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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**DRAFT LAW**  
**OF UKRAINE**  
**ON**  
**THE JUDICIARY AND**  
**THE STATUS OF JUDGES**



## **LAW of UKRAINE**

### **On the Judiciary and the Status of Judges**

This law determines the legal principles of the judiciary and the status of judges in Ukraine - the organization of administering justice, the system of courts of general jurisdiction, status of a judge, people's assessor, juror, the system of and procedure for judicial self-government, as well as establishes the system and general procedure for supporting the operation of courts.

#### **SECTION I. FUNDAMENTALS OF ORGANIZATION OF JUDICIAL POWER**

##### **Article 1. Justice in Ukraine**

1. Based on the constitutional principle of division of power, judicial power in Ukraine shall be exercised by independent and impartial courts created pursuant to law.

2. Judicial power shall be exercised by judges through administration of justice within relevant court procedures.

3. Legal proceedings shall be conducted by the Constitutional Court of Ukraine and courts of general jurisdiction.

##### **Article 2. Court Objectives**

1. In administering justice on the basis of the rule of law, a court shall ensure everyone's right to a fair trial and respect for other rights and basic freedoms guaranteed by the Constitution and laws of Ukraine.

##### **Article 3. The Court System of Ukraine**

1. The court system of Ukraine shall consist of courts of general jurisdiction and the court of constitutional jurisdiction.

2. The courts of general jurisdiction shall form a unified system of courts; the Constitutional Court of Ukraine shall be the sole body of constitutional jurisdiction in Ukraine.

3. The court system shall ensure access to justice for every person according to the procedure established by the Constitution and laws of Ukraine.

4. The creation of extraordinary or special courts shall not be permitted.

5. The procedure for organization and operation of the Constitutional Court of Ukraine shall be established by the Constitution of Ukraine and the Law of Ukraine “On the Constitutional Court of Ukraine.”

#### Article 4. Legislation on the Judiciary and the Status of Judges

1. The judicial system and the status of judges in Ukraine shall be determined by the Constitution of Ukraine, this Law, and other laws.

#### Article 5. Administration of Justice Exclusively by Courts

1. Justice in Ukraine shall be administered exclusively by courts. The delegation of court functions as well as appropriation of these functions by other bodies or officials shall not be permitted.

2. Persons who have assumed court functions shall be liable under the law.

3. The people shall participate in the administration of justice through people's assessors and jurors. The participation of people's assessors and jurors in the administration of justice shall be their civic duty.

#### Article 6. Autonomy of Courts

1. Courts shall administer justice autonomously. In the administration of justice, courts shall be independent from any undue influence. Courts shall administer justice on the basis of the Constitution and laws of Ukraine and in doing so shall ensure the rule of law.

2. Petitions filed with a court (in connection with consideration of specific cases) by citizens, organizations, or officials who in legal terms are not participants in the court proceedings shall not be considered by court unless otherwise specified by law.

3. Interference with the administration of justice, influence upon a court or judges in any manner, contempt of court or judges, collection, storage, use and dissemination of information in verbal, written or any other form with the aim of undermining the authority judges or affecting the impartiality of court shall be prohibited and punishable in accordance with the law.

4. To address the issues of internal operation of courts, judicial self-government shall be available under this law.

#### Article 7. Right to Judicial Protection

1. Everyone shall enjoy a guaranteed protection of their rights, freedoms and interests by an independent and impartial court established according to law.

2. Courts of first instance, courts of appeals, courts of cassation and the Supreme Court of Ukraine shall operate in Ukraine to ensure fair and unbiased consideration of cases within reasonable time, established by law.

3. Everyone shall have the right to take part in the consideration of his/her case in a court of any level in the manner prescribed by the procedural law.

4. Foreigners, stateless persons, and foreign legal entities shall enjoy in Ukraine the right to court protection on equal terms with the citizens and legal entities of Ukraine.

#### Article 8. Right to a Competent Trial

1. Nobody can be denied the right to have his/her case heard in a court which has jurisdiction over his/her case under the procedural law.

2. A judge shall hear cases assigned to him/her according to the case assignment procedure established by the law. The assignment of cases among judges cannot be influenced by the wish of a judge or any other persons.

#### Article 9. Equality before the Law and the Court

1. Justice in Ukraine shall be administered on the basis of equality of all participants in court proceedings before the law and the court irrespective of race, color of skin, political, religious or other convictions, sex, ethnic or social origin, property status, domicile, linguistic or other characteristics.

#### Article 10. Legal Assistance in Exercising the Right to a Fair Trial

1. Everyone shall be entitled to use legal assistance.

2. The bar shall be available to provide legal assistance in Ukraine. In cases specified by the law, legal assistance may also be provided by other persons. The procedure for and terms of providing legal assistance shall be specified by law. In cases specified by law, legal assistance shall be provided free of charge.

#### Article 11. Openness and Transparency of Court Proceedings

1. Nobody can be restricted in the right to obtain from the court written or verbal information about the results of consideration of his/her case. Anyone who is not a party to a case shall have the right to free access to a court decision in the manner prescribed by law.

2. The hearing of cases in courts shall be open except for cases specified by the procedural law. Participants in court proceedings and other persons attending an open court hearing may use portable audio technical devices. Photographing, filming, video or sound recording using stationary equipment in a courtroom, as well as televising/broadcasting of a court hearing may be permitted by court ruling.

3. A case may be permitted to be heard in an in-camera proceeding by a reasoned court ruling in cases specified by the procedural law.

4. In cases under consideration, court proceedings shall be recorded by technical means in the manner prescribed by the procedural law.

## Article 12. Language of Legal Proceedings

1. Legal proceedings in Ukraine shall be conducted in the state language. Courts shall ensure the equality of citizens rights in court process in terms of language.

Courts shall implement (use) state language in the adjudication process and shall guarantee the right of citizens to use their native tongue or the language that they speak in the court process.

In courts located in areas densely populated by citizens of other nationality their native languages may be used along with the state language.

Persons that take part in a case and have no command of the court proceedings language shall have the right to make statements, give testimony, submit motions, get acquainted with all case materials, and speak in court in their native language or a language they know and to be assisted by an interpreter.

For participants to a court process who have no command of the court proceedings language and who have submitted a motion to ensure the process is conducted in another language, the court shall ensure that the process is conducted in such a language or allowed to use a translator's services.

## Article 13. The Binding Nature of Court Decisions

1. The final judgment in a case shall be passed in the name of Ukraine.

2. Court decisions which have come into legal force shall be binding for all bodies of state power, local self-government bodies, their officials and employees, natural persons and legal entities and associations thereof throughout all of the territory of Ukraine. Whether a court decision must be taken into account by (precedential) other courts shall be determined by the procedural law.

3. Foreign court decisions shall be enforceable in the territory of Ukraine under the conditions set out by law, pursuant to international treaties recognized as binding by the Verkhovna Rada of Ukraine.

4. Failure to comply with court decisions shall entail legal liability under the law.

## Article 14. Right to Challenge Court Decisions

1. In the cases and following the procedure prescribed by the procedural law, participants in court proceedings and other persons have the right to challenge court decisions in a court of appeals or a court of cassation as well as the review of the case by the Supreme Court of Ukraine.

## Article 15. Consideration of Cases by One Judge or a Panel of Judges

1. In courts, cases shall be considered by a single judge or, and in cases prescribed by the procedural law - by a panel of judges, as well as with the participation of people's assessors and a jury.

2. A judge considering a case single-handedly shall act as a court.

3. Courts of general jurisdiction shall operate using an automated case management system, the objective of which in particular is to determine the judges on the panel to consider a specific case.

4. The judges on the panel to consider a specific case shall be assigned/selected by the automated case management system on the basis of random case assignment during registering cases, motions and complaints in court.

5. When automated case assignment system assigns judges on the panel to consider a specific case it will be ensured that each judge's caseload, specialization and requirements of the procedural law are taken into consideration.

6. The Regulation on automated case management system shall be approved by the Council of Judges of Ukraine upon agreeing it with the State Judicial Administration of Ukraine.

#### Article 16. Symbols of the Judiciary

1. The symbols of judicial power shall be the state symbols of Ukraine – the State Emblem of Ukraine and the State Flag of Ukraine.

2. A judge administering justice shall wear a judicial robe with a judge's breast badge. The standard robe and the standard chest badge shall be approved by the Council of Judges of Ukraine.

### SECTION II. COURTS OF GENERAL JURISDICTION

#### Chapter 1. Institutional Framework for the System of Courts of General Jurisdiction

#### Article 17. Types of Courts of General Jurisdiction

1. According to the Constitution of Ukraine the system of courts of general jurisdiction shall be based on the principles of territorial division, specialization, and instanceness.

2. The system of courts of general jurisdiction shall be composed of:

- 1) local courts;
- 2) courts of appeals;
- 3) high specialized courts;
- 4) the Supreme Court of Ukraine.

3. The highest judicial body in the system of courts of general jurisdiction is the Supreme Court of Ukraine. The highest judicial body of specialized courts are the respective high specialized courts.

4. The unity of the system of courts of general jurisdiction shall be ensured by the following:

the unified basis for organization and functioning of courts;

the unified status of judges;

mandatory nature of rules of legal proceedings specified by law for all courts;

ensuring by the Supreme Court of Ukraine the unified application of norms of substantive law by courts of cassation;

mandatory compliance with (enforcement of) court decisions on the territory of Ukraine;

the single procedure for organizational support of the operations of courts;

financing of courts exclusively from the State Budget of Ukraine;

resolving the internal issues of courts by judicial self-government bodies.

#### Article 18. Specialization of Courts of General Jurisdiction

1. Courts of general jurisdiction shall specialize in civil, criminal, commercial, and administrative cases, cases on administrative offences.

2. In courts of general jurisdiction the specialization of judges in particular categories of cases may be introduced.

#### Article 19. Procedure for Creating Courts

1. Courts of general jurisdiction shall be created and abolished by the President of Ukraine upon suggestion of the Minister of Justice of Ukraine based on the proposal from the chief judge of the relevant high specialized court.

2. The location, territorial jurisdiction, and status of a court shall be determined with regard for the principles of territorial division, specialization, and court level.

3. The grounds for creation or abolishment of a court shall be a change of the system of courts established by this Law, the need to improve access to justice or changes in the administrative and territorial division.

4. The number of judges in a court shall be determined by the Minister of Justice of Ukraine upon suggestion of the State Judicial Administration of Ukraine on the basis of proposals from Head of the respective high specialized court with due regard for the caseload of the court and within the expenses approved in the State Budget of Ukraine for courts maintenance/support.

#### Article 20. Procedure for Judges' Appointment to Administrative Positions

1. Chief judge of local court, his/her deputy, chief judge of appellate court, his/her deputies, chief judge of high specialized court, his/her deputies shall be appointed for a five-year term from among the judges of that court and shall be

removed from office by the High Council of Justice upon the submission from the respective council of judges.

2. Chief Justice of the Supreme Court of Ukraine, deputy Chief Justice of the Supreme Court of Ukraine shall be appointed and shall be removed from office by the Plenary Session of the Supreme Court of Ukraine following the procedure established by this law.

3. Appointment of a judge to administrative position without compliance with the requirements of this law shall not be permitted.

4. Taking administrative position in court does not relieve the judge from performing the duties of a judge stipulated by this law in the respective court.

5. Removal of a judge/justice from an administrative position shall not terminate his/her tenure of judicial office. Removal of a judge/justice as well as expiry of the term for which he/she has been appointed (elected) shall terminate his/her powers associated with holding that administrative office.

## Chapter 2. Local Courts

### Article 21. Types and Composition of Local Courts

1. Local general courts are: raion, city-district, city and city-raion courts.

2. Local commercial courts are: commercial courts of Autonomous republic of Crimea, oblasts, city of Kyiv and Sevastopol;

3. Local administrative courts are: circuit administrative courts as well as other courts stipulated by procedural law.

The territorial jurisdiction of local courts shall be determined by the President of Ukraine at the time of their creation.

4. A local court shall be composed of local court judges, the chief judge and his/her deputy. If there are more than fifteen judges in a local court, more than one deputy may be appointed therein.

### Article 22. Authority of a Local Court

1. A local court shall be a court of first instance and shall hear cases falling within its jurisdiction according to the procedural law.

2. Local general courts shall hear civil, criminal, and administrative cases as well as administrative offence cases in cases and pursuant to procedure stipulated by procedural law.

3. Local commercial courts shall hear cases arising from economic/commercial legal relations, as well as other cases within their jurisdiction under procedural law.

4. Local administrative courts shall hear administrative cases (cases under administrative jurisdiction).

5. Whether certain category of cases fall under the jurisdiction of local courts and the procedure for their consideration shall be determined by procedural law.

#### Article 23. Judge of a Local Court

1. A judge of a local court shall administer justice in the manner prescribed by procedural law, as well as exercising other powers set forth by the law.

#### Article 24. Chief Judge of a Local Court

1. The chief judge of a local court shall:

1) represent the court as a body of state power in relations with other bodies of state power, local self-government bodies, physical persons and legal entities;

2) define the administrative powers of the deputy chief judge of the local court;

3) exercise control over the effectiveness of court staff, submit motions to the head of territorial office of State Judicial Administration of Ukraine on applying to the court chief of staff or his/her deputy incentives or discipline sanctions under the law;

4) issue a relevant order on the basis of a certificate of appointment (election) to a judicial position or of removal of a judge;

5) notify the High Qualifications Commission of Judges of Ukraine about the available vacant judicial positions in the court within a ten-day term from the day of their opening;

6) provide for the enforcement of decisions of the meetings of the local court's judges;

7) supervise the keeping of court statistics and organize case law studies; focus on informational and analytical support for judges so as to improve the quality of justice;

8) ensure compliance with the requirements regarding on-going training of judges of the local court;

9) exercise other powers specified by the law.

2. The chief judge of a local court shall issue orders and instructions regarding matters within his/her administrative authority.

3. In the absence of the chief judge of local court, his/her administrative duties and powers shall be performed by the deputy chief judge; and in the absence of the deputy chief judge, the administrative powers shall be exercised by the judge who has the longest years of service as a judge.

#### Article 25. Deputy Chief Judge of the Local Court

1. Deputy Chief Judge of the Local Court shall exercise administrative powers established by the chief judge.

### Chapter 3. Court of Appeals

#### Article 26. Types and Composition of the Courts of Appeals

1. In the system of courts of general jurisdiction there shall be appellate courts as courts of appellate instance considering civil and criminal, commercial, administrative cases and cases on administrative offences.

2. Courts of appeals that consider civil and criminal cases include: courts of appeals of oblasts, courts of appeals of city of Kyiv and Sevastopol, Court of appeals of Autonomous Republic of Crimea.

3. Courts of appeals that consider commercial cases and courts of appeals that consider administrative cases are: appellate commercial courts and appellate administrative courts respectively created in the appellate circuits in accordance with Decree of the President of Ukraine

4. A court of appeals shall be composed of judges elected to lifetime judicial positions. From among them a chief judge and deputy chief judges are appointed. If the number of judges in appellate court exceeds 35, more than two deputy chief judges may be appointed.

5. In a court of appeals, judicial chambers can be created to hear particular categories of cases within the respective court jurisdiction. A court chamber shall be run by a chamber secretary appointed from among judges of that court. Decision on creating a court chamber, its composition/membership, and appointment of a secretary shall be taken by meetings of judges of appellate court upon proposal from the chief judge. The chamber secretary shall organize the analysis and generalization of court practices (case law) for cases under the chamber competence and shall inform the meetings of appellate court judges about the activity of the court chamber.

#### Article 27. Powers of Appellate Courts

1. Courts of appeals shall:

1) hear appellate cases within the respective court jurisdiction according to the procedural law;

2) in cases stipulated by procedural law consider cases under respective jurisdiction as courts of first instance;

3) analyze court statistics; study and generalize judicial practice (case law);

4) exercise other powers prescribed by the law.

#### Article 28. Judge of a Court of Appeals

1. A judge of a court of appeals shall administer justice in the manner prescribed by the procedural law, as well as exercising other powers set forth by the law.

#### Article 29. Chief Judge of a Court of Appeals

1. The chief judge of a court of appeals shall:

- 1) represent the court as a body of state power in relations with other bodies of state power, local self-government bodies, physical persons and legal entities;
- 2) define the administrative powers of the deputy chief judges of the appellate court;
- 3) exercise control over the effectiveness of court staff, submit motions to the head of State Judicial Administration of Ukraine on applying to the court chief of staff or his/her deputy incentives or discipline sanctions under the law;
- 4) issue a relevant order on the basis of a certificate of appointment (election) to a judicial position or of removal of a judge;
- 5) notify the High Qualifications Commission of Judges of Ukraine about the available vacant judicial positions in the court within a ten-day term after they opened;
- 6) provide for the enforcement of decisions of the meetings of the appellate court's judges;
- 7) supervise the keeping of court statistics and organize studies of general judicial practice (case law); focus on informational and analytical support for judges so as to improve the quality of justice;
- 8) ensure compliance with the requirements regarding on-going training of judges of the appellate court;
- 9) exercise other powers specified by the law;

2. The chief judge of a court of appeals shall issue orders and instructions regarding matters within his/her administrative authority.

3. In the absence of the chief judge, his/her administrative duties and powers shall be performed and exercised by one of the deputy chief judges as directed by the chief judge; and in the absence of a such a directive, the administrative powers shall be exercised by the deputy chief judge who has the longest years of service as a judge, in the absence of the deputy chief judge the administrative powers shall be exercised by the judge of that court who has the longest years of service as a judge.

#### Article 30. Deputy Chief Judges of a Court of Appeals

1. The deputy chief judges of a court of appeals shall perform administrative duties and powers as defined by the chief judge.

#### Chapter 4. High Specialized Courts

#### Article 31. Types and Composition of High Courts

1. In the system of courts of general jurisdiction, there shall be high specialized courts operating as courts of cassation instance for civil and criminal, commercial, and administrative cases.

2. The high specialized courts shall include the High Specialized Court of Ukraine for Civil and Criminal Cases, the High Commercial Court of Ukraine, the High Administrative Court of Ukraine.

3. A high specialized court shall be composed of judges elected to lifetime judicial positions. From among them chief judge, his/her deputies shall be appointed. In high specialized court where the number of judges exceeds 45, more than two deputy chief judges may be appointed.

4. In a high specialized court, judicial chambers shall be created to hear particular categories of cases within the respective court jurisdiction. A court chamber shall be run by a chamber secretary appointed from among judges of that court. Decisions on creating a court chamber, its composition, as well as appointment of the secretary shall be taken by meetings of judges of high specialized court upon a proposal from the chief judge. The chamber secretary shall organize the analysis and generalization of court practices (case law) for cases under the chamber competence and shall inform the meetings of judges of high specialized court about the activity of the chamber.

5. In a high specialized court, Plenary Sessions of the high specialized court shall be held to address issues listed by this law. The composition and procedure for the plenary session of the high specialized court shall be defined pursuant to this law.

6. Under a high specialized court, there shall be Scientific Consultative Council, the status of which is prescribed by this Law.

7. High specialized court shall have its official publication and can be co-founder of other publications.

#### Article 32. Powers of a High Specialized Court

1. A high specialized courts shall:

- 1) hear cases within the respective court jurisdiction under cassation proceedings according to procedural law;
- 2) in exceptional cases prescribed by the procedural law hear cases within the respective court jurisdiction as a court of first or appellate instance;
- 3) analyze court statistics, study and generalize case law;
- 4) exercise other powers prescribed by the law.

#### Article 33. Judge of a High Specialized Court

1. A judge of a high specialized court shall administer justice in the manner prescribed by the procedural law, as well as exercising other powers set forth by the law.

Article 34. Chief Judge of a High Specialized Court

1. The chief judge of a high specialized court shall:

1) represent the court as a body of state power in relations with other bodies of state power, local self-government bodies, physical persons and legal entities, as well as with judicial bodies of other states and international organizations;

2) define the administrative responsibilities of the deputy chief judges of the court;

3) supervise the efficiency of the operation of the court staff, submit motions to the head of State Judicial Administration of Ukraine on applying incentives or discipline sanctions under the law to court chief of staff or his/her deputy;

4) issue a relevant order on the basis of a certificate of appointment (election) to a judicial position or of removal of a judge;

5) notify the High Qualifications Commission of Judges of Ukraine about the available vacant judicial positions in the court within ten days from their opening;

6) submit, pursuant to this Law, proposals on creating relevant local and appellate courts, on altering the territorial jurisdiction thereof and the number of judges therein;

7) convene the Plenary Session of the high specialized court, present a submission regarding the appointment of Plenary Session secretary to be considered by the Plenary Session; present issues to be considered by the Plenary Session, and preside at its meetings;

8) inform the Plenary Session of the Supreme Court of Ukraine about the state of justice within the respective court jurisdiction and the practice of resolving particular categories of cases;

9) provide for the enforcement of decisions of the meetings of judges of the high specialized court;

10) organize the keeping and analysis of court statistics, generalization of judicial practice (case law); focus on informational and analytical support for judges so as to improve the quality of justice;

11) ensure compliance with the requirements regarding on-going training of the judges of the high specialized court;

12) exercise other powers specified by the law.

2. The chief judge of a high specialized court shall issue orders and instructions regarding matters within his/her administrative authority.

3. In the absence of the chief judge of a high specialized court, his/her administrative duties and powers shall be performed by one of the deputy chief judges as directed by the chief judge, and in the absence of such a directive, the administrative powers shall be exercised by the deputy chief judge of this court who has the longest years of service as a judge; in the absence of the deputy chief

judge the administrative powers shall be exercised by the judge of that court who has the longest years of service as a judge.

Article 35. Deputy Chief Judges of a High Specialized Court

1. Deputy chief judges shall exercise administrative powers as defined by the chief judge.

Article 36. Plenary Session of a High Specialized Court

1. The Plenary Session of a high specialized court, composed of all the judges of the high specialized court, shall address issues related to ensuring uniform court practice in dealing with cases within the respective specialized jurisdiction and other matters referred to its authority by this Law.

2. The Plenary Session of a high specialized court shall:

1) appoint from among judges of high specialized court upon suggestion from chief judge of the high court and terminate the secretary of high specialized court Plenary Session;

2) generalize/summarize the practice (case law) of applying substantive and procedural law to ensure uniform application of legal norms to cases within the respective court jurisdiction;

3) hear accounts about the state of justice within the respective court jurisdiction and the practice of resolving particular categories of cases;

4) decide on applying to the Supreme Court of Ukraine regarding submission of petition for the official interpretation of the Constitution and laws of Ukraine;

5) consider and resolve other matters referred to its authority by the law.

3. The Plenary Session of a high specialized court shall be convened by the chief judge of the high specialized court or when requested by at least one fifth of all the judges of the high specialized court, but not less than twice a year. Participants in the Plenary Session shall be notified of its day and time at least ten days prior to the meeting. Materials regarding issues to be presented for consideration to the Plenary Session shall be sent out within the same timeframe.

4. A meeting of the Plenary Session of a high specialized court shall be competent if attended by at least two-thirds of the members of the Plenary Session.

5. Minister of Justice of Ukraine shall take part in the work of the Plenary Session. Materials regarding the issues to be considered by the Plenary Session shall be sent to the Minister of Justice of Ukraine not later than ten days before the Plenary Session.

6. Invited to a meeting of the Plenary Session may be representatives of bodies of state power, scientific institutions, non government organizations, mass media, etc.

7. Resolutions of the Plenary Session shall be adopted in an open ballot by a majority of the members of the Plenary Session. Resolutions of the Plenary Session shall be signed by the chair of the meeting of the Plenary Session and by the secretary of the Plenary Session and shall be published in the official periodical (publication) of the high specialized court.

8. The secretary of the Plenary Session of a high specialized court shall organize the work of the secretariat of the Plenary Session, the preparation of the meetings of the Plenary Session, ensure the keeping of the minutes, and oversees that the resolutions passed by the Plenary Session of the specialized court are complied with.

#### Article 37. Scientific-Consultative Council and Official Periodical of a High Specialized Court

1. Under a specialized court, there shall be created a scientific-consultative council from among highly qualified experts in the field of law to preliminary work on draft resolutions of the high specialized court, the drafting of which requires scientific support.

2. The organizational structure and operating procedures of the scientific-consultative council shall be established by the regulations to be adopted by the Plenary Session of the high specialized court.

3. A high specialized court shall publish an official periodical presenting case law of the high specialized court and other courts of the respective jurisdiction, materials on organizational issues related to the operation of courts of the respective jurisdiction, and other materials.

#### Chapter 5. The Supreme Court of Ukraine

#### Article 38. The Supreme Court of Ukraine, the Highest Judicial Body

1. The Supreme Court of Ukraine shall be the highest judicial body within the system of courts of general jurisdiction.

2. The Supreme Court of Ukraine shall:

1) review cases under unequal application by courts (court) of cassation of the same rule of substantive law in similar legal relations in the manner prescribed by the procedural law;

2) review cases when international judicial institution the jurisdiction of which is recognized by Ukraine has established the violation of international obligations by Ukraine when deciding case in court;

3) provide opinion on whether or not the actions of which the President of Ukraine is accused contain elements of state treason or other crime; submit, upon request of the Verkhovna Rada of Ukraine, a written motion stating that the President of Ukraine is incapable of exercising his/her powers for health reasons;

4) apply to the Constitutional Court of Ukraine for constitutionality of laws or other legal acts as well as for the official interpretation of the Constitution and laws of Ukraine.

#### Article 39. Composition of the Supreme Court of Ukraine

1. The Supreme Court of Ukraine shall be composed of twenty justices: five judges representing each specialized jurisdiction (civil, criminal, commercial, and administrative) from among whom the Chief Justice of the Supreme Court of Ukraine and his/her deputy are elected.

2. A justice of the Supreme Court of Ukraine shall be a person who has worked as a judge for at least fifteen years.

3. Plenary Sessions of the Supreme Court shall be held to address issues specified by the Constitution of Ukraine and by this Law. The composition and operating procedures of the Plenary Session of the Supreme Court of Ukraine shall be determined by this Law.

4. Under the Supreme Court of Ukraine, there shall be created a scientific-consultative council the status of which shall be specified by this Law.

5. The Supreme Court of Ukraine shall publish an official periodical and may be a cofounder of other periodicals.

#### Article 40. Justice of the Supreme Court of Ukraine

1. A justice of the Supreme Court of Ukraine shall:

1) take part in case consideration in the manner prescribed by the procedural law;

2) take part in consideration of matters put on the agenda of meetings of the Plenary Session of the Supreme Court of Ukraine;

3) analyze court practice; submit, according to the established procedure, proposals on ways to improve legislation and its application;

4) exercise other powers specified by the law.

#### Article 41. Chief Justice of the Supreme Court of Ukraine

1. The Chief Justice of the Supreme Court of Ukraine shall:

1) represent the court as a body of state power in relations with other bodies of state power, local self-government bodies, physical persons and legal entities, as well as with judicial bodies of other states and international organizations;

2) define the administrative responsibilities of the Deputy Chief Justice of the Supreme Court of Ukraine;

3) convene the Plenary Session of the Supreme Court of Ukraine; submit for consideration of the Plenary Session submission/suggestion regarding the appointment of Plenary Session secretary; introduce issues to be considered by Plenary Session, and preside at its meetings;

4) issue a relevant order on the basis of an act of election to the position of justice of the Supreme Court or of removal of a justice;

5) notify the High Qualifications Commission of Judges of Ukraine of the availability of vacant judicial positions in the Supreme Court of Ukraine within a ten-day term of their opening;

6) supervise the activities of the staff of the Supreme Court of Ukraine, submit to the Head of State Judicial Administration of Ukraine motions for reward or disciplinary penalty according to legislation regarding the court chief of staff, his/her deputy;

7) inform the Plenary Session of the Supreme Court of Ukraine about the operation of the Supreme Court of Ukraine;

8) exercise other powers specified by the law.

2. The Chief Justice of the Supreme Court of Ukraine shall issue orders and instructions regarding matters within his/her administrative authority.

3. In the absence of the Chief Justice of the Supreme Court of Ukraine, his/her administrative powers shall be exercised by the Deputy Chief Justice; and in the absence of the Deputy Chief Justice, the administrative powers shall be exercised by the justice of this court who has the longest years of service as a judge.

#### Article 42. Procedure for Electing the Chief Justice of the Supreme Court of Ukraine

1. The Chief Justice of the Supreme Court of Ukraine shall be elected for a five-year term, and removed from office by the Plenary Session of the Supreme Court of Ukraine by majority vote (of the total number of the Plenary Session members) through a secret ballot. The Chief Justice of the Supreme Court of Ukraine shall be deemed elected if he/she receives a majority of the votes of all the members of the Plenary Session.

2. The Plenary Session of the Supreme Court of Ukraine devoted to the issue of electing a Chief Justice of the Supreme Court of Ukraine shall be convened not later than within a month from the day of termination of powers of the previous Chief Justice of the Supreme Court of Ukraine.

3. The procedure for electing the Chief Justice of the Supreme Court of Ukraine and for his/her removal from office shall be established by the Procedural Rules of the Plenary Session of the Supreme Court of Ukraine, to be adopted by the Plenary Session. It shall not be permitted to change the procedure set forth in the Procedural Rules within six months prior to expiry of the tenure of office of the Chief Justice of the Supreme Court of Ukraine.

#### Article 43. Deputy Chief Justice of the Supreme Court of Ukraine

1. The Deputy Chief Justice of the Supreme Court of Ukraine shall be elected for a five year term and terminated by the Plenary Session of the Supreme Court of Ukraine by majority vote (of the total number of the Plenary Session members) through a secret ballot.

2. The Deputy Chief Justice of the Supreme Court of Ukraine may be removed from office before the end of his/her/their term in the manner provided in the Procedural Rules of the Supreme Court of Ukraine.

3. The Deputy Chief Justice of the Supreme Court of Ukraine shall exercise administrative authority defined by the Chief Justice of the Supreme Court of Ukraine and report to/inform the Plenary Session of the Supreme Court of Ukraine on his/her activity.

#### Article 44. Plenary Session of the Supreme Court of Ukraine

1. The Plenary Session of the Supreme Court of Ukraine shall be a collegial/collective body with powers specified by the Constitution of Ukraine and this Law. The Plenary Session of the Supreme Court of Ukraine shall be composed of all the justices of the Supreme Court of Ukraine.

2. The Plenary Session of the Supreme Court of Ukraine shall:

1) elect and remove from office the Chief Justice of the Supreme Court of Ukraine and his/her Deputy in a secret ballot in the manner prescribed by this Law;

2) appoint, from among the Supreme Court Justices upon a motion by the Chief Justice of the Supreme Court of Ukraine, and remove from office the Secretary of the Plenary Session of the Supreme Court of Ukraine;

3) hear information provided by the Chief Justice of the Supreme Court of Ukraine and the Deputy Chief Justice of the Supreme Court of Ukraine on their activities;

4) provide conclusions on draft laws regarding the court system and the operation of the Supreme Court of Ukraine;

5) decide on petitioning the Constitutional Court of Ukraine regarding issues of constitutionality of laws and other legal acts as well as requesting official interpretation of the Constitution and laws of Ukraine;

6) provide opinion on whether or not the acts of which the President of Ukraine is accused contain elements of state treason or other crime; deliver, upon request of the Verkhovna Rada of Ukraine, a written motion stating that the President of Ukraine is incapable of exercising his/her powers for health reasons;

7) approve Standing Rules of the Plenary Session of the Supreme Court of Ukraine.

3. A meeting of the Plenary Session of the Supreme Court of Ukraine shall be competent if attended by at least two-thirds of its members.

4. The Minister of Justice of Ukraine shall take part in the Plenary Session's meetings. Materials on issues proposed for consideration of the Plenary Session are

provided to the Minister of Justice of Ukraine at least ten days prior to the meeting of the Plenary Session.

5. Invitations to a meeting of the Plenary Session may be extended to representatives of bodies of state power, scientific institutions, non government organizations, mass media, etc.

