

Етичні стандарти правничої діяльності у сфері підприємництва: науково-практичний аспект

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Опубліковано	Секція	УДК
30.01.2026	Право	174:346

DOI: <https://doi.org/10.5281/zenodo.20416725>

Анотація. Метою дослідження являється комплексне розкриття змісту, функціонального значення та практичних проявів етичного імперативу правничої діяльності у сфері підприємництва й господарювання з акцентом на його роль у забезпеченні законності, добросовісності, справедливості та відповідальності у господарських правовідносинах. Об'єктом дослідження являються суспільні відносини, що виникають у процесі здійснення правничої діяльності у сфері підприємництва та господарювання, а також морально-правові засади професійної поведінки правника у внутрішньому і зовнішньому господарському середовищі. В рамках нашого дослідження розкрито сутність етичного імперативу правничої діяльності у сфері підприємництва та господарювання як визначальної ціннісної і професійної засади, що формує належні межі реалізації юридичної компетентності в економічній сфері. Обґрунтовано, що правнича діяльність у господарських відносинах не може зводитися лише до формального застосування правових норм, оскільки її зміст значною мірою визначається принципами добросовісності, справедливості, незалежності професійного судження, конфіденційності, лояльності до клієнта в межах закону та недопущення конфлікту інтересів. Встановлено, що етичний імператив виконує подвійну функцію, адже, з одного боку, забезпечує належний рівень професійної поведінки правника під час консультивання, договірному супроводу, корпоративної роботи та вирішення господарських спорів, а разом із цим, з іншого боку, сприяє зміцненню загального правопорядку, підвищенню рівня довіри між учасниками ринку, зниженню ризику зловживання правом і формуванню культури відповідального господарювання. Особливу увагу зосереджено на типових етичних викликах, які виникають у практиці правового супроводу підприємництва, зокрема при підготовці договорів із дисбалансом інтересів сторін, участі у сумнівних корпоративних рішеннях, приховуванні правових ризиків, зловживанні процесуальними інструментами та спробах використати право як механізм зовнішньої легітимації недобросовісної поведінки. Доведено, що дотримання етичного імперативу правником має стратегічне значення не лише для окремого клієнта чи суб'єкта господарювання, а й для стабільності економічного середовища загалом, оскільки саме через поєднання

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юридичної правильності та моральної відповідальності забезпечуються передбачуваність господарських зв'язків, збереження ділової репутації, зменшення конфліктності та формування підґрунтя для сталого розвитку підприємницької діяльності.

Ключові слова: етичний імператив, правнича діяльність, підприємництво, господарювання, професійна етика правника, господарські правовідносини, добросовісність, справедливість, конфлікт інтересів, юридичний супровід бізнесу

Ethical standards of legal activity in the field of entrepreneurship: scientific and practical aspect

Abstract. The purpose of the study is a comprehensive disclosure of the content, functional significance and practical manifestations of the ethical imperative of legal activity in the sphere of entrepreneurship and management with an emphasis on its role in ensuring legality, good faith, justice and responsibility in economic legal relations. The object of the study is social relations that arise in the process of carrying out legal activity in the sphere of entrepreneurship and management, as well as the moral and legal principles of professional behavior of a lawyer in the internal and external economic environment. Within the framework of our study, the essence of the ethical imperative of legal activity in the sphere of entrepreneurship and management as a determining value and professional basis that forms the appropriate boundaries of the implementation of legal competence in the economic sphere is revealed. It is substantiated that legal activity in economic relations cannot be reduced only to the formal application of legal norms, since its content is largely determined by the principles of good faith, fairness, independence of professional judgment, confidentiality, loyalty to the client within the limits of the law and prevention of conflict of interest. It is established that the ethical imperative performs a dual function, because, on the one hand, it ensures the proper level of professional behavior of a lawyer during consulting, contractual support, corporate work and resolving economic disputes, and at the same time, on the other hand, it contributes to strengthening the general rule of law, increasing the level of trust between market participants, reducing the risk of abuse of law and forming a culture of responsible management. Particular attention is paid to typical ethical challenges that arise in the practice of legal support for entrepreneurship, in particular when preparing contracts with an imbalance of interests of the parties, participation in dubious corporate decisions, concealment of legal risks, abuse of procedural instruments and attempts to use law as a mechanism for external legitimization of unscrupulous behavior. It is proven that compliance with the ethical imperative by a lawyer is of strategic importance not only for an individual client or business entity, but also for the stability of the economic environment as a whole, since it is through the combination of legal correctness and moral responsibility that predictability of economic relations, preservation of business reputation, reduction of conflicts and formation of a basis for sustainable development of entrepreneurial activity are ensured.

Keywords: ethical imperative, legal activity, entrepreneurship, management, professional ethics of a lawyer, economic legal relations, good faith, justice, conflict of interest, legal support of business

Introduction

The relevance of the problem. Today, the problem of the ethical imperative of legal activity in the field of entrepreneurship and management appears especially clearly in conditions when economic processes are often complicated by increased competition, increased contractual risks, changes in regulatory approaches of state authorities and

increased public sensitivity to issues of justice, good faith and business responsibility. Under such conditions, a lawyer is no longer just a technical executor of legal norms, who formally accompanies the conclusion of contracts, corporate changes or the settlement of disputes. His professional position reflects a much broader direction of influence on the quality of economic relations, on the level of trust between market entities, on the formation of the basis of the legal culture of the business environment and on the establishment of the principle that economic efficiency cannot be achieved through abuse of law, concealment of essential information, manipulation of the terms of transactions or use of legal loopholes contrary to the principles of honesty.

Analysis of recent research and publications. In the scientific and practical discourse, the issue of the ethical imperative of legal activity is considered through the prism of the professional responsibility of a lawyer, his integrity, deontological principles, moral and ethical culture and the role of ethical behavior in ensuring the stability of law and order in conditions of social and economic transformations [1-11]. For example, Yu. Sushitska, I. Svitlyshyna, N. Voytovych [1] emphasize the importance of the ethical behavior of a lawyer for the restoration of a business that has suffered losses due to a full-scale invasion. The value of this work for our study is that in it the ethical issue is directly related to the functioning of the business environment, to the need for legal support of business entities in conditions of crisis and to the restoration of economic activity. S. Kompaneitsev [2] notes that professional duty is a structural element of the deontological principles of a lawyer's activity, and it is this approach that has significant methodological significance for the study of the ethical imperative of legal activity in the field of entrepreneurship. T. Pertsova [3] draws attention to the ethical behavior of lawyers using the example of lawyers, and such a research position is important in view of the personalized analysis of a lawyer's professional behavior. The example of legal activity makes it clear that ethical standards are not limited to abstract principles, but are manifested in specific professional decisions, in communication with a client, in the choice of methods of protection, in the attitude towards the court, opponents and other participants in legal relations. At the same time, O. Pysmenna [4] emphasizes the moral and ethical component of a lawyer's professional culture, and it is this work that makes it possible to more broadly comprehend the ethical imperative as an element not only of professional behavior, but also of a lawyer's holistic culture. This approach is especially productive for the topic of management, since the legal culture in the business environment is reflected in the quality of legal advice, in the style of building contractual models, in the attitude to legal risks, in respect for the principles of fair competition and in the refusal to provide legal support to dubious schemes. Y. Voloshyna [5] notes that integrity in the professional activities of a lawyer is one of the key characteristics of the proper performance of his functions.

The purpose of the study is a comprehensive disclosure of the content, functional significance and practical manifestations of the ethical imperative of legal activity in the field of entrepreneurship and management with an emphasis on its role in ensuring legality, good faith, justice and responsibility in economic legal relations. The object of the study is social relations that arise in the process of carrying out legal activity in the field of entrepreneurship and management, as well as the moral and legal principles of professional behavior of a lawyer in the internal and external economic environment.

