

*The Presidents*

H.E. Dmytro Razumkov  
Speaker  
Verkhovna Rada of Ukraine  
Kyev, Ukraine

Réf ► J.Dem.486 GB/SGM/GE

Strasbourg, 31 October 2020

Dear Mr Speaker,

We are addressing you in relation to the draft Law “on renewal of public confidence in constitutional judiciary”, which the President has just submitted to Parliament. This draft has been prepared against the background of decision n°13-p/2020 of 27 October 2020 of the Constitutional Court relating to the Ukraine’s anti-corruption framework.

An effective fight against corruption and respect for judicial independence and the Rule of Law have to go hand-in-hand. There can be no effective fight against corruption without an independent judiciary and respect for the Rule of Law. Equally, there can be no independent judiciary and respect for the Rule of Law when corruption is pervasive.

Ukraine anti-corruption efforts need to be continued and stepped up, in line with the country’s Constitution and international obligations and, notably, the recommendations by the Council of Europe’s Group of States against Corruption (GRECO). GRECO recommendations need to be fully and effectively implemented without delay. Anti-corruption efforts are not just about passing laws or creating institutions. They are mostly about the effective implementation of the reforms passed. In this context, the independence and impartiality of anti-corruption institutions must be ensured not only in law, but also in practice. In its recent Joint Opinion CDL-AD(2020)022 with the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft amendments to the Law 'on the Judiciary and the Status of Judges' and certain Laws on the activities of the Supreme Court and Judicial Authorities (draft Law no. 3711), the Venice Commission also insisted on the importance of the fight against corruption in Ukraine, notably in the judiciary.

The Constitutional Court plays an essential role as gatekeeper of the Constitution and its values and as the arbiter of separation of powers.

We totally agree on the importance of ensuring public confidence in the Constitutional Court, and we would add that the confidence of the other state institutions is equally important. Confidence does not imply lack of independence, on the contrary: the Constitutional Court may only enjoy the trust of the other state institutions and of the public if it is truly independent.

Trust needs to be earned. But it can only be earned within a system which respects the constitution and the Rule of Law.

Terminating the mandate of the judges is in blatant breach of the Constitution and of the fundamental principle of separation of powers. Violating the Constitution, even if for an arguably good cause, cannot lead to a culture of constitutionalism and respect for the rule of law, which the fight against corruption pursues.

We appreciate that you are facing a very serious challenge, and we do not underestimate the need for timely, firm and decisive action.

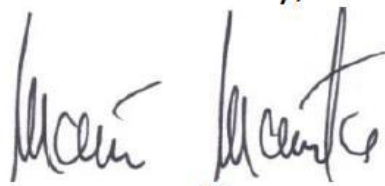
We urge you nonetheless to consider the adverse, profound and long-term implications for your country of a possible rushed decision to dismiss the constitutional justices. We encourage you to explore possible alternative ways of ensuring that the fight against corruption in line with international standards remains a priority for your country.

GRECO will continue its monitoring of Ukraine's compliance with the international anti-corruption standards. The Venice Commission and the Council of Europe as a whole stand ready – by way of urgency but with the time necessary to carry out a thorough analysis of the options - to assist you in devising concrete solutions to address the current situation.

Yours faithfully,



**Gianni Buquicchio**



**Marin Mrčela**

Copy to Mr Andrii KOSTIN, Chairperson, Committee on Legal Policy of the Verkhovna Rada