6. The Plenary Session of the Supreme Court of Ukraine shall be convened by the Chief Justice of the Supreme Court of Ukraine if needed or when requested by at least one fourth of all the justices of the Supreme Court of Ukraine, but not less than once a quarter. In the absence of the Chief Justice of the Supreme Court of Ukraine the Plenary Session shall be convened by Deputy Chief Justice of the Supreme Court of Ukraine. Participants in a meeting of the Plenary Session shall be notified of its day and time as well as of the issues on its agenda at least ten days prior to the meeting. Within the same timeframe the materials regarding issues proposed for consideration of the Plenary Session shall be forwarded.

7. A meeting of the Plenary Session shall be chaired by the Chief Justice of the Supreme Court of Ukraine; and in case of his/her absence, by the Deputy Chief Justice of the Supreme Court of Ukraine, in accordance with the Procedural Rules.

8. The operational procedure of the Plenary Session of the Supreme Court of Ukraine shall be established by this Law and by the Plenary Session Procedural Rules of the Supreme Court of Ukraine adopted pursuant to this Law.

9. The Plenary Session of the Supreme Court of Ukraine shall pass resolutions on the issues it has considered. Resolutions of the Plenary Session of the Supreme Court of Ukraine shall be signed by the chair of the meeting of the Plenary Session and by the secretary of the Plenary Session and be published in the official periodical of the Supreme Court of Ukraine.

10. The secretary of the Plenary Session of the Supreme Court of Ukraine shall organize the work of the secretariat of the Plenary Session, the preparation of the meetings of the Plenary Session, ensure the keeping of the minutes, and supervise the execution of the resolutions passed by the Plenary Session of the Supreme Court of Ukraine.

#### Article 45. Scientific-Consultative Council and Official Periodical of the Supreme Court of Ukraine

1. Under the Supreme Court of Ukraine, there shall be created a scientific-consultative council, to be composed of highly qualified legal specialists, for preliminary consideration of draft resolutions of the Plenary Session of the Supreme Court of Ukraine on providing opinions on draft laws and on other issues related to the operation of the Supreme Court of Ukraine whenever the preparation thereof requires scientific support.

2. The organizational structure and operating procedures of the scientific-consultative council shall be established by the regulations to be adopted by the Plenary Session of the Supreme Court of Ukraine.

3. The Supreme Court of Ukraine shall publish an official periodical presenting case law of the Supreme Court of Ukraine and other courts of general jurisdiction, materials on organization of operation of courts of general jurisdiction and other materials.

### SECTION III. JUDGES, PEOPLE'S ASSESSORS, AND JURORS

#### Chapter 1. General Provisions on the Status of Judges

#### Article 46. Judicial Independence

1. In their professional activities, judges shall be independent of any undue influence, pressure or interference. A judge shall administer justice on the basis of the Constitution of Ukraine and laws of Ukraine and in doing so shall be guided by the rule of law principle. Interfering with a judge's administering justice shall be prohibited and punishable in accordance with the law.

2. A judge shall not be obliged to provide any explanations regarding the merits of cases under his/her consideration, except when required by the law.

3. A judge shall be entitled to report the existence of a threat to his/her independence to the Council of Judges of Ukraine, which shall be obliged to urgently verify and examine such a report and take necessary actions to eliminate the threat.

4. Independence of a judge shall be ensured by:

- 1) special procedures for his/her appointment, election, disciplining, and removal;
- 2) judicial immunity;
- 3) irremovability of a judge;
- 4) court proceedings prescribed by the procedural law, confidentiality of judicial decision-making;
- 5) prohibition of interference with the administration of justice;
- 6) liability under the law for contempt of court or of a judge;
- 7) special procedure under the law for funding and providing organizational support for the operation of courts;
- 8) adequate material and social support for judges;
- 9) functioning of bodies of judicial self-government;
- 10) means available under the law for ensuring personal safety of a judge and members of his/her family and preservation of their properties, as well as other means of legal protection;
- 11) the right of a judge to retire.

5. Bodies of state power, bodies of local self-government, their officials and employees, as well as natural persons and legal entities and associations thereof shall be obliged to respect judicial independence and not to infringe upon it.

6. When adopting new laws or amendments to current laws, the meaning and scope of guarantees of judicial independence already established by the Constitution of Ukraine may not be narrowed.

#### Article 47. Judicial Immunity

1. Judges shall be immune. Without the consent of the Verkhovna Rada of Ukraine, no judge may be detained or arrested prior to guilty verdict by court.

2. A judge detained on suspicion of committing an offense entailing criminal or administrative liability must be released immediately after establishing his/her identity. No judge may be forcefully taken to police or any institution or body except for to court.

3. Criminal case of a judge may be opened only by the Prosecutor General of Ukraine or his/her deputy.

4. A judge held criminally liable shall be removed from office by High Qualifications Commission of Judges of Ukraine based on reasoned Resolution of the General Prosecutor of Ukraine.

5. Intrusion into the home or other estate or office of a judge, into his/her personal or official vehicle, conduct of examination, search, or seizure therein, interception of his/her telephone conversations, personal search of a judge, as well as search and seizure of his/her correspondence, belongings, or documents shall only take place on the basis of a court decision.

6. The territorial jurisdiction of a case in which a judge is accused of committing a crime shall be determined by a Chief judge of the relevant high specialized court or his/her deputy. The case may not be heard by the court in which the accused holds or held a judicial position.

7. Liability for court-induced damages shall be borne by the state on the basis and following the procedure established by law.

#### Article 48. Liability for Contempt of a Judge or of Court

1. Display of contempt of a judge or of court by individuals taking part in the proceedings or attending the hearing shall entail legal liability under the law.

#### Article 49. Certificate of a Judge

1. Judges, chief judges and their deputies, retired judges, people's assessors as well as jurors shall have a certificate of an established form, approved by the Council of Judges of Ukraine.

2. Certificate of judge, chief judge, deputy chief judge and a retired judge shall be signed by the head of the body that appointed or elected him/her to the judicial position.

3. Certificate of the Chief Judge of the Supreme Court, his Deputy shall be signed by Secretary of the Plenary Session of the Supreme Court of Ukraine.

4. Certificates of people's assessors, jurors shall be signed by the chief judge of the court in which the people's assessor, juror administers justice.

5. The certificates shall be handed in by the signatory or by another person designated by him/her.

## Chapter 2. The Judge

### Article 50. Status of a Judge

1. A professional judge shall be a citizen of Ukraine who, pursuant to the Constitution of Ukraine and this Law, has been appointed or elected to a judicial position, holds a permanent judicial position in one of the courts, and administers justice on a professional basis.

2. Judges in Ukraine shall have the same status irrespective of the place of the court in the system of courts of general jurisdiction or of the administrative position being held by the judge in the court.

### Article 51. Judicial Irremovability

1. A judge holding a lifetime position shall be guaranteed to remain a judge until he/she reaches the age of sixty five with the exception of cases of removal from the office or retirement of a judge according to this law.

2. No judge may be transferred to a different court without his/her consent.

### Article 52. Incompatibility Requirements

1. Holding a judicial position shall be incompatible with holding a position in any other body of state power, body of local self-government or with a representative mandate.

2. No judge shall have the right to engage, in parallel with his/her work, in entrepreneurship or practice of law, or do any other paid work (except for teaching, scholarly, or creative activities during off-court hours), or be a member of a governing body or supervisory board of a for-profit enterprise or organization.

3. No judge may be a member of a political party or trade union, openly sympathize with them, or take part in political actions, rallies, or strikes.

4. Pursuant to a judge's application, he/she may be seconded to serve, retaining his/her primary employment salary, on the High Council of Justice, High Qualifications Commission of Judges, National School of Judges of Ukraine.

### Article 53. Rights and Responsibilities of a Judge

1. A judge's rights related to administration of justice shall be determined by the Constitution of Ukraine, procedural and other laws of Ukraine.

2. A judge shall have the right to take part in judicial self-government to address matters of internal operation of courts in the manner pursuant to the law. Judges may form associations and participate therein so as to protect their rights and interests and to improve their professional skills.

3. A judge shall have the right to improve his/her professional skills and, for that purpose, take appropriate training.

4. A judge shall be obliged to:

1) hear and adjudicate cases in a timely, fair, and impartial manner in accordance with the law, observing the principles and rules of legal proceedings;

2) comply with the rules of judicial ethics;

3) show respect for participants in the legal proceedings;

4) comply with/keep the judge's oath;

5) abstain from disclosing information which constitutes a law-protected secret, in particular secrecy of judges' deliberations or in-camera sessions;

6) comply with the incompatibility requirements;

7) submit annually to the State Judicial Administration of Ukraine, not later than April 1, a property status declaration (financial disclosure statement), to be made public by posting on the official web portal of the judiciary.

5. The property status declaration must contain information on the income, securities, immovable and valuable movable property, bank deposits, financial obligations of the judge, members of his/her family and close persons who share the house/flat or have common household with the judge and expenses (in the event of one-time expenses exceeding the amount of the monthly salary) of the judge. The form of the declaration and the procedure for completing it shall be adopted by the Ministry of Finance of Ukraine.

6. A judge first appointed to a judicial position shall be required to take two-week training annually in the National School of Judges. A judge holding a lifetime judicial position shall be required to take two-week training not less than once every three years.

7. Until his/her retirement a judge shall not be rewarded with state awards as well as other awards, decorations and letters of commendation by state power and local self-government bodies.

#### Article 54. Judicial Oath of Office

1. A person first appointed to a judicial position shall assume office after taking the following oath of office:

“In assuming my duties as a judge, I, (name and last name), do solemnly swear to administer justice in an objective, fair, and unbiased manner abiding only by law, guided by the principle of rule of law, to discharge my judicial duties honestly and conscientiously, to comply with moral-ethical principles of judicial conduct and not to commit any actions disgracing the title of a judge and diminishing the authority of the judiciary.”

2. A judge shall be sworn in at a solemn ceremony in the presence of the President of Ukraine. The text of the oath of office shall be signed by the judge and be kept in his/her personal file.

#### Article 55. Judicial Ethics

1. The issues of judicial ethics shall be outlined in the Code of judicial ethics, to be adopted by the Congress of Judges of Ukraine.

#### Chapter 3. People's Assessors

#### Article 56. Status of a People's Assessor

1. A people's assessor shall be a citizen of Ukraine who in situations prescribed by the procedural law shall adjudicate cases, as a member of a court panel, together with a judge, providing direct participation of the people in the administration of justice as required by the Constitution of Ukraine.

2. When hearing and adjudicating cases, people's assessors shall exercise powers of a judge. People's assessors shall have the responsibilities set forth in items 1–5, part four, Article 53 of this Law.

#### Article 57. List of People's Assessors

1. The list of people's assessors shall include citizens (the number of them to be specified by the chief judge) who permanently reside in the territory covered by the jurisdiction of the respective court, meet the requirements specified in Article 58 of this Law, and have given consent to be people's assessors.

2. The list of people's assessors shall be approved by a decision of the respective local council for a four-year term and be updated as necessary, but not less than once every two years.

3. The list of people's assessors shall be published in the periodical media of the respective local council.

#### Article 58. Requirements for a People's Assessor

1. A people's assessor must be a citizen of Ukraine who has reached the age of 30 and permanently resides in the territory under the jurisdiction of the respective court.

2. Citizens shall not be included in a list of people's assessors if they:

- 1) were found by court to have limited legal capacity or legal incapacity;
- 2) are suffering from chronic mental or other diseases which prevent them from performing the duties of a people's assessor;
- 3) have an outstanding or unquashed conviction;

4) are people's deputies of Ukraine (MPs), members of the Cabinet of Ministers of Ukraine, judges, prosecutors, employees of bodies of internal affairs or other law-enforcement agencies, military servicepersons, court staff, other public servants, lawyers, or notaries;

5) have reached the age of 65;

6) have no command of the state language.

3. A person included in the list of people's assessors shall be obliged to inform the court of circumstances precluding his/her participation in administration of justice if any.

#### Article 59. Grounds and Procedure for Relieving of the Duty to Act as a People's Assessor

1. A person who, pursuant to this Law, may not be included in the list of people's assessors but was included therein shall be relieved of the duty to act as a people's assessor by the chief judge of the respective court.

2. Relieved by the chief judge of the respective court of the duty to act as a people's assessor shall be the following:

1) persons who are on a pregnancy and maternity or child-care leave, or have children of pre-school or junior school age, or provide care to disabled children, other sick persons or elderly family members;

2) heads and deputy heads of bodies of local self-government;

3) persons refusing to administer justice on grounds of religious convictions;

4) other persons, provided that the chief judge finds their reasons justifiable/valid.

3. Persons mentioned in part two of this Article shall be relieved of the duty to act as a people's assessor upon their application, to be submitted before they begin to discharge that duty.

4. A people's assessor shall be relieved of the duty to act as a people's assessor as a result of recusal (self-recusal) for a specific case in the manner prescribed by the procedural law.

#### Article 60. Engagement of People's Assessors in the Discharge of Duties in a Court

1. A court shall engage people's assessors in the administration of justice on a rotational basis, for a period not exceeding one month per year, except that this deadline must be extended to complete the hearing of a case which started with their participation.

2. A court shall send a written invitation to take part in the administration of justice to a people's assessor not later than seven days before the start of the trial. The invitation shall indicate the rights and responsibilities of a people's assessor and include a list of requirements for people's assessors as well as the grounds for

relieving them of their duties. Along with the invitation, a written notification shall be sent to inform the employer that the person in question has been engaged as a people's assessor.

3. The employer shall be obliged to relieve the people's assessor of work responsibilities for the time he/she administers justice in court. Refusal to grant such relief shall be regarded as contempt of court.

4. Upon receiving an invitation from court, a people's assessor shall be obliged to appear in court on time to take part in the hearing. Failure to attend the hearing without good cause shall be regarded as contempt of court.

#### Article 61. Guarantees of the Rights of People's Assessors

1. People's assessors shall be paid compensation for the period of their service in the court in the amount of their average monthly salary or pension, but not below the subsistence minimum for an able-bodied person. They shall get compensation for travel expenses and apartment rental as well as to per diem expenses. The said payments shall be made by the territorial offices of the State Judicial Administration at the expense of the State Budget of Ukraine.

2. While performing duties in court, a people's assessor may not be dismissed from his/her regular position or transferred to a different position without his/her consent.

3. Guaranties of judicial independence and immunity established by the law shall apply to people's assessors for as long as they perform duties related to administration of justice. Based on a justified request from a people's assessor or juror, measures providing for his/her security may continue when the performance of those duties is already over.

#### Article 62. Jurors

1. A juror shall be citizens of Ukraine who in situations prescribed by the procedural law shall be engaged in administration of justice, providing direct participation of the people in the administration of justice as required by the Constitution of Ukraine.

### SECTION IV. PROCEDURE FOR ASSUMING THE OFFICE OF A PROFESSIONAL JUDGE OF A COURT OF GENERAL JURISDICTION

#### Chapter 1. General Provisions

#### Article 63. Requirements for Judicial Candidates

1. To be eligible for recommendation for a judicial position, the candidate must be a citizen of Ukraine at least twenty five years of age who has higher legal

education and a record of at least three years of service in the legal profession, has resided in Ukraine for at least ten years, and has command of the state language.

2. Citizens shall not be eligible for recommendation for a position of a professional judge if they:

- 1) were found by court to have limited legal capacity or legal incapacity;
- 2) are suffering from chronic mental or other diseases which prevent them from performing judicial duties;
- 3) have an outstanding or unquashed conviction.

3. Additional requirements for candidates for a judicial position in a higher-level court shall be specified by this Law.

4. For the purpose of this Article, it shall be deemed as follows:

1) higher legal education shall be taken to mean higher legal education of Specialist or Master degree received in Ukraine, as well as higher legal education of relevant educational and qualification level received in foreign countries and recognized in Ukraine as prescribed by the legislation;

2) [length of] record of service in the legal profession shall be taken to mean a person's overall record of service in the legal profession – after receiving complete higher legal education – in positions requiring higher legal education of at least specialist level.

#### Article 64. Selection of Judicial Candidates

1. Selection of candidates for a judicial position shall be made from among persons meeting the requirements set forth by the Constitution of Ukraine and Article 63 of this Law based on selection results, upon special training and qualification exam as required by this Law.

2. During the process of selection of candidates, they shall be equal in rights without distinction of race, color, political, religious or other convictions, sex, ethnic or social origin, property status, domicile, linguistic or other characteristics.

3. Anyone who meets the requirements established for a judicial candidate shall have the right to apply to the High Qualifications Commission of Judges of Ukraine for participation in the selection to position of a judge.

#### Chapter 2. Appointment to a Judicial Position

##### Article 65. Procedure for Appointing to a Judicial Position

1. First appointment to a judicial position shall take place exclusively following the procedure defined by this Law and include the following stages:

1) taking into account the estimated number of open judicial vacancies, the High Qualifications Commission of Judges of Ukraine shall post on its web portal an announcement about competition of candidates for judicial positions and publish an announcement in the newspapers Holos Ukrainy and Uriadovyi Kurier;

2) persons wishing to become a judge shall submit to the High Qualifications Commission of Judges of Ukraine a respective application and documents specified by this Law;

3) on the basis of submitted documents the High Qualifications Commission of Judges of Ukraine shall review the eligibility of the person whether he/she meets the requirements for a candidate for a judicial position and conduct a background check in the manner prescribed by the Law;

4) persons who meet the requirements established for a judicial candidate shall take an examination on general theoretical knowledge before by the High Qualifications Commission of Judges of Ukraine;

5) candidates who passed an examination and required inspections/checks successfully shall be sent to take special training at a specialized higher law school of fourth level of accreditation;

6) after successful training at a specialized higher law school of fourth level of accreditation the High Qualifications Commission of Judges of Ukraine shall send the candidates to take special training at the National School of Judges of Ukraine;

7) candidates who successfully passed the special training shall be admitted to take a qualification examination by the High Qualifications Commission of Judges of Ukraine;

8) taking into account the results of qualification examination the High Qualifications Commission of Judges of Ukraine shall rate candidates and put them on reserve list to fill vacancies;

9) in case the vacancies to be filled are available, the High Qualifications Commission of Judges of Ukraine shall announce the competition among candidates from reserve list;

10) taking into account the place of candidate in the rating list the High Qualifications Commission of Judges of Ukraine according to the number of vacant judicial positions shall conduct the selection among the candidates who have taken part in the competition and forward to the High Council of Justice recommendation to appoint the candidate to the judicial position;

11) according to recommendation of the High Qualifications Commission of Judges of Ukraine, the High Council of Justice at its meeting shall consider the issue of appointing the candidate to the judicial position and in case of a positive decision consider the issue of submitting a motion to the President of Ukraine for appointment of the candidate to a judicial position;

12) the President of Ukraine shall take a decision on the candidate's appointment to the judicial position.

Article 66. Submission of Documents to the High Qualifications Commission of Judges of Ukraine by the Applicant

1. In order to take part in the competition, the applicant shall be required to submit:

- 1) an application written by the candidate in his/her own handwriting;
- 2) a copy of his/her passport of a citizen of Ukraine;
- 3) a personal data sheet and curriculum vitae;
- 4) a copy of his/her certificate of higher legal education/diploma, of academic degree or academic rank;
- 5) extract from the work record book certifying record of service in the legal profession;
- 6) certificate of the applicant's health, issued by a medical institution (medical institutions authorized to issue such certificate and its form are defined by the High Qualifications Commission of Judges of Ukraine with the concurrence of authorized government body in charge of health care issues);
- 7) [the applicant's] written consent to the collection, storage, and use of information about him/her for the purpose of evaluating his/her fitness for judicial work and to be subjected to a background check.

It shall be prohibited to demand from candidate to submit other documents not mentioned in part one of this article.

2. Acceptance of documents shall be terminated two days before the competition. Applications coming in after the said deadline shall not be considered.

3. Admitted to the selection shall be persons who provided all the necessary documents. Refusal to admit an applicant shall be given in a well-grounded decision taken by the High Qualifications Commission of Judges of Ukraine.

#### Article 67. Procedure of Selection for a Judicial Position

1. Selection of candidates to a judicial position shall consist in the applicant's taking of anonymous test to find his/her level of general theoretical knowledge and conducting special inspection/verification whether the applicant meets the established requirements for a judicial position. Special inspections shall be conducted as well regarding the data and information submitted by applicant personally in the manner prescribed by the Law.

2. For the purposes of special inspection (background check), the High Qualifications Commission of Judges of Ukraine shall have the right to collect information about the candidate, make inquiries to enterprises, institutions and organizations of all form of ownership in order to receive the information about candidate. Upon the result of consideration of such inquiries the information shall be provided to the High Qualifications Commission of Judges of Ukraine within 10 days. Not providing or providing such information with violation of defined terms leads to amenability prescribed by the Law.

3. Organizations and citizens shall have the right to present to the High Qualifications Commission of Judges of Ukraine information they may have about the candidate.

4. Applicants who meet the established requirements for candidate for a judicial position are permitted to take an examination.

#### Article 68. Special Training of Candidates for a Judicial Position

1. Special training of candidates for a judicial position shall consist of theoretical training delivered by a specialized higher law school of fourth level of accreditation and practical training delivered by the National School of Judges of Ukraine.

2. The curriculum and procedure of special training of candidates for a judicial position shall be approved by the High Qualifications Commission of Judges of Ukraine with the concurrence of specialized higher law schools of fourth level of accreditation and the National School of Judges of Ukraine.

3. Special training shall be conducted during 6 (six) months at the expense of the State Budget of Ukraine. For the period of training the candidate for a judicial position shall retain his/her principal position and receive grant of at least two thirds of official salary of a judge of a local court of general jurisdiction.

4. Based on the results of the special training the candidates shall get the appropriate document of the established form. Materials on candidates who passed special training successfully shall be sent to the High Qualifications Commission of Judges of Ukraine in order to take qualification examination.

5. In case of violation by the candidate of the procedure for special training which resulted in his/her expulsion or if the candidate stops such training of his/her free will, the candidate shall be obliged to reimburse the expenses spent on his/her training.

#### Article 69. Qualification Examination

1. The qualification examination shall be an attestation [appraisal] of a person who has received special training and expressed his/her willingness to be recommended for appointment (election) for a judicial position.

2. The qualification examination shall involve evaluation of the theoretical knowledge and level of professional training of the judicial candidate, the degree of his/her readiness to administer justice in matters within the jurisdiction of the respective court, and the candidate's personal and moral qualities.

3. The qualification examination shall include taking by the candidate a written anonymous test and case study to be resolved by the candidate in order to evaluate the level of practical skills and abilities to apply the law.

4. Written anonymous testing shall be conducted by the High Qualifications Commission of Judges of Ukraine in a special room intended for this purpose; the process of the testing shall be recorded with means of audio and video record.

5. The procedure for taking the qualification examination and evaluation methodology shall be determined by the regulation to be approved by the High Qualifications Commission of Judges of Ukraine.

6. The results of the qualification examination shall be valid for the next three years.

7. Any person failing to pass the qualification examination may be admitted to take exam for a judicial position not sooner than in one year. Any person failing to pass the qualification examination for the second time may be admitted to the next exam not sooner than in two years.

8. Based on the score of the candidate as a result of the qualification examination the High Qualifications Commission of Judges of Ukraine rates the candidates and enters them into a reserve list of candidates for a judicial position.

9. Information about results of qualification examination and position of candidate in the rating list shall be public and shall be posted at official web portal of the High Qualifications Commission of Judges of Ukraine.

10. The results of qualification examination may be appealed against to the High Council of Justice, which has the right to reverse the decision of the High Qualifications Commission of Judges of Ukraine and oblige it to give the candidate who complained a second (one more) qualification examination.

#### Article 70. Holding of Competition for a Judicial Position

1. In order to conduct competition for judicial vacancies, the High Qualifications Commission of Judges of Ukraine shall post respective information on its official web portal and publish an announcement in the newspapers Holos Ukrainy and Uriadovyi Kurier not later than one month before the competition.

2. The competition announcement shall specify the names of courts where judicial vacancies are available, the number of such vacancies, terms and conditions of the competition, the date, place and time of the competition.

3. Candidates for a judicial position being in the reserve list and willing to take part in the competition shall submit a written application to the High Qualifications Commission of Judges of Ukraine within the established term.

4. The High Qualifications Commission of Judges of Ukraine shall conduct a competition and select candidates for a judicial position taking into account the results of qualification examination and score they received. The score is a primary criterion in conducting competition by the High Qualifications Commission of Judges of Ukraine among candidates to fill judicial vacancies. If candidates have identical score the advantage shall have the candidate who has at least three year record of service at the position of judge assistant, longer record of service in the field of law.

5. Based on the results of the competition the High Qualifications Commission of Judges of Ukraine shall send to the High Council of Justice

recommendations for appointment to judicial positions according to the number of open vacancies.

6. According to the recommendation submitted by the High Qualifications Commission of Judges of Ukraine the High Council of Justice at its meeting shall review the issue of appointing the candidate to judicial position and if the decision is positive it shall submit a motion to the President of Ukraine for appointment of the candidate to a judicial position.

#### Article 71. Appointment to a Judicial Position

1. Appointment to a position of a professional judge shall be made by the President of Ukraine on the basis of a motion by the High Council of Justice of Ukraine within 30 days from the day the motion was received.

#### Article 72. Transfer of a Judge to Another Court within the Five-year Term of Appointment

1. A judge within the five-year term of appointment may be transferred to judicial position in another local court on his/her written application to the High Qualifications Commission of Judges of Ukraine for recommending him/her for a judicial position in correspondent court.

2. Transfer of a Judge to judicial position in another court shall be made based on the results of the competition established to fill the vacancy.

3. In case of judge's participating in the competition established to fill the vacancy in another court of the same level and jurisdiction his/her results of previous qualification examination may be taken into consideration upon his/her wish.

4. In case of identical scores the advantage will get those candidates who have longer record of service at the position of a judge.

5. Transfer of a judge within the five-year term of appointment to judicial position in the court of other jurisdiction shall be made on the basis of the results of qualification examination to be taken by a judge pursuant to this law.

6. Transfer of a judge within the five-year term of appointment shall be made by the President of Ukraine.

#### Chapter 3. Lifetime Election to a Judicial Position

#### Article 73. Procedure for Election to a Judicial Position

1. The procedure for lifetime election to a judicial position shall be determined by this Law and the Procedural Rules of the Verkhovna Rada of Ukraine.

2. A judge whose tenure of judicial office has expired, upon his/her application has to be recommended by the High Qualifications Commission of

Judges of Ukraine to be elected to a lifetime judicial position by the Verkhovna Rada of Ukraine provided there are no circumstances preventing this.

3. The procedure for lifetime election to a judicial position shall be as follows:

1) the candidate shall apply in written to the High Qualifications Commission of Judges of Ukraine for a recommendation to be elected to a lifetime judicial position;

2) the High Qualifications Commission of Judges of Ukraine shall publish information on the preparation of materials for the lifetime election of the candidate to a judicial position in local printed media and on the official web portal of the High Qualifications Commission of Judges of Ukraine;

3) the High Qualifications Commission of Judges of Ukraine shall verify the information about candidate, shall interview him/her, shall take into account case consideration rates of the candidate;

4) based on the results of the interview, the High Qualifications Commission of Judges of Ukraine shall decide to recommend or to refuse to recommend the judicial candidate to be elected to a lifetime judicial position and shall forward the respective motion to the Verkhovna Rada of Ukraine;

5) the Verkhovna Rada of Ukraine according to the motion by the High Qualifications Commission of Judges of Ukraine shall take a decision to elect the candidate in the manner prescribed by the Law.

Article 74. Application of the Candidate to the High Qualifications Commission of Ukraine to be elected for a lifetime

1. The candidate for a lifetime judicial position shall apply to the High Qualifications Commission of Judges of Ukraine for a recommendation to be elected to a lifetime judicial position not later than six months before the expiry of his/her tenure of judicial office.

2. Also a candidate, who was removed from the office due to the expiration of his/her her tenure of judicial office and who didn't apply to the High Qualifications Commission of Judges of Ukraine for a recommendation to be elected to a lifetime judicial position before, may apply to the High Qualifications Commission of Judges of Ukraine for a recommendation to be elected to a lifetime judicial position – within three years from the time of dismissal.

3. A candidate with time of removal from the office due to the expiration of his/her her tenure of judicial office more than specified in part two of this Article may be recommended to be elected to a lifetime judicial position by the High Qualifications Commission of Judges of Ukraine after passing qualification examination according to requirements of this Law.

4. In order to take part in selection to lifetime judicial position the candidate shall submit:

1) an application written by the candidate in his/her own handwriting;

- 2) a copy of his/her passport of a citizen of Ukraine;
  - 3) the candidate's personal data sheet and curriculum vitae;
  - 4) a copy of his/her certificate/diploma confirming education, academic degree or academic rank;
  - 5) extract from the work record book certifying record of service as a judge;
  - 6) certificate of the applicant's health, issued by a medical institution (medical institutions authorized to issue such certificate and its form are defined by the High Qualifications Commission of Judges of Ukraine with the concurrence of authorized government body on health care issues);
  - 7) property declaration (financial disclosure statement) for the recent year;
  - 8) [the applicant's] written consent to the collection, storage, and use of information about him/her for the purpose of evaluating his/her fitness work as lifetime judge.
5. To demand from candidate documents not prescribed by this Article shall be prohibited except cases when clarifications and explanations related to the information on his/her activities as a judge are needed.

Article 75. Procedure of the Consideration of Application of the Candidate for a Lifetime Judicial Position by the High Qualifications Commission of Ukraine

1. The High Qualifications Commission of Judges of Ukraine shall publish information on the preparation of materials for the election of the candidate to a lifetime judicial position on its official web portal and in local printed media.
2. The High Qualifications Commission of Judges of Ukraine shall consider issues related to the election of a candidate for a lifetime judicial position not later than two months before the expiry of his/her tenure of judicial office.
3. The High Qualifications Commission of Judges of Ukraine shall verify the compliance of the candidate for a lifetime judicial position with requirements of Article 127 of the Constitution of Ukraine , Articles 52, 63 of the present Law and considers the petitions received from citizens, public organizations, enterprises, institutions, central and local government bodies regarding his/her judicial performance.
4. Candidate whose application for a recommendation for a lifetime judicial position is considered shall have the right to get acquainted with the information on his performance, inquiries made by the High Qualifications Commission of Judges of Ukraine and responses thereto.

Article 76. Decision on Recommendation or Refusal to Recommend for the Election of a Candidate to a Lifetime Judicial Position

1. A decision concerning recommendation for the election of a candidate to a lifetime judicial position shall be made after interviewing the candidate at the

meeting of the High Qualifications Commission of Judges of Ukraine in his/her presence, and shall be announced immediately after it was taken.

2. A decision of the High Qualifications Commission of Ukraine to refuse to recommend a candidate for a lifetime judicial position may be appealed to the High Council of Justice in the manner prescribed by the Law of Ukraine “On the High Council of Justice.”

3. If the High Council of Justice confirms the decision by the High Qualifications Commission of Ukraine on refusal in recommendation for a lifetime judicial position, the High Council of Justice shall submit to the President of Ukraine a motion for the removal of this candidate from the judicial position.

Article 77. Motion for the Election of a Candidate to a Lifetime Judicial Position and Documents to Be Appended thereto

1. A motion by the High Qualifications Commission of Judges of Ukraine its decision regarding the election of a candidate for a lifetime judicial position shall be sent to the Verkhovna Rada of Ukraine not later than one month before the expiry of his/her tenure of judicial office.

2. The motion shall include the last name, name, and patronymic of the candidate and the name and location of the court to which the candidate should be elected.

Article 78. Consideration and Decision on Electing a Candidate to a Lifetime Judicial Position by the Verkhovna Rada of Ukraine

1. The procedure of considering issue and making a decision by the Verkhovna Rada of Ukraine on electing a candidate to a lifetime judicial position shall be determined by this Law and Procedural Rules of the Verkhovna Rada of Ukraine.

2. The issue concerning the election of a candidate to a lifetime judicial position shall be considered at a plenary meeting of the Verkhovna Rada without conclusions/opinion of committees of the Verkhovna Rada of Ukraine and any verification.

3. The consideration of the election of a candidate to a lifetime judicial position at a plenary meeting of the Verkhovna Rada of Ukraine shall begin with a report by the Head of the High Qualifications Commission of Judges of Ukraine or a member of the High Qualifications Commission of Judges of Ukraine who acts upon the instruction from the Head of the High Qualifications Commission of Judges.

4. The decision on electing a candidate for a lifetime judicial position shall be taken by a majority of the constitutional composition of the Verkhovna Rada of Ukraine and shall be recorded in the Resolution of Verkhovna Rada of Ukraine.

5. A person elected to a lifetime judicial position shall acquire the status of a judge from the moment the correspondent Resolution of the Verkhovna Rada of Ukraine comes into force.

6. In case a candidate to a lifetime judicial position doesn't receive the amount of votes stipulated in part 4 of this article, re-voting shall be conducted.

#### Article 79. Transfer of a Judge Elected for a Lifetime Position to Another Court

1. The transfer of a judge elected to a lifetime position to another court within the same specialization shall be performed by the Verkhovna Rada of Ukraine following the procedure set forth by this Law and the Procedural Rules of the Verkhovna Rada of Ukraine for electing judges.

2. Transfer of a judge elected to a lifetime position to the court of other specialization shall be performed by the Verkhovna Rada of Ukraine on a motion of the High Qualifications Commission of Judges of Ukraine based on the results of qualification examination taken by the judge according to this Law.

### SECTION V. ENSURING THE APPROPRIATE QUALIFICATION LEVEL OF A JUDGE

#### Chapter 1. The National School of Judges of Ukraine

#### Article 80. Status and Structure of the National School of Judges of Ukraine

1. The National School of Judges of Ukraine shall be a state institution with a special status; it shall ensure training of highly skilled personnel for the judicial system and conduct scientific-research activity. The legislation on higher education shall not be applied to the National School of Judges of Ukraine.

2. The National School of Judges of Ukraine shall be established under the High Qualifications Commission of Judges of Ukraine and shall operate according to this Law and the Charter to be approved by the High Qualifications Commission of Judges of Ukraine.

3. The National School of Judges of Ukraine shall be headed by Rector appointed by the High Qualifications Commission of Judges of Ukraine. Vice-rectors of the National School of Judges of Ukraine shall be appointed by the High Qualifications Commission of Judges of Ukraine based on the motion of the Rector of the National School of Judges of Ukraine.

4. The employees of the National School of Judges of Ukraine in terms of payment shall be given the same status as public servants.

5. The National School of Judges of Ukraine shall be the legal entity, have the seal with imprint of the State Emblem of Ukraine and its name on it, an

independent balance sheet and accounts in the bodies of State Treasury of Ukraine and may have regional branches.

#### Article 81. Objectives of the National School of Judges of Ukraine

1. The National School of Judges of Ukraine shall conduct:
  - 1) practical training of candidates for a judicial position;
  - 2) training of judges:  
appointed to the judicial position for the first time;  
elected to a lifetime judicial position;  
appointed to administrative positions in courts;
  - 3) periodical on-going training of judges to improve their professional level;
  - 4) training of court staff;
  - 5) scientific research in issues concerning judiciary improvement;
  - 6) study of international experience of court performance organization;
  - 7) scientific-methodological support of the operation of court of general jurisdiction, the High Qualifications Commission of judges of Ukraine and the High Council of Justice.

### SECTION VI. DISCIPLINARY LIABILITY OF A JUDGE

#### Chapter 1. Grounds and Procedure for Disciplinary Action

#### Article 82. Grounds for Disciplinary Action against a Judge

1. Disciplinary proceedings against a judge may be initiated on the following grounds:
  - 1) essential violation of norms of procedural law while administering justice related in particular with denying a person's access to justice on the grounds not stipulated by law, violation of requirements for case assignment and registration of cases in court, rules of jurisdiction, applying without due grounds measures to secure the claim, etc.;
  - 2) not taking any action regarding consideration of an application, complaint, or case within the term established by law;
  - 3) violation of requirements regarding unbiased consideration of case, specifically violation of recusal (self-recusal) rules;
  - 4) systematic or gross one-time violation of rules of judicial ethics, which undermines the authority of justice;
  - 5) disclosure of secrete information protected by law, specifically confidential information of deliberation room, or secrets which the judge learned during an in-camera session;

6) non-submission or untimely submission of a property status declaration required to be made public, inclusion of intentionally false information in the declaration.

2. Reversal or alteration of a court decision shall not be a ground for disciplinary action against the judge who took part in passing it, unless the decision involved intentional violation of legal norms or manifestly careless execution of one's duties.

#### Article 83. Disciplinary Proceedings against a Judge

1. Disciplinary proceedings are a procedure for consideration, by a body specified by the law, of an application containing information on violation by a judge of requirements regarding his/her status or official responsibilities, or on violation of the judicial oath of office.

2. Anyone who is aware of such facts shall have the right to file a complaint (petition) regarding the conduct of a judge which may be a ground for disciplinary action against the judge.

3. Abuse of the right to apply to the body authorized to conduct disciplinary proceedings, in particular initiation of the issue of disciplinary action against a judge without sufficient grounds and use of this right as a means to pressure a judge in connection with his/her administering of justice shall not be permitted.

4. A disciplinary case against a judge may not be initiated on the basis of an application or report containing no evidence of elements of a disciplinary offence or on the basis of anonymous applications or reports.

#### Article 84. Bodies Conducting Disciplinary Proceedings

1. Disciplinary proceedings shall be conducted by:

1) the High Qualifications Commission of Judges of Ukraine, in relation to judges of local and appellate court;

2) the High Council of Justice, in relation to justices of high specialized courts and of the Supreme Court of Ukraine.

#### Article 85. Procedure for Disciplinary Proceedings in Respect of a Judge

1. Disciplinary proceedings regarding a judge shall involve verification of information on the presence of grounds for taking disciplinary action against a judge, opening of a disciplinary case, its consideration and passing of a decision by a body conducting disciplinary proceedings.

2. Verification of information on the presence of grounds for taking disciplinary action against a judge of a local or appellate court shall be performed by a member of the High Qualifications Commission of Judges of Ukraine acting on the basis established by this Law.

3. At the stage of verification, a member of the High Qualifications Commission of Judges of Ukraine shall have the right to study materials of court cases, make copies thereof, talk to judges and other persons who are aware of the circumstances of the action containing elements of a disciplinary offence, and demand necessary information on inquiry from the State and local government bodies, its officers, managers of enterprises, institutions and organizations of all forms of ownership and jurisdiction, citizens and their associations.

4. State and local government bodies, their officers, managers of enterprises, institutions organizations and associations of citizens and jurisdiction, citizens to whom the inquiries have been sent by a member of the High Qualifications Commission of Judges of Ukraine shall be obliged to provide necessary information within ten days from the time they received an inquiry. If necessary the defined term may be extended to thirty days; about this a member of the High Qualifications Commission of Judges of Ukraine shall inform directly in his inquiry.

5. Not providing the information or providing deliberately false information to the member of High Qualifications Commission of Judges of Ukraine shall result in making the guilty persons answerable according to the Law.

6. Based on the results of the verification, a member of the High Qualifications Commission of Judges of Ukraine shall write opinion presenting facts and circumstances found during the verification and includes proposal to open or dismiss a disciplinary case. The opinion of the member of the High Qualifications Commission of Judges of Ukraine and the materials collected during verification shall be forwarded for consideration to the High Qualifications Commission of Judges of Ukraine.

7. The question of whether a disciplinary case should be opened shall be decided by the High Qualifications Commission of Judges of Ukraine.

8. A copy of decision on opening a disciplinary case by the High Qualifications Commission of Judges of Ukraine shall be sent to the judge against whom the case was initiated and to the person whose application was the basis for initiating the case not later than three days after the decision had been made. The conclusion made by the member High Qualifications Commission of Judges of Ukraine on the basis of the verification results is attached to the decision of the High Qualifications Commission of Judges of Ukraine sent to the judge.

9. A disciplinary case shall be considered at a meeting of the High Qualifications Commission of Judges of Ukraine, to which shall be invited the person whose application was the basis for initiating the case, the judge against whom the case was initiated, and other interested persons if necessary.

10. In case the judge against whom the case was initiated shall have no opportunity to attend the meeting High Qualifications Commission of Judges of Ukraine for a valid reason he/she may give written explanations on the matter/merit of the raised issues which shall be adjoined to the case file. Written explanations of the judge are mandatory announced at the meeting of the High

Qualifications Commission of Judges of Ukraine. The second failure of the judge to attend the meeting of the High Qualifications Commission of Judges of Ukraine shall serve as a grounds to consider disciplinary case in his absence.

11. The consideration of a disciplinary case regarding a judge shall be adversary. At its meeting the High Qualifications Commission of Judges of Ukraine shall hear a report by the member of High Qualifications Commission of Judges of Ukraine who conducted the verification about the verification results, an explanation from the judge who is the subject of the case and/or from his/her representative, as well as reports by other interested persons.

12. A judge subjected to disciplinary action or his representative shall be entitled to give explanations, put questions to participants in the proceeding, express objections, file motions, and seek disqualification.

13. The process of consideration of the case and the announcement of the results shall be recorded by technical means.

14. The High Council of Justice shall conduct disciplinary proceedings in respect of justices of the Supreme Court of Ukraine and judges of the high specialized courts in the manner specified by the Law of Ukraine “On the High Council of Justice.”

#### Article 86. Decision in a Disciplinary Case against a Judge

1. The High Qualifications Commission of Judges of Ukraine shall deliberate on the results of its consideration of a disciplinary case against a judge in the absence of the judge who is the subject of the case. The decision in a disciplinary case shall be taken by a majority of votes of the total amount of members of the High Qualifications Commission of Judges of Ukraine.

2. When deciding on a disciplinary sanction against a judge, taken into account shall be the nature of the offence, its consequences, the personality of the judge, the extent of his/her guilt, and the circumstances impacting the possibility to discipline the judge.

3. Once the High Qualifications Commission of Judges of Ukraine rules that there are no grounds for disciplining a judge, the Commission shall terminate the disciplinary proceedings and notify the interested persons thereof.

4. A disciplinary sanction may be applied upon a judge not later than six months after the High Qualifications Commission of Judges of Ukraine opened a the disciplinary proceedings but not later than a year after the offense, not counting the time of the judge’s temporary incapacity to work or vacation.

5. Based on the results of a disciplinary proceeding, the High Qualifications Commission of Judges of Ukraine may decide to send a recommendation to the High Council of Justice to submit a motion for the removal of the judge if there are grounds for doing so.

6. A decision of the High Qualifications Commission of Judges of Ukraine shall be stated in writing. The decision shall be signed by the chair of the meeting

and by the commission's members present thereat and be announced at the meeting. The decision in a disciplinary case must specify:

- 1) the name of the body authorized to conduct the disciplinary proceedings;
- 2) the last name, name, patronymic, and position of the judge subjected to disciplinary action;
- 3) the circumstances of the case established by the body, with reference to evidence;
- 4) the reasons for the decision taken by the body;
- 5) the essence of the decision based on the results of consideration, with indication of the type of disciplinary sanction, if one is imposed;
- 6) the procedure and deadline for appealing the decision.

7. When there is a dissenting opinion, the latter shall be presented in writing by the respective member of the High Qualifications Commission of Judges of Ukraine and appended to the case file, which shall be announced at the meeting by its chair. The contents of the dissenting opinion shall not be disclosed at the meeting.

8. A copy of the decision of the High Qualifications Commission of Judges of Ukraine shall be issued to the judge subjected to the disciplinary action; and if he is not present at the announcement of the decision, it shall be sent to him within seven days by post.

#### Article 87. Disciplinary Sanction regarding a judge and the procedure for removing it

1. The disciplinary sanction in way of censure/reprimand may be imposed on a judge.

2. Information on the imposition of a disciplinary sanction on a judge shall be published on the official web portal of the High Qualifications Commission of Judges of Ukraine.

3. If within a year from the day the disciplinary sanction was applied the judge is not subjected to a new disciplinary sanction he/she shall be regarded as the one that has no disciplinary sanction.

4. Disciplinary penalty imposed on a judge may be withdrawn pre-term by the High Qualification Commission of Judges of Ukraine based on recommendations issued by corresponding council of judges.

#### Article 88. Appealing a Decision in a Disciplinary Case against a Judge

1. A judge of a local or appellate court may appeal a decision of the High Qualifications Commission of Judges of Ukraine on disciplining him/her to the High Council of Justice or the High Administrative Court of Ukraine not later than one month from the day a copy of the decision was handed out to him/her or received by him/her.

2. The complaint to the High Council of Justice shall be filed through the High Qualifications Commission of Judges of Ukraine.

3. Upon receiving the complaint, the High Qualifications Commission of Judges of Ukraine shall send it, along with the case file materials, not later than within three days after the complaint was received to the High Council of Justice.

4. The complaints shall be reviewed by the High Council of Justice pursuant to the Law of Ukraine “On the High Council of Justice.”

5. The administrative complaint against the decision of the High Qualifications Commission of Judges of Ukraine on disciplining judge shall be considered in the manner prescribed by the procedural legislation.

6. Filing a complaint about the decision of High Qualifications Commission of Judges of Ukraine regarding disciplining a judge to the High Council of Justice or filing administrative claim to the High Administrative Court of Ukraine shall stay the imposition of the sanction (shall halt the application of discipline punishment).

## Chapter 2. The High Qualifications Commission of Judges of Ukraine

### Article 89. Status of the High Qualifications Commission of Judges of Ukraine

1. The High Qualifications Commission of Judges of Ukraine shall be a standing body (operating on a permanent basis) in the judiciary system of Ukraine.

2. The High Qualifications Commission of Judges of Ukraine shall be the legal entity, have the seal with imprint of the State Emblem of Ukraine and its name on it, an independent balance sheet and accounts in the bodies of State Treasury of Ukraine.

3. The procedure of operation of the High Qualifications Commission of Judges of Ukraine shall be established by its procedural rules approved by a majority of all members of the High Qualifications Commission of Judges of Ukraine.

### Article 90. Powers of the High Qualifications Commission of Judges of Ukraine

1. The High Qualifications Commission of Judges of Ukraine shall:

1) maintain data about the number of judicial positions in courts of general jurisdiction, including the vacant ones;

2) register data about the number of administrative positions in courts of general jurisdiction and immediately inform the correspondent council of judges, the High Council of Justice on opening of vacant positions of chief judge, deputy chief judge;

3) conduct a selection of the candidates for first appointment to judicial position, including organization of special background check according to the law and conduction of a qualification examination;

4) forward to the High Council of Justice recommendation to appoint a candidate to judicial position in order to further submit a respective motion to the President of Ukraine;

5) interview candidates to lifetime judicial appointment and based on the interview results provides or refuses to provide recommendation to appoint/elect candidate to a lifetime position;

6) determine the need for state order for professional training of candidates for a judicial position at the National School of Judges of Ukraine;

7) take decision on removing a judge from his office due to initiated criminal proceedings against the judge based on reasoned resolution of the Prosecutor General;

8) review petitions and information on disciplinary responsibility of judges of local courts and courts of appeal and if there are grounds open disciplinary cases as well as execute disciplinary proceedings;

9) make decisions based on the results of disciplinary proceedings and provided there are grounds impose disciplinary sanctions on judges of local courts and courts of appeal;

10) take a decision on early (ahead of time) removing sanctions imposed on a judge;

11) exercise other powers specified by law.

2. In order to exercise its powers the High Qualifications Commission of Judges of Ukraine shall have the right to demand and receive necessary information from judges, State Judicial Administration, judicial self-government bodies and other judicial institutions, state and local government bodies, their public officers, enterprises, institutions or organizations irrespective of forms of ownership, as well as from citizens and associations thereof; not submitting the necessary information shall result in person liability specified by law.

#### Article 91. Composition of the High Qualifications Commission of Judges of Ukraine

1. The High Qualifications Commission of Judges of Ukraine shall be composed of eleven members having higher legal education and a record of service in the legal profession of at least twenty years. The Commission shall consist of:

1) six judges to be appointed by the Congress of Judges of Ukraine;

2) two persons shall be appointed congress of representatives of higher law schools and scientific institutions;

3) one person to be appointed by the Minister of Justice of Ukraine;

4) one person to be appointed by the Ombudsman of the Verkhovna Rada of Ukraine;

- 5) one person to be appointed by the Head of State Judicial Administration.
2. The term of appointment of a member of a qualifications commission of judges shall be three years. The same person may not serve as a member of a qualifications commission of judges for two consecutive terms.
3. The members of the High Qualifications Commission of Judges of Ukraine shall, during the term of their appointment, be seconded to the High Qualifications Commission and may not discharge any professional duties associated with their primary employment.
4. The members of the High Qualifications Commission of Judges of Ukraine shall, during the term of their appointment, shall keep their status and previous place of work.

Article 92. Procedure for the Formation of the High Qualifications Commission of Judges of Ukraine

1. The members of the High Qualifications Commission of Judges of Ukraine who are judges shall be appointed in an open or secret ballot by the Congress of Judges of Ukraine. The Congress of Judges of Ukraine may elect more than six judges and determine their order of priority in case a judicial member or judicial members of the High Qualifications Commission of Judges of Ukraine appointed under the quota of the Congress of Judges of Ukraine drop out. These persons automatically shall get the powers of the member of the High Qualifications Commission of Judges of Ukraine, when one or several members of the Commission appointed under the quota of the Congress of Judges of Ukraine drop out. Persons appointed by the Congress of Judges of Ukraine to substitute members of the High Qualifications Commission of Judges of Ukraine in case of drop out shall continue to perform their duties as judges until the moment they fill the position of the member of the High Qualifications Commission of Judges of Ukraine according to set order of priority.
2. The members of the High Qualifications Commission of Judges of Ukraine shall be appointed by the congress of representatives of higher education law schools and scientific institutions in an open or secret ballot.
3. The Minister of Justice of Ukraine shall appoint members of the High Qualifications Commission of Judges of Ukraine by his/her order.
4. The Ombudsman of the Verkhovna Rada of Ukraine shall appoint a member of the High Qualifications Commission of Judges of Ukraine by an ordinance.
5. The Head of the State Judicial Administration of Ukraine shall appoint members of the High Qualifications Commission of Judges of Ukraine by his/her order.
6. People's deputies of Ukraine (MPs), members of the Cabinet of Ministers, chief judges of courts, their deputies, secretaries of judicial chambers, members of Council of Judges of Ukraine, members of the High Council of Justice,

Ombudsman of the Verkhovna Rada of Ukraine and officials on whom the disciplinary sanction is imposed may not be appointed to the High Qualifications Commission of Judges of Ukraine.

7. The High Qualifications Commission of Judges of Ukraine shall be deemed competent if at least eight members of the Commission have been appointed.

#### Article 93. Organization of Work of the High Qualifications Commission of Judges of Ukraine

1. The High Qualifications Commission of Judges of Ukraine shall elect from among its members, in an open or secret ballot, the head of the Commission, one deputy head, and secretary of the Commission. The candidate receiving a majority of the votes of all the members of the Commission shall be deemed to have been elected.

2. The head of the Commission shall organize the work of the Commission, assign responsibilities among the members of the Commission, convene meetings of the Commission, and preside over them. In the absence of the head of the High Qualifications Commission of Judges of Ukraine, his/her duties shall be performed by deputy head of the Commission; and in the absence of the deputy head, by the member of the Commission who has the largest record of service in the position of a judge.

3. To conduct verification of information on presence of grounds for disciplinary action against a judge there shall be an automated/computerized system for designating a member of the High Qualifications Commission of Judges of Ukraine to conduct the verification. Regulation on automated (computer aided) system of determining the Commission member shall be approved by Council of Judges of Ukraine upon agreeing it with State Judicial Administration of Ukraine.

4. The secretary of the Commission shall prepare the meetings of the Commission and shall be responsible for organization of workflow/case management of the Commission.

5. The operating procedure of the Commission shall be determined by its procedural rules approved by a majority of votes of all members of the Commission.

6. A meeting of the High Qualifications Commission of Judges of Ukraine shall be open and public, except for cases stipulated by the law. The Commission's meeting shall be deemed competent if attended by at least two thirds of the total number of the Commission members.

7. The head of the High Qualifications Commission of Judges of Ukraine shall determine the date, time and place of the Commission's meeting, the list of items to be put on the agenda of the meeting, and send a relevant notification to the persons whose issue shall be considered not later than ten days before the meeting.

Article 94. Rights of a Member of the High Qualifications Commission of Judges of Ukraine

1. A member of the High Qualifications Commission of Judges of Ukraine shall have the right to:

- 1) be acquainted with materials submitted for the Commission's consideration, take part in their examination and verification;
- 2) present his/her reasons and arguments, as well as submit other documents concerning the issues under consideration;
- 3) submit proposals regarding a draft resolution of the Commission on any issues whatsoever and vote for or against any particular decision;
- 4) express in written form his/her dissenting opinion on any decision of the High Qualifications Commission of Judges of Ukraine;
- 5) exercise other powers established by law.

Article 95. Disqualification of a Member of the High Qualifications Commission of Judges of Ukraine

1. A member of the High Qualifications Commission of Judges of Ukraine may not conduct verification of the grounds to discipline a judge of local or appellate court, take part in the consideration of an issue and decision making and shall be subject to recusal (self-recusal) if circumstances are established which might call into question his/her impartiality. In the presence of such circumstances, the Commission's member must recuse himself/herself. For the same reasons, disqualification of a Commission's member may be requested by persons involved in the issue under consideration or by the persons who presented the issue for consideration.

2. A request for disqualification must be well-grounded and submitted prior to the beginning of the consideration of the issue in the form of a written application addressed to the Commission Head. The chair of the meeting shall be obliged to acquaint with the application the Commission's member whose disqualification is sought.

3. A decision on the disqualification (recusal) of a member of the Commission shall be taken by a majority of the votes of the Commission's members present at the meeting, in the absence of the Commission's member whose disqualification (recusal) is to be voted upon.

Article 96. Decision the High Qualifications Commission of Judges of Ukraine

1. A decision of High Qualifications Commission of Judges of Ukraine shall be taken by a majority of the Commission's members. The voting shall be held in the absence of the person concerned as well as of the invited persons.

2. A decision of High Qualifications Commission of Judges of Ukraine shall be stated in writing. The decision shall indicate the date and place of the decision, the Commission's members present, the issues under consideration, and the reasons for the decision taken. The decision shall be signed by the chair of the meeting and by the Commission's members present thereat.

3. When there is a dissenting opinion, the latter shall be presented in writing by the respective member of the Commission and appended to the case file, which fact shall be announced at the meeting by its chair; yet the contents of the opinion shall not be disclosed at the meeting.

4. A decision of the High Qualifications Commission of Judges of Ukraine may be appealed to the High Administrative Court of Ukraine in the manner prescribed by the procedural law.

5. In cases prescribed by this Law, a decision of the High Qualifications Commission of Judges of Ukraine may be appealed to the High Council of Justice.

#### Article 97. Support for the Operation of the High Qualifications Commission of Judges of Ukraine

1. The Secretariat shall be established in order to provide organizational support for the operation of the High Qualifications Commission of Judges of Ukraine.

2. In order for the members of the High Qualifications Commission of Judges of Ukraine to conduct a proper verification of the grounds for disciplinary action against judges of local courts and courts of appeal there shall be acting a service of disciplinary inspectors which consists of thirty three disciplinary inspectors. Three disciplinary inspectors are assigned to each member of the High Qualifications Commission of Judges of Ukraine.

3. The staff of the Secretariat shall be appointed and dismissed by the Head of the High Qualifications Commission of Judges of Ukraine. Disciplinary inspectors shall be appointed and dismissed by the Head of the High Qualifications Commission of Judges of Ukraine based on the motion of the correspondent member of the High Qualifications Commission of Judges of Ukraine.

4. Salary scale of the staff of the Secretariat and disciplinary inspectors, their provision and the level of social security shall be determined by the Law of Ukraine on Public Service, other legal acts and may not be less than correspondent categories of public servants of the staff of executive power central bodies have.

5. The members of the Commission preserve the guarantees for material, social and everyday provision, prescribed for judges, employees of the Ministry of Justice, the State Judicial Administration and representative of the Ombudsman of the Verkhovna Rada of Ukraine. In such a case, the compensation shall be paid on the basis of the pay rates to which these persons are entitled as employees of the bodies from which they were seconded. The members of the Commission appointed by congress representatives of higher law schools and scientific

institutions shall be paid remunerations in the amount of the average salary of the other members of the Commission.

6. The remunerations shall be paid from the State Budget of Ukraine.

#### Article 98. Service of Disciplinary Inspectors

1. Disciplinary inspectors on the instruction of a member of the High Qualifications Commission of Judges of Ukraine shall preliminarily analyze applications and petitions on judicial misconduct in order to find the grounds to initiate the disciplinary case and to conduct verification, prepare draft conclusions on existence of the grounds for disciplinary action against judges of local courts and courts of appeal; execute other assignments of the member of the Commission during disciplinary proceedings according to this Law.

### SECTION VII. REMOVAL FROM OFFICE OF A JUDGE OF A COURT OF GENERAL JURISDICTION

#### Chapter 1. General Provisions

#### Article 99. General Conditions for Removal of a Judge

1. A judge of a court of general jurisdiction shall be removed from office by the body which appointed or elected him/her solely on the grounds set forth in part five, Article 126 of the Constitution of Ukraine, upon a motion by the High Council of Justice.

#### Article 100. Removal from office of a Judge due to Expiry of Term of Appointment

1. The High Council of Justice shall submit a motion to the President of Ukraine for the removal of a judge from office due to expiry of the term of his/her appointment if:

1) according to a report by the High Qualifications Commission of Judges of Ukraine, the judge has failed, for no good reason, to file in a timely manner an application for election to a lifetime position;

2) the High Qualifications Commission of Judges of Ukraine adopted a decision not to recommend the judge to be elected to a lifetime position.

2. The High Council of Justice shall submit a motion for the removal of a judge from office due to expiry of the term of his/her appointment with an indication of the date on which the removal of the judge should take effect.

3. A judge shall be removed from office by the President of Ukraine.

4. If a judge for any reason has not been removed from office, he/she shall not be entitled to exercise his/her powers of administration of justice from the next day after the expiry of the term of his/her appointment.

#### Article 101. Removal of a Judge on Grounds of Age

1. A judge shall be removed from office on grounds of age on the next day after reaching the age of sixty-five.

2. The High Qualifications Commission of Judges of Ukraine shall, not later than one month before the day specified in part one of this Article, notify the High Council of Justice of the presence of a ground for the removal of the judge concerned.

3. The High Council of Justice shall, not later than fifteen days before the day specified in part one of this Article, submit a motion for the removal of a judge upon his/her reaching the age of sixty-five to the body which elected or appointed the judge.

4. If for any reason whatsoever a judge has not been removed from office, he/she shall not be entitled to exercise his/her powers of administration of justice from the next day after reaching the age of sixty-five.

#### Article 102. Removal of a Judge for Health Reasons

1. A judge shall be removed from office in case he/she is unable to discharge his/her duties for health reasons, provided that this fact is certified by a medical opinion issued by a medical commission formed by a specially authorized central executive body in charge of public health issues or a court decision finding the judge to be partially capable or legally incapable has entered into legal force.

2. Having acknowledged that the state of health shall prevent a judge from performing his/her duties for a long time or permanently, the High Council of Justice shall submit a motion for the removal of the judge to the body which elected or appointed him/her.

#### Article 103. Removal of a Judge for Violating Incompatibility Requirements

1. A judge shall be removed from office for violating the incompatibility requirements upon a motion to be submitted by the High Council of Justice to the body which elected or appointed the judge in the manner prescribed by the Law of Ukraine "On the High Council of Justice."

#### Article 104. Removal of a Judge for Violating the Oath of Office

1. According to clause 5 part five article 126 of the Constitution of Ukraine, a judge may be removed from office in connection with violating the oath of office.

2. Facts suggestive of violation of the oath of office by a judge should be established by the High Qualifications Commission of Judges of Ukraine or by the High Council of Judges of Ukraine.

3. A judge shall be removed from office for violating the oath of office upon a motion by the High Council of Justice after it has reviewed the matter at its meeting as required by the Law of Ukraine “On the High Council of Justice.”

4. Upon a motion by the High Council of Justice the President of Ukraine shall issue a decree on removal of a judge from office.

5. Upon a motion by the High Council of Justice the Verkhovna Rada of Ukraine shall pass a resolution on removal of a judge from office.

Article 105. Removal of a Judge due to Entry into Legal Force of a Judgment of Conviction against the Judge

1. A court which has handed down a judgment of conviction against a judge shall immediately report this fact to the High Qualifications Commission of Judges of Ukraine.

2. Once a judgment of conviction against a judge has entered into legal force, the High Qualifications Commission of Judges of Ukraine shall report this fact to the High Council of Justice, which shall submit a motion for the removal of the judge.

3. A judge against whom a judgment of conviction has entered into legal force may no longer perform his/her duties, and shall lose the guaranties of judicial independence and immunity provided by the law as well as the right to financial and other support.

Article 106. Removal of a Judge from Office in Case of Termination of the Judge’s Citizenship

1. A judge shall be removed from office upon a motion by the High Council of Justice in case of termination of his/her citizenship pursuant to the Law of Ukraine “On the Citizenship of Ukraine.”

2. A judge may no longer perform his/her duties from the moment of termination of his/her citizenship.

Article 107. Removal from Office of a Judge Who Was Found Missing or Dead

1. A court which pronounced a judge missing or dead shall immediately report this fact to the High Qualifications Commission of Judges of Ukraine. In case such a decision enters into legal force, the High Qualifications Commission of Judges of Ukraine shall report this fact to the High Council of Justice, which shall submit a motion for the removal of the judge from office.

Article 108. Removal of a Judge from Office due to Retirement or Voluntary Resignation

1. A judge whose record of judicial service is not less than twenty five years, as determined pursuant to Article 131 of this Law, shall have the right to request retirement.

2. A judge shall have the right at any time of his/her tenure of office to submit a request for voluntary resignation, regardless of the reason.

3. A request for retirement, request for voluntary resignation shall be submitted by a judge directly to the High Council of Justice that in the course of one month starting from the day the request is received shall submit a motion for removal to the body in charge of election or appointment of a judge. In case of removal of a judge in the result of submitting such a motion, the High Council of Justice shall inform the High Qualifications Commission of Judges of Ukraine.

4. A judge shall continue to perform his/her duties until a decision is passed to remove him/her.

5. A judge removed due to his request for retirement shall preserve the title of a judge as well as guarantees of immunity, established for the judge before his retirement.

#### Article 109. Requirements regarding a Motion for Removal of a Judge from Office

1. A motion by the High Council of Justice for the removal of a judge shall indicate:

- 1) the date of submission of the motion;
- 2) the surname, name and patronymic of the judge;
- 3) date of birth of the judge;
- 4) information on the judge's tenure of office;
- 5) the name of the court;
- 6) the ground for submitting the motion for the removal, established by part five, Article 126 of the Constitution of Ukraine;
- 7) the factual circumstances (in case the motion for removal of a judge because of special conditions is submitted, as established by the Law of Ukraine "On High Council of Justice");
- 8) other data and information set forth by the Law.

#### Article 110. Consideration and Decision by the Verkhovna Rada of Ukraine on Removal of a Judge Elected for a Lifetime Position

1. The procedure of considering issues and making a decision on removal a judge elected for a lifetime position shall be set forth by this Law and Procedural Rules of the Verkhovna Rada of Ukraine.

2. The motion on the removal of a judge elected for a lifetime position shall be considered at a plenary meeting of the Verkhovna Rada without conclusions of committees of the Verkhovna Rada of Ukraine and any verification.

3. The discussion of the motion on the removal of a judge elected for a lifetime position at a plenary meeting of the Verkhovna Rada of Ukraine shall begin with a report by the Head of the High Council of Justice or other member of High Council of Justice which acts by his order.

