No. 3/306/131/20 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/88089773> (accessed: 30 August 2023).

² Resolution of the Korosten City and District Court of Zhytomyr Region dated December 8, 2020 : case No. 279/3446/20, proceedings No. 3/279/2977/20 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/93439298> (accessed: 30 August 2023).

³ Resolution of the Nova Kakhovka City Court of the Kherson Region dated October 5, 2021 : case No. 661/4189/21, proceedings No. 3/661/2265/21 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/100160305> (accessed: 30 August 2023).

⁴ Resolution of the Kolomyia City and District Court of the Ivano-Frankivsk Region dated March 7, 2019 : case No. 346/1034/19, proceeding No. 3/346/665/19 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/80454882> (accessed: 30 August 2023).

⁵ Resolution of the Selydiv City Court of the Donetsk Region dated June 26, 2021 : case No. 242/3697/19, proceedings No. 3/242/1236/19 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/82726467> (accessed: 30 August 2023).

⁶ Ibid.

⁷ Resolution of the Svaliavsk District Court of Zakarpattia Oblast dated March 6, 2020 : case No. 306/296/20, proceedings No. 3/306/131/20 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/88089773> (accessed: 30 August 2023).

⁸ Ibid.

⁹ Resolution of the Zalishchytsk District Court of the Ternopil Region dated February 9, 2021 : case No. 597/119/21, proceeding No. 3/597/44/2021 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/94852429> (accessed: 30 August 2023).

¹⁰ Resolution of the Kyiv-Sviatoshyn District Court of the Kyiv Region dated February 25, 2019 :

centre, while on the premises of the educational institution, insulted a teacher, behaved defiantly, which could have caused harm to the teacher's psychological health, the if to look at the content of the analysed court decisions through the prism of the requirements contained in Article 280 of the Code of Administrative Offences¹ "Circumstances to be clarified in the course of consideration of an administrative offence case", it can be stated that the courts comply with the requirement to clarify the fact of committing an administrative offence, the guilt of the person in committing it, and whether there are grounds for bringing to administrative responsibility. It should be noted here that this is evidenced by the provisions of court decisions, namely references to Articles 13, 24-1, 22, 38, 173-4², 247, 252 of the Code of Administrative Offences³, research and evaluation of evidence in cases (interrogation of juvenile offenders, victims of juvenile offences, other participants in the educational process), research of protocols on administrative offences, police reports, video from surveillance cameras, copies of an extract from the minutes of the meeting of the pedagogical council of a vocational education institution; sometimes there are references to Art. 62 of the Constitution of Ukraine⁴ regarding the absence of an obligation to prove one's innocence of an offence⁵; the provisions of paragraph 24 of the Resolution of the Plenum of the Supreme Court of Ukraine dated 23 December 2005 No. 14⁶ regarding the return of protocols on

case No. 369/2182/19, proceedings No. 3/369/1277/19 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/80256024> (accessed: 30 August 2023).

¹ Code of Administrative Offences : Law of Ukraine dated December 7, 1984 No. 8073-X // DB "Legislation of Ukraine" / VR of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/80732-10> (accessed: 30 August 2023).

² Ibid.

³ Ibid.

⁴ The Constitution of Ukraine : Law of Ukraine dated June 28, 1996 No. 254к/96-ВР // DB "Legislation of Ukraine" / VR of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вп> (accessed: 30 August 2023).

⁵ Resolution of the Zalizchysk District Court of the Ternopil Region dated February 9, 2021 : case No. 597/119/21, proceeding No. 3/597/44/2021 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/94852429> (accessed: 30 August 2023).

⁶ On the practice of applying legislation by the courts of Ukraine in cases of certain crimes against road traffic safety and the operation of transport, as

administrative offences drawn up by an unauthorised person or without complying with the requirements of Article 256 of the Code of Administrative Offences to the relevant law enforcement agency for proper execution⁷.

Some court decisions contain the following wording: "the circumstances mitigating the offender's responsibility", "the judge recognises the sincere repentance of the offender", "the judge did not establish the circumstances aggravating the offender's responsibility"⁸, "PERSON_1's guilt was fully proven, no circumstances mitigating or aggravating administrative responsibility were established, given the personality of the offender, as well as the insignificance of the offence committed, and the absence of property damage"⁹.

According to the requirements of Art. 283 "Content of the decision on an administrative offence" of the Code of Administrative Offences¹⁰, the decision must contain a number of components that do not always constitute their content. For example, consideration of the case in the ab-

well as administrative offenses in transport : Resolution of the Plenum of the Supreme Court of Ukraine dated December 23, 2005 No. 14 // DB "Legislation of Ukraine" / VR of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/v0014700-05> (accessed: 30 August 2023).

⁷ Resolution of the Svaliavsk District Court of Zakarpattia Oblast dated March 6, 2020 : case No. 306/296/20, proceedings No. 3/306/131/20 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/88089773> (accessed: 30 August 2023).

⁸ Resolution of the Svaliavsk District Court of Zakarpattia Oblast dated March 6, 2020 : case No. 306/296/20, proceedings No. 3/306/131/20 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/88089773> (accessed: 30 August 2023); Resolution of the Kolomyia City and District Court of the Ivano-Frankivsk Region dated March 7, 2019 : case No. 346/1034/19, proceeding No. 3/346/665/19 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/80454882> (accessed: 30 August 2023).

⁹ Resolution of the Sloviansk City District Court of the Donetsk Region dated March 1, 2019 : case No. 243/1542/19, proceedings No. 3/243/598/2019 // Unified State Register of Court Decisions. URL: <https://reyestr.court.gov.ua/Review/80200770> (accessed: 30 August 2023).

¹⁰ Code of Administrative Offences : Law of Ukraine dated December 7, 1984 No. 8073-X // DB "Legislation of Ukraine" / VR of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/80732-10> (accessed: 30 August 2023).

sence of the perpetrators of the administrative offence who failed to appear; improper notification of the place and time of the case; lack of explanations from the perpetrator, witnesses, and court reasoning; examination of the administrative offence report¹ as the only evidence in the case (Marchuk, Rudnyk, Shevchenko, 2013). It is a disappointing fact that the analysed judicial decisions do not use the judgments of the European Court of Human Rights, which are based on the provisions of the European Convention on Human Rights² and are a source of Ukrainian law in accordance with Article 17 of the Law of Ukraine “On the Execution of Judgments and Application of the Practice of the European Court of Human Rights”³ (Pavliukovets, 2020). Although, as Solotkyi (2018) notes, the judgments of the European Court of Human Rights do not always have a unanimous legal position, as the cases that come to the court contain provisions of national legislation from different legal systems.

CONCLUSIONS. In summary, the quality of a judicial decision depends on the judge and other legal professionals, the regulated process of considering court cases, the quality of legislation, the resources available to the justice system, and, of course, the quality of legal education of each legal professional.

A judicial decision will be of high quality if it is perceived by the parties to the dispute, scholars, practitioners and other members of society as the result of the correct application of applicable law, rules of legal technique, fair trial and legitimate assessment of evidence. This will help to convince the public that court cases are handled with fairness and impartiality, which is generally a factor in restoring social harmony.

That is why national legislation sets requirements for judicial decisions (content and form) that require constant research and improvement. Failure to comply with these requirements results in the cancellation of a court decision and its modification by a higher court.

The current legislation on administrative liability requires changes. In particular, there is an urgent need to systematically improve the provisions of the legislation on administrative offences.

An analysis of judicial decisions made by courts in the period from 2019 to 2021 in cases on bullying in vocational education institutions reveals cases of non-compliance with the requirements for the quality of judicial decisions – clarity, reasonableness, an exhaustive list of evidence in the case, clarification of the fact of bullying, establishment of guilt and other grounds for bringing to administrative responsibility, etc.

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ЯКІСТЬ СУДОВОГО РІШЕННЯ У СПРАВАХ ПРО БУЛІНГ У ЗАКЛАДАХ ПРОФЕСІЙНОЇ ОСВІТИ

Досліджено позиції науковців щодо розуміння поняття «якість судового рішення». Так, критеріями якісного судового рішення є правосудність, своєчасність, вмотивованість, чіткість, чиста мова та доступний стиль. Дослідники також розрізняють об'єктивні (юридична підготовка, юридичний досвід, кваліфікаційні вимоги до кандидатів у судді, можливість для практикуючих суддів підвищувати свою кваліфікацію, механізми контролю за роботою суддів, необмежений доступ громадськості до судових рішень, роль юридичної науки в аналізі судових рішень) та суб'єктивні (особистість судді, розмір заробітної плати, соціальні гарантії, умови праці та вміння організувати свою роботу) фактори, які впливають на якість судового рішення. В узагальненнях судової практики та аналітичній роботі з питань застосування законодавства Верховного Суду акцентується увага на таких вимогах до якості складання й оформлення судових рішень у справах про адміністративні правопорушення: оформлення судового рішення з неухильним дотриманням судом встановлених законом вимог до його форми й змісту, дотримання законодавства про мову судочинства.

Проаналізовано нормативно-правові акти щодо вироблення єдиного підходу до розуміння якості судових рішень. Розглянуто вимоги, що висувають до судового рішення для з'ясування його якості, у Висновку Консультативної ради європейських суддів № 11 (2008) щодо якості судових рішень, серед яких: зовнішнє середовище – законодавство та економічний і соціальний контекст (законодавство, ресурси, дійові особи в судовій системі та юридична освіта), внутрішнє середовище – професійність, процесуальні правила, розгляд справи та ухвалення рішення (професійність судді, процесуальні правила та управління справами, розгляд справи в судовому засіданні, елементи, нерозривно пов'язані з ухваленням рішення).

Розглянуто судові рішення у справах про булінг у закладах професійної освіти, ухвалені відповідно до положень Кодексу України про адміністративні правопорушення, щодо наявності або відсутності вимог якості судових рішень. Встановлено, що певна кількість судових рішень не мають складових якості судових рішень.

Наголошено на недоліках чинного законодавства про адміністративні правопорушення, зокрема застарілості норм Кодексу України про адміністративні правопорушення, відсутності статті, в якій було б передбачено ухвалення судами іменем України постанов у справах про адміністративні правопорушення, тощо.

Проведено аналіз судових рішень, ухвалених судами в період з 2019 по 2021 рр. у справах про адміністративні правопорушення, предметом розгляду яких є булінг учасників освітнього процесу в закладах професійної освіти, щодо їх чіткості (зрозумілості) та обґрунтованості. Акцентовано увагу на тому, що більшість судових рішень містять вичерпний перелік доказів у справі, суди дотримуються вимоги щодо зобов'язання з'ясувати, чи було вчинено адміністративне правопорушення, чи винна особа в його вчиненні, чи підлягає вона адміністративній відповідальності тощо.

Ключові слова: *якість судового рішення, вмотивованість судового рішення, неповнолітні, судова практика, булінг, професійна освіта.*

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