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I.V. BORODINA,

Ass. Professor, Chair of Judicial Organization and Prosecutorial Activities, Yaroslav Mudryi National Law University, Ph.D. in Law, Associate Professor, Kharkiv, Ukraine; e-mail: vostorg191103@gmail.com;

ORCID: <https://orcid.org/0000-0003-2655-635X>

THE IMAGE OF A JUDGE IN UKRAINE: PRECONDITIONS AND ESSENCE

I.B. БОРОДИНА,

доцентка кафедри судоустрою та прокурорської діяльності Національного юридичного університету імені Ярослава Мудрого, кандидатка юридичних наук, доцентка, м. Харків, Україна; e-mail: vostorg191103@gmail.com;

ORCID: <https://orcid.org/0000-0003-2655-635X>

ІМІДЖ СУДДІ В УКРАЇНІ: ПЕРЕДУМОВИ ТА СУТНІСТЬ

АНОТАЦІЇ (ABSTRACTS), КЛЮЧОВІ СЛОВА (KEY WORDS)

Problem statement. Having a person with his or her rights and freedoms as the highest social value, Ukrainian society needs to have a judicial authority able to have a strong positive image in society and the international arena. Our legal reality is the evidence of the low credibility and image of the judiciary in the country. It manifests itself in an increased level of public distrust in the judiciary and the lack of confidence of foreign and international judicial institutions in national judicial institutions. The **purpose** of the work is to study the formation of the image of a judge in Ukraine from the standpoint of the preconditions for its formation and to propose systemic measures to improve it through the prism of the essence of the judicial image. In this regard, the following research **methods** are used: qualitative analysis with the help of induction and deduction, analysis and synthesis to explore the essence of the judge image phenomenon; system analysis method to clarify the factors determining the real state of the judicial image and to establish means for its promotion; formal-logical method to substantiate the conclusions. **Results.** It has been established that the low image of a judge as a face of judicial power can cause a threat of several crisis phenomena in society and state. The formation of a judge's image should be seen as a systemic, constant, purposeful activity aimed at shaping public opinion about the judiciary and carried out with the help of various measures of promotion. The preconditions for the formation of the professional image of judges are the basis for the development of this phenomenon, the coincidence of circumstances or the current legal atmosphere. They are judicial policy, the level of legal culture, the economic well-being of the state population, the quality of relations between the judiciary and the media, the level of adequate organizational, technical and material support of the judiciary and judges, the quality of court personnel's job, even the Ukraine's inclusion in transnational cooperation, etc. **Conclusions.** Acquisition of a high professional image is one of the foundations of a democratic and legal state. The image of a judge as one of the main subjects of the formation of a high image of the judiciary as a whole is based on the constituent components and the prerequisites for its formation. Image is a multifaceted concept artificially projected by the actors interested. The changes in the image of a judge and the judiciary can occur both in the direction of addition (strengthening and increase) and in the direction of reduction (weakening and decrease). The growth of the subjects' positive image is desirable.

Key words: *the image of a judge; the judiciary; a judge, increase confidence in the judiciary*

Постановка проблеми. Українському суспільству, в якому людина, її права і свободи є найвищою соціальною цінністю, беззаперечно необхідна така судова влада, яка буде мати високий позитивний імідж у суспільстві та на міжнародній арені. Наразі наша правова реальність є свідченням низького авторитету та іміджу судової влади в країні, що проявляється підвищеним рівнем недовіри суспільства до органів судової влади, відсутністю довіри іноземних та міжнародних судових установ до національних судових інституцій та відсутністю довіри громадян. **Мета** роботи – дослідити становлення іміджу судді в Україні з позиції передумов його формування, запропонувати системні заходи його підвищення через призму сутності суддівського іміджу. У зв'язку із цим використовуються такі **методи** дослідження як якісний аналіз за допомогою індукції та дедукції, аналізу та синтезу для вивчення сутності такого явища як імідж судді; метод системного аналізу для з'ясування факторів, що обумовлюють реальний стан суддівського іміджу та для встановлення засобів його популяризації; формально-логічний – в обґрунтуванні висновків. **Результати.**

Встановлено, що низький імідж судді як обличчя судової влади може зумовлювати загрозу виникнення в суспільстві та державі низки кризових явищ. Формування суддівського іміджу необхідно розглядати як планомірну, постійну, цілеспрямовану діяльність, що має на меті становлення громадської думки щодо судової влади, здійснювану за допомогою різних заходів популяризації. Передумови формування професійного іміджу суддів є базисом для розвитку цього феномену, збігом обставин чи правовою атмосферою, що склалася. Ними є судова політика, рівень правової культури, економічний добробут населення держави, якість взаємовідносин судових органів з засобами масової інформації, рівень належного організаційно-технічного та матеріального забезпечення судових органів та суддів, якість роботи персоналу суду, навіть включення України до транснаціонального співробітництва, тощо. **Висновки.** Здобуття суддями високого професійного іміджу – одна із основ демократичної та правової держави. Імідж судді як одного з основних суб'єктів формування високого іміджу судової влади в цілому ґрунтується на власне суддівському іміджі, на його складових компонентах та на передумовах його становлення. Імідж – це багатогранне поняття; штучно спроектоване зацікавленими суб'єктами; зміна іміджу судді та судової влади в цілому може відбуватись як у сторону зміцнення (зростання, збільшення, росту), так і в сторону зниження (зменшення, послаблення). Зрозуміло, що бажаним є саме зростання позитивного іміджу суб'єктів.

Key words: імідж судді; судова влада; суддя; підвищення довіри до судової влади

Problem statement

Scholars traditionally consider issues and problems of judicial power. Meanwhile, new impulses in the development of judicial reform determine many lawyers' initiatives for its critical comprehension, scientific evaluation and formulation of proposals for the improvement of the relevant legal field. The ongoing judicial reform in Ukraine is aimed at creating the most perfect and efficient model of the judicial system that would comply with the world's standards of organization and functioning of courts and the needs of Ukrainian society.

It is believed that under such conditions the low image of the judiciary can threaten the emergence of many crisis phenomena in society and the state. Such phenomena are the destruction of the democratic principles of justice, ignoring the effectiveness of judicial protection of fundamental rights and freedoms of a man and a citizen, the refusal to attract foreign investment.

Questions on the analysis and research of problems of forming a high positive image of the judiciary in Ukraine are not inherently new. It is because the formation of the image of the judiciary has been taking place during the evolution of judicial law. However, terminologically, the application of the concept of "image" provides new approaches and new aspects to study. Moreover, time imposes new requirements on a positive image of a court. Therefore, today we can say that this topic is not fully developed, as there are no in-depth doctrinal studies of all aspects of the image of the judiciary. Among the scholars who have taken an interest in this question are M. Burbyk [1], O. Velychko [2], K. Harnyk [3], Yu. Hurtova [4], D. Prytyka [5], O. Shcherbaniuk [6], et al.

The purpose of the work is to study the formation of the image of a judge in Ukraine from the

standpoint of the preconditions for its formation and to propose systemic measures to improve it through the prism of the essence of the judicial image. The novelty of the study is that the author tried to explore the mechanism of image formation of judges in Ukraine as a planned purposeful activity aimed at forming public opinion about the judiciary, carried out through various promotional measures. It is proved that image is an artificial and dynamic phenomenon; the formation of a positive image and its improvement is a constant, continuous, thoughtful work of a number of actors. From these provisions follow the task of the article, which is to establish the components of the image of the judge and to explore the prerequisites for its formation, in which to show possible ways to improve or modernize.