4. The decision to remove a judge elected for a lifetime position shall be taken by a majority of the constitutional composition of the Verkhovna Rada of Ukraine. The decision shall be formalized by a resolution of the Verkhovna Rada of Ukraine.

5. In case the removal of a judge from a lifetime position does not receive the necessary majority of people's deputies' of Ukraine votes provided for by part 4 of this Article, re-voting shall be conducted.

6. The powers of a judge shall be terminated the moment the correspondent resolution of the Verkhovna Rada of Ukraine comes into force.

#### Article 111. Termination of the Powers of a Judge

1. The powers of judge shall be terminated in the event of his/her death.

2. The existence of grounds for terminating the powers of a judge shall be reported by the chief judge of the court in which the judge served to the High Qualifications Commission of Judges of Ukraine. The report shall be appended with documents certifying the existence of a ground for terminating the powers of the judge.

### SECTION VIII. JUDICIAL SELF-GOVERNMENT

#### Chapter 1. General Principles of Judicial Self-government

#### Article 112. Objectives of the Bodies of Judicial Self-government

1. To resolve issues of internal operations of the courts in Ukraine, there shall exist judicial self-government, that is, independent collective resolution of the said issues by judges.

2. Judicial self-government shall be one of the most important guarantees of the autonomy of courts and of the independence of judges. The activities of the bodies of judicial self-government shall serve to facilitate the creation of adequate organizational and other conditions essential for normal operation of courts and judges, to assert the independence of the court, to ensure the protection of judges against interference in judicial activities, as well as to raise the level of staff management quality within the court system.

3. Issues of internal court operations shall include those of organizational support for courts and for judges' activities, social protection of judges and their families, as well as other issues which are not directly related to the administration of justice.

4. The objectives of the bodies of judicial self-government shall include the resolution of issues related to:

- 1) ensuring the organizational unity of the operation of judicial bodies;
- 2) strengthening the independence of courts, protecting them against interference in their operation;
- 3) participation in determining the requirements associated with staffing, financial, logistical and other support for courts and supervision of compliance with the established standards of such support;
- 4) resolving issues regarding appointment of judges to administrative positions in courts in accordance with the procedure set forth by this Law;
- 5) appointment of justices of the Constitutional Court of Ukraine;
- 6) appointment of judges to the High Council of Justice, appointment of judges to the High Qualifications Commission of judges of Ukraine in the manner prescribed by the Law.

#### Article 113. Organizational Forms of Judicial Self-government

1. The organizational forms of judicial self-government shall include meetings of judges, councils of judges, conferences of judges, the Congress of Judges of Ukraine.

2. Judicial self-government in Ukraine shall be realized through:

- 1) meetings of judges of a local court, a court of appeal, a high specialized court, the Supreme Court of Ukraine;
- 2) councils of judges of respective courts;
- 3) conferences of judges of respective courts;
- 4) the Council of Judges of Ukraine;
- 5) the Congress of Judges of Ukraine.

3. Pursuant to the Constitution of Ukraine, the procedure for realization of judicial self-government shall be determined by this Law, other laws, as well as by regulations and statutes approved by bodies of judicial self-government in accordance with this Law.

#### Chapter 2. Meetings of Judges and Conferences of Judges

##### Article 114. Meetings of Judges

1. Meetings of judges are gatherings of judges of a particular court at which issues of internal operation of the courts are discussed and a collective decision on the issues under discussion is taken.

2. Meetings of judges shall be convened by the chief judge of the respective court on his/her initiative as well as at the request of at least one-third of all the judges of this court.

3. Meetings of judges of local and appellate courts shall be convened as necessary, but not less than once every three months.

4. A meeting of judges shall be competent if attended by at least two-thirds of all the judges of the court. Invitations to a meeting of judges may be extended to the court's staff and other persons. Only the judges of the specific court shall be eligible to vote.

5. A meeting of judges shall:

1) discuss issues related to internal operation of the court or performance of specific courts, or court staff and take decisions on these issues binding for judges and court staff of the given court;

2) determine the specialization of judges in considering specific categories of cases in respective judicial jurisdiction;

3) hear reports from judges holding administrative positions in the given court and the manager of the court staff;

4) submit to a respective council of judges the recommendations on delegates to participate in the Conference of Judges;

5) carry out other functions in accordance with this Law.

6. Meetings of judges may submit proposals regarding resolution of court operation issues to bodies of state power and bodies of local self-government, which must review these proposals and respond to them on the merits of proposals.

7. Meetings of judges may discuss issues related to the practice of application of legislation, develop relevant proposals on ways to improve that practice and legislation, and submit these proposals for consideration of high specialized courts and the Supreme Court of Ukraine.

#### Article 115. Meetings of Justices of the Supreme Court and Meetings of Judges of a High Specialized Court

1. Meetings of justices of the Supreme Court and meetings of judges of a high specialized court shall be convened by the chief judge of the respective court or at the request of at least one-third of all the judges of the court.

2. Meetings of justices of the Supreme Court of Ukraine, meetings of judges of a high specialized court shall be convened as needed, but at least once every three months.

3. Meetings of justices of the Supreme Court of Ukraine and meetings of judges of a high specialized court shall be competent if attended by more than two thirds of all the judges of the court. Invitations to a meeting of judges may be extended to the court's staff and other persons. Only the judges of the court shall be eligible to vote.

4. Meetings of justices of the Supreme Court and meetings of judges of high specialized courts shall:

1) discuss issues related to internal operation of the court or to the performance of individual judges or court staff members and shall take decisions which shall be binding on the judges of the court;

2) hear reports from judges holding administrative positions in the court and the chief of court staff;

3) perform other functions as established by the law.

5. Meetings of judges of a high specialized court shall discuss issues related to the practice of application of legislation, take decisions on the establishment and composition of the chambers of the high specialized court and appoint the secretaries of court chambers.

6. Meetings of justices of the Supreme Court of Ukraine and meetings of judges of a high specialized court may submit proposals on resolving issues related to court operation to bodies of state power and bodies of local self-government which must review these proposals and respond to them on their merits.

7. Meetings of justices of the Supreme Court of Ukraine in the manner prescribed by this Law may submit proposals regarding delegates to the Congress of Judges of Ukraine.

#### Article 116. Implementation of Decisions of Meetings of Judges

1. Implementation of the decisions of a meeting of judges/justices shall be entrusted by the meeting to the chief judge/justice of the court.

#### Article 117. Conferences of Judges

1. A conference of judges is a gathering of representatives of courts (delegates) at which they discuss the issues of operation of these courts and take a collective decision on the issues under consideration.

2. A conference of judges shall:

1) discuss and resolve issues related to the funding of and organizational support for the operation of the respective courts;

2) hear reports from the respective councils of judges and information from representatives of the State Judicial Administration;

3) form respective council of judges;

4) approve regulations on council of judges;

5) work out proposals for submission for consideration by the Congress of Judges of Ukraine;

6) submit proposals regarding resolution of issues related to the operation of the respective courts to bodies of state power and bodies of local self-government;

7) elect delegates to the Congress of Judges of Ukraine;

8) initiate the convocation of an extraordinary special Congress of Judges of Ukraine in the manner set forth by this Law;

9) discuss other issues assigned to the competence of bodies of judicial self-government according to this Law.

3. Decisions taken by a conference of judges shall be binding on the respective council of judges and on judges of the respective courts.

4. A conference of judges shall elect from among its delegates, in a secret ballot, a council of judges which shall be the executive body of the conference of judges.

#### Article 118. Types of Conferences of Judges and Procedure for Their Formation

1. According to the court system in the judiciary system there shall be conference of judges of general courts, conference of judges of commercial courts and conference of judges of administrative courts.

2. The Conference of judges of general courts shall be composed of:

1) two judges from each region (oblast), the Autonomous Republic of Crimea, the city of Kiev and the city of Sevastopol – one judge representing local courts of this administrative-territorial unit, and the other judge representing the appellate court of the same region;

2) six judges of a high specialized court in considering civil and criminal cases;

3) a judge of the Supreme Court of Ukraine.

3. The Conference of judges of commercial courts and the Conference of judges of administrative courts shall be composed of:

1) one judge from each local and appellate courts of the respective judicial jurisdiction;

2) six judges of respective high specialized court;

3) a judge of the Supreme Court of Ukraine.

#### Article 119. Procedure for Convening Conferences of Judges

1. A conference of judges shall be convened at least once a year by a decision of the respective council of judges. A conference of judges may be also convened at the request of at least one-third of the delegates attending the previous conference of judges. Should the council of judges fail to approve the said request, the initiators of the convocation of the conference (at least one-third of the delegates of the previous conference) shall set up an organizing bureau for the convocation of the conference of judges which shall have the powers of a council of judges regarding the convocation of the conference.

2. The judges of the respective courts shall be notified of the date and time of the conference and of the issues on its agenda not later than fifteen days before the beginning of the conference.

#### Article 120. Procedure for Holding a Conference of Judges

1. A conference of judges shall be competent if attended by no less than two-thirds of all the delegates of the respective courts. A conference may also be attended by judges who are not delegates to the conference.

2. A conference of judges shall be inaugurated by the head of the respective council of judges; in the event of the conference being convened on a basis other than a decision of the council of judges, it shall be inaugurated by the authorized representative of the organizing bureau for the convocation of the conference of judges.

3. A conference of judges shall elect from among its delegates, in an open ballot, a presidium, whose number of members shall be determined by a decision of the conference, and other working bodies of the conference. The presidium shall direct the work of the conference of judges.

4. A conference of judges shall approve the agenda of the conference and determine the procedural rules for its work.

5. The decisions of a conference of judges shall be taken by a majority of votes of the conference delegates in an open or secret ballot.

6. Other issues related to the procedure for holding a conference of judges shall be governed by the regulations of the respective conference of judges.

#### Article 121. Councils of Judges

1. During the period between conferences of judges, the functions of judicial self-government shall be performed by the respective council of judges.

2. According to the court system in the judiciary there shall be formed and shall function council of judges of general courts, council of judges of commercial courts and council of judges of administrative courts.

3. Councils of judges shall be composed of eleven judges elected by conferences of judges of the respective jurisdiction.

4. A council of judges shall elect from among its members the head, the deputy head and the secretary of the council. Judges holding administrative positions in courts and secretaries of court chambers may not be members of a council of judges.

5. During the period between conferences of judges, the council of judges shall provide for the implementation of the decisions taken by the conference, control this process, as well as decide on the convocation of the conference of judges. The powers and operating procedures of the council of judges shall be determined by this Law as well as by the statute of the council of judges, to be approved by the conference of judges.

6. A council of judges shall:

1) supervise the operation of the respective courts and hear a report by chief judges on their performance;

2) consider issues related to legal protection of judges, social protection and welfare support for judges and their families, and take decisions to this effect;

3) submit to the High Council of Justice recommendations regarding appointment of judges to administrative positions and their removal from these positions in the manner set forth by this Law;

4) determine the delegates to participate in conference of judges on the basis of proposals submitted by the meetings of judges taking into account who among candidates has longer record of service on the position of a judge;

5) submit proposals on ways to resolve issues related to the operation of the respective courts to bodies of state power and bodies of local self-government;

6) take other decisions on issues assigned to its competence.

7. Council of judges shall report about its activity to the respective conference of judges.

8. Decisions taken by a council of judges shall be binding on the judges holding administrative positions in the respective courts. A decision of a council of judges may be canceled by the conference of judges.

### Chapter 3. The Highest Bodies of Judicial Self-Government

#### Article 122. The Congress of Judges of Ukraine

1. The highest body of judicial self-government shall be the Congress of Judges of Ukraine.

2. The Congress of Judges of Ukraine shall:

1) hear a report by the Council of Judges of Ukraine on performance of tasks by bodies of judicial self-government and on the state of funding and organizational support of the operation of courts;

2) hear reports from the High Qualifications Commission of Judges of Ukraine and the Head of the State Judicial Administration of Ukraine about their operation;

3) appoint and dismiss justices of the Constitutional Court of Ukraine in accordance with the Constitution of Ukraine and the law;

4) appoint members of the High Council of Justice and decide on termination of their powers in accordance with the Constitution of Ukraine and laws of Ukraine;

5) appoint members of the High Qualifications Commission of Judges of Ukraine;

6) submit proposals regarding resolution of court operation issues to bodies of state power and officials thereof;

7) elect the Council of Judges of Ukraine;

8) consider other issues of judicial self-government.

3. Decisions taken by the Congress of Judges of Ukraine shall be binding on all bodies of judicial self-government and all judges.

Article 123. Procedure for Convening the Congress of Judges of Ukraine

1. A Regular Congress of Judges of Ukraine shall be convened by the Council of Judges of Ukraine once in every two years. An Extraordinary Congress of Judges of Ukraine may also be convened by the decision of the Council of Judges of Ukraine or the conference of judges of respective courts.

2. The respective conference of judges shall be empowered to decide on convocation of a Congress in the manner prescribed in part one of this article, approve a preliminary list of issues to be considered by the Congress, and determine the date and place of holding the Congress and total number of delegates of the Congress. Each conference of judges have the same number of delegates. Three delegates of the Constitutional Court of Ukraine and three delegates of the Supreme Court of Ukraine shall take part in the Congress of Judges.

3. Invitations to the Congress of Judges of Ukraine may be extended to the President of Ukraine, people's deputies of Ukraine, the Commissioner of the Verkhovna Rada of Ukraine for Human Rights, members of the High Council of Justice and the High Qualifications Commission of Judges of Ukraine, the Minister of Justice.

4. Should the Council of Judges of Ukraine fail to convene the Congress of Judges at the request of the respective conference of judges as required by part one of this Article, the initiators of the convocation of an Extraordinary Congress shall set up an organizing committee for the convocation of the Congress of Judges of Ukraine which shall have the powers of the Council of Judges of Ukraine regarding the convocation of the Congress. In such a case the organizing committee shall immediately publish information on its creation in official printed media Holos Ukrainy and Uryadovyj Kurier and fix a date for the Extraordinary Congress of Judges, which shall be not earlier than two months from the day of the creation of the organizing committee.

5. The judges of all courts shall be notified of the date of the Congress of Judges of Ukraine and of the issues on its agenda not later than 30 days before the beginning of the Congress.

Article 124. Election of Delegates to the Congress of Judges of Ukraine

1. Delegates to the Congress of Judges of Ukraine shall be elected by the conference of judges of general courts, the conference of judges of commercial courts and the conference of judges of administrative courts following the principal of equal representation of each judicial jurisdiction. Each region (oblast), the Autonomous Republic of Crimea, city of Kiev and city of Sevastopol shall be represented by three representatives of each judicial jurisdiction.

2. Meetings of justices of the Constitutional Court of Ukraine and meetings of justices of the Supreme Court of Ukraine shall elect three delegates each from among judges of these courts.

3. Delegates to the Congress of Judges of Ukraine shall be elected in an open ballot, on a competitive basis, with free nomination of candidates for election.

#### Article 125. Procedure for Holding the Congress of Judges of Ukraine

1. A Congress of Judges of Ukraine shall be competent if attended by at least two-thirds of all the elected delegates.

2. A Congress of Judges of Ukraine shall be inaugurated by the head of the respective Council of Judges of Ukraine; and in his/her absence, by the deputy head of the Council of Judges of Ukraine.

3. The Congress shall elect from among its delegates, in an open ballot, a presidium, whose number of members shall be determined by a decision of the Congress. The presidium shall direct the work of the Congress of Judges of Ukraine.

4. The Congress shall discuss and approve its agenda and the regulations for its work, elect a credentials commission, a secretariat and other working bodies of the Congress.

5. There shall be kept minutes of the Congress of Judges of Ukraine.

6. The decisions of the Congress of Judges of Ukraine shall be taken by a majority of votes of the delegates in an open or secret ballot. The issues specified in Items 3 – 5, 7 of part two, Article 123 of this Law shall be settled by secret ballot.

7. Other issues relating to the procedure of holding the Congress of Judges of Ukraine shall be governed by the regulations of the Congress of Judges of Ukraine, to be approved by Congress.

#### Article 126. The Council of Judges of Ukraine

1. During the period between the Congresses of Judges of Ukraine, the highest body of judicial self-government shall be the Council of Judges of Ukraine.

2. The Council of Judges of Ukraine to be composed of eleven members, shall be elected by the Congress of Judges of Ukraine. The Council of Judges of Ukraine shall be composed of three representatives from each judicial jurisdiction, a representative of the Constitutional Court of Ukraine and a representative of the Supreme Court of Ukraine. Proposals on nomination of candidates to the Council of Judges of Ukraine may be submitted by the conferences of judges as well as by individual delegates to the Congress. Judges holding administrative positions may not be members of the Council of Judges of Ukraine.

3. At a meeting of the Council of Judges of Ukraine, its members shall elect from among its members the head of the Council of Judges of Ukraine, the deputy

head, and the secretary, as well as the presidium of the Council of Judges of Ukraine. The composition and number of the members of the presidium shall be determined by the Council of Judges of Ukraine pursuant to the statute of the Council of Judges of Ukraine.

4. During the period between the congresses, the Council of Judges of Ukraine shall provide for supervision of the implementation of the decisions taken by the Congress as well as decide on the convocation of a Congress. The powers and operating procedures of the Council of Judges of Ukraine shall be determined by this Law and by the statute of the Council of Judges of Ukraine, to be approved by Congress of Judges of Ukraine.

5. The Council of Judges of Ukraine shall:

1) develop and provide for the implementation of measures to ensure judicial independence and improvement of organizational support for the operation of courts;

2) consider issues related to legal protection of judges, social protection and welfare support for judges and members of their families, and take decisions to this effect;

3) appoint the Head and the deputy heads of the State Judicial Administration;

4) supervise organization of the operation of courts;

5) submit proposals regarding resolution of court operation issues to bodies of state power and bodies of local self-government;

6) approve the form of certificates of judges, retired judges and people's assessors;

7) take other decisions on issues assigned to its competence according to this Law.

6. Decisions taken by the Council of Judges of Ukraine shall be binding on all bodies of judicial self-government. A decision of the Council of Judges of Ukraine may be canceled by the Congress of Judges of Ukraine.

7. The Minister of Justice of Ukraine shall be invited to meetings of the Council of Judges of Ukraine.

8. While considering issues related to funding of courts the Minister of Finance of Ukraine shall be invited to the meeting of the Council of Judges of Ukraine.

#### Article 127. Support of the Operation of Bodies of Judicial Self-government

1. Support for the work of the Congress of Judges of Ukraine and for the operation of the Council of Judges of Ukraine, conferences of judges, and councils of judges shall be provided by the State Judicial Administration and its territorial offices at the expense of the State budget of Ukraine as required by Section X of this Law.

## SECTION IX. SUPPORT FOR A PROFESSIONAL JUDGE

### Article 128. Judicial Remuneration

1. Judicial remuneration shall be regulated by this Law and the Law of Ukraine “On the Constitutional Court of Ukraine” and may not be determined by any other normative legal acts.

2. Judicial remuneration shall consist of the fixed official salary and bonus payments for:

- 1) length of service record;
- 2) holding an administrative position in a court.

3. The official salary of a judge of a precinct court shall be fixed at 15 times the minimum salary established by the law.

4. The official salaries of other judges shall be fixed at the following rates:

- 1) judge of an appellate court, 1.2 times the official salary of a precinct court judge;
- 2) judge of a high specialized court, 1.4 times the official salary of a precinct court judge;
- 3) justice of the Supreme Court of Ukraine and the justice of the Constitutional Court of Ukraine, 1.55 times the official salary of a local court judge.

5. Judges shall be paid a monthly bonus for length of service at the following rates: for a service length of more than 5 years, 20 percent; more than 10 years, 30 percent; more than 15 years, 40 percent; more than 20 years, 50 percent; more than 25 years, 60 percent; more than 30 years, 70 percent; more than 35 years, 80 percent of the fixed official salary.

First appointed Constitutional Court Justices shall get additional payment for years of service in the amount of 5 % for each year of work.

6. Judges holding administrative positions in courts shall be granted a monthly bonus payment at the following rates: deputy chief judge/justice of a court, head of a judicial chamber, secretary of the Plenary Session of a high specialized court, 5 percent; chief judge/justice, 10 percent of the fixed official salary of a judge of the respective court.

### Article 129. Vacation

1. Judges shall be granted an annual paid vacation of thirty calendar days; in such a case, they shall be paid, in addition to the judicial reward, a healthcare allowance amounting to one fixed official salary. Judges whose length of service record is more than 10 years shall be granted an additional paid vacation of fifteen calendar days.

### Article 130. Calculation of a Judge’s Length of Service

1. The length of a judge's term of service shall include:

- 1) work in positions of judges in courts of Ukraine, state arbitrators, arbitrators of departmental arbitration courts of Ukraine;
- 2) a judge's work on a permanent basis as a member of the High Council of Justice, the High Qualifications Commission of Judges of Ukraine;
- 3) work in positions of judges and arbitrators in courts and in the state and departmental arbitration courts of the former USSR and the republics which were previously part of the USSR.

2. The length of record service to give a justice of the Constitutional Court of Ukraine the right to retire and retirement benefit shall be included in the length of other practical, scientific work and teaching experience *ex professo* and the length of public service.

#### Article 131. Provision of a Judge with Housing

1. Not later than in six months from the appointment a judge of the Constitutional Court of Ukraine, the Supreme Court of Ukraine, a high specialized court, an appellate court and a local court who needs to improve his/her housing conditions shall be provided with decent dwelling in the form of separate apartment or house or official accommodation.

2. Should the judge not be provided with decent dwelling in settled terms, the court upon the agreeing it with the State Judicial Administration may purchase an apartment or a house at the common rate at the expenses of the State Budget of Ukraine. The procedure of funding court for this purpose and the procedure of payments with the State Budget of Ukraine of the body which failed to provide a judge with housing in time shall be specified by the Cabinet of Ministers of Ukraine.

#### Article 132. Provision for a Judge's Needs Relating to Professional Activity

1. A judge shall be provided free of charge with a judicial robe and a judge's breast badge at the expense of the State Budget of Ukraine.

2. A judge shall be provided with a separate office, work station and office items needed for his/her work.

#### Article 133. Social Insurance of Judges

1. The life and health of judges shall be subject to obligatory personal risk insurance, to be covered by the State Budget of Ukraine, the insurance amount being equal to the judge's total salary for ten years in his/her latest position.

### SECTION X. STATUS OF A RETIRED JUDGE

#### Article 134. Judge's Retirement Benefit

1. Upon retirement, a judge shall be paid a nontaxable retirement benefit in the amount of his/her average monthly salary in his/her latest position for each full year of work in a judicial position.

2. In case a judge whose retirement was suspended due to reappointment to a judicial position apply for retirement benefit once again, the retirement benefit shall not be granted.

#### Article 135. Pension or Lifetime Allowance of a Retired Judge

1. A retired judge who reached retirement age shall be paid, at his/her choice, either a pension on terms provided by Article 37 of the Law of Ukraine “On Public Service” or a nontaxable monthly lifetime allowance.

2. A retired judge who didn’t reach retirement age shall be paid a nontaxable monthly lifetime allowance. Once the judge reaches the retirement age he shall have the right to be paid, at his/her choice, either a monthly lifetime allowance, or a pension on terms provided by Article 37 of the Law of Ukraine “On Public Service”.

3. A monthly lifetime allowance for a retired judge amounts to 80 percent of the remuneration of an active judge holding a comparable position. For each full year of work in excess of 25 years in a judicial position, the rate of the monthly lifetime allowance shall be increased by two percent of the salary, provided that it does not exceed 90 percent of a judge’s salary, there being no upper limit to the amount of the monthly lifetime allowance.

4. A judge who continues to work upon retirement shall be paid the full amount of his/her pension or lifetime allowance irrespective of [the amount of] the salary he/she receives upon resignation or retirement.

#### Article 136. Termination of a Judge’s Retirement

1. A judge’s retirement shall be terminated as a result of:

- 1) reelection to a judicial position;
- 2) entry into legal force of a judgment of conviction against the judge;
- 3) termination of his/her citizenship of Ukraine;
- 4) finding a retired judge missing or dead;
- 5) death of a retired judge.

2. Termination of retirement shall be a ground for stopping payment to the judge of the lifetime allowance which was granted in connection with retirement. In case of termination of a judge’s retirement on the grounds specified in item 2 part one of this article, a pension shall be granted on the same basis as to anyone else.

3. A decision to terminate a judge’s retirement shall be made by the High Qualifications Commission of Judges of Ukraine.

## SECTION XI. ORGANIZATIONAL SUPPORT FOR THE OPERATION OF COURTS

### Chapter 1. General Issues of Support for the Operation of Courts

#### Article 137. Particularities of Support for the Functioning of the Judiciary

1. Pursuant to the Constitution of Ukraine, the funding and adequate conditions for the functioning of courts and activities of judges shall be provided by the state.

2. Support for the functioning of the judiciary shall consist in the following:

- 1) establishment of a separate item in the State Budget of Ukraine for expenditures to fund courts at a level high enough to ensure full and independent administration of justice in accordance with the law;
- 2) legislative guarantees for full and timely funding of courts;
- 3) guarantees for a sufficient level of social protection of judges.

#### Article 138. System of Providing for the Functioning of the Judiciary

1. In Ukraine, there shall be a unified system of providing for the functioning of the judiciary: courts of general jurisdiction and the Constitutional Court of Ukraine.

2. Organizational support for the operation of courts shall lie with the State Judicial Administration of Ukraine, which shall be created and shall operate pursuant to the requirements of this Law.

3. The procedure for organizational support of the operation of the Constitutional Court of Ukraine shall be established by this Law, the Law of Ukraine “On the Constitutional Court of Ukraine,” and other laws.

#### Article 139. Principles of Funding of Courts

1. All courts in Ukraine shall be funded from the State Budget of Ukraine.

2. The functions of the main distributor of the funds of the State Budget of Ukraine appropriated for the financing of courts shall be performed by:

- 1) courts of general jurisdiction;
- 2) the Constitutional Court of Ukraine;
- 3) the State Judicial Administration of Ukraine – as regards the funding of the operation of the High Qualifications Commission of Judges of Ukraine, bodies of judicial self-government, the National School of Judges.

3. There shall be separate items in the State Budget of Ukraine for expenses related to the maintenance of:

- 1) each court of general jurisdiction;
- 2) the Constitutional Court of Ukraine.

4. Allocations from the State Budget of Ukraine for the maintenance of courts may not be reduced in the current fiscal year.

5. Supervision of compliance with the requirements of this Law in terms of the funding of courts shall be exercised in the manner specified by the law.

6. The particularities of preparation and consideration of the parts of a draft law on the State Budget of Ukraine relating to the funding of courts and other bodies and institutions of the judicial system shall be established by law.

#### Article 140. Procedure for the Funding of Courts

1. Courts of general jurisdiction shall be funded on the basis of cost estimates and monthly lists of expenditures approved in accordance with the requirements of this Law within the limits of the annual amount of expenditures provided for by the State Budget of Ukraine for a current fiscal year in the manner prescribed by the Budget Code of Ukraine.

#### Article 141. Material and Welfare Support and Social Protection of Judges and Judicial System Employees

1. The rates of salaries of court staff and employees of the State Judicial Administration of Ukraine, the High Qualifications Commission of Judges of Ukraine and the National School of Judges of Ukraine and their welfare support and social protection level shall be determined by the law and may not be lower than the levels enjoyed by the respective categories of public servants on the staff of the legislative and executive branches.

2. The main distributors of the funds of the State Budget of Ukraine regarding funding of operation of the courts shall bear the cost of burial and perpetuation of the memory of judges, including retired judges.

3. The cost estimates of the courts of general jurisdiction and the Constitutional Court of Ukraine shall provide costs for hospitality expenses.

#### Chapter 2. The State Judicial Administration of Ukraine

#### Article 142. Status of the State Judicial Administration of Ukraine

1. The State Judicial Administration of Ukraine shall provide organizational support for the operation of judicial power bodies within the authority stipulated by Law.

2. The State Judicial Administration of Ukraine shall be subordinated (shall report) to the Congress of Judges of Ukraine.

3. The territorial offices of the State Judicial Administration of Ukraine shall be set up in the Autonomous Republic of Crimea, the regions (oblasts), and the cities of Kiev and Sevastopol.

4. The officials of the State Judicial Administration of Ukraine, of its territorial offices, and of court staffs shall be public servants.

5. The State Judicial Administration of Ukraine shall be a legal entity, have a seal bearing the State Emblem of Ukraine and its name, and maintain an independent balance sheet and accounts in the institutions of the State Treasury.

6. The Regulations on the State Judicial Administration of Ukraine shall be approved by the Council of Judges of Ukraine.

#### Article 143. Powers of the State Judicial Administration of Ukraine

1. The State Judicial Administration of Ukraine shall:

1) represent courts in relations with the Cabinet of Ministers and the Verkhovna Rada of Ukraine during preparation of draft law on the State budget of Ukraine for the respective year within its authority specified by this law;

2) ensure adequate conditions for the operation of courts of general jurisdiction, the High Qualifications Commission of Judges of Ukraine, the National School of Judges and bodies of judicial self-government within its authority specified by this law;

3) study the practical aspects of the operation of courts, develop and submit, in the manner prescribed by the law, proposals on ways to improve that practice;

4) study court staff related issues, make forecasts of the need in specialists, and request the training of relevant specialists;

5) ensure necessary conditions for raising the professional level of judges and court staff; create a system of professional development;

6) organize the keeping of court statistics, case management, and archiving; supervise the state of case management in courts of general jurisdiction;

7) prepare materials for forming proposals for court budgets and take measures so that courts are funded in accordance with this Law;

8) organize computerization of courts for purposes of administration of justice, case management, and informational and normative support for the operation of courts; and provide for the functioning of automated case management/document flow system in courts; provide courts with necessary technical means for recording court proceedings within funding envisaged in the State Budget of Ukraine to finance respective courts;

9) provide for the operation of automated system which determines the member of High Qualifications Commission of Judges of Ukraine;

10) provide for the keeping of a Unified State Register of Court Decisions and Register of E-mail Addresses of government bodies, their public officers and officials;

11) interacts with relevant bodies and institutions, including those of other countries, with the aim of improving organizational support for courts;

12) organize the operation of the service of court officers;

13) approve Regulations on court library;

14) exercise other powers specified by the law.

Article 144. Head of the State Judicial Administration of Ukraine

1. The State Judicial Administration of Ukraine shall be chaired by the Head of the State Judicial Administration of Ukraine.

2. The Head of the State Judicial Administration of Ukraine shall be appointed and removed from office by the Council of Judges of Ukraine.

3. The Head of the State Judicial Administration of Ukraine shall have no right to combine his/her official service with other work except for teaching, scholarly, or creative activities during off-office hour, or be a member of a governing body or supervisory council of a profit-seeking commercial organization.

4. The Head of the State Judicial Administration of Ukraine shall:

1) direct the operation of the State Judicial Administration of Ukraine, be personally responsible for the performance of the tasks assigned thereto;

2) organize the operation of the State Judicial Administration of Ukraine;

3) appoint, on the basis of a competition to be conducted in accordance with the legislation on public service, and dismiss employees of the State Judicial Administration of Ukraine, managers of appellate court staff, high specialized courts and the Supreme Court of Ukraine, their deputies on a motion by the chief judge/justice of the respective court;

4) appoint a member of the High Qualifications Commission of Judges of Ukraine;

5) apply incentives or impose disciplinary penalties to staff managers of appellate courts, high specialized court, the Supreme Court of Ukraine, their deputies and court staff of those courts according to law;

6) assign ranks of public servants to staff managers of appellate courts, high specialized court, the Supreme Court of Ukraine, their deputies and court staff of those courts according to legislation on public service;

7) approve regulations on structural units of the State Judicial Administration of Ukraine and determine job descriptions for the employees of the State Judicial Administration of Ukraine;

8) establish official salary rates for employees of the State Judicial Administration of Ukraine and its territorial offices, confer on them state employee ranks in the manner prescribed by the law, reward and discipline them in accordance with the legislation;

9) inform the Council of Judges of Ukraine of the activities of the State Judicial Administration of Ukraine and Council of Judges of Ukraine;

10) take part in the preparation of proposals for the draft State Budget of Ukraine regarding the funding of the judiciary;

11) exercise other powers prescribed by the law.

5. The Head of the State Judicial Administration of Ukraine shall issue orders and instructions regarding matters within his/her administrative authority.

6. The Head of the State Judicial Administration of Ukraine shall have deputies which shall be appointed and removed from office by the Council of Judges of Ukraine upon a motion submitted by the Head of the State Judicial Administration of Ukraine. The responsibilities of the Deputy Heads of the State Judicial Administration of Ukraine shall be determined by the Head of the State Judicial Administration of Ukraine.

#### Article 145. Territorial Offices of the State Judicial Administration of Ukraine

1. The territorial offices of the State Judicial Administration of Ukraine shall be the territorial bodies of the State Judicial Administration of Ukraine.

2. A territorial office of the State Judicial Administration of Ukraine shall be chaired by a chief, to be appointed and removed by the Head of the State Judicial Administration of Ukraine.

3. Following the results of the competition conducted by State judicial Administration according to the legislation on public service Chief of the territorial office of the State Judicial Administration of Ukraine upon suggestion from chief judge of the local court shall appoint manager of local court staff, his/her deputy, apply to them and other local court staff incentives or impose disciplinary penalties according to legislation; shall confer the ranks of public servants to local court chief of staff, his/her deputies and the employees of local court according to legislation on public service.

4. The structure and manning table of a territorial office of the State Judicial Administration of Ukraine shall be approved by the Head of the State Judicial Administration of Ukraine upon a motion by the chief of the territorial office of the State Judicial Administration of Ukraine.

5. A territorial office of the State Judicial Administration of Ukraine shall be a legal entity, have a seal bearing the State Emblem of Ukraine and its name, and maintain an independent balance sheet and accounts in institutions of the State Treasury of Ukraine.

6. The territorial offices of the State Judicial Administration of Ukraine shall operate on the basis of the Regulations on the territorial offices of the State Judicial Administration of Ukraine approved by the Head of the State Judicial Administration.

### Chapter 3. Court Staff

#### Article 146. Court Staff

1. Organizational support for the operation of a court shall be provided by its staff, to be run by the manager of the staff (the head of the secretariat).

2. The manager of the court staff shall be personally responsible for providing adequate organizational support for the court, the judges, and the court proceedings, functioning of automated case management system, inform the meeting of judges about his/her activity. Meetings of judges may impeach credibility to the court chief of staff what shall result in his/her removal from office.

3. The manager of the staff of a local court and his/her deputy shall be appointed and dismissed by the chief of the respective territorial office of the State Judicial Administration upon a motion of the chief judge of a local court; and the managers of the staff of a court of appeals, a high specialized court and the Supreme Court of Ukraine and their deputies shall be appointed and dismissed by the Head of the State Judicial Administration upon a motion of chief judge/justice of respective court.

4. The court chief of staff shall appoint and dismiss court employees. Court staff employees shall be selected on a competitive basis.

5. The legal status of employees working on the staff of a court shall be determined by the Law of Ukraine “On Public Service.” In terms of the conditions of salaries, material welfare, medical, health resort, and transportation support, court staff members shall be equated with the respective categories of staff of central or local executive bodies.

6. The structure and size of the staff of local courts shall be approved by the respective territorial office of the State Judicial Administration of Ukraine and the structure and size of the staff of appellate courts and higher courts shall be approved by the State Judicial Administration of Ukraine after consultation with the chief judge, within the limits of expenditures allocated for the maintenance of the respective court.

8. Within the staff of the courts of general jurisdiction, there may be created structural units which shall perform their functions on the basis of the regulations on the respective unit, to be approved by the manager of the staff of the respective court.

9. The court staff shall also include assistants to judges/justices and court officers. Assistants to a judge, scientific consultants shall have higher legal education. Besides, assistants to a justice of the Supreme Court of Ukraine shall have a length of service record in the legal profession of at least three years.

#### Article 147. Peculiarities of Court Staff of the Supreme Court of Ukraine and High Specialized Courts

1. Organizational support for the operation of the Supreme Court of Ukraine and high specialized courts shall be provided by the staff of the respective court.

2. Regulations on court staff, structure and staff list of the staff of the Supreme Court of Ukraine and the staff of a high specialized court shall be approved by the meeting of judges/justices of the respective court upon a motion of the chief judge/justice of the respective court.

3. The staff of the Supreme Court of Ukraine shall be headed by the court chief of staff. The manager of the staff of the Supreme Court of Ukraine shall represent the Supreme Court of Ukraine as a legal entity, approve staff list and expenditures allocated for the maintenance of the Supreme Court of Ukraine, regulations on structural units of the staff of the Supreme Court of Ukraine.

4. Materials related to operation of the Supreme Court of Ukraine and a high specialized court shall be kept in the archive of the respective court.

#### Article 148. Court Libraries

1. In order to provide judges with normative legal acts, specialized scientific literature, and case law materials, court libraries shall be created in each court. The stock of a library shall consist of printed editions and a computer database.

2. The regulations on court libraries shall be approved by the State Judicial Administration of Ukraine.

#### Article 149. Service of Court Officers

1. Each court shall have a service of court officers. The court officers shall take care that the people inside the court comply with the established rules and obey the instructions of the chair of the hearing.

2. Court officers shall be appointed and removed by the manager of the staff of the respective court.

3. Court officers shall be provided with uniforms the samples of which shall be approved by Head of the State Judicial Administration of Ukraine after consultation with the Council of Judges of Ukraine.

4. Court officers shall be guided in their activities by this Law, the requirements of the procedural law, applicable rules and instructions, and orders of the chief judge and the judge.

5. The procedure for the creation and operation of the service of court officers shall be established by the regulations to be approved by Head of the State Judicial Administration of Ukraine after consultation with the Council of Judges of Ukraine.

#### Article 150. Ensuring Security and Maintaining Public Order in Courts

1. The responsibilities for maintaining order, stopping manifestations of contempt of court, as well as ensuring the security of court premises, performing functions related to state protection of judges and court employees and

safeguarding the participants in the proceedings shall lie with the special units of the Ministry of Internal Affairs.

## SECTION XII. THE FINAL PROVISIONS

1. Declare the following laws null and void:

1) The Law of Ukraine “On the Judicial System of Ukraine” (Vidomosti Verkhovnoi Rady Ukrainy, 2002, No 27-28, p. 180; 2004, No 25, p. 354, No 40-41, p.492, No 42, p. 492; 2005, No 35-36, p. 446; 2006, No 15, p. 128, No 35, p. 299);

2) The Law of Ukraine “On the Status of Judges” (Vidomosti Verkhovnoi Rady Ukrainy, 1993, No 8, p. 56; 1994, No 22, p. 142, No 26, p. 203; 1995, No 34, p. 268; 1999, No 50, p. 434; 2000, No 10, p. 79, No 13, p. 102, No 38, p. 322; 2001, No 33, p. 180; 2004, No 25, p. 354; 2006, No 1, p. 18, No 9, p. 96), except for articles 43, 44 to lose force from January,1, 2011;

3) The Law of Ukraine “On the Procedure for the Election and Removal of a Professional Judge by the Verkhovna Rada of Ukraine” (Vidomosti Verkhovnoi Rady Ukrainy, 2004, No. 25, p. 354).

2. The following amendments shall be made to the legal acts of Ukraine:

2.1. To the Budget Code of Ukraine (Vidomosti Verkhovnoi Rady Ukrainy, 2001, No 37-38, p. 189):

1) in item 1 of part one of Article 22 the words “The Supreme Court of Ukraine and other specialized courts” shall be substituted by the words: “courts of general jurisdiction, the State Judicial Administration of Ukraine”;

2) part one of Article 41 shall be appended with the following words: “in the area of funding of courts and other bodies and institutions of the judicial system – by the Head of the State Judicial Administration of Ukraine”.

2.2. To the Code of Administrative Adjudication of Ukraine (Vidomosti Verkhovnoi Rady Ukrainy, 2005, No 35-36, No 37, p. 446; 2006, No 1, p. 16; 2009, No 50, p. 754; 2010, No 18, p. 139; Ofitsiynyi visnyk Ukrainy, 2010, No 37, p. 1242):

1) part one of Article 1 shall be reworded as follows:

"1. The Code of Administrative Adjudication of Ukraine defines the jurisdiction, the powers of administrative courts in handling cases of administrative jurisdiction, the procedure of initiation of legal action and the procedure of administrative proceedings ";

2) part one of Article 2 shall be appended with the following words: “by fair, impartial and timely handling of administrative cases”;

3) Article 6 shall be reworded as follows:

"1. Everyone shall have the right, in the manner prescribed by this Code, to go to an administrative court if he/she considers that decision, acts of commission or omission of the holders of authority violate his/her rights, freedoms or interests.

2. In cases set forth by the law there can go to the court bodies and individuals granted with rights to protect rights, freedoms and interests of other individuals.

3. Holders of authority shall have the right to go to an administrative court in cases specified by the Constitution and laws of Ukraine.

4. Nobody may be deprived of the right of trial of his/her case by an administrative court under whose jurisdiction it comes according to this Code.

5. Waiver of the right to go to the court shall be invalid.

6. Foreign nationals, persons without citizenship and foreign legal entities shall have access to justice in Ukraine on equal footing with the citizens and legal entities of Ukraine.";

4) item 6 of part one of Article 7 shall be appended with following words: "except for the cases specified by this Code ";

5) in Article 9:

part one shall be reworded as follows:

"1. While adjudicating in a case, the court is guided by the principle of lawfulness, according to which:

1) The court resolves cases on the grounds of the Constitution and laws of Ukraine, and also the international agreements made obligatory by the Verkhovna Rada of Ukraine;

2) The court applies other government regulations adopted by a corresponding body on such grounds, within such powers and in a manner provided by the Constitution and laws of Ukraine";

part two and three shall be excluded. Thereby, parts four to seven shall become respectively parts two to five;

6) in part one of Article 13 the words " in the cases and as provided by this Code" shall be substituted by the words "except for the cases specified by this Code ";

7) in part six of Article 151 the words "by the State Judicial Administration of Ukraine" shall be substituted by the words "by the Council of Judges of Ukraine after consultation with the State Judicial Administration of Ukraine ";

8) in Article 17:

in the name of the Article and part two the word "competence" shall be substituted by the word "jurisdiction";

Part one shall be substituted by two parts as follows:

"1. Jurisdiction of administrative courts shall extend to legal relationship that arises in connection with administering of executive functions by a holder of authority as well as in connection with public formation of a holder of authority via elections, via referendum.

2. Jurisdiction of administrative courts shall extend to public disputes, in particular:

1) disputes between natural persons or legal entities and a holder of authority as related to appealing decisions (statutory acts and regulations or legal acts of individual effect), and acts of commission or omission of the latter;

2) disputes arising from appointment of citizens to the public service, their employment in and dismissal from such service;

3) disputes between holders of authority in respect of exercise of their competence, including delegated powers, in the field of administration;

4) disputes arising from conclusion, execution, suspension, cancellation or invalidation of administrative agreements;

5) disputes arising from requests submitted by holders of authority in the cases provided by the Constitution and laws of Ukraine;

6) disputes concerning legal relations related to electoral process or process of referendum".

Thereby part two shall become part three;

9) in Article 18:

part two after words "the Autonomous Republic of Crimea" shall be appended with words "oblast rada (region council), Kyiv or Sevastopol city council";

part four after words "nationwide referendum" shall be appended with words "cases concerning early termination of mandate of people's deputy of Ukraine";

10) in Article 19:

part one shall be appended with words "except for the cases specified by this Code";

part two shall be reworded as follows:

"2. Administrative cases arising from appeal against legal acts of individual effect and also acts of commission or omission of holders of authority, such as may affect the interests of a specific individual or legal entity (their associations), shall be resolved by administrative courts at the place of residence (seat, location) of the plaintiff except for cases specified by this Code. If such an individual has no place of residence (seat, location) in Ukraine the case shall be resolved by administrative courts at the place of location of the defendant";

11) in Article 20:

in part three the words "the circuit administrative court, territorial jurisdiction of which includes the city of Kyiv" shall be substituted by the words "Kyiv Appellate Administrative Court";

part four shall be reworded as follows:

"The Supreme Court of Ukraine reviews the decisions of the administrative courts after cassation in cases specified by this Code";

12) part one of Article 21 shall be reworded as follows:

" 1. Plaintiff may file a few claims in one writ, if they are interconnected.

If the case on claims territorially falls under the jurisdiction of the several local administrative courts it shall be considered by one of these courts at plaintiff's option.

If the case on one claim falls under jurisdiction of a circuit administrative court and on the other claim (claims) falls under jurisdiction of a local general court as administrative court, such a case shall be considered by the circuit administrative court.

If the case on one claim falls under jurisdiction of Kyiv Appellate Administrative Court and on the other claim (claims) falls under jurisdiction of another administrative court, such a case shall be considered by Kyiv Appellate Administrative Court.

13) items 2 and 3 of part one of Article 22 shall be reworded as follows:

"2) the case has been opened but the case to be a subject to consideration by another court;

3) after opening the case and before court began considering the case, it has been identified that the case falls under territorial jurisdiction of another court";

14) in Article 24:

first sentence of part two after words "consideration of the case" shall be appended with the words "taken to the court before court consideration";

add after part four a new part as follows:

"5. Administrative cases, within the jurisdiction of Kyiv Appellate Administrative Court as a court of original jurisdiction, are considered and resolved by the chamber of three judges".

Thereby parts five to seven shall become respectively parts six to eight;

part seven shall be reworded as follows:

"7. Review of the court decisions on administrative cases in the Supreme Court of Ukraine is carried out by the chamber of judges ";

15) in Article 28 the words "under exceptional circumstances" shall be substituted by the words "by the Supreme Court of Ukraine";

16) part three of Article 33 shall be reworded as follows:

"3. Subpoenas and court notifications shall be sent to the persons who participate in the case, witnesses, experts, specialists, interpreters by registered post (letter, telegram) or by a currier with receiving persons' signatures for the letter to the addresses provided by these individuals, or the text of subpoena made according to Article 34 of this Code by facsimile message (fax, telefax), e-mail, phone message, via printed mass media.

Notification by sending text of subpoena shall be executed under the same rules as notification by sending subpoena, except for cases specified in this Code ";

17) the name and the text of Article 38 shall be reworded as follows:

"Article 38. Court summoning by sending text of subpoena by e-mail, facsimile message (fax, telefax), phone message

1. A holder of the authority shall be sent the text of subpoena by e-mail (fax message) to the e-mail address of fax number stated in Unified Register of e-mail addresses, fax (telefax) numbers of holders of authority. A holder of authority shall immediately confirm the court about receiving the text of subpoena by e-mail (fax,

telephone). The text of such confirmation shall be printed, the phone confirmation shall be written down by respective court staff employee and shall be attached to the case file by a clerk of the court session. Such a confirmation shall be sufficient evidence of proper notification of a holder of authority on date, time and place of court session. If during two business days after sending of the text of subpoena the confirmation of receipt by a holder of authority does not come, a clerk of the court session shall make a note concerning this fact which shall be attached to the case file and shall be sufficient evidence of proper notification of a holder of authority on date, time and place of court session.

2. The procedure of part one of this Article shall be also applied to the person who participates in the case regardless of the fact whether he/she is a holder of authority in case he/she has provided his/her e-mail address (fax, telefax number) and has made no objections for its application to receive texts of court decisions and other documents ".

18) add to the Code Article 46<sup>1</sup> as follows:

"Article 46<sup>1</sup>. Observations to the Court Record

1. Parties and other persons who participate in the case shall have the right to acquaint themselves with a court record of a specific proceeding and within three days after signing the court record shall have the right to provide their written observations concerning inaccuracies made in a court record and content imperfection.

2. The court shall review observations on a court record and in case of agreement to observations shall testify their accuracy.

3. In case the court does not agree to the provided observations they shall be considered in court session by the court which resolved the case notifying persons who participated in the case about time and place of the court session. After consideration of the observations the court shall pass a judicial resolution by which it testifies the accuracy of observations or declines them.

4. Observations to a court record shall be attached to the case file";

19) item 8 of part three of Article 49 shall be reworded as follows:

"8) to acquaint with technical recordings, the minutes of court session, the court record of a specific proceeding and to file written comments about them ";

20) item 5 of part four of Article 50 shall be excluded;

21) part four of Article 61 shall be reworded as follows:

"4. Bodies and persons defined in Article 60 of this Code that did not participate in the case in procedure to resolve the issue on grounds available to file the appellate or cassation petition, petition on reconsideration of court decisions by the Supreme Court of Ukraine, appeal on reconsideration due to newly found circumstances, shall have the right to access materials of the case in the administrative court";

22) part twelve of Article 66 shall be reworded as follows:

"12. Expert may refuse to provide conclusion if the materials provided to him are not sufficient to carry out the duties required or he does not have sufficient expertise to carry out the duties required.";

23) part two of Article 76 shall be reworded as follows:

"2. Acknowledgement by the party of the circumstances, by which another party grounds their demands or objections, shall not be obligatory for court if the court has doubt as to trustworthiness of these circumstances and free will for their acknowledgement";

24) in Article 89:

in part one the words "petition on exceptional circumstances" shall be substituted by words "application for review of the case by the Supreme Court of Ukraine";

part three after words "in case of returning of the writ" and "in case of leaving the writ" shall be appended respectively with the words "applications for review of the court decisions by the Supreme Court of Ukraine";

25) in Article 99:

in part two the words "the term of one year" shall be substituted by the words "the term of six months";

part three shall be appended with a sentence as follows: "Recourse to an administrative court with cases on appointment of citizens to the public service, their employment in and dismissal from such service may be taken within the term of one month";

in part four:

- the word "set by" shall be substituted by the word "prescribed by";

- the words "the counting of the term to address the administrative court starts" shall be substituted by the words "address to the administrative court shall be made within the term of one month which calculates";

26) in Article 100:

part one shall be reworded as follows:

"1. An administrative claim filed after the termination of terms, set forth by the law, shall be left unconsidered if only the court upon the motion of the person participating in the case does not find grounds for renewal of terms of which the resolution is adopted";

parts two and three shall be excluded;

27) Article 104 shall be reworded as follows:

"Article 104. Filing of an Administrative Claim

1. A claim shall be filed by applying a writ to a court of original jurisdiction";

28) Article 105 after part one shall be appended with a new part as follows:

"2. A written writ may be composed by filling writ blank provided by the court".

Thereby parts two to four shall become respectively parts three to five;

29) item 5 of part one of Article 106 after the word “witnesses” shall be appended with words "application for renewal of terms to address the administrative court ";

30) in Article 107:

in part one:

in item 4 the words "and if the claim is within the competence of the given administrative court" shall be excluded;

add after item 4 a new item 5 as follows:

"5) administrative claim is filed within the terms set forth by the law (if the application for renewal of these terms is filed are there grounds for its allowance)";

Thereby item 5 shall become item 6;

item 6 after the word "claim" shall be appended with the words “leaving it unconsidered”;

part two after words "returning the claim" shall be appended with the words “leaving the claim unconsidered”;

in part four:

- the first abstract shall be reworded as follows:

"4. On leaving the claim unconsidered, on opening the proceedings or on refusal to open the proceedings, the judge shall make a resolution. In the resolution on opening the proceedings it shall be mentioned:";

- item five shall be appended with the words "(for a holder of authority – respondent it shall be mentioned its duty to provide in terms set by the court in case of objection against the claim all the materials taken into consideration while making a decision, executing acts of commission or omission being a subject of the claim)";

- add to the part an item as follows:

"7) court resolution on renewal of terms for addressing the court if there are grounds for it ";

part five shall be reworded as follows:

"5. Copy of the resolution on opening the proceedings in the administrative case immediately after the resolution shall be sent to the participants in the case, along with information on their procedural rights and duties set forth by Articles 49, 50 of this Code. To the respondents and third parties that do not assert independent claims on the matter of dispute the copies of the claim and attached to it documents shall be sent";

add parts as follows:

"6. Copy of the resolution on leaving the claim without consideration shall be sent immediately to the person who filed a claim, along with a writ and all materials attached to it.

7. The resolution on leaving the claim without consideration may be appealed by the person who filed a claim";

31) in part six of Article 108 the words "leaving the claim without motion or return of the claim shall not rid" shall be substituted by the words "return of the claim shall not rid";

32) in Article 109:

item 4 of part one shall be excluded;

add a part as follows:

"6. In case of refusal to open the proceedings in administrative case on the grounds specified by item 1 of part one of this Article the court shall be obliged to explain to plaintiff within jurisdiction of which court the consideration of such a case shall be;

33) in Article 116:

in the name of the Article the word "cases" shall be substituted by the word "claims";

in part one the words "for joint consideration and resolution several administrative cases with similar claims" shall be substituted by the words "several similar claims on writs in one proceeding";

34) parts one, three, four of Article 122 shall be reworded as follows:

"1. Administrative case must be considered and resolved within reasonable terms but not longer than one month since the day of opening of proceedings in the case and if other is not stipulated by this Code. Cases on appointment of citizens to the public service, their employment in and dismissal from such service must be considered and resolved within reasonable terms but not longer than twenty days since the day of opening of proceedings in the case";

"3. The court session shall be held in especially-equipped premises – court rooms. Certain procedural actions in case of necessity may be carried out outside of court premises.

4. Person participating in the case shall have the right to motion on case consideration in his absence. If such motion has been applied by all participants in the case, judicial case consideration shall be carried out in the procedure of written proceedings with materials available in the case";

35) part three of Article 124 shall be excluded;

36) part one of Article 125 after the words "in court session" shall be appended with the words "shall identify the interpreter";

37) in Article 127:

the name of the Article shall be reworded as follows:

"Article 127. Identification of the Persons Who Arrived to the Court Session, Announcement of the Court's Composition and Explanation of the Right to Challenge";

Add a new part as follows:

"1. The court shall identify the persons who arrived to the court session and shall also verify the powers of officials, their representatives".

Thereby part one shall become part two;

38) in Article 128:

Part four shall be appended with a sentence as follows: "The same consequences shall be applied in case of repeated failure to arrive to the court session of under the same circumstances the respondent, which is not a holder of authority";

add a part as follows:

"6. If there are no obstacles for consideration of the case in court session specified by this Article but not all persons participating in the case arrived though being properly informed about the date, place and time of the court session, the court shall have the right to consider the case in written proceeding in case of absence of necessity to hear a witness or an expert;

39) part two of Article 134 shall be reworded as follows:

"2. Participants of the administrative process and other persons present in the hall of the court sessions must demurely obey the corresponding instructions of the presiding judge, observe the procedure in the court room and refrain from any action demonstrating contempt of court or rules set in the court. For the contempt of court guilty persons shall be brought to liability determined by the law. Issue on bringing a person to justice for demonstration of contempt of court shall be resolved by the court immediately after violation of the law ";

40) in part one of Article 135 the words "or judge-rapporteur" shall be excluded;

41) Article 141 shall be appended with part twelve as follows:

"12. Testimonies of witnesses gathered according to the rogatory letters in order to perpetuate evidence during their interrogation at place of residence while postponing the case consideration or given by them in the court session where the cancelled decision was taken must be reproduced and investigated in the court session where the decision is adopted if the participation of these witnesses in new court session appeared to be impossible. Persons participating in the case shall have the right to express their attitude towards such testimonies and provide their explications regarding these testimonies";

42) in article 160:

in part three the words "five days" shall be substituted by the words "three days";

item 17 of part four shall be excluded;

43) in item 2 of part one of Article 161 the words "(default of term to address the court etc.) shall be excluded;

44) item 4 of part one of Article 163 shall be appended with an abstract as follows:

"the term set by the court for a holder of authority – defendant to provide the report on service if it requires execution of specific actions (the course of this term shall start after the decree came into legal force or after receipt of its copy, if the decree is executed immediately)";

45) part one of Article 164 shall be reworded as follows:

"1. Before termination of a case, the court, upon request of a participant in the proceedings, in case of partial confession of administrative claim by the defendant, may issue a decree concerning a part of the claim, if the facts found by the court allow to settle a part of the claim without prejudice to the case by severing them into a separate proceeding";

46) in Article 167:

the name of the Article shall be reworded as follows:

"Article 167. Pronouncement of a Court Decision, Issue or Dispatch of a Decision to Participants in the Case and to Persons Not Participating in the Case if the Court Resolved Issues Concerning Their Rights, Freedoms, Interests or Duties";

part two shall be reworded as follows:

"2. Upon the request of the participant in the case as well as person not participating in the case but to whom the court resolved issues on his/her rights. Freedoms, interests or duties, the court shall on the same day issue a copy of a decree (or its preamble and operative part) or resolution of the court. In case of pronouncement of just preamble and operative part of a court decision in the court session, the court shall communicate time when participants in the case may receive a copy of a decree in full. Such a term may not exceed three days from the day of pronouncement of preamble and operative part of a court decision ";

47) part four of Article 170 after the words "stays the term" shall be appended with the words " the term set by the court for execution of the court decision as well as";

48) in Article 171<sup>1</sup>:

the name of the Article shall be appended with the words "the High Qualifications Commission of Judges of Ukraine";

part one of the Article shall be appended with an item as follows:

"4) decisions, acts of commission or omission of the High Qualifications Commission of Judges of Ukraine";

part two after the words "the High Council of Justice" shall be appended with the words "as well as decisions, acts of commission or omission of the High Qualifications Commission of Judges of Ukraine ";

part four after the words "the High Council of Justice" shall be appended with the words "as well as decisions, acts of commission or omission of the High Qualifications Commission of Judges of Ukraine ";

in part five:

item 1 after the words "the High Council of Justice" shall be appended with the words "decisions of the High Qualifications Commission of Judges of Ukraine";

item 2 after the words "of the High Council of Justice", "the High Council of Justice"" shall be appended respectively with the words , "of the High

Qualifications Commission of Judges of Ukraine", "the High Qualifications Commission of Judges of Ukraine";

part six after the words "the High Council of Justice" shall be appended with the words "as well as decisions, acts of commission or omission of the High Qualifications Commission of Judges of Ukraine ";

49) add to the Code Article 171<sup>2</sup> as follows:

"Article 171<sup>2</sup>. Peculiarities of Proceeding in Cases Concerning Decisions, Acts of Commission or Omission of Holders of Authority as to Bringing to Administrative Responsibility

1. Administrative case concerning decisions, acts of commission or omission of holders of authority as to bringing to administrative responsibility shall be resolved by local general courts as administrative courts within five days after the opening of the proceeding in the case. Under exceptional circumstances, taking into account the peculiarities of the case consideration, the court by its decree may prolong the consideration of the case but not more than for five days.

2. A decision of a local general court as administrative court in cases concerning decisions, acts of commission or omission of holders of authority as to bringing to administrative responsibility shall be final and not subject to any appeal";

50) the second sentence of part four of Article 172 shall be excluded;

51) part one of Article 180 shall be reworded as follows:

"1. The statement of claim for early termination of office of a People's Deputy of Ukraine in case of his failure to comply with the conflict-of-interests standard shall be lodged to the High Administrative Court of Ukraine. The right to lodge such a claim shall rest with the Chairman of the Verkhovna Rada of Ukraine, the First Deputy Chairman or Deputy Chairman of the Verkhovna Rada of Ukraine. A decision made after consideration of the case on early termination of office of a People's Deputy of Ukraine shall be final and not subject to any appeal";

52) add to the Code Article 183<sup>2</sup> as follows:

"Article 183<sup>2</sup>. Truncated Proceeding

1. Truncated proceeding shall be applied in administrative cases as to:

1) obligations of a holder of authority to take certain actions for execution of a legal act of individual effect or administrative agreement;

2) obligations of a holder of authority to take certain actions concerning review of an appeal including information request of natural person or legal entity;

3) cancellation of a legal act of individual effect adopted by a holder of authority with abuse of power and competence;

4) cancellation of a legal act of individual effect regarding rights, freedoms, interests and duties of a plaintiff in case it has not been executed because of alteration of the legislation pursuant to which the act was adopted.

2. In a manner of truncated proceeding, the court may consider administrative cases regarding claims specified by part one of this Article, if such claims do not affect rights, freedoms, interests and duties of third parties.

3. The court shall make a resolution on opening truncated proceeding, a copy of it immediately shall be sent to the defendant along with a copy of the claim and documents attached to it. It shall be mentioned without fail in the resolution the terms to lodge a denial against the claim and the consequences of not lodging such a denial. The defendant within terms of five days from the day of receipt of such a resolution and copies of documents may lodge a denial against the claim and required documents or an application for cognovit.

4. In case of not receiving denial against the claim by the defendant, on the second day after the termination of the term set by part three of this Article, and in case of cognovit – immediately, a judge alone without holding court sessions and summoning participants in the case shall adopt a decree on satisfaction of a claim if the circumstances reported by the plaintiff are sufficient for such conclusion.

5. A decree adopted in truncated proceeding shall contain:

- 1) date, time and place of its adoption;
- 2) name of the administrative court, last name and initials of the judge who adopted a decree;
- 3) names (designation) of the parties;
- 4) subject of administrative action;
- 5) the regulations of the law from which the court proceeded and which are grounds for satisfaction of a claim;
- 6) the finding of the court on satisfaction of a claim and on the merits;
- 7) allocation of legal costs;
- 8) obligation of the defendant to execute a decree immediately;
- 9) the term and procedure of its validity and appeal.

6. A decree shall be made and signed on the day of its adoption and not later than the next day copies of a decree shall be sent to the participants in the case by registered post with receiving persons' signatures for the letter.

7. In case of insufficiency of circumstances reported by the plaintiff for satisfaction of a claim or in case of receiving a denial against claim by the defendant the court shall consider the case being governed by general rules of this Code.

8. A decree on consequences of truncated proceeding may be appealed by parties exclusively on such grounds:

- 1) the defendant not receiving a resolution on opening of truncated proceeding with stated terms for lodging of a denial and consequences of not lodging it;
- 2) contradiction of court findings set forth in the decree to plaintiff's claims;
- 3) adoption of the decree according to other requirements than those specified by part one of this Article.

A decree may be appealed by other persons if the court resolved issues concerning their rights, freedoms, interests or duties.

The term for submitting a notice of appeal by party or another person participating in the case shall be calculated from the moment of receipt of a copy of a decree.

9. In case the decree was found illegal on the grounds specified in part eight of this Article, the appellate court shall cancel it and expedite the case for new consideration to a court of original jurisdiction .

10. A decree adopted in truncated proceeding except for cases of appeal specified by this Article shall be final.

11. In case of appealing against a decree adopted in truncated proceeding, the resolution of appellate court in such case shall be final and not subject to any appeal";

53) part one of Article 185 shall be appended with the words "except for cases specified by this Code".

54) Article 186 shall be reworded as follows:

"1. An appeal shall be submitted to an administrative court of appeals through the court of original jurisdiction which has adopted the contested decision. A copy of the appeal shall be sent at the same time to the appeals instance.

2. A notice of appeal against a decree of a court of original jurisdiction shall be lodged within ten days of the date of its pronouncement. In case the court applies part three of Article 160 of this Code and adoption of decree in written proceeding an appeal shall be lodged within ten days of the date of receipt of a copy of a decree.

3. A notice of appeal against a resolution of a court of original jurisdiction shall be lodged within five days of the date of its pronouncement. If the resolution was adopted in written proceeding or without summoning the appellant an appeal shall be lodged within five days of the date of receipt of a copy of a resolution.

4. A notice of appeal or an appeal lodged upon expiration of the term provided under this Article shall be left unconsidered unless the appeals instance finds, on request of the person which has submitted such, grounds for renewal of the term, of which it issues a ruling.";

55) Article 187 shall be reworded as follows:

"Article 187. Requirements to an Appeal

1. An appeal shall be lodged in writing.

2. An appeal must indicate:

1) the name of administrative court of appeals instance with which the notice is lodged;

2) the name (designation) and postal address of the applicant, and also the number of his communication facility and e-mail address if any available;

3) the requests of appellant to the appeals instance;

4) grounds for claims of the appellant, indicating where the evidence and facts in the case were wrongly or incompletely examined or found and/or legal rules so applied;

5) if need be, a petition of the appellant to subpoena new evidence, summon witnesses, etc.;

6) a list of the matter attached.

3. An appeal also indicates whether the person wishes to participate in judicial sittings of appeals instance, or prays the court to consider the case in his absence.

4. If an appeal refers to any new evidence such as has not produced in the first instance, it must offer the reasons for which this evidence has not been produced.

5. An appeal shall be signed by the person filing it or by his representative who, then, is required to attach a duly issued proof of his powers unless such has not been submitted earlier. An appeal shall indicate the date of its lodging.

6. Attached to an appeal are their copies in the quantity matching the number of participants in the proceedings. An appeal shall be attached with a proof of payment of the court fees, and also copies of the written matter attached, matching the number of participants in the proceedings";

56) in Article 188:

part one shall be reworded as follows:

" A court of original jurisdiction three days after the term of appeal has expired, shall send it together with the case file to the administrative court of appeals instance";

add a part as follows:

"3. If submitted appeal against a resolution of the court of original jurisdiction does not impede proceeding in the case, the court of original jurisdiction not stopping the proceeding shall submit to administrative court of appeals instance an appeal and copies of the matter in the case file required for review of such appeal. After termination of appeal proceeding all materials of this proceeding shall be attached to materials of the administrative case";

57) in Article 189:

add parts as follows:

"3. A judge-rapporteur shall return an appeal submitted after expire of appeal terms to the applicant unless he/she raises an issue on renewal of this term.

4. A judge-rapporteur shall refuse to open appellate proceeding if:

1) the case is not subject to appellate review under procedure of administrative adjudication;

2) there is a resolution on closing appellate proceeding because of withdrawal of an appeal by the appellant;

3) there is a resolution on refusal for satisfaction of an appeal of the appellant or on refusal to open appellate proceeding upon an appeal".

Thereby part three shall become part five;

add part as follows:

"6. A copy of resolution on return of an appeal or refusal to open appellate proceeding along with materials attached to an appeal shall be sent to the appellant and the appeal shall be filed to the case. Other participants in the proceeding shall be sent a copy of correspondent resolution ";

58) in Article 190:

in item 2 of part one the words "together with copies of the notice of appeal and" shall be substituted by the words "together with a copy of";

item 7 of part one after the word "proceeding" shall be appended with the words "upon materials available in the case file ";

part three shall be reworded as follows:

"3. Upon execution of all preparatory actions the judge-rapporteur shall call on the case on appeal consideration";

59) in Article 195:

in part two the word "new" shall be excluded;

add new part three as follows:

"3. An appeals instance may produce new evidence which has not been produced in the court of original jurisdiction because of incorrect implementation of norms of substantive law".

Thereby part three shall become part four;

60) add to the Code Article 195<sup>1</sup> as follows:

"Article 195<sup>1</sup>. Term of Consideration of an Appeal

1. An appeal against a decision of the court of original jurisdiction shall be considered within one month from the date of adoption of resolution on opening appellate proceeding and an appeal against resolution of the court of original jurisdiction - within fifteen days from the date of adoption of resolution on opening appellate proceeding.

2. In exceptional cases the court, upon the motion of the party and taking onto account the peculiarities of the case consideration may prolong the term of case consideration but not more than for fifteen days of which it shall issue a ruling.";

61) part five of Article 196 shall be reworded as follows:

"5. Upon completion of verification of grounds for appellate reconsideration, the chamber shall retire to the retiring room to make its decision.";

62) in Article 197:

the name of the Article after the words "written proceeding" shall be appended with the words "upon materials available in the case file";

part one shall be reworded as follows:

"1. An appeals instance may consider the case in written proceeding upon materials available in the case file, if the case may be resolved on the grounds of available evidence, in case of:

1) absence of motions by all participants in the case;

2) not arrival of all the participants in the case in spite of the fact that they were informed properly about the date, time and place of court session";

part two after the words "written proceeding" shall be appended with the words "upon materials available in the case file";

part three after the words "written proceeding" shall be appended with the words "upon materials available in the case file";

63) item 6 of part one of Article 198 shall be excluded;

64) in Article 199:

item 3 of part one shall be reworded as follows:

"3) to cancel the resolution of the court which impedes further proceeding in the case and submit the case for further consideration";

item 6 of part one shall be reworded as follows:

"6) cancel the resolution of the court and issue new resolution ";

65) Article 200 shall be appended with a part as follows:

"2. The correct court decision on merits may not be cancelled solely on the grounds of formal reasons";

66) item 4 of part one of Article 202 shall be appended with the words "as well as consideration and resolution of the case by unauthorized court; participation in adoption of decree of a judge challenged on the grounds of evidence which out in question impartiality of the judge and if an appeals instance finds this challenge reasonable; adoption and signing of the decree by a judge other than the judge who tried the case ";

67) Article 204 shall be reworded as follows:

"Article 204. Grounds for Cancellation of a Decision, Which Impedes Further Proceeding in the Case and Referral of the Case for Further Consideration to the Court of Original Jurisdiction

1. Grounds for cancellation of a decision, which impedes further proceeding in the case and referral of the case for further consideration to the court of original jurisdiction are the following:

1) incomplete finding by the court of circumstances relevant for the case;

2) lack of evidentiary support of the circumstances relevant for the case, which the court of original jurisdiction deems found;

3) repugnance between the finding of the court and the circumstances in the case;

4) breach of substantive or procedural law, which has to a wrong decision of the case or an issue. ";

68) item 6 of part one of Article 205 shall be reworded as follows:

"6) cancels a court decision which impedes further proceeding in the case and refers the case for further consideration to the court of original jurisdiction";

69) the second of part three of Article 206 shall be excluded.

70) item 4 of part one of Article 207 shall be appended with an abstract as follows:

"the term set by the court for a holder of authority – defendant to provide the report on service if it requires execution of specific actions";

71) part one of Article 211 shall be appended with words "except for cases specified by this Code";

72) in part two of Article 212 the words "one month" shall be substituted by the words "ten days";

73) in Article 214:

part two shall be reworded as follows:

"2. Within two days of receipt of a cassation appeal lodged according to requirements of Article 213 of this Code, the judge-rapporteur shall decide on the issue of instituting cassation proceedings, of which he issues a ruling, and shall subpoena the case which must be sent to the court of cassation instance within five days of receipt of correspondent resolution";

in item 4 of part four the word "close" shall be substituted by the words "refuse in satisfaction";

74) add to the Code Article 214<sup>1</sup> as follows:

"Article 214<sup>1</sup>. Terms of Consideration of a Cassation Appeal

1. A cassation appeal shall be considered within one month from the date of receipt of administrative case by the court of cassation instance";

75) in article 215:

item 4 of part one after the words "written proceeding" shall be appended with the words "upon materials available in the case file";

part three shall be reworded as follows:

"3. Upon execution of all preparatory actions the judge-rapporteur shall call on the case on cassation in court session or in written proceeding upon materials available in the case file.";

76) in article 222:

the name of the Article shall be appended with the words "upon materials available in the case file";

part one shall be reworded as follows:

"1. A cassation instance may consider the case in written proceeding upon materials available in the case file, in case of:

1) absence of motions by all participants in the case;

2) not arrival of all the participants in the case in spite of the fact that they were informed properly about the date, time and place of court session";

part two after the words "written proceeding" shall be appended with the words "upon materials available in the case file";

77) in Article 227:

in part one the words "with which proceedings in the case do not terminate" shall be substituted by the words "which impedes further proceeding in the case";

in part two the words "substantive or procedural law which have or could have led to a wrong decision in the cases and which cannot be rectified by the

court of cassation” shall be substituted by the words "procedural law which made impossible finding of actual evidence relevant for correct resolution of the case";  
part three of the Article shall be excluded.

Thereby parts four and five shall become respectively parts three and four;

78) item 4 of part one of Article 232 shall be appended with an abstract as follows:

"the term set by the court for a holder of authority – defendant to provide the court of original jurisdiction with the report on service if it requires execution of specific actions";

79) in Article 233 the word "cassation” shall be substituted by the word "appeal";

80) Chapter 3 of Section IV shall be reworded as follows:

"Chapter 3. REVIEW OF COURT DECISIONS BY THE SUPREME COURT OF UKRAINE”

Article 235. Review of Court Decisions by the Supreme Court of Ukraine

1. The Supreme Court of Ukraine shall review court decisions in administrative cases exclusively on the grounds and according to the procedure stipulated by this Code.

Article 236. The Right to Appeal Against Court Decisions

1. The parties to and other participants in proceedings shall have the right to appeal against decisions in administrative cases after their review on cassation.

2. An appeal against decision of the Supreme Court of Ukraine in administrative cases may be lodged on the grounds set forth by item 2 of part one of the Article 237 of this Code.

3. Rulings of a court of cassation that do not impede proceeding in a case may not be appealed against. Objections to such rulings may be incorporated in an appeal against a decision adopted upon completion of cassation proceedings.

Article 237. Grounds for Appeal against Court Decisions

1. An appeal against court decisions in administrative cases may be lodged exclusively on the following grounds:

1) non-uniform application of the same norms of substantive law by a court (courts) of cassation that resulted in adoption of contrary decisions in such legal relationship;

2) finding by an international tribunal whose jurisdiction is recognized by Ukraine that a court decision is a violation of Ukraine’s international obligations.

Article 238. Terms of Appeal against Court Decisions

1. An appeal against court decision may be lodged within one month of the date of adoption of court decision being appealed against or of the date adoption of court decision referred to for confirmation of grounds set forth by item 1 of part one of Article 237 of this Code, if it is adopted later, but not later than one year of the date of adoption of court decision against which the appeal is being lodged.

#### Article 239. Requirements to an Appeal against Court Decision

1. An appeal shall be lodged in writing.
2. An appeal must indicate:
  - 1) the name of the court with which the appeal is lodged;
  - 2) the name (designation) and postal address of the applicant, and also the number of his communication facility and e-mail address if any available;
  - 3) specific contrary court decision which suffered non-uniform application of the same norms of substantive law by a court (courts) of cassation in such legal relationship;
  - 4) grounds for necessity of review of court decisions in connection with adoption of decision of an international tribunal whose jurisdiction is recognized by Ukraine if the appeal is lodged on the ground specified by item 2 of part one of Article 237 of this Code;
  - 5) the requests of the appellant;
  - 6) if need be, a petition;
  - 7) a list of the matter attached.
3. An appeal shall be signed by the person filing it or by his representative who, then, is required to attach a duly issued proof of his powers.

#### Article 239<sup>1</sup>. Procedure of Lodging an Appeal against Court Decisions

1. An appeal shall be lodged to the Supreme Court of Ukraine through the High Administrative Court of Ukraine. An appeal shall be attached with:
  - 1) copies of appeal according to the number of the participants in the case;
  - 2) copies of court decisions being subject to appeal;
  - 3) copies of contrary court decision which suffered non-uniform application of the same norms of substantive law by a court (courts) of cassation in such legal relationship;
  - 4) copy of decision of an international tribunal whose jurisdiction is recognized by Ukraine if the appeal is lodged on the ground specified by item 2 of part one of Article 237 of this Code.
2. An appeal shall be attached with a proof of payment of the court fees. For submitting and review of an appeal lodged on the ground specified by item 2 of part one of Article 237 of this Code the court fees shall not be paid.

Article 239<sup>2</sup>. Verification of Conformity of an Appeal to Requirements of this Code by the High Administrative Court of Ukraine

1. An appeal submitted to the High Administrative Court of Ukraine shall be registered on the day of its receipt in the manner prescribed by part three of Article 15<sup>1</sup> of this Code and not later than the following day assigned in the order of priority to a judge-rapporteur.

2. Within three days the judge-rapporteur examines its conformity to the requirements of this Code. In case of detection of inconformity of an appeal to requirements of Articles 239 and 239<sup>1</sup> of this Code, the appellant shall be notified about defects of an appeal and term within which he must eliminate defects.

3. If the appellant has eliminated defects of an appeal within set term, an appeal shall be deemed lodged on the date of its initial lodging to the High Administrative Court of Ukraine.

4. An appeal shall be returned to the appellant if:

- 1) the appellant has not eliminated defects of an appeal within set term;
- 2) an appeal was lodged by the person not authorized to lodge such appeal;
- 3) an appeal was lodged on behalf of person who has no power to for case administration;

- 4) there is a resolution of the High Administrative Court of Ukraine on refusal to admission the case to proceeding in consequence of its consideration adopted on similar grounds.

5. Return of an appeal on the grounds specified by part four of this Article shall not impede repeated appeal in case of proper preparation of an appeal or on grounds other than those being subject to consideration.

Article 240. Admission of Case to Proceeding by the High Administrative Court of Ukraine

1. An appeal shall be admitted to proceeding by a chamber of five judges of the High Administrative Court of Ukraine without participation of judges who adopted the appealed decision.

2. Within fifteen days of receipt of the appeal the High Administrative Court of Ukraine shall adopt a resolution on admission of case to proceeding or refusal to admit it. The resolution shall be adopted without summoning the participants in the proceeding. The resolution on admission of case to proceeding or refusal to admit it must be well-grounded.

3. The resolution on admission of case to proceeding together with an appeal against court decision and documents attached to it shall be sent to the Supreme Court of Ukraine within five days of the date of its adoption. Copy of resolution on admission of case to proceeding together with a copy of an appeal shall be sent to the participants in the case, and in case of refusal it shall be sent to the appellant.

Article 240<sup>1</sup>. Case Preparation for Consideration in the Supreme Court of Ukraine

1. The resolution on admission of case to proceeding together with an appeal against court decision and documents attached to it shall be registered on the day of its receipt in the manner prescribed by part three of Article 151 of this Code and not later than the following day shall be assigned to a judge-rapporteur. Within three days the judge-rapporteur shall issue a ruling on opening proceeding in the case and shall send its copies to the participants in the case.

2. Within fifteen days the judge-rapporteur shall prepare the case for consideration by the Supreme Court of Ukraine. With this purpose he shall:

1) issue a ruling on subpoena of case materials and send it to the correspondent court;

2) determine the procedure of case consideration (in open court session or in written proceeding upon material available in the case file);

3) decide an issue on suspension of execution of correspondent court decisions;

4) entrust to correspondent specialists of the Scientific Advisory Council at the Supreme Court of Ukraine to prepare scientific conclusion on norm of substantive law which was applied differently by a court (courts) of cassation in such legal relationship;

5) determine public authorities whose representatives may give explanations in the court as to the matter of legal regulation of this norm of the law and order to summon them;

6) take other measures necessary for decision of an issue on elimination of controversy in application of the norm of substantive law.

3. Upon execution of all preparatory actions the judge-rapporteur shall prepare a report and issue a ruling on termination of case preparation and call on the case for consideration by the Supreme Court of Ukraine.

Article 241. Procedure of Case Consideration by the Supreme Court of Ukraine

1. A case shall be considered by the Supreme Court of Ukraine at its session.

2. The session of the Supreme Court of Ukraine shall be deemed plenipotentiary if it is attended by at least two thirds of the constitution of the Supreme Court of Ukraine set forth by the law.

3. Opening of the court session, explanation of the rights and duties to interpreter, announcement of composition of the court and explanation of the right for recusal shall be carried out according to requirements of Chapter 3 Section III of this Code.

4. On performing proceedings specified in part three of this Article and reviewing motions by the participants in the case the judge-rapporteur shall report

the necessary content of claims drawn in the appeal submitted to the Supreme Court of Ukraine and the results of preparatory actions executed by him.

5. The person who lodged an appeal to the Supreme Court of Ukraine and persons who joined him/her in case of their arrival to the court session shall have the right to give explanations as to the lodged claims. In case such appeals were lodged by both parties the first to give explanations shall be the plaintiff. In order to clarify the essence of the norm of substantive law applied in different manners the explanations of the representatives of public authorities may be heard.

6. Not arrival of the parties or other persons participating in the case and being informed properly about the date, time and place of case consideration shall not impede the court consideration of the case.

7. When the explanations of the persons specified in part five of this Article are heard, the court shall retire to the retiring room to make its decision.

8. The term of case consideration by the Supreme Court of Ukraine may not exceed one month from the date of opening proceeding in the case.

#### Article 242. Powers of the Supreme Court of Ukraine

1. Based upon the results of the case consideration, a majority of judges composing the court shall adopt one of the following resolutions:

to allow the appeal in full or in part;

to dismiss the appeal.

2. Justices of the Supreme Court of Ukraine who do not agree with a resolution, may express their dissenting opinion, which shall be attached to the decree.

3. Except as provided otherwise under item 2 of part one of Article 237 of this Code, a resolution of the Supreme Court of Ukraine shall be final and no subject to any appeal.

#### Article 243. A Resolution of the Supreme Court of Ukraine on Allowing an Appeal

1. The court shall allow an appeal in where it finds one of the grounds stipulated in Article 237 of this Code.

2. If the Supreme Court of Ukraine finds that a decision appealed against is unlawful, it shall cancel it in full or in part and refer the case for a new consideration to a court of cassation jurisdiction.

3. If the Supreme Court of Ukraine finds that a decision was made with a violation of Ukraine's international obligations revealed by an international tribunal whose jurisdiction Ukraine recognizes, it shall cancel it in full or in part and refer the case for a new consideration to a court of appellate or cassation jurisdiction, depending on which jurisdiction was the first court to act in violation of international obligations.

4. A resolution of the Supreme Court of Ukraine to allow an appeal must be reasoned.

Article 244. A Resolution of the Supreme Court of Ukraine On Dismissal of an Appeal

1. The Supreme Court of Ukraine shall dismiss an appeal if the circumstances which served as grounds for the case reconsideration have not been proven.

2. A resolution on dismissal of an appeal must be reasoned;

Article 244<sup>1</sup>. Announcement of the Adoption of the Decision and Its Issue

1. A decree of the Supreme Court of Ukraine shall be issued and sent to the participants in the case not later than five days after the termination of the case consideration.

Article 244<sup>2</sup>. Obligatoriness of Decisions of the Supreme Court of Ukraine

1. The decision adopted by the Supreme Court of Ukraine upon the results of the consideration of an appeal against court decision on grounds of non-uniform application of the same norms of substantive law by a court (courts) of cassation in such legal relationship, shall be obligatory for all holders of authority which apply in their operation a legal act containing the mentioned norms of law and for all courts of Ukraine. The courts shall be obliged to bring court practice in to line with the decision adopted by the Supreme Court of Ukraine.

2. Non-execution of court decision shall entail liability set forth by the law."; 81) in Article 254:

Part three shall be reworded as follows:

"3. Where an appeal is lodged, the decision, unless it has been cancelled, becomes valid upon return of an appeal, refusal to open appellate proceeding or decision coming into legal force based upon the results of appellate proceeding";

part five after the words shall be appended with the words "and in case they were adopted based upon the results of consideration in written proceeding, within five days after sending their copies to the participants in the case";

in part six the word "pronouncement" shall be substituted by the word "adoption";

82) in Article 256:

part one shall be appended with an abstract as follows:

"Resolutions of the court adopted in the truncated proceeding shall be executed immediately as well";

part four shall be reworded as follows:

"4. A court decree resulting from consideration of a request for immediate execution shall come into force upon the moment of announcement but may be appealed against in accordance with general rules.";

83) in Article 262:

part one shall be appended with the first sentence as follows:

"1. An amicable agreement concluded between the parties in administrative case shall be submitted in written to the court which has adopted a decision in the case";

part three after words "recognize such agreement" shall be appended with the words "between the parties in the case";

84) in Article 263:

part one after the words "a submission" shall be appended with the words "a person participating in the case and";

part two shall be appended with a sentence as follows: "In case of issue of ruling on suspension or spacing-out of execution of the decree in the administrative case, the court shall modify term for a holder of authority to provide report on execution of such decree ";

85) part one of Article 265 after the words "having reversed the decision" shall be appended with the words "(having invalidated it or found it null and void)";

86) in Article 267:

part two shall be reworded as follows:

"2. Based upon the results of consideration of the report on service from the holder of authority or in case of failure to submit such a report, the judge can set a new report submission term and impose a fine of one to three hundred minimum wages on the guilty official responsible for the execution of the resolution";

add parts three to eleven as follows:

"3. If the duty to execute the resolution lies on the collegiate body but the report on service is not submitted or the resolution is not executed through the fault of this body, the fine shall be imposed on the head of this body.

4. The half of the fine shall be imposed in favour of the plaintiff, the other half shall go to the State Budget of Ukraine.

5. The issue on imposition of the fine is decided by the appeal of the plaintiff or at the initiative of the judge during a court session with notification of the parties. If the parties that were properly notified fail to arrive at the court session this shall not disturb the consideration of this issue.

6. By the appeal of a body or an official responsible for the execution of the resolution based on the corresponding proof, the judge shall decrease the amount of fine in favour of the State Budget of Ukraine for the failure to execute or for improper execution of the resolution for the amount of fine that was imposed on the same actions by a state official according to the legislation on court enforcement actions.

7. Court resolution on fine imposition that became valid shall be submitted for execution to the public enforcement service. Since the next day after the resolution becomes valid and without additional court resolution a fine is charged to the amount of three percent per annum adjusted for inflation rate.

8. Payment of fine does not excuse from duty to execute resolution of court and to submit the report on service. Repeated failure to perform this duty results in application of consequences set forth by parts one and two of this Article, however the amount of the new fine shall be increased by the amount of fine that had to be paid according to the previous resolution.

9. The plaintiff in favour of whom the decision of court was adopted, has the right to appeal to the court of original jurisdiction on declaring decisions, acts of commission or omission by the defending holder of authority as illegal for execution of such decision or for the violation of plaintiff's rights, acknowledged by such decision.

Such an appeal can be submitted within ten days since the day when the plaintiff learned or had to learn about violation of his rights, freedoms or interests, but not later than the deadline for filing of execution issued by the corresponding court decree.

The appeal shall be considered and decided in court session with notification of the participants in the case within ten days from the day of its receipt. If the persons that were properly notified fail to arrive at the court session this shall not disturb the consideration of such appeal.

10. In case if evidence of illegal decisions, acts of commission or omission of the defending holder of authority and his violation of rights, freedoms or interests of the plaintiff is absent, and also if the appeal was submitted with violation of rights stipulated by parts one and two of this article, the court shall refuse to satisfy of the appeal. In case if evidence for satisfaction of the appeal is present the court shall adopt one of the decisions stipulated by part two of Article 162 of this Code.

Such a decision can only be appealed using an appellate procedure.

11. Separate decisions as well as decisions on fine imposition adopted according to this Article can only be appealed using an appellate procedure".

Thereby part three shall become part twelve.

2.3. To the Economic Procedural Code of Ukraine (Vidomosti Verkhovnoi Rady Ukrainy, 1992, No 6, p. 56):

1) add to the Code Article 2<sup>1</sup> as follows:

"Article 2<sup>1</sup>. Automated Court Workflow System.

An automated workflow system shall be implemented in commercial courts providing the following features:

1) unbiased and unprejudiced distribution of cases among judges keeping the right order of priority and equal number of cases for each judge;

2) providing participants of commercial process with information on status of case examination they participate in;

- 3) centralized storage of court decisions and other procedural documents;
- 4) preparing statistical data;
- 5) registering incoming and outgoing correspondence and its transmission stages;
- 6) issuing court decisions and orders of commercial court on the grounds of data in the automated workflow system related to court decision and registration of the appeal of the person in favour of which it was adopted;
- 7) submitting cases for electronic archiving.

Writs, appeals and other procedural documents provided for by the law and submitted to a commercial court that are subject to the court consideration in order of their receipt shall be registered in the automated court workflow system by the court staff of the correspondent court on the day of receipt of the documents. The following information shall be input to the automated court workflow system without fail: date of receipt of the documents, information on the matter of dispute and the parties in the case, surname of the court staff employee who has registered an application, information on transmission of the court documents, data on the judge who has tried the case and other data provided for by the Regulations on the automated court workflow system adopted by the Council of Judges of Ukraine after consultation with the State Judicial Administration of Ukraine.

Assignment of a judge or a chamber of judges for consideration of a specific case shall be exercised by the automated court workflow system during the registration along the principle of probability which takes account of the number of cases proceeded by the judge, prohibition to participate in the reconsideration of cases for judge who has participated in adoption of the court decision issued upon, judges' being on vacation, sick-list or a business trip and termination of the office of a judge. Cases shall be distributed taking into account the specialization of the courts. Upon assignment of a judge or a chamber of judges for consideration of a specific case no changes to registration data regarding this case as well as deleting of these data can be made except for cases set forth by the law.

Access to the automated court workflow system shall be provided to judges and court staff employees according to their functions and responsibilities.

Unauthorized interference in the work of the automated court workflow system shall entail liability set forth by the law.

The procedure of functioning of the automated court workflow system including issue of court decisions and orders of the commercial court, submitting cases to electronic archive, storage of texts of court decisions, resolutions and other procedural documents, provision of information to natural persons and legal entities, preparation of statistic data, shall be determined by the Regulation on the automated court workflow system";

2) Article 4<sup>6</sup> shall be appended with parts as follows:

"The review of court decisions of commercial courts shall be executed by the Supreme Court of Ukraine jointly.

A judge or a composition of chamber for consideration of specific case shall be determined under the procedure set forth by part three of Article 21 of this Code";

3) part four of Article 17 shall be reworded as follows:

"If the case, after recusal of judges, can not be considered in the commercial court within which jurisdiction the case falls such case shall be referred to the commercial court being the nearest territorially to this commercial court ";

4) in Article 20:

the first sentence of part one shall be reworded as follows:

"A judge shall have no right to participate in the consideration of the case and shall be challenged if he/she is a relative of persons participating in the proceeding, if the procedure of assignation of a judge for the case consideration set forth by part three of Article 21 of this Code has been violated or the circumstances that cause doubts in impartiality of the judge have been revealed";

part five shall be substituted by two parts as follows:

"An issue on recusal of a judge shall be decided in retiring room of which the court considering a case issues a ruling. A motion on recusal of several judges or the whole composition of the court shall be decided by simple majority of the votes.

In case of allowance of recusal (self-recusal) of a judge or the whole composition of the court, the case Shall be considered in the same commercial court by the same quantitative composition of a chamber determined under the procedure set forth by part three of Article 21 of this Code";

5) in part one of Article 29 the words "notice of appeal, cassation, petition " shall be substituted by the words "appeal, cassation, petition";

6) in part one of Article 38 the word "obliged" shall be substituted by the word "may";

7) in part three of Article 43<sup>3</sup> the words "ten days" shall be substituted by the words "five days";

8) Article 61 shall be reworded as follows:

"Issue on acceptance of a writ shall be decided by the judge to whom it was submitted according to the rules set forth by part three of Article 21 of this Code";

9) in part two of Article 62 the words "five days" shall be substituted by the words "three days";

10) in part two of Article 63 the words "five days" shall be substituted by the words "three days";

11) in part one of Article 64 the words "five days" shall be substituted by the words "three days";

12) parts three to five of Article 69 shall be substituted by part as follows:

"In exceptional cases upon, motion of the party, the commercial court, taking onto account peculiarities of dispute consideration, may prolong the term of dispute consideration by its resolution but for not more than fifteen days ";

13) part three of Article 74 shall be reworded as follows:

“Participants of the process and other persons present in the hall of the court sessions must demurely obey the corresponding instructions of the presiding judge, observe the procedure in the court room and refrain from any action demonstrating contempt of court or rules set in the court. For the contempt of court guilty persons shall be brought to liability determined by the law. Issue on bringing a person to justice for demonstration of contempt of court shall be resolved by the court immediately after violation of the law ”.

14) Article 82 shall be appended with part two as follows:

"The decision shall be adopted by the commercial court based upon the results of examination of evidence provided by the parties and other participants in the commercial process and also evidence subpoenaed by the commercial court ";

15) Article 85 shall be reworded as follows:

"The adopted decision shall be announced by the commercial court in the court session upon the termination of case consideration.

In the exceptional cases depending on the complexity of the case the completion of the decision in full may be postponed for the term of not more than three days of the date of termination of the case consideration, but the commercial court shall be obliged to announce preamble and operative part of the decision in the same court session where the consideration of the case was finished. Announced preamble and operative part of the decision shall be signed by all the composition of the commercial court and be attached to the case file.

Upon the termination of case consideration, the commercial court shall be obliged to announce the decision in full if one of the parties has submitted a petition on announcement of full text of the decision of the commercial court before the commercial court retires to the retiring room.

The decision of the commercial court shall come into legal force after the expiration of the term for appeal if an appeal has not been lodged. In case an appeal has been lodged the decision if not cancelled shall come into legal force after the termination of case consideration by the appellate commercial court ";

16) in Article 87 the words "five days" shall be submitted by the words "three days";

17) Article 91 shall be reworded as follows:

"The parties in the case, prosecutor, third parties, persons not participating in the case if the commercial court decided issues on their rights and duties, shall have the right to appeal against the decision of local commercial court which not entered legal force. Resolutions of local commercial court shall be appealed according to appellate procedure apart from the decision of the commercial court only in cases specified by Article 106 of this Code.

An appeal shall be lodged through a local commercial court which has considered the case.

A local commercial court within three days shall refer submitted appeal together with a case file and in cases specified by part three of Article 106 of this

Code with copies of materials in the case to the correspondent appellate commercial court.

The case submitted to the appellate commercial court shall be registered on the date of receipt in accordance with the procedure set forth by parts two, three of Article 21 of this Code";

18) in Article 92 the words "or refer decision " shall be substituted by the words "decisions and resolutions";

19) Article 93 shall be reworded as follows:

"Article 93. The term of Appeal

An appeal against decision of a local commercial court may be lodged within ten days, and an appeal against resolution of a local commercial court may be lodged five days from the date of announcement of them by the local commercial court. If in the court session only preamble and operative part of the decision have been announced, set term shall be calculated from the date of signing of the decision drawn according to Article 84 of this Code.

An appeal lodged An administrative claim filed after the expiration of terms, set forth by this Article, shall be left unconsidered if only the court upon the motion of the appellant does not find grounds for renewal of terms on what the resolution shall be issued.

The renewal of the missed term for appeal shall be possible within three months of the date of the adoption of the decision by a local commercial court";

20) in Article 94:

in the name and in the text the word "(submission)" shall be excluded;

in part one the word "(submitted)" shall be excluded;

21) in Article 95:

in the name the word "(submission)" shall be excluded;

in part two:

the words "refers an appeal" shall be substituted by the words "lodges an appeal";

the word "his" shall be substituted by the word "her";

22) in the name and in the text of Article 96 the word "(submission)" shall be excluded;

23) in Article 97:

in the name and in the text the word "(submission)" shall be excluded;

part four shall be reworded as follows:

"On eliminating circumstances stipulated in items 1, 2 and 3 of part one of this Article, an appeal may be lodged over again ";

24) in Article 98:

in the name and in the text of the Article the word "(submission)" shall be excluded;

part one shall be appended with a sentence as follows: "Issue on admission of an appeal for proceeding or refusal to admit an appeal for proceeding the

appellate commercial court shall decide not later than three days of the date of submitting of an appeal ";

25) in the name of the Article 99 the word "(submission)" shall be excluded;

26) in the name and in the text of the Article 100 the word "(submission)" shall be excluded;

27) in part two of Article 101 the word "(submission)" shall be excluded;

28) Article 102 shall be reworded as follows:

"Article 102. Terms of Consideration of an Appeal

An appeal against a decision of the local commercial court shall be considered within two months from the date of adoption of resolution on admission of an appeal for proceeding.

An appeal against a resolution of the local commercial court shall be considered within fifteen days from the date of adoption of resolution on admission of an appeal for proceeding. ";

29) in the text of the Article 103 the word "(submission)" shall be excluded;

30) in Article 105:

in part one, items 2, 6, 9 of part two the word "(submission)" shall be excluded;

in part four the words "the term of five days" shall be substituted by the words " the term of three days ";

31) part one of Article 106 shall be substituted by parts one to four as follows:

"Apart from a decision of a local commercial court the following resolutions of a local commercial court may be appealed against:

1) on the application of preventive measures, dismissal of motion on the application of preventive measures, leaving the resolution on the application of preventive measures unchanged, changing or canceling of the resolution on the application of preventive measures;

2) on return of a claim;

3) on refusal to admit a claim;

4) on referring a case upon its jurisdiction;

5) on securing a claim, cancellation of securing a claim;

6) on stoppage of case proceeding;

7) on suspension of case proceeding;

8) on leaving a case without consideration;

9) on adoption of amicable agreement;

10) in cases on bankruptcy (insolvency) upon circumstances, stipulated by the Law of Ukraine " On Restoring Debtor's Solvency or Declaring a Debtor Bankrupt ";

11) on refusal to adopt supplementary decision, resolution;

12) on interpretation or refusal to interpret a decision, a resolution;

13) on amendments to a decision, a resolution;

- 14) on return of an application for review of the court decision upon newly discovered circumstances;
- 15) separate;
- 16) supplementary;
- 17) on renewal of the missed term for submission of the order to execute;
- 18) on amendments to the order, recognition of the order being subject to no execution;
- 19) on issue of duplicate order or refusal to issue it;
- 20) on deferment of execution of the decision, resolution, decree, change of way and procedure of executing it;
- 21) on consideration of claims on acts of commission (omission) of the bodies of State Executive Service.

Denials to resolutions not subject to appeal apart from the court decision shall be attached to an appeal against the court decision. In case of lodging an appeal against a resolution not subject to appeal apart from the court decision a local commercial court shall return it to the appellant of which it issues a ruling which is not subject to any appeal.

In case of lodging an appeal against resolution of the local commercial court specified by items 1, 5, 10 – 21 of part one of this Article, only copies of case materials required for appeal consideration shall be submitted to a court of appeals. If need be the court of appeals may also subpoena copies of other materials in the case.

Lodging of an appeal against resolution of a local commercial court shall not impede further consideration of the case by this court.

Thereby parts two to four shall become parts five to seven;

32) Article 107 shall be reworded as follows:

"The parties, the prosecutor, third parties, persons not participating in the case if the court has decided issues on their rights and duties, shall have the right to appeal cassation against:

- 1) the decisions of a local commercial court after their reconsideration upon the appellate procedure and decrees of the appellate commercial court adopted upon the results of appellate consideration;

- 2) resolutions of a local commercial court specified in part one of Article 106 of this their reconsideration upon the appellate procedure and decrees of the appellate commercial court adopted upon the results of appellate consideration ";

33) Article 108 shall be reworded as follows:

"The court of cassation jurisdiction shall be the High Commercial Court of Ukraine ";

34) Article 109 shall be reworded as follows:

"Article 109. Procedure of Lodging an Appeal

An appeal shall be lodged directly to the High Commercial Court of Ukraine where it is registered on the date of receipt and submitted to the chamber for

consideration in accordance with the procedure set forth by parts two, three of Article 2<sup>1</sup> of this Code";

35) in Article 110:

in the name and in the text of the Article the words "(submission)" and "(brought in)" shall be excluded;

the words "one month» shall be substituted by the words "ten days";

36) in Article 111:

in the name and in the text of the Article the word "(submission)" in all cases shall be excluded;

in part one the word "(being brought in)" shall be excluded;

37) in Article 111<sup>1</sup>:

in the name the word "(submission)" shall be excluded;

part two shall be reworded as follows:

"The prosecutor who lodges an appeal for cassation shall send the parties in the case its copy and copies of attached documents not available in the case file";

38) in the name and in the text of Article 111<sup>2</sup> the word "(submission)" shall be excluded;

39) in Article 111<sup>3</sup>:

in the name and in the text the word "(submission)" shall be excluded;

part three shall be reworded as follows:

"On eliminating circumstances specified in items 1, 2, 3, 4 and 6 of part one of this Article, an appeal for cassation may be lodged over again";

40) in Article 111<sup>4</sup>:

in the name and in the text the word "(submission)" shall be excluded;

part one shall be appended with the words: "and shall also subpoena the case file or copies of case materials required for consideration of an appeal against resolution of the court";

41) in the name and in the text of Article 111<sup>5</sup> the word "(submission)" shall be excluded;

42) in the name and in the text of Article 111<sup>6</sup> the word "(submission)" shall be excluded;

43) Article 111<sup>8</sup> shall be reworded as follows:

"Article 111<sup>8</sup>. Term of Consideration of an Appeal

An appeal in cases foreseen by item 1 of part one of Article 107 of this Code shall be considered within one month, and in cases foreseen by item 2 of part one of Article 107 of this Code shall be considered - within fifteen days of the date of admission of an appeal for proceeding by the High Commercial Court of Ukraine.

44) in Article 111<sup>9</sup>:

in the text of the Article the word "(submission)" shall be excluded;

item 3 of part one shall be reworded as follows:

"3) cancel the decision of the court of original jurisdiction or the decree of the appellate court and refer the case for a new trial, if the court has committed violations of the norms of procedural law which made impossible finding of actual

evidence relevant for the correct decision of the case. The case shall be referred for a new consideration if the violations of the norms of procedural law which made impossible finding of actual evidence relevant for the correct decision were committed only by this court. In all other cases the case shall be referred to the court of original jurisdiction ";

45) in Article 111<sup>11</sup>:

in the text of the Article the word "(submission)" shall be excluded;

in part four the words "the term of five days" shall be substituted by the words "the term of three days";

46) in Article 111<sup>13</sup>:

part one shall be reworded as follows:

"Resolutions of local and appellate commercial courts may be appealed against according to cassation proceeding in cases specified by part one of Article 106 of this Code";

part three shall be excluded;

47) Section XII<sup>2</sup> shall be reworded as follows:

"Section XII<sup>2</sup>. Review of Court Decisions by the Supreme Court of Ukraine

Article 111<sup>14</sup>. Review of Court Decisions by the Supreme Court of Ukraine

The Supreme Court of Ukraine shall review decisions of the commercial courts exclusively on the grounds and according to the procedure stipulated by this Code.

Article 111<sup>15</sup>. The Right to Appeal Against Decisions of the Commercial Courts

The parties in the case and the Prosecutor General of Ukraine shall have the right to appeal against decisions of commercial courts after their review on cassation.

An appeal for review of the court decision by the Supreme Court of Ukraine may be lodged on the grounds set forth by item 2 of part one of the Article 111<sup>16</sup> of this Code.

There may not be lodged an appeal against resolutions of the court of cassation which do not impede proceeding in the case. Denials of such resolutions may be attached to an appeal against court decision adopted upon the results of cassation proceeding.

Article 111<sup>16</sup>. Grounds for Appeal against Decisions of the Commercial Courts

An appeal against court decisions of commercial courts may be lodged exclusively on the following grounds:

1) non-uniform application of the same norms of substantive law by a court (courts) of cassation that resulted in adoption of contrary decisions in such legal relationship;

2) finding by an international tribunal whose jurisdiction is recognized by Ukraine that a court decision is a violation of Ukraine's international obligations.

Article 111<sup>17</sup>. Term of Appeal against Decisions of the Commercial Courts

An appeal against court decisions of commercial courts may be lodged within one month of the date of adoption of court decision being appealed against or of the date adoption of court decision referred to for confirmation of ground set forth by item 1 of part one of Article 111<sup>16</sup> of this Code, if it is adopted later, but not later than one year of the date of adoption of court decision against which the appeal is being lodged.

Article 111<sup>18</sup>. Requirements to an Appeal against Decisions of the Commercial Courts

An appeal shall be lodged in writing.

An appeal must indicate:

- 1) the name of the court with which the appeal is lodged;
- 2) the name (designation) and postal address of the applicant, and also the number of his communication facility and e-mail address if any available;
- 3) specific contrary court decision which suffered non-uniform application of the same norms of substantive law by a court (courts) of cassation in such legal relationship;
- 4) grounds for necessity of review of court decisions in connection with adoption of decision of an international tribunal whose jurisdiction is recognized by Ukraine if the appeal is lodged on the ground specified by item 2 of part one of Article 111<sup>16</sup> of this Code;
- 5) the requests of the appellant;
- 6) if need be, a petition;
- 7) a list of the matter attached.

An appeal shall be signed by the person filing it or by his representative who, then, is required to attach a duly issued proof of his powers.

Article 111<sup>19</sup>. Procedure of Lodging an Appeal against Court Decisions of Commercial Courts

An appeal shall be lodged to the Supreme Court of Ukraine through the High Commercial Court of Ukraine. An appeal shall be attached with:

- 1) copies of appeal according to the number of the participants in the case;
- 2) copies of court decisions being subject to appeal;

3) copies of contrary court decision which suffered non-uniform application of the same norms of substantive law by a court (courts) of cassation in such legal relationship;

4) copy of decision of an international tribunal whose jurisdiction is recognized by Ukraine if the appeal is lodged on the ground specified by item 2 of part one of Article 111<sup>16</sup> of this Code.

An appeal shall be attached with a proof of payment of the court fees for informational and technical support of the court process. For submitting and review of an appeal lodged on the ground specified by item 2 of part one of Article 111<sup>16</sup> of this Code the court fees shall not be paid.

Article 111<sup>20</sup>. Verification of Conformity of an Appeal to Requirements of this Code by the High Commercial Court of Ukraine

An appeal submitted to the High Commercial Court of Ukraine shall be registered on the date of its receipt and not later than the following day assigned to a judge-rapporteur, determined by electronic court workflow system.

Within three days the judge-rapporteur examines its conformity to the requirements of this Code. In case of detection of inconformity of an appeal to requirements of Articles 111<sup>18</sup> and 111<sup>19</sup> of this Code, the appellant shall be notified about defects of an appeal and term within which he must eliminate defects.

If the appellant has eliminated defects of an appeal within set term, an appeal shall be considered lodged on the date of its initial lodging to the High Commercial Court of Ukraine.

An appeal shall be returned to the appellant if:

- 1) the appellant has not eliminated defects of an appeal within set term;
- 2) an appeal was lodged by the person not authorized to lodge such appeal;
- 3) an appeal was signed by the person who has no power to sign it;
- 4) there is a resolution of the High Commercial Court of Ukraine on refusal to admission the case to proceeding in consequence of its consideration adopted on similar grounds.

Return of an appeal on the grounds specified by part four of this Article shall not impede repeated appeal in case of proper preparation of an appeal or on grounds other than those being subject to consideration.

Article 111<sup>21</sup>. Admission of Case to Proceeding by the High Commercial Court of Ukraine

An appeal shall be admitted to proceeding by a chamber of five judges of the High Commercial Court of Ukraine without participation of judges who adopted the appealed decision.

Within fifteen days of receipt of the appeal the High Commercial Court of Ukraine shall adopt a resolution on admission of case to proceeding or refusal to admit it. The resolution shall be adopted without summoning the participants in the case. The resolution on admission of case to proceeding or refusal to admit it must be well-grounded.

The resolution on admission of case to proceeding together with an appeal against court decision and documents attached to it shall be sent to the Supreme Court of Ukraine within five days of the date of its adoption. A copy of the resolution on admission of case to proceeding together with a copy of an appeal shall be sent to the participants in the case, and in case of refusal it shall be sent to the appellant.

#### Article 111<sup>22</sup>. Case Preparation for Consideration in the Supreme Court of Ukraine

The resolution on admission of case to proceeding together with an appeal against court decision and documents attached to it shall be registered in the Supreme Court of Ukraine on the date of its receipt and not later than the following day shall be assigned to a judge-rapporteur determined by the electronic court workflow system. Within three days the judge-rapporteur shall issue a ruling on opening proceeding in the case and shall send its copies to the participants in the case.

Within fifteen days the judge-rapporteur shall prepare the case for consideration by the Supreme Court of Ukraine:

- 1) issue a ruling on subpoena of case materials and send it to the correspondent court;
- 2) decide an issue on suspension of execution of correspondent court decisions;
- 3) entrust to correspondent specialists of the Scientific Advisory Council at the Supreme Court of Ukraine to prepare scientific conclusion on norm of substantive law which was applied differently by a court (courts) of cassation in such legal relationship;
- 4) determine public authorities whose representatives may give explanations in the court as to the matter of legal regulation of this norm of the law and order to summon them;
- 5) take other measures necessary for decision of an issue on elimination of controversy in application of the norm of substantive law.

Upon execution of all preparatory actions the judge-rapporteur shall prepare a report and issue a ruling on termination of case preparation and call on the case for consideration by the Supreme Court of Ukraine.

#### Article 111<sup>23</sup>. Procedure of Case Consideration by the Supreme Court of Ukraine

A case shall be considered by the Supreme Court of Ukraine at its session.

The session of the Supreme Court of Ukraine shall be deemed plenipotentiary if it is attended by at least two thirds of the constitution of the Supreme Court of Ukraine set forth by the law.

Opening of the court session, explanation of the rights and duties to interpreter, announcement of composition of the court and explanation of the right for recusal shall be carried out according to requirements of Chapter 3 Section III of this Code.

On performing proceedings specified in part three of this Article and reviewing motions by the participants in the case the judge-rapporteur shall report the necessary content of claims drawn in the appeal submitted to the Supreme Court of Ukraine and the results of preparatory actions executed by him.

The person who lodged an appeal to the Supreme Court of Ukraine and persons who joined him/her in case of their arrival to the court session shall have the right to give explanations as to the lodged claims. In case such appeals were lodged by both parties the first to give explanations shall be the plaintiff. In order to clarify the essence of the norm of substantive law applied in different manners the explanations of the representatives of public authorities may be heard.

Not arrival of the parties or other persons participating in the case and being informed properly about the date, time and place of case consideration shall not impede the court consideration of the case.

When the explanations of the persons specified in part five of this Article are heard, the court shall retire to the retiring room to make its decision.

The term of case consideration by the Supreme Court of Ukraine may not exceed one month from the date of opening proceeding in the case.

#### Article 111<sup>24</sup>. Powers of the Supreme Court of Ukraine

Based upon the results of the case consideration, a majority of judges composing the court shall adopt one of the following resolutions:

- 1) to allow the appeal in full or in part;
- 2) to dismiss the appeal.

Justices of the Supreme Court of Ukraine who do not agree with a resolution, may express their dissenting opinion, which shall be attached to the decree.

Except as provided otherwise under item 2 of part one of Article 111<sup>16</sup> of this Code, a resolution of the Supreme Court of Ukraine shall be final and no subject to any appeal.

#### Article 111<sup>25</sup>. A Resolution of the Supreme Court of Ukraine on Allowing an Appeal

The court shall allow an appeal in where it finds one of the grounds stipulated in Article 111<sup>16</sup> of this Code.

If the Supreme Court of Ukraine finds that a decision appealed against is unlawful, it shall cancel it in full or in part and refer the case for a new consideration to a court of cassation jurisdiction.

If the Supreme Court of Ukraine finds that a decision was made with a violation of Ukraine's international obligations revealed by an international tribunal whose jurisdiction Ukraine recognizes, it shall cancel it in full or in part and refer the case for a new consideration to a court of appellate or cassation jurisdiction, depending on which jurisdiction was the first court to act in violation of international obligations.

A resolution of the Supreme Court of Ukraine to allow an appeal must be reasoned.

#### Article 111<sup>26</sup>. A Resolution of the Supreme Court of Ukraine

##### On Dismissal of an Appeal

The Supreme Court of Ukraine shall dismiss an appeal if the circumstances which served as grounds for the case reconsideration have not been proven.

A resolution on dismissal of an appeal must be reasoned.

#### Article 111<sup>27</sup>. Announcement of the Adoption of the Decision and Its Issue

A decree of the Supreme Court of Ukraine shall be issued and sent to the participants in the case not later than five days after the termination of the case consideration.

#### Article 111<sup>28</sup>. Obligatoriness of Decisions of the Supreme Court of Ukraine

The decision adopted by the Supreme Court of Ukraine upon the results of the consideration of an appeal against court decision on grounds of non-uniform application of the same norms of substantive law by a court (courts) of cassation in such legal relationship, shall be obligatory for all holders of authority which apply in their operation a legal act containing the mentioned norms of law and for all courts of Ukraine. The courts shall be obliged to bring court practice in to line with the decision adopted by the Supreme Court of Ukraine.

Non-execution of court decision shall entail liability set forth by the law.";

48) Article 112 shall be reworded as follows:

"A commercial court may reconsider its decision which came into force in view of newly discovered circumstances.

There are following grounds for reconsidering decisions by a commercial court upon newly discovered circumstances:

1) circumstances relevant for the case, that were not or could not be known by the appellant at the moment of case proceeding;

2) incorrect expert conclusion, incorrect translation, false documents or real evidences, stated by a court decision in force that led to adoption of an illegal or groundless decision;

3) guilt of the judge in crime committing, stated by a court decision in force that led to the approval of illegal or groundless decision;

4) cancellation of court decision which was the ground for adoption of decision or decree subject to reconsidering;

5) unconstitutionality of a law, other legal act or their certain provision, applied by a court in case consideration and stated by the Constitutional Court of Ukraine, if the decision has not been executed yet";

49) Article 113 shall be reworded as follows:

"Article 113. Procedure and Term of Submitting an Appeal for Reconsideration of Court Decisions Upon Newly Discovered Circumstances

A court decision of a commercial court may be reconsidered upon newly discovered circumstances upon the motion of the party, prosecutor, third parties, submitted within one month from the revelation of circumstances to be the grounds for reconsidering of court decision.

Terms for submitting application for the reconsideration of court decisions of a commercial court upon newly discovered circumstances, shall be calculated as follows:

1) in case provided for by item 1 of part two of Article 112 of this Code – from the day of revelation of new circumstances to be substantially significant for the case;

2) in cases provided for by items 2, 3 of part two of Article 112 of this Code - from the day the court decision on criminal case came into force;

3) in case provided for by item 4 of part two of Article 112 of this Code - from the day the court decision canceling the court decision that was the ground for adoption of the decision or resolution that require reconsideration;

4) ) in case provided for by item 5 of part two of Article 112 of this Code - from the day of approval of corresponding decision by the Constitutional Court of Ukraine.

An application for reconsideration of a court decision shall be submitted to the commercial court that issued the decision and shall be registered under the procedure, set forth by parts two and three of Article 2<sup>1</sup> of the Code.

An applicant shall be required to send copies of the application and attached documents to other parties.

An application shall be attached with the documents confirming the fact of sending copies to other parties and payment of state duty.

An application for reconsideration of a court decision of a commercial court upon newly discovered circumstances shall not be taken into consideration and shall be returned to the applicant in the following cases:

- 1) application is presented after the expiration of set terms without petition on their renewal or in case of dismissal of such a petition by a commercial court;
- 2) application is presented without confirmation of sending copy of this application and attached documents to other parties;
- 3) failure of confirmation of documents on paying a state duty according to the procedure and at the amount established by law.

Resolution on return of application shall be adopted and can be appealed against ";

50) in Article 113<sup>1</sup>:

in the name of the Article the word "(submission)" shall be excluded;

in part one the words "motion of the prosecutor" shall be excluded;

in part two the words "submitted motion" shall be substituted by the words "submitted an appeal upon newly discovered circumstances ";

51) in part three of Article 114 the words "motion of the prosecutor" shall be excluded;

52) in part one of Article 121 the word "upon motion" shall be excluded;

53) in part one of Article 121<sup>1</sup> the word "motion" shall be excluded.

2.4. In the Civil Procedural Code of Ukraine (Vidomosti Verkhovnoi Rady Ukrainy, 2004, No 40-41, p. 492, No 42, p. 492):

1) the Code shall be appended with Article 11<sup>1</sup> as follows:

"Article 11<sup>1</sup>. Automated Court Workflow System

1. An automated workflow system shall be implemented in commercial courts providing the following features:

1) unbiased and unprejudiced distribution of cases among judges keeping the right order of priority and equal number of cases for each judge;

2) providing participants of commercial process with information on status of case examination they participate in;

3) centralized storage of court decisions and other procedural documents;

4) preparing statistical data;

5) registering incoming and outgoing correspondence and its transmission stages;

6) issuing court decisions and orders of commercial court on the grounds of data in the automated workflow system related to court decision and registration of the appeal of the person in favour of which it was adopted;

7) submitting cases for electronic archiving.

2. Writs, appeals and other procedural documents provided for by the law and submitted to a commercial court that are subject to the court consideration in order of their receipt shall be registered in the automated court workflow system by the court staff of the correspondent court on the day of receipt of the documents. The following information shall be input to the automated court workflow system

without fail: date of receipt of the documents, information on the matter of dispute and the parties in the case, surname of the court staff employee who has registered an application, information on transmission of the court documents, data on the judge who has tried the case and other data provided for by the Regulations on the automated court workflow system adopted by the Council of Judges of Ukraine after consultation with the State Judicial Administration of Ukraine.

3. Assignment of a judge or a chamber of judges for consideration of a specific case shall be exercised by the automated court workflow system during the registration along the principle of probability which takes account of the number of cases proceeded by the judge, prohibition to participate in the reconsideration of cases for judge who has participated in adoption of the court decision issued upon, judges' being on vacation, sick-list or a business trip and termination of the office of a judge. Cases shall be distributed taking into account the specialization of the courts. Upon assignment of a judge or a chamber of judges for consideration of a specific case no changes to registration data regarding this case as well as deleting of these data can be made except for cases set forth by the law.

4. Access to the automated court workflow system shall be provided to judges and court staff employees according to their functions and responsibilities.

5. Unauthorized interference in the work of the automated court workflow system shall entail liability set forth by the law.

6. The procedure of functioning of the automated court workflow system including issue of court decisions and orders of the commercial court, submitting cases to electronic archive, storage of texts of court decisions, resolutions and other procedural documents, provision of information to natural persons and legal entities, preparation of statistic data, shall be determined by the Regulation on the automated court workflow system";

2) in Article 18:

part five shall be reworded as follows:

"5. Civil cases in the Supreme Court of Ukraine shall be considered collectively ";

add a part as follows:

"7. A judge or a composition of chamber for consideration of specific case shall be determined under the procedure set forth by part three of Article 11<sup>1</sup> of this Code";

3) part one of Article 20 shall be appended with item 5 as follows:

"5) in case of violation of the procedure of assignment of judge for case consideration set forth by part three of Article 11<sup>1</sup> of this Code";

4) in Article 21:

in parts one, two and four the words "under exceptional circumstances" shall be substituted by the words "by the Supreme Court of Ukraine";

part three shall be appended with the words "in review of the case by the Supreme Court of Ukraine and also in new case consideration after the cancellation of the decision or resolution of the court of cassation";

5) in Article 25:

part one after the words "other judge" shall be appended with the words "determined upon the procedure set forth by part three of Article 11<sup>1</sup> of this Code";

part two after the words "other composition of judges" shall be appended with the words "determined upon the procedure set forth by part three of Article 11<sup>1</sup> of this Code";

6) in part four of Article 46 the words "an appeal upon exceptional or newly discovered circumstances" shall be substituted by the words "an appeal for review of the case by the Supreme Court of Ukraine, an appeal for review of the case upon newly discovered circumstances";

7) in part four of Article 74 the words "seven days" shall be substituted by the words "three days";

8) part three of Article 79 shall be appended with item 6 as follows:

"6) expenses related to the publication in mass media announcement on summoning of the defendant";

9) in part two of Article 104 the words "ten days" shall be substituted by the words "five days";

10) item 1 of part one of Article 116 after the word "allowed" shall be appended with the words "before or during preliminary hearing";

11) part one of Article 118 shall be reworded as follows:

"1. The claim shall be advanced by submitting a writ to the court of original jurisdiction where it is registered in accordance with the procedure set forth by parts two, three of Article 11<sup>1</sup> of this Code and not later than the following day is submitted to assigned judge";

12) item 2 of part two of Article 119 after the words "name (designation) of the plaintiff and the defendant" shall be appended with the words "third party not asserting independent claims regarding matter of the dispute (if need be)";

13) part one of Article 121 shall be appended with the words "which may not exceed five days of the date of receipt of resolution by the plaintiff";

14) in part three of Article 122 the words "ten days" shall be substituted by the words "three days";

15) in part one of Article 129 the words "one month" shall be substituted by the words "ten days";

16) in part four of Article 133 the words "ten days" shall be substituted by the words "three days";

17) in part five of Article 151 the words "ten days" shall be substituted by the words "three days";

18) in part four of Article 154 the words "ten days" shall be substituted by the words "five days";

19) in part two of Article 156 the words "fifteen days" shall be substituted by the words "seven days";

20) in part two of Article 157 the words "one month" shall be substituted by the words "fifteen days";

21) part three of Article 162 shall be reworded as follows:

"3. Participants of the civil process and other persons present in the hall of the court sessions must demurely obey the corresponding instructions of the presiding judge, observe the procedure in the court room and refrain from any action demonstrating contempt of court or rules set in the court. For the contempt of court guilty persons shall be brought to liability determined by the law. Issue on bringing a person to justice for demonstration of contempt of court shall be resolved by the court immediately after violation of the law".

22) part five of Article 191 shall be appended with the words "which may not exceed six months";

23) in Article 199:

in part one the words "seven days" shall be substituted by the words "three days";

in part four the words "five days" shall be substituted by the words "three days";

24) part one of Article 201 shall be appended with an item as follows:

"7) providing the parties with term for conciliation in divorce proceeding";

25) part one of Article 202 shall be appended with item 6 as follows:

"6) submission of rogatory letter on collection of evidence under the procedure set forth by Article 132 of this Code";

26) in Article 203:

item 2 of part one shall be appended with an abstract as follows:

"before receipt of the court answer on commission for collection of the evidence";

part one shall be appended with item 5 as follows:

"5) by item 7 of part one of Article 201 of this Code – before termination of the term set by the court for conciliation";

27) in part three of Article 209 the words "five days" shall be substituted by the words "three days";

28) in Article 222:

in part two the words "five days" shall be substituted by the words "the following day";

in part three the words "five days" shall be substituted by the words "three days";

29) part one of Article 223 shall be reworded as follows:

"1. The court decision shall come into legal force after the expiration of the term for appeal if an appeal has not been lodged. In case an appeal has been lodged the decision, if not cancelled, shall come into legal force after the termination of case consideration by the court of appeals";

30) in part one of Article 227 the words "five days" shall be substituted by the words "three days";

31) in Article 293:

part two shall be appended with a sentence as follows: "In case of lodging of an appeal against resolution which may not be subject to appeal apart from the court decision, the court of general jurisdiction shall return it to the appellant of which it issues a resolution which is no subject to any appeal ";

add parts as follows:

"3. In case of lodging of an appeal against resolution of the court of general jurisdiction specified by items 2, 5, 6, 7, 9, 10, 11, 12, 18 – 30 of part one of this Article, only copies of case materials required for appeal consideration shall be submitted to a court of appeals. If need be the court of appeals may also subpoena copies of other materials in the case.

4. Submission of an appeal against resolution of the court of general jurisdiction shall not impede further consideration of the case by this court ";

32) Article 294 shall be reworded as follows:

"1. An appeal against court decision shall be lodged within ten days of the date of its announcement. The persons who participated in the case but were not present at the court session during the announcement of the court decision may lodge an appeal within ten days of the receipt of a copy of this decision.

2. An appeal against resolution of the court of general jurisdiction shall be lodged within five days of the date of its announcement. If the resolution was adopted without participation of the appellant an appeal shall be lodged within five days of the receipt of a copy of the resolution.

3. An appeal lodged after the expiration of term, set forth by this Article, shall be left unconsidered if only the court upon the motion of the person participating in the case does not find grounds for renewal of terms of which the resolution is adopted";

33) Article 295 shall be reworded as follows:

"Article 295. Form and Content of an Appeal

1. An appeal shall be lodged in form of a written application.

2. An appeal must indicate:

1) the name of court with which an appeal is lodged;

2) the name (designation) of the appellant, its place of residence or location;

3) the name (designation) of persons participating in the case, their place of residence or location;

4) an appealed decision or resolution;

5) in what lies the unlawfulness and (or) the groundlessness of the decision or resolution (incompleteness of establishment of circumstances relevant for the case as a result of unreasoned refusal to include evidence, incorrect examination or assessment of them, non-submission of evidence upon good excuse and (or)

incorrect establishment according to circumstances of legal relationship found by the court);

6) new circumstances to be established, evidence to be examined or assessed, grounds for valid reasons of not providing a court of original jurisdiction with evidence, denials of evidence produced by the court of original jurisdiction;

7) motion of the appellant;

8) list of attached documents and other materials.

3. An appellate complaint shall be signed by the person filing it or by a representative of such person.

4. An appellate complaint filed by a representative must be appended with a letter of attorney or another document certifying the authority of the representative, unless these documents have been previously submitted.

5. An appellate complaint shall be appended with copies of the complaint and of the accompanying written materials, in accordance with the number of persons involved in the case”;

34) in Article 296:

the title of the Article shall be amended to read as follows:

“Article 296. Procedure for filing an appellate complaint”;

in part one:

the words “an appeal application and an appellate complaint shall be filed” shall be replaced with the words “an appellate complaint shall be filed”;

the first sentence of part two shall be amended to read as follows:

“2. The court of first instance shall, on the day following the expiry of the deadline for filing an appellate complaint, forward it, along with the case file, to the appellate court”;

35) the first sentence of part one of Article 297 shall be amended to read as follows:

“1. The case shall be registered in the appellate court in accordance with the procedure established by parts two and three of Article 11<sup>1</sup> of this Code and, not later than the following day, be handed over to a reporting judge”;

36) in Article 298:

the title of the Article shall be amended to read as follows:

“Article 298. Sending copies of the appellate complaint and of the materials appended thereto to the persons involved in the case”;

in part one:

the words “of an appeal application” shall be omitted;

the word “of them” shall be replaced with the word(s) “of it” [thereof];

37) in part two of Article 302 the words “[within] fifteen days” shall be replaced with the words “[within] seven days”;

38) the Code shall be appended with Article 303<sup>1</sup> which shall read as follows:

“Article 303<sup>1</sup>. Period for review of an appellate complaint

1. An appellate complaint against a judgment by a court of first instance shall be reviewed within two months from the day of the passing of the order to accept the appellate complaint for consideration; and an appellate complaint against an order by a court of first instance, within fifteen days from the day of the passing of the order to accept the appellate complaint for consideration.

2. In exceptional cases, upon a petition by a party, with consideration for the specificity of the review of the case, the appellate court may extend the case review period, but for no more than fifteen days, by passing an order to that effect”;

39) in Article 307:

paragraph 5 of part one shall be omitted;

paragraph 4 of part two shall be amended to read as follows:

“4) reverse an order preventing further proceedings in a case and remand the case for continued hearing to the court of first instance”;

40) paragraph 4 of part one of Article 309 shall be appended with the words “as well as the hearing and adjudication of a case by an unauthorized court; the participation in the passing of a judgment by a judge whose recusal was sought on grounds of circumstances questioning the judge’s impartiality, with the court of appellate instance finding the motion for his/her recusal to be well-taken; the passing or signing of a ruling by a judge other than the one who heard the case”;

41) Article 311 shall be amended to read as follows:

“Article 311. Grounds for reversing a court order preventing further proceedings in a case and for remanding the case for continued hearing to the court of first instance

1. The grounds for reversing a court order preventing further proceedings in a case and for remanding the case for continued hearing to the court of first instance shall be as follows:

1) incomplete clarification by the court of circumstances relevant to the case;

2) absence of proof of circumstances which are relevant to the case and which the court of first instance finds to be established;

3) failure of the court’s conclusions to match the circumstances of the case;

4) violations of norms of substantive or procedural law resulting in an inadequate resolution of the matter”;

42) in Article 314:

paragraph 2 of part one shall be amended to read as follows:

“2) reversal of an order preventing further proceedings in a case and remittal of the case for continued hearing to the court of first instance”;

in paragraph 6 of part one, the words “with remittal for a new trial or adjudication” shall be replaced with the words “and adjudication”;

43) part three of Article 315 shall be amended to read as follows:

“3. In the event of reversal of a court order preventing further proceedings in a case and remittal of the case for continued hearing to the court of first instance, the order must indicate the ways in which the court of first instance violated the law”;

44) in part one of Article 323, the words “the court specified by the Law of Ukraine “On the Judicial System of Ukraine” as the court of cassation instance for these cases” shall be replaced with the words “the High Specialized Court of Ukraine for Civil and Criminal Cases”;

45) in part one of Article 325, the words “[within] two months” shall be replaced with the words “[within] ten days”;

46) part one of Article 327 shall be amended to read as follows:

“1. A cassation complaint shall be filed directly with the court of cassation instance, where it shall be registered in accordance with the procedure established by parts two and three of Article 11<sup>1</sup> of this Code and not later than the following day be handed over to a reporting judge, who shall check it for compliance with the requirements established by Article 326 of this Code”;

47) in part one of Article 328, the words “[within] a ten-day period” shall be replaced with the words “[within] three days”;

48) in part two of Article 329, the words “[within] ten days” shall be replaced with the words “[within] three days”;

49) the Code shall be appended with Article 330<sup>1</sup> which shall read as follows:

“Article 330<sup>1</sup>. Period for review of a cassation complaint

1. A cassation complaint against decisions specified by paragraph 1, part one, Article 324 of this Code must be reviewed within one month; against orders specified by paragraph 2, part one, Article 324 of this Code, within fifteen days from the day of the passing of the order to initiate cassation proceedings in the case”;

50) paragraph 2 of part two of Article 336 shall be amended to read as follows:

“2) reverse an order preventing further proceedings in a case and remand the case for continued hearing to the court of first or appellate instance”;

51) the text of Article 338 shall be amended to read as follows:

“1. The ground for reversing orders of courts of first and/or appellate instance and for remanding the case for continued hearing shall be violations of norms of substantive or procedural law resulting in the passing of an unlawful order preventing further proceedings in the case.

2. The ground for reversing orders of courts of first and/or appellate instance and for remanding the case for a new trial shall be violations of norms of procedural law which made it impossible to establish factual circumstances essential for correct adjudication of the case.

3. A case shall be remanded to the court of appellate instance for continued review or for a new hearing if violations specified in parts one and two of this Article were committed by this court alone. In all other cases, the case shall be remanded to the court of first instance.

4. The conclusions and grounds for the reversal of decisions shall be binding upon the court of first or appellate instance in the event of a new trial in the case”;  
52) in Article 344:

in paragraph 6 of part one, the words “with remittal for a new trial or adjudication” shall be replaced with the words “and adjudication”;

part one shall be appended with paragraph 7 which shall read as follows:

“7) reversal of an order preventing further proceedings in a case and remittal of the case for continued hearing to the court of first or appellate instance”;

53) part three of Article 345 shall be amended to read as follows:

“3. In the event of reversal of a court judgment and remittal of the case for a new trial, or reversal of an order preventing further proceedings in a case and remittal of the case for continued hearing, the order of the court of cassation instance must indicate the ways in which the court of first or appellate instance violated the law”;

54) Chapter 3 of Section V shall be amended to read as follows:

“Chapter 3. REVIEW OF COURT JUDGMENTS BY THE SUPREME COURT OF UKRAINE

Article 353. Review of court judgments by the Supreme Court of Ukraine

1. The Supreme Court of Ukraine shall review court judgments in civil cases exclusively on the grounds and in accordance with the procedure established by this Code.

Article 354. Right to apply for review of court judgments

1. The litigants and other persons involved in the case shall have the right to file an application for review of court judgments in civil cases after their review in a cassation proceeding.

2. An application for review of a decision of the Supreme Court of Ukraine in a civil case can be filed on the ground provided by paragraph 2, part one, Article 355 of this Code.

3. One may not file an application for review of orders of a court of cassation instance which do not prevent proceedings in the case. Objections against such orders may be included in an application for review of a court judgment entered at the conclusion of a cassation proceeding.

Article 355. Grounds for filing an application for review of court judgments

1. An application for review of court judgments in civil cases can be filed exclusively on the grounds of:

1) uneven application by the court (courts) of cassation instance of the same norms of substantive law resulting in the passing of judgments of opposite content in similar legal relationships;

2) finding, by an international judicial tribunal whose jurisdiction is recognized by Ukraine, of violation of international obligations by Ukraine in the adjudication of a case by a court.

#### Article 356. Deadline for filing an application for review of court judgments

1. An application for review of court judgments shall be filed within one month from the day of the passing of the judgment whose review is being sought in the application or from the day of the passing of the judgment being referred to in order to confirm the grounds established by paragraph 1, part one, Article 355 of this Code, if it was passed afterwards, but not later than one year from the day of the passing of the judgment whose review is being sought in the application.

#### Article 357. Requirements regarding an application for review of court judgments

1. An application for review of court judgments shall be submitted in writing.

2. An application for review of court judgments shall indicate the following:

1) the name of the court with which the application is filed;

2) the family name (name) and postal address of the applicant and of the persons involved in the case, as well as their communication device numbers and emails if available;

3) the specific court judgments of opposite content reflecting uneven application by the court (courts) of cassation instance of the same norms of substantive law in similar legal relationships;

4) arguments in support of the necessity for reviewing court judgments in connection with the passing of a judgment by an international judicial tribunal whose jurisdiction is recognized by Ukraine, if the application is filed on the ground provided by paragraph 2, part one, Article 355 of this Code;

5) the demands of the applicant;

6) petitions if necessary;

7) a list of appended materials.

3. The application shall be signed by the applicant or by a representative thereof, who is to append it with a duly executed authorization.

#### Article 358. Procedure for filing an application for review of court judgments

1. An application for review of court judgments shall be submitted to the Supreme Court of Ukraine through the High Specialized Court of Ukraine for Civil and Criminal Cases. The application must be appended with:

- 1) copies of the application, in accordance with the number of persons involved in the case;
- 2) copies of court judgments whose review is sought in the application;
- 3) copies of the court judgments of opposite content reflecting uneven application by the court (courts) of cassation instance of the same norms of substantive law in similar legal relationships;
- 4) a copy of the judgment of an international judicial tribunal whose jurisdiction is recognized by Ukraine, if the application for review of court judgments is filed on the grounds provided by paragraph 2, part one, Article 355 of this Code.

2. The application shall be appended with a document certifying the payment of the court fee and of the expenses related to informational and technical support for the review of the case. The filing and review of an application based on the ground provided by paragraph 2, part one, Article 355 of this Code shall not be liable to payment of the court fee or of the expenses related to informational and technical support for the review of the case.

Article 359. Checking an application for compliance with the requirements of this Code by the High Specialized Court of Ukraine for Civil and Criminal Cases

1. An application for review of a court judgment received by the High Specialized Court of Ukraine for Civil and Criminal Cases shall be registered on the day of its reception and, not later than the following day, be handed over to a reporting justice, to be assigned by the court's automated case management system.

2. The reporting justice shall, within three days, check the application for compliance with the requirements of this Code. Should it be established that the application was filed without observing the requirements of Articles 357 or 358 of this Code, the applicant shall be notified in writing of the application's faults and of the deadline for eliminating them.

3. If the applicant eliminates the faults of the application before the established deadline, it shall be considered to have been filed on the day of its initial filing with the High Specialized Court of Ukraine for Civil and Criminal Cases.

4. An application shall be returned to the applicant if:

- 1) the applicant has failed to eliminate its faults before the established deadline;
- 2) the application was filed by a person not entitled to file such an application;

3) the application was filed on behalf of a person with no authority to handle the case;

4) the High Specialized Court of Ukraine for Civil and Criminal Cases has previously passed an order refusing, on analogous grounds, to accept the case based on the results of its hearing.

5. The return of an application on grounds specified in part four of this Article shall not prevent it from being filed again if it is properly executed or if it is based on grounds other than the ones which have received consideration.

#### Article 360. Acceptance of a case by the High Specialized Court of Ukraine for Civil and Criminal Cases

1. The decision on whether or not to accept a case shall be adopted by a panel of five judges of the High Specialized Court of Ukraine for Civil and Criminal Cases which shall be formed without the participation of the judges who handed down the judgment being challenged.

2. The High Specialized Court of Ukraine for Civil and Criminal Cases shall, within fifteen days from the day of receiving an application, pass an order accepting or rejecting the case. The order shall be passed without summoning the persons involved in the case. An order to accept or reject a case must be a motivated one.

3. An order to accept a case shall, within five days from the day it was passed, be forwarded to the Supreme Court of Ukraine, along with the application for review of the court judgment and the documents appended thereto. A copy of the order to accept the case shall be sent, along with a copy of the application, to the persons involved in the case; and if the case is rejected, to the person who filed the application;

#### Article 360<sup>1</sup>. Preparation of a case for review at the Supreme Court of Ukraine

1. An order to accept a case shall, along with the application for review of the court judgment and the documents appended thereto, be registered on the day of its reception and, not later than the following day, be handed over to a reporting justice, to be assigned by the Court's automated case management system. The reporting justice shall, within three days, pass an order to initiate proceedings in the case, and send copies thereof to the persons involved in the case.

2. The reporting justice shall, within fifteen days from the day of initiation of the proceeding, prepare the case for hearing by the Supreme Court of Ukraine:

1) pass an order requesting the case file and send it to the respective court;

2) secure a stay in the execution of the respective court judgments;

3) entrust relevant specialists of the Scientific Consultative Council under the Supreme Court of Ukraine with the preparation of a scientific opinion on the

norm of substantive law which was unevenly applied by the court (courts) of cassation instance in similar legal relationships;

4) determine the state agencies whose representatives can clarify in the Court the essence of the legal regulation provided by this norm of law, and give orders that they be summoned to the Court;

5) take other measures necessary to secure the elimination of the discrepancies in the application of the norm of substantive law.

3. Based on the results of the preparatory actions, the reporting justice shall prepare a report and pass an order to terminate the preparation and schedule the case for hearing by the Supreme Court of Ukraine.

Article 360<sup>2</sup>. The procedure for the hearing of a case by the Supreme Court of Ukraine

1. A case shall be heard by the Supreme Court of Ukraine at its meeting.

2. A meeting of the Supreme Court of Ukraine shall be deemed valid if attended by at least two thirds of the statutory number of justices of the Supreme Court of Ukraine.

3. The opening of the Court's session, the announcement of the composition of the Court, the clarification of the right to recusal, and the clarification to the persons involved in the case of their rights and responsibilities shall be performed in accordance with the rules set forth in Chapter 4, Section III, of this Code.

4. After conducting the procedural steps specified in part three of this Article and considering motions from persons involved in the case, the reporting justice shall duly report on the essence of the demands stated in the application for review of court judgments and on the results of his/her preparatory actions.

5. The person who filed the application for review of court judgments and his/her associates attending the Court's session, if any, shall have the right to clarify the essence of the demands stated in the application. If such applications were filed by both parties, the complainant shall be the first to provide clarification. To identify the essence of the unevenly applied norm of substantive law, clarifications can be heard from representatives of state agencies.

6. Non-appearance in the Court of parties or other persons involved in the case who were duly notified of the date, time, and place of the hearing of the case shall not prevent the case from being heard by the Court.

7. When clarifications from the persons specified in part five of this Article have been heard, the Court shall retire to the deliberation room to adopt a judgment.

8. The period of review of a case by the Supreme Court of Ukraine may not exceed one month from the day of initiation of the proceedings in the case.

Article 360<sup>3</sup>. The authority of the Supreme Court of Ukraine

1. Based on the results of the case review, the majority of the justices of the Court shall adopt one of the following rulings:

- 1) on full or partial satisfaction of the application;
- 2) on dismissal of the application.

2. Justices disagreeing with the ruling can express their dissenting opinion, which shall be appended to the ruling.

3. The ruling of the Supreme Court of Ukraine shall be deemed final, and can only be appealed on the ground provided by paragraph 2, part one, Article 355 of this Code.

Article 360<sup>4</sup>. Ruling of the Supreme Court of Ukraine on satisfaction of an application

1. The Court shall satisfy an application in the presence of one of the grounds provided by Article 355 of this Code.

2. Should the Court find the judgment in the case under review to be unlawful, the Court shall reverse it fully or partially and remand the case for a new trial to the court of cassation instance.

3. Should the Court find that the court judgment was passed in violation of Ukraine's international obligations, as established by an international judicial tribunal whose jurisdiction is recognized by Ukraine, the Court shall reverse it fully or partially and remand the case for a new trial to the court of appellate or cassation instance, depending on whichever of the courts was the first to violate international obligations.

4. A ruling of the Supreme Court of Ukraine on satisfaction of an application must be a motivated one.

Article 360<sup>5</sup>. Ruling of the Supreme Court of Ukraine on dismissal of an application

1. The Supreme Court of Ukraine shall dismiss an application if the circumstances underlying the review of the case were not proved.

2. A ruling on dismissal of an application must be a motivated one.

Article 360<sup>6</sup>. Notification of the decision taken and preparation thereof

1. A ruling of the Supreme Court of Ukraine must be prepared and dispatched to the persons involved in the case not later than five days from the day of completion of the review of the case.

Article 360<sup>7</sup>. The binding nature of decisions of the Supreme Court of Ukraine

1. A decision passed by the Supreme Court of Ukraine on the basis of consideration of an application for review of a court judgment on grounds of uneven application by the court (courts) of cassation instance of the same norms of substantive law in similar legal relationships shall be binding upon all subjects of authority using in their activities the normative legal act containing the legal norm in question as well as upon all courts of Ukraine. The courts shall be obliged to bring their practice in conformity with the decision of the Supreme Court of Ukraine.

2. Failure to comply with the Court's decisions shall entail liability under the law";

55) in part one of Article 362, the words "[within] three months" shall be replaced with the words "[within] one month."

2.5. In the Code of Criminal Procedure of Ukraine (Vidomosti Verkhovnoi Rady URSR, 1961, No. 2, p. 15):

1) the Code shall be appended with Article 16<sup>2</sup> which shall read as follows:

"Article 16<sup>2</sup>. A court's automated case management system

In a court, there shall function an automated case management system of the court which shall provide for:

1) an objective and unbiased assignment of cases among the judges, with observance of the principles of rotation and equal caseloads on each judge;

2) provision of natural persons and legal entities with information of the status of cases in which they are involved;

3) centralized storage of the texts of sentences, rulings, orders and other procedural documents;

4) preparation of statistics;

5) registration of incoming and outgoing correspondence and its movement stages;

6) issuance of the court's sentences, orders, rulings and writs of execution on the basis of data available in the system;

7) transfer of case files to the electronic archive.

Criminal case files, complaints, motions and other procedural documents specified by the law which are filed with the court and can be the subject of a judicial proceeding shall be subject to mandatory registration on a first-in basis in the court's automated case management system by the respective court's personnel on the day they are received. The following shall be subject to mandatory entry into the court's automated case management system: date of reception of a criminal case, complaint, motion, or other procedural document; family name of the person who is the subject of the documents and the essence of the documents; family name (name) of the person (body) from which the documents were received; family name of the court employee who performed the registration; information on the movement of court documents; information on the judge who heard the case; and other data specified by the Regulations on a Court's Automated

Case Management System, to be adopted by the Council of Judges of Ukraine in coordination with the State Judicial Administration of Ukraine.

A judge or a panel of judges shall be assigned to hear a particular case by the court's automated case management system at the point of registration of the respective criminal case, complaint, motion, or other procedural document on a probability basis, having regard to the number of cases pending before the judges; to the ban on participation in the verification of sentences, orders, or rulings for a judge who took part in the adoption of the sentence, order, or ruling whose verification is being sought; and to judges' being on vacation, sick-leave, detached duty, or to the expiry of their tenure of office. Cases shall be distributed with consideration for judges' specialization. Once a judge or a panel of judges has been assigned to hear a particular case, it shall be prohibited to amend the case's registration data, as well as to delete those data from the court's automated case management system, except for cases specified by the law.

Access to a court's automated case management system shall be allowed for the respective court's judges and personnel in accordance with their functional duties.

Unauthorized interference in the operation of a court's automated case management system shall entail liability under the law.

The procedure for the functioning of a court's automated case management system, in particular issuance of the court's sentences, orders, rulings, or writs of execution, transfer of case files to the electronic archive, storage of the texts of the court's sentences, orders, rulings and other procedural documents, provision of information to natural persons and legal entities, and preparation of statistics, shall be determined by the Regulations on a Court's Automated Case Management System”;

2) in Article 17:

in the second sentence of part four, the words “as an exception” shall be replaced with the words “on the basis of newly discovered circumstances”;

the Article shall be appended with parts which shall read as follows:

“The judge or the members of a panel of judges to hear a particular case shall be determined in accordance with the procedure established by part three of Article 162 of this Code.

In the Supreme Court of Ukraine, cases shall be heard collegially, with the participation of all the justices of the Supreme Court of Ukraine”;

3) Article 24 shall be omitted;

4) in Article 32:

paragraph 1 shall be amended to read as follows:

“1) “Court” – the Supreme Court of Ukraine, the High Specialized Court of Ukraine for Civil and Criminal Cases, the Appellate Court of the Autonomous Republic of Crimea, the appellate courts of the oblasts, of the cities of Kyiv and Sevastopol, district, city district, town, and town-and-district courts, or a judge hearing a case alone”;

in paragraph 4, the words “and motions” shall be omitted;

paragraph 5 shall be amended to read as follows:

“5) Judge” – Chief Justice/ chief judge, Deputy Chief Justice/deputy chief judge, and justice/judge of, respectively, the Supreme Court of Ukraine, the High Specialized Court of Ukraine for Civil and Criminal Cases, the Appellate Court of the Autonomous Republic of Crimea, the appellate courts of the oblasts, of the cities of Kyiv and Sevastopol, of a district, city district, town, or town-and-district court, or a people’s assessor”;

in paragraph 15, the word “motion” shall be replaced with the word “complaint”;

paragraph 19 shall be amended to read as follows:

“19) “Cassation complaint” – complaint by a prosecutor or complaint by a participant in the trial seeking reversal or revision of a court judgment in a cassation proceeding”;

5) Article 36 shall be omitted;

6) parts three and four of Article 38 shall be amended to read as follows:

“The decision to transfer a case from a district, city-district, town, or town-and-district court to another one within the limits of the Autonomous Republic of Crimea, of one oblast, of the cities of Kyiv and Sevastopol shall be adopted by the chief judge of the Appellate Court of the Autonomous Republic of Crimea, the chief judges of the respective appellate courts of oblasts, of the cities of Kyiv and Sevastopol.

The decision to transfer a case to a court of another oblast shall be adopted by the Chief Justice or the Deputy Chief Justice of the High Specialized Court of Ukraine for Civil and Criminal Cases”;

7) parts two and three of Article 40 shall be omitted;

8) in part three of Article 41, the words “or of a military court” shall be omitted;

9) part one of Article 54 shall be appended with paragraph 5 which shall read as follows:

“5) in the event of violation of the procedure for assigning a judge to hear a case set forth by part three of Article 162 of this Code”;

10) part four of Article 55 shall be amended to read as follows:

“A judge who was involved in the hearing of a case may not take part in the review of this case on the basis of newly discovered circumstances or in the review of the case by the Supreme Court of Ukraine”;

11) the text of Article 57 shall be amended to read as follows:

“When recusal of a judge or people’s assessor is sought, the court must hear the person whose recusal is sought, if the latter wishes to provide a clarification, as well as the opinion of the participants in the trial.

The decision on an application for recusal shall be adopted in the deliberation room, by an order of the court hearing the case. The decision on an

application for recusal of several judges or of the entire composition of the court shall be adopted by a simple majority of the votes.

In the event of satisfaction of an application for recusal of a judge hearing a case alone, the case shall be heard in the same court by another judge, to be determined in accordance with the procedure established by part three of Article 162 of this Code.

In the event of satisfaction of an application for recusal of one of the judges or of the entire composition of the court, if the case is heard by a panel of judges, the case shall be heard in the same court by a panel of the same quantitative composition of judges without the participation of the recused judge or by a different panel of judges, to be determined in accordance with the procedure established by part three of Article 16<sup>2</sup> of this Code.

Should it prove to be impossible to form a new composition of the court as a result of satisfaction of the applications for recusals (self-recusals) or on grounds specified in Article 55 of this Code, the court shall decide on referring the case to another court in accordance with the procedure established by this Code.

In the event of recusal of a people's assessor, the latter shall be replaced with another people's assessor";

12) Article 147 shall be appended after part three with a new part which shall read as follows:

“A judge facing criminal prosecution shall be suspended from office by the High Qualifications Commission of Judges of Ukraine on the basis of a motivated ruling of the Prosecutor General of Ukraine.”

In this connection, part four shall be deemed to be part five.

13) in paragraph 3 of part two of Article 156, the words “of the Supreme Court of Ukraine” shall be replaced with the words “of the High Specialized Court for Civil and Criminal Cases”;

14) part five of Article 165<sup>2</sup> after the word “judge” shall be appended with the words “who shall be determined in accordance with the procedure established by part three of Article 162 of this Code”;

15) in Article 165<sup>3</sup>:

part three after the word “judge” shall be appended with the words “who shall be determined in accordance with the procedure established by part three of Article 16<sup>2</sup> of this Code”;

the last sentence of part four shall be amended to read as follows: “Rulings of a judge of an appellate court or of a judge of the High Specialized Court for Civil and Criminal Cases shall not be subject to any appeal; they may not be challenged in a prosecutor's complaint”;

16) the third sentence of part five of Article 177 after the word “[The] Judge” shall be appended with the words “who shall be determined in accordance with the procedure established by part three of Article 16<sup>2</sup> of this Code”;

17) in the last sentence of part four of Article 187, the words “it may not be challenged in a prosecutor's motion” shall be omitted;

18) part three of Article 232 shall be amended to read as follows:

“In exceptional cases, if a case within the jurisdiction of a district, city-district, town, or town-and-district court is particularly difficult or important, the prosecutor of the Autonomous Republic of Crimea, oblast, cities of Kyiv or Sevastopol, or a military prosecutor (exercising the rights of an oblast prosecutor) or their deputies can refer it for consideration to the respective appellate court of the Autonomous Republic of Crimea, appellate courts of oblasts, of the cities of Kyiv and Sevastopol”;

19) part one of Article 236<sup>6</sup> shall be appended with the words “who shall be determined in accordance with the procedure established by part three of Article 16<sup>2</sup> of this Code”;

20) part one of Article 236<sup>8</sup> shall be appended with the words “who shall be determined in accordance with the procedure established by part three of Article 16<sup>2</sup> of this Code”;

21) the first sentence of part one of Article 240 after the word “[by a] judge” shall be appended with the words “who shall be determined in accordance with the procedure established by part three of Article 16<sup>2</sup> of this Code”;

22) in part three of Article 245, the words “it may not be challenged in a prosecutor’s motion” shall be omitted;

23) in part five of Article 246, the words “cassation motions or complaints” shall be replaced with the words “a cassation complaint”;

24) in part three of Article 248, the words “cassation motions or complaints” shall be replaced with the words “a cassation complaint”;

25) in part four of Article 249, the words “it may not be challenged in a prosecutor’s motion” shall be omitted;

26) in part two of Article 249<sup>1</sup>, the words “it may not be challenged in a prosecutor’s motion” shall be omitted;

27) part two of Article 271 shall be amended to read as follows:

“Participants in a trial, as well as other persons attending a court session, shall be obliged to rigorously obey the orders of the presiding judge, maintain courtroom decorum, and refrain from any actions showing clear contempt of court or of court rules. Persons held in contempt of court shall be brought to responsibility in the manner established by the law. The decision on bringing a person to responsibility for contempt of court shall be adopted by the court immediately after the commission of the offense”;

28) in part four of Article 276, the words “cassation motions or complaint” shall be replaced with the words “a cassation complaint”;

29) in part four of Article 281, the words “cassation motions or complaint” shall be replaced with the words “a cassation complaint”;

30) in part four of Article 282, the words “cassation motions or complaint” shall be replaced with the words “a cassation complaint”;

31) the text of Article 356 shall be amended to read as follows:

“Appeals against judgments of district, city-district, town, and town-and-district courts shall be reviewed by the Appellate Court of the Autonomous Republic of Crimea, the appellate courts of the oblasts, of the cities of Kyiv and Sevastopol.

The panel of judges to hear a particular case shall be determined in accordance with the procedure established by part three of Article 16<sup>2</sup> of this Code”;

32) in Article 384:

in the name of the Article, the words “or submission of a cassation motion” shall be omitted;

in parts three and four, the words “A cassation motion” shall be replaced with the words “A cassation complaint”;

in part five, the words “cassation motion” and “or motion” shall be omitted;

33) the text of Article 385 shall be amended to read as follows:

“Cassation complaints against judgments passed by the Appellate Court of the Autonomous Republic of Crimea, the appellate courts of the oblasts, of the cities Kyiv and Sevastopol, sentences handed down by district, city-district, town, and town-and-district courts shall be reviewed by a panel of judges of the Judicial Chamber for Criminal Cases of the High Specialized Court of Ukraine for Civil and Criminal Cases.

The panel of judges to hear a particular case shall be determined in accordance with the procedure established by part three of Article 16<sup>2</sup> of this Code”;

34) in Article 386:

in the name of the Article, the words “and submission of a cassation motion” shall be omitted;

in parts one and two, the words “and motions” shall be omitted;

in part four, the words “or motion” shall be omitted;

35) in Article 387:

in the name of the Article, the words “and submission of a cassation motion” shall be omitted;

in part one, the words “and motions,” “motion” shall be omitted;

in part two, the words “and motion must” shall be replaced with the word “must”;

36) in Article 388:

in part one, the words “and [with] motions” shall be omitted;

part two shall be amended to read as follows:

“Cassation complaints against court judgments specified in part two of Article 383 of this Code shall be handed over to a judge of the cassation court who shall, within fifteen days from the time of their reception, resolve the issue of obtaining the case files on demand. A case file shall not be demanded if, pursuant to the requirements of Article 350, part two of Article 383, Article 384, part two of Article 386, or part one of Article 398 of this Code, the complaint may not be the

subject of review by a court of cassation instance. The judge shall also be entitled to refuse to demand the case file when the complaint and the appended judgments and other documents appear to provide no grounds for satisfying it. The judge's decision shall be presented in a motivated ruling, a copy of which is to be sent to the prosecutor or to the person who filed the complaint. The ruling shall not be subject to any appeal. Refusal to demand the case file shall not preclude the demanding of the case file when the complaint is received again, provided that its faults indicated in the court's ruling have been eliminated and if it is received before the deadline specified by Article 386 of this Code or not later than one month from the day of reception of the copy of the ruling refusing to demand the case file";

in part three, the words "motions or" shall be omitted;

37) in Article 389:

in the name of the Article and in parts one and two, the words "or motion" shall be omitted;

in part three, the word "[with a] motion" shall be omitted;

in part four, the words "motion or," "motion" shall be omitted;

38) in Article 390:

in the name of the Article, the words "and motion" shall be omitted;

in part one:

- the words "the prosecutor who submitted the motion," "motions" shall be omitted;

- the words "as regards the prosecutor's motion, within the limits of his/her positions" shall be replaced with the words "as regards the prosecutor's complaint within the limits of his/her positions";

- the words "withdraw them" shall be replaced with the words "withdraw it";

39) in part one of Article 392, the words "[A] Cassation motion," "motion or" shall be omitted;

40) in part one of Article 393, the words "or motion" shall be omitted;

41) in Article 394:

in part one, the words "and [with] motions" shall be omitted;

in part two, the words "and [with] motions," "a cassation motion" shall be omitted;

42) in part two of Article 395, the words "or a motion," "or in whose relation no motion was submitted" shall be omitted;

43) in Article 396:

in paragraph 1 of part one, the words "or motion" shall be omitted;

in part two, the words "or motions" shall be omitted;

44) in Article 397:

in part two, the words "a motion was submitted by a prosecutor or a complaint was filed" shall be replaced with the words "a complaint was filed by the prosecutor or";

in part three, the words “[upon] a prosecutor’s motion or complaint” shall be replaced with the words “[upon] a complaint by a prosecutor or”;

45) in part two of Article 400, the words “upon a prosecutor’s motion or upon a complaint” shall be replaced with the words “upon a complaint by a prosecutor or”;

46) in the name of Chapter 32, the words “in an exceptional proceeding” shall be replaced with the words “on the basis of newly discovered circumstances”;

47) Article 400<sup>4</sup> shall be omitted;

48) in Article 400<sup>5</sup>:

the title of the Article shall be amended to read as follows:

“Article 400<sup>5</sup>. Grounds for review of court judgments on the basis of newly discovered circumstances”;

the Article shall be appended with part one which shall read as follows:

“Court judgments which have come into legal force can be reviewed on the basis of newly discovered circumstances.”

In this connection, parts one and two shall be deemed to be, respectively, parts two and three;

49) in Article 400<sup>6</sup>:

in the name of the Article, the words “in an exceptional proceeding” shall be replaced with the words “on the basis of newly discovered circumstances”;

part six shall be omitted.

In this connection, part seven shall be deemed to be part six;

50) Article 400<sup>7</sup> shall be amended to read as follows:

“Article 400<sup>7</sup>. Persons vested with the right to initiate review of a court judgment on the basis of newly discovered circumstances

The right to file an application for review of a court judgment on the basis of newly discovered circumstances shall be vested in the Prosecutor General of Ukraine and his/her deputies, the prosecutor of the Autonomous Republic of Crimea, the prosecutor of an oblast, the prosecutors of the cities of Kyiv and Sevastopol, and military prosecutor (exercising the rights of an oblast prosecutor)”;

51) in parts four and five of Article 400<sup>8</sup>, the words “submission of a motion” shall be replaced with the words “submission of an application for review of court judgments on the basis of newly discovered circumstances”;

52) Article 400<sup>9</sup> shall be amended to read as follows:

“Article 400<sup>9</sup>. Initiation of review of a court judgment on the basis of newly discovered circumstances

A petition seeking review of court judgments on the basis of newly discovered circumstances can be submitted to the prosecutor by participants in the trial as well as other persons if such right is vested in them by the law”;

53) in Article 400<sup>10</sup>:

in the name, the words “in an exceptional proceeding” shall be replaced with the words “on the basis of newly discovered circumstances”;

in part one, the word “[A] Motion” shall be replaced with the word “[An] Application”;

part three shall be omitted;

54) the Code shall be appended with Chapter 32<sup>1</sup> which shall read as follows:

#### Chapter 32<sup>1</sup>. REVIEW OF COURT JUDGMENTS BY THE SUPREME COURT OF UKRAINE

##### Article 400<sup>11</sup>. Review of court judgments by the Supreme Court of Ukraine

The Supreme Court of Ukraine shall review court judgments in criminal cases exclusively on the grounds and in accordance with the procedure established by this Code.

Article 400<sup>12</sup>. Grounds for review of court judgments by the Supreme Court of Ukraine

Grounds for review by the Supreme Court of Ukraine of court judgments which have come into legal force shall be as follows:

1) uneven application by the court of cassation instance of the same norms of the criminal law in relation to similar socially dangerous acts (except for award of punishment, release from punishment and from criminal liability) which resulted in the passing of judgments of opposite content;

2) a finding by an international judicial tribunal whose jurisdiction is recognized by Ukraine that the court judgments violate Ukraine’s international obligations.

It shall be prohibited to review court judgments on the ground provided by paragraph 2 of part one of this Article for the purposes of applying legislation concerning a more serious crime, extending the indictment, or deteriorating the convict’s situation on other grounds, as well as for acquittal or for an order or ruling to dismiss the case.

Article 400<sup>13</sup>. Right to apply for review of court judgments by the Supreme Court of Ukraine

Persons whose list is specified in Article 348 of this Code shall be entitled to file an application for review of a court judgment on the ground provided by paragraph 1, part one, Article 400<sup>12</sup> of this Code, following its review in a cassation proceeding.

The right to file an application for review of a court judgment on the ground provided by paragraph 2, part one, Article 400<sup>12</sup> of this Code, following its review in a cassation proceeding, shall be vested in the person in whose favor an

international tribunal whose jurