

Supreme Court practice in 2025 on challenges to High Council of Justice decisions on the disciplinary liability of judges

Analytical report · run_id 20260606-1722-task8-vrp-discipline-exec · 2026-06-06. **Jurisdiction / instance:** Grand Chamber of the Supreme Court (the court that hears challenges to HCJ decisions on the disciplinary liability of judges; Law "On the High Council of Justice", arts. 52, 57; Code of Administrative Procedure of Ukraine, art. 266). **Method:** content-scan of the public Unified State Register of Court Decisions (GCS) with a reproducible norm signature → LLM screening on the merits + feature extraction (gpt-5.4-mini, verbatim-quote verification) → deterministic aggregation. Full reproducibility — in the appendix.

Reliability boundary (read first). A narrow niche: **42 acts / 25 cases** for 2025. All percentages carry wide 95% confidence intervals (Wilson) and are **indicative**. Outcomes were extracted from the operative part with **90% verbatim verification** and **100% internal consistency** (claim outcome ↔ effect on the HCJ decision). Standard-of-control / grounds features are LLM-classified (spot-checked, without a full manual audit). Selection signature v0.1 (recall-first); a possible under-count (see §12).

1. Short statistical table

Corpus: from 1,805 Grand Chamber rulings on the merits for 2025, the signature isolated **131 candidates** (challenges to HCJ/HQCJ acts); LLM screening on the merits left **42 acts** concerning specifically the **disciplinary liability of judges** (89% filtered out as non-disciplinary — challenges to HQCJ qualification assessments, dismissals on other grounds, HCJ staff labour disputes, etc.). Dedup act→case: **25 cases**.

Indicator	Act level (n=42)	Case level (n=25)
Complaint granted (HCJ decision quashed)	18 — 42.9% [29.1–57.8%]	11 — 44.0% [26.7–62.9%]
Complaint denied (HCJ decision upheld)	24 — 57.1% [42.2–70.9%]	14 — 56.0% [37.1–73.3%]
Partial satisfaction	0	0
Changed	0	0
Remitted for new consideration	0	0

Key fact: practice is **binary** — the Grand Chamber either fully quashes the HCJ decision ("declare unlawful and quash") or fully denies the claim. There were no intermediate outcomes (change, partial satisfaction, remittal) in the 2025 sample — a consequence of the model "the Grand Chamber as the court hearing a claim against the HCJ", rather than a classic appeal/cassation with remittal.

Quashing rate ≈43% — a **high** level of judicial annulment: Grand Chamber review is not a formal "rubber stamp"; the court genuinely intervenes in nearly half the cases.

2. Main categories of cases and grounds of challenge

Type of contested disciplinary sanction (across 42 acts; multi-source): submission for dismissal — 9, warning — 5, reprimand — 3, dismissal — 1, other/mixed — 14, not specified — 10. → **Severe sanctions** (submissions for dismissal) dominate, which explains the intensity of challenges.

Grounds for challenging HCJ decisions (multi-label, share of 42 acts):

Ground	Share of acts
Insufficient / defective reasoning of the HCJ decision	54.8%
Incorrect assessment of evidence	47.6%
Incorrect qualification of the disciplinary offence	47.6%
Violation of the procedure of disciplinary proceedings	42.9%
Breach of time limits (limitation)	26.2%
Violation of the right to defence	23.8%
Bias / partiality of the body	14.3%
Disproportionality of the sanction	11.9%
Other	23.8%

Conclusion: applicants attack primarily **reasoning, the evidentiary basis and qualification** — i.e. the substantive quality of the HCJ decision, not merely formal procedure.

3. Grounds on which the Supreme Court grants / denies (standard of control)

Court conduct feature	Share of 42 acts	95% CI
Court intervenes in the HCJ's assessment (re-evaluates)	45.2%	[31.2–60.1%]
Court shows restraint , leaves HCJ discretion	57.1%	[42.2–70.9%]
Court checks proportionality of the sanction	42.9%	[29.1–57.8%]
Court checks the reasoning of the HCJ decision	57.1%	[42.2–70.9%]

How the SC qualifies a violation (n=42): **material** — 16, formal / insufficient to quash — 7, not qualified directly — 19.

ECtHR references (the SC's own citations, frequency): *Oleksandr Volkov v. Ukraine* — ≈14–15 (dominant anchor), *Albert and Le Compte v. Belgium* — 11, *Tsfayo v. the United Kingdom* — 11, *Bryan v. the United Kingdom* — 11, *Kraska v. Switzerland* — 10, *Ramos Nunes de Carvalho e Sá v. Portugal* — 2. → The Grand Chamber systematically relies on the ECtHR line on the "**full jurisdiction**" of judicial review (Tsfayo / Bryan / Albert and Le Compte) and on the independence of the disciplinary body (Volkov).

On the merits: the SC treats primarily defects of reasoning and qualification — plus procedural violations that affected the outcome — as **material**; as **formal** (insufficient to quash) it treats procedural deviations that did not touch the right to defence and the result.

4. Key problems of application

1. **No single articulated standard of judicial control.** The court simultaneously "intervenes" (45%) and "shows restraint" (57%) — these modes coexist without an explicit test of when each applies. With an almost even split of outcomes (43/57) this creates a **zone of unpredictability**.
2. **Proportionality is checked inconsistently** — in only ≈43% of acts, although most concern severe sanctions (dismissal). In most cases proportionality is **not assessed separately**.
3. **Reasoning — the central and unstable criterion.** It is both the main ground of complaint (55%) and the main subject of the court's review (57%). There is no single standard of "sufficient reasoning" of an HCJ decision → different requirements in similar cases.
4. **The "legality vs. re-assessment on the merits" boundary is blurred** — in 45% of cases the dispute concerns evidence, and in 45% the SC re-evaluates the HCJ's assessment, effectively entering a factual re-assessment of the disciplinary case, which conceptually conflicts with HCJ discretion.
5. **"Materiality" of a violation is applied unevenly** (material 16 / formal 7 / not qualified 19) — the same type of procedural violation may receive a different legal assessment.

5. Problems of legal regulation

- **Law "On the High Council of Justice" (1798-VIII), arts. 49–53, 57** (hearing a disciplinary case; the decision in a disciplinary case; review of Disciplinary Chamber decisions; art. 57: **requirements for the reasoning** of Disciplinary Chamber / HCJ decisions are **not formalised**) → fertile ground for the "insufficient reasoning" ground (55%).
- **Code of Administrative Procedure, art. 266:** defines a special procedure for challenging HCJ acts, but **does not set a standard / depth of judicial control** (full jurisdiction vs. legality review) → the SC has to construct it itself through ECtHR case law.
- **Law "On the Judiciary and the Status of Judges", arts. 106–109 (2025 ed.): evaluative elements** of the disciplinary offence (art. 106) and the **absence of clear proportionality criteria** (art. 109) (12%).
- **Concepts requiring clarification:** "material procedural violation", "manifest disproportionality of the sanction", "limits of judicial control over HCJ decisions", "reasoning of an HCJ decision", limitation periods (a gap already noted in *Volkov v. Ukraine*).

6. Proposals for the Supreme Court / judicial interpretation

1. **A single structured test of judicial control** (to be fixed in a Grand Chamber ruling, building on *Volkov* + the *Tsfayo / Bryan / Albert and Le Compte* line on full jurisdiction). Four sequential elements with calibrated depth: (1) legality and **materiality of the procedural violation**; (2) **sufficiency of the HCJ's reasoning**; (3) correctness of **qualification** of the offence; (4) **proportionality** of the sanction.
2. **Criterion of materiality of a procedural violation:** a violation is material if it (a) affected or could affect the outcome and (b) touched the judge's right to defence / adversarial process. Otherwise — formal.
3. **The proportionality test — a mandatory element** for severe sanctions (dismissal / submission for dismissal): gravity of the offence ↔ severity of the sanction ↔ Art. 8 ECHR (*Denisov*).
4. **Limits of intervention:** review of legality and reasoning — yes; independent re-assessment of evidence — only for arbitrariness / manifest unfoundedness (not on mere disagreement with HCJ

discretion).

5. **Structure of the Grand Chamber's own reasoning** in such cases: fixed rubrics (procedure → reasoning → qualification → proportionality → conclusion) — reduces unpredictability.

7. Proposals for the legislator

1. **Law "On the HCJ"**: expressly fix **requirements for the reasoning** of Disciplinary Chamber and HCJ decisions (structure, an obligation to answer key arguments) — this removes the main source of disputes (55%).
2. **Limitation periods** of disciplinary proceedings — to be regulated by law (a systemic gap noted by the ECtHR in *Volkov*; the "time-limit" ground — 26%).
3. **Criteria of proportionality** of a disciplinary sanction — fix in art. 109 of the Law "On the Judiciary..." (a list of factors: gravity, form of fault, consequences, conduct, repetition).
4. **CAP art. 266** — clarify the standard of judicial control over HCJ decisions (scope of full jurisdiction vs. legality review), so it is not reconstructed each time through case law.
5. **Delimit the competence** of the HCJ and the Grand Chamber: may the court itself re-qualify the offence / impose a different sanction, or must it remit to the HCJ (at present there is no remittal — the court only quashes or denies).

8. Short summary on the predictability of practice

- **Outcome-stability — moderately high.** A clear binary model (quash / deny), 100% internal consistency of the result, ≈43% quashing — this is **not formal but real control**, and its result is structurally predictable.
- **Standard-stability — low.** There is no single articulated test; proportionality is checked only in ≈43%; "materiality" of violations and reasoning requirements are applied unevenly; the "legality vs. re-assessment" boundary is blurred. Similar circumstances can produce different results.
- **Main problems by frequency:** (1) **reasoning** (quality of reasoning of HCJ and court decisions), (2) **qualification** (evaluative elements of the offence), (3) **procedural** (no single materiality criterion), amid an **underdeveloped proportionality review**.
- **What to improve first:** judicial interpretation (a single control test — the fastest lever, directly within the Grand Chamber's competence) → then HCJ practice (quality of reasoning) → then legislation (reasoning, limitation periods, proportionality criteria).

Limitations of the study

- **Small N** (42 acts / 25 cases) → wide CIs; all percentages are indicative.
- **Feature extraction — LLM** (gpt-5.4-mini): outcomes verbatim-verified at 90% and consistent at 100%; nuance features (standard of control, grounds) spot-checked, without a full manual audit. Verbatim verification of relevance-quotes — 55% (weaker; does not affect the headline statistics but lowers confidence in some nuance labels).
- **Recall signature vo.1** (recall-first): the target corpus is localised to the Grand Chamber; a possible under-count of acts outside the Grand Chamber or with atypical wording. CAP/HCJ norms verified (pilot 0/220).

- **Norms** cited by numbers and official article headings (rada.gov.ua — JS-render); full-text loading into the DB for evidence_refs is a future step.

Evidence matrix & reproducibility (appendix)

- **Signature:** config/norm_signature_vrp_discipline.json (v0.1.0).
- **Corpus:** corpus/candidates.jsonl (131), corpus/candidates_text.jsonl, corpus/p1_summary.json (C=131; 1,805 Grand Chamber rulings scanned, 0 read errors).
- **Extraction:** extraction/extracted_v2.jsonl (42 target), extraction/statistics.{json,md}, extraction/echr_grounding.md.
- **Scripts:** mongo/p1_build_corpus.py, llm/p2p3_extract_v2.py, extraction/p3b_aggregate.py, mongo/p1b_write_labels.py.
- **Billing:** billing/llm_call_log.csv (this run $\approx$ \$3.4: v1 \$1.25 + v2 \$2.18; project cumulative $\approx$ \$33.5/50).
- **MongoDB:** idempotent label topic_labels.task8_vrp_discipline on 131 acts (is_target_disciplinary, claim_outcome, vrp_act_effect, workflow_id, version_hash).
- **ECtHR sources:** EIN / EHRAC / HUDOC (see echr_grounding.md).

This English report is an adaptation of the Ukrainian original; figures, citations and conclusions are preserved.