Results

The ethical imperative of legal activity in the field of entrepreneurship is a set of mandatory moral and legal guidelines that determine the proper professional behavior of a lawyer when supporting the economic activities of market entities. Its content is not limited to formal knowledge of the law or technical skills to draw up contracts, represent the interests of a client in court or prepare legal opinions. A much deeper meaning is that a lawyer in the

economic sphere must act not only legally, but also in good faith, fairly, prudently, not allowing the use of law as an instrument of hidden pressure, manipulation, unfair competition or circumvention of socially significant restrictions. Under such conditions, the ethical imperative becomes an internal professional duty that gives direction to all legal work, starting from initial consultation and ending with participation in complex corporate or contractual conflicts. In the field of business, a lawyer is often in a situation where the client expects not just a legal decision, but the most profitable result at any cost. This is where the true role of ethics is revealed, as it limits the temptation to substitute legal assistance for serving dubious economic interests (Table 1).

Table 1

Essential characteristics of the ethical imperative of legal activity in the sphere of entrepreneurship

Component	Characteristic
Moral and professional basis	The ethical imperative means that a lawyer evaluates his or her actions not only from the standpoint of formal legality, but also from the standpoint of conscience, honesty, good faith and respect for the rights of other participants in economic relations. In this understanding, law does not appear as a neutral instrument that can be used in any way, but as a normative and value-based system that requires responsible application
Boundaries of protecting the client's interests	A lawyer is obliged to defend the client's interests actively and professionally. However, the boundary of such protection lies where abuse of law, intentional misleading, concealment of essential facts, creation of artificial schemes to avoid obligations or causing harm to other market participants begins
Internal professional duty	The ethical imperative cannot rely only on external control or fear of sanctions. It must be an internally accepted professional standard, when a lawyer independently refuses actions that contradict justice and professional honour, even if they are not formally prohibited
Social role of the lawyer	In the sphere of entrepreneurship, a lawyer influences not only one transaction or one conflict. In fact, he or she participates in the formation of a model of market behaviour, in which standards of fair competition, transparent governance and responsible fulfilment of obligations are established

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First of all, it is about good faith, which means the rejection of hidden intentions, the prevention of manipulation of legal forms and honest information of the client about the real risks of the chosen model of behavior. The next principle is the independence of professional judgment, because a lawyer should not become a hostage to the will of the business owner, management or temporary economic benefit, if such benefit is achieved through violation of the law or morally unacceptable practices. No less important are confidentiality, loyalty to the client within the limits of the law, avoidance of conflict of interest, professional competence, truthfulness in communication, respect for the court, counterparties and state authorities. In the field of business, these principles have particular importance, since entrepreneurial activity is often associated with rapid decision-making, significant financial resources, complex corporate structures and a high level of competition between market participants (Table 2).

Table 2

Key principles of ethical conduct of a lawyer in the sphere of economic activity

Principle	Content	Practical effect for entrepreneurial activity
Good faith	Good faith means that a lawyer does not conceal legal risks from the client, does not propose dubious schemes for bypassing requirements and does not construct artificial legal mechanisms to mislead counterparties or state authorities. The lawyer works in such a way that the legal form corresponds to the real economic substance of the relations	Due to this, the likelihood of transactions being declared invalid, the application of penalties, the challenging of operations and the loss of trust on the part of partners, banks and controlling authorities is reduced
Independence of professional judgment	Independence means that a lawyer preserves his or her own professional position even when the client insists on an aggressive, risky or morally questionable model of behaviour. The lawyer's duty is not to unconditionally approve any intention of the client, but to provide an honest legal assessment and refrain from participating in unlawful actions	Such an approach protects business from decisions that may provide a short-term result, but create long-term financial, reputational and judicial losses
Avoidance of conflict of interest	In the economic sphere, a conflict of interest may arise when simultaneously supporting affiliated companies, competitors, parties to the same transaction, or in a situation where the lawyer's personal interest affects his or her professional recommendations. An ethical position requires timely identification and elimination of such situations	For entrepreneurship, this is important because it ensures the integrity of the negotiation process, trust in legal support and the stability of corporate governance
Confidentiality and truthfulness	A lawyer must preserve professional secrecy, while at the same time having no right to build the protection of the client's interests on false statements, forged documents or deliberate distortion of facts. Confidentiality does not mean indulgence toward illegal actions	The combination of these principles helps an enterprise maintain the internal security of information and, at the same time, not cross the boundary beyond which criminally or civilly dangerous behaviour begins

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It is also important to analyze those practical situations where professional ethics are put to the real test. In the field of entrepreneurship, such situations include the preparation of contracts with knowingly unfair terms, participation in the creation of formally legal but economically fictitious schemes, concealment of ultimate beneficial interests, use of procedural instruments not to protect the right, but to drag out the dispute or put pressure on the opponent, preparation of conclusions that should create only the appearance of legality, as well as support for corporate decisions aimed at displacing minority participants,

undervaluing assets or withdrawing property. In such conditions, a lawyer is faced with a difficult choice between the will of the client, market pragmatism and his own professional duty. It is here that it becomes obvious that ethics in legal activity is not an abstract theory, because it directly defines the line between proper legal assistance and complicity in unscrupulous business behavior. At the same time, the complexity of the problem lies in the fact that some business decisions may not have a direct prohibition, but may contradict the general principles of justice, reasonableness, and good faith (Table 3).

Table 3

Typical ethical challenges in legal activity in the sphere of entrepreneurship

Problem situation	Essence	Possible consequences if the ethical imperative is ignored
Preparation of unfair contracts	A lawyer may face a requirement to include in a contract terms that are not formally prohibited, but clearly violate the balance of interests of the parties, create hidden sanctions, unilateral privileges or mechanisms of actual coercion. The ethical problem lies in whether a lawyer has the right to consciously formalize legal inequality as an acceptable contractual model	Ignoring the ethical approach leads to future disputes, recognition of certain terms as invalid, deterioration of the enterprise's business reputation and loss of long-term partnerships
Participation in dubious corporate schemes	This concerns reorganizations, sale of assets, changes in ownership structure or internal decisions, the purpose of which may be not business development, but hidden withdrawal of property, circumvention of creditors' rights, removal of inconvenient co-owners or understatement of the real value of property assets.	The consequences include corporate conflicts, court challenges, criminal law risks, blocking of economic activity and loss of the enterprise's investment attractiveness
Abuse of procedural rights	A lawyer may use procedural instruments solely to delay a dispute, create pressure on the other party, artificially increase costs or block the fulfilment of lawful claims of a counterparty. Formally, such behaviour is sometimes disguised as active protection of the client's interests, but in essence it contradicts justice and good faith	Such actions undermine respect for justice, increase business costs, intensify market conflicts and create for the client the risk of counter-sanctions and reputational losses
Concealment of risks from the client	A lawyer, seeking to preserve the client's loyalty or quickly conclude a profitable agreement, not infrequently downplays or conceals real legal risks. The ethical problem lies in replacing professional consulting with psychological reassurance of the client without sufficient justification	As a result, the client makes a decision without complete information, which leads to financial losses, unsuccessful investments, disputes with counterparties and loss of trust in legal support

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It is the ethical imperative of legal activity that provides an opportunity to combine law as a system of formally defined norms with the value basis of business practice, where good faith, fairness, respect for the interests of the other party, prevention of conflict of interest and orientation towards a lawful and honest way of achieving an economic result become decisive. Yes, this is of fundamental importance not only for an individual lawyer or the legal department of an enterprise, but also for the entire system of economic relations, since the stability of contractual turnover, predictability of corporate behavior, reduction of the number of disputes, increase in investment attractiveness and strengthening of public trust in business as a participant in socially responsible development depend on the level of ethical responsibility of legal support.

Conclusions

The ethical imperative of legal activity in the field of entrepreneurship and management is a defining principle without which it is impossible to ensure the proper balance between the protection of the interests of the business entity, the requirements of legality, the principles of good faith and the public need for a fair and predictable economic order, since it is precisely the professional and moral position of the lawyer that determines whether the law will be used as a means of regulating economic relations, strengthening contractual discipline, preventing conflicts, maintaining trust between market participants and establishing a culture of responsible business conduct, or, conversely, as a formal tool for justifying questionable decisions, hidden abuses and unscrupulous behavior.

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