The essence and significance of the image of the judge

We all understand that one of the foundations of a democratic and legal state is the acquisition of prestige and image by courts and judges. Furthermore, as Matti Maasikas, Head of the European Union Delegation, noted, judicial reform is not only an internal issue for Ukraine. Its successful implementation will directly determine the country's foreign policy image and the attraction of international aid and investments [7].

Different dictionaries give similar definitions for the term "image". In particular, according to the Free Explanatory Dictionary, "image" is 1) a public opinion and an idea about someone or something; reputation, picture; 2) the picture of a person (including his appearance and manner of behaviour) aimed at forming a public opinion or an idea about him or her [8]. In the Dictionary of Foreign Sociocultural Terms "image" is presented as a picture and view; purposefully formed picture of a person,

phenomenon, object, designed to increase the emotional and psychological influence on someone for popularization, advertising, propaganda, etc. [9].

Researchers note that "the image of a judge" can be considered as his internal and external picture formed in the consciousness of the public under the influence of internal and external factors. Hence, they distinguish several elements. These are visual image, professional image and authoritative image. It is noted that a positive professional image of a judge includes a set of professional qualities that any judge should possess a priori and reflects a certain level of his competence, as well as his personal moral and ethical qualities, that characterize the judge as a fair, impartial, competent employee [1].

Foreign scholars also study the image of judges using the idea of reputation. They note that judge's decisions and actions influence the gaining of ones reputation in different audiences. A judge with a good reputation has the respect of his or her friends and colleagues and may be able to advance to a higher court, have more exposure in media and have a more lasting legacy and perhaps even a memory of him or her in professional circles. A judge with a poor reputation among colleagues is less likely to have significant career successes [10, p.2]. Reputation is a measure of a lawyer's performance. Everyone can create it through a combination of talent, knowledge, competence and integrity [11, p.26].

A judge is one of the main subjects of the formation of a high image of the judiciary as a whole. Therefore, the image of a judge is considered to be based on existing legal (judicial) policy and the recognized priorities. It is aimed at forming a positive public opinion about the work of courts, further developing their openness and accessibility for citizens and media. According to Yu. Hurtova, "a positive representation or positive image of the judiciary is an indicator of the business and moral qualities of the people representing it. The image of a court is a kind of a picture, which is purposefully created through the perception of different social groups. It is necessary to take into account the peculiarities of the perception of different social groups, regional specifics, and national traditions, formed set of values and norms of behaviour. The more attractive and convincing is the image of judicial organization, the higher is its reputation and professional authority, as well as public confidence in it" [4]. O. Shcherbaniuk holds a similar opinion, out that "the image of the judiciary is its external expression, an indicator of business and moral

qualities of the people representing it" [6]. It is worth agreeing with the researchers.

The professional literature often contains the thesis that the image of any institution is not a matter of chance or convenience but rather the habit and lifestyle of the entire team. The judiciary is no exception. We are convinced that raising and maintaining a proper image of the court is a systematic purposeful activity of a certain range of actors. Through a wide range of means and practices, they should contribute to the formation of a positive impression of the judiciary as a whole. Thus, every employee of a court (as a public institution and as a public authority) is an important component for the shaping of the public impression of the court. At the same time, we must understand that the circle of actors "responsible" for the formation of the image of the judiciary is not limited exclusively to judges who, undoubtedly, are the key players in this area.

It means that we consider image formation as a systematic, purposeful activity aimed at the formation of public opinion about the judiciary and carried out with the help of various measures of popularization. In this case, we are talking about an artificial image formed in the public or individual consciousness by media, judges themselves, bodies of the judicial community, human rights organizations, certain citizens, etc. Therefore, the image of a court and a judge is created by PR, propaganda, advertising, commentaries, social networks pages style, etc. Hence, it can combine both real properties of this state-legal phenomenon and non-existent, fictitious ones. Thus, image is a multifaceted concept artificially projected by the actors interested. Moreover, the changes in the image of a judge and the judiciary can occur both in the direction of addition (strengthening and increase) and in the direction of reduction (weakening and decrease). Obviously, the growth of the subjects' positive image is desirable.

The professional literature also contains the opinion on the importance of the continuous introduction of actions aimed at increasing the authority of the judiciary. For instance, Yu. Hurtova notes: "if purposeful work to strengthen the image of the judiciary is not carried out, the authority weakens... Public sympathy depends on the activity of representatives of the judiciary to promote their goals and objectives" [4]. We fully agree with this logical conclusion. In times of permanent reform of the judiciary, the unstable economic and political situation in the country, maintenance of a positive image (not to mention its strengthening) can be

achieved only when based on activity, consistency and virtue. The everyday behaviour of a judge is the foundation for society's formation of its perception of the judicial system as a whole.

Professional image of a judge: three components

The formation of the professional image of a judge can be considered in three aspects. Firstly, what the image of the judge oneself is. Secondly, what elements form it? Thirdly, what prerequisites for the formation of a judge's professional image exist? At the same time, they are closely intertwined and complement each other. However, observance or non-observance of them influence the result.

As regards the image of a judge oneself, it should consist of several elements. One of them is the appearance of a judge (manner of communication, facial expressions, clothing style. The next one is the mastery of the art of oral and written speech (clear expression of thoughts). The following is knowledge of the law. The one we should also consider is moral integrity. The final one is compliance with the rules of business etiquette and ethics of the judge.

As regards elements forming the image of a judge, we can say that many factors influence the actual (real) image of a judge. To begin with, it is the legislation constituting the legal basis of the legal status of judges and guiding their judicial activity. Moreover, it is the attitude towards participants in a judicial process. Next, it is a personal attitude of a judge towards the issue of his or her image. Furthermore, it is the desire and ability to make fair judicial decisions. The importance of this element cannot be overestimated, as the content of the judicial decision may be used to assess the qualification of a judge. Finally, it is the recognition of a judge in certain areas of the court jurisdiction. In particular, a judge has to constantly improve his or her qualifications and engage in self-education, which includes an in-depth study of the regulatory framework, scientific literature and judicial practice. In addition, a judge should take part in scientific conferences, seminars, round tables and even have scientific publications on legal topics.

The judge's ability to use the latest telecommunications capabilities available is of no lesser importance. This refers to advanced technologies, such as the electronic justice system, the system of automatic distribution of cases, video recording of court proceedings, videoconferencing, etc.

Moral integrity and compliance with the norms of ethics of judges is also certainly very important, since "one of the main guarantees of ensuring the

implementation of legitimate, fair, impartial and effective judicial proceedings in Ukraine is the proper performance by judges of their duties, observance of labour discipline. The disciplinary responsibility of the judicial corps in Ukraine is designed to ensure that the conduct of the bearers of justice meets the requirements of the current legislation. Nevertheless, it is crucial for the institute of disciplinary responsibility in the judicial system of our state to be clearly and effectively regulated at the legislative level. Otherwise, the competence of authorized subjects of application measures of disciplinary impact on judges may turn into instruments of pressure on the representatives of the judiciary in Ukraine" [1].

Prerequisites for the formation of the professional image of the judge

As regards the preconditions for the formation of the professional image of a judge, they are the basis for the development of this phenomenon, the coincidence of circumstances or the current legal atmosphere. In contrast to causes, it is generally accepted that preconditions are something non-obvious, yet possible and important. By considering them at a particular time in a particular legal space, we can try to determine what has provoked a given (certain, definite) state of affairs. As A.V. Kostruba rightly points out, "legal relations are not a frozen element of the legal system but its dynamic part. They develop along with public relations subject to legal regulation. Such relations include all the variants, forms and social manifestations of such legal regulation. The dynamics of legal relations consists of their emergence, change and termination, which are often distant from each other in time and space. At the same time, the emergence, change and termination of legal relations should be considered as stages of a single process of development of legal relations, not as certain isolated stages" [12]. Preconditions can be philosophical, historical, cultural, social, real, political, economic, etc. Hence, the preconditions for the formation of the image of a judge may be judicial policy, level of legal culture, the economic well-being of the state population, quality of relations between the judiciary and the media, level of adequate organizational, technical and material support of the judiciary and judges, quality of court personnel's job, even the Ukraine's inclusion in transnational cooperation, etc.

As regards judicial policy, it is necessary to note the following. Judicial policy as a whole is a kind of a consequence of the observance of the principles of mutual respect and cooperation of the branches of government and public authorities. The place of

the judiciary and its relations with the other branches of government in modern democracies is mentioned in Opinion No. 18 of the Consultative Council of European Judges [13]. It states that unbalanced critical commentaries provided by politicians are irresponsible. It causes a serious problem, as it may unwittingly or deliberately undermine public confidence and trust in the justice system. In such cases, the judiciary should point out that this conduct is an attack on the constitution of a democratic state and the legal position of other branches of government.

As regards the level of the legal culture, its improvement should be one of the priorities of the image of a judge. After all, as noted in the legal literature, legal culture is an evolving system of the legal values (legal consciousness, legal science, legislation, legal order, legal activities) created in the course of the development of a society. Such values absorb the advanced achievements of the legal culture of humankind. This is a qualitative state of an individual, a society and a legal system. Legal culture includes processes and phenomena reflecting the essence of the Ukrainian legal state and civil society, its basic bases and principles.

In the period of information transformation and global informatization, the strengthening of the image of the judiciary and judges increasingly begins to depend on the media, "their commitment". Coverage of judges' work should be oriented toward the interests of society and the public. Moreover, it should ensure that a population is adequately informed and educated. Obviously, critical publications and remarks about the judge in media (in print, on television, on the Internet), complaints of citizens both to media and to disciplinary bodies or bodies of the pre-trial investigation will supposedly have negative consequences for the image of the judge. For example, in Ukraine, there is the DEJURE Foundation, which implements a special project "HONOUR and NOT.HONOUR of the week".¹

To ensure proper communication with the media and avoid a biased negative approach to the coverage of judicial proceedings in the periodical press, all courts should establish press services or introduce positions of press secretaries. They are to provide quality information on the results of the most relevant criminal, civil and other cases. We

believe that, in this direction, it is crucial to give importance to judges-speakers.

The image of a court and the image of a judge are interrelated state-legal phenomena. Therefore, it is not surprising that components of the image of the court influence the formation of the decent image of the judge. In particular, such components are its proper organizational, technical and material support, timely provision of buildings with the necessary requirements, informatization and computerization of court institutions, creation of information kiosks and terminals, etc. A judge must hold sessions in an official environment in specially equipped halls with symbols of state power. Furthermore, free access to courtrooms must be provided to all interested persons, including representatives of the media. Finally, copies of all court decisions should be printed and issued on time, etc.

Conclusions

Surely, the named elements and prerequisites are not an exhaustive list of factors influencing a judge's image. Moreover, we can only consider an image as the dynamic status or a variable public perception of a particular bearer of judicial power. Thus, it is subject to correction through painstaking, constant, hard work. In addition, this is not just a judge's job.

All of the above measures should contribute to a qualitative improvement of the level of judicial protection of the rights and freedoms of citizens and legal persons and the formation of a positive professional image of a judge in Ukraine in general. In addition, the formation of a high image of the judicial system and an increase in its popularity among the population are possible under certain circumstances. First, the activities of the judiciary should be clear to people. Next, they should meet the needs of both the whole society and the interests of every citizen. Finally, such activities should be constantly maintained, because an image can change in time and space under the influence of various factors as it is a changeable and dynamic phenomenon.

Conflict of interest

None to declare.

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¹ DEJURE Foundation – Ukrainian analytical and advocacy centre established in 2016 to develop the rule of law and implement justice reforms in Ukraine. Official website – <https://dejure.foundation/>

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