JUDICIAL ACCOUNTABILITY

1. CIVIL LIABILITY

2. CRIMINAL LIABILITY

3. DISCIPLINARY LIABILITY
CIVIL LIABILITY

• Article 411 to 413 LOPJ.
• For damages caused in the performance of their duties.
• Presupposes malice (dolo)
• Civil action against judge: only once the proceeding where the damage occurred is definitively finished.
CRIMINAL LIABILITY

- Spanish judges are criminally liable for any crime committed in the fulfillment of their judicial function.

- Criminal prosecution against a judge could be started by:
  - private citizens (even if they are not the victim of the crime)
  - Public Prosecutor
  - CGPJ
  - Ex officio: Court of Appeal, Supreme Court
  - Competent court for Judgment: Criminal Chamber TSJ, Criminal Chamber Supreme Court.
DISCIPLINARY LIABILITY

Articles 417 to 419 LOPJ.

• Refers to violation of ethical or professional duties.

• Three categories infringements:
  • Petty offences.
  • Serious offences.
  • Very Serious offences.
DISCIPLINARY LIABILITY

Each category of offences implies a different sanction:

Petty offences: warning or fine (warning and fine)
Serious offences: fine up to 6000 Euros
Very serious offences: removal from judicial office or dismissal from the Judiciary.

It is by large, the most frequent form of judicial accountability.
DISCIPLINARY LIABILITY: IMPOSITION OF SANCTIONS

*Warning sanctions*: President of Supreme Court, President of High National Court, President of Superior Court of Justice (for judges and senior judges who are below them)

*Fine and warning*: Boards of Governance of Superior Courts, Supreme Court.

Disciplinary and criminal liability

• Sometimes facts could be seen as criminal acts and disciplinary acts: malicious delay of rendering justice or judicial malfeasance.

• In those cases: both procedures (criminal and disciplinary) can start at the same time.

• Disciplinary procedure should stay until judgment by criminal court is held.

• If judge is convicted in criminal process: no disciplinary sanction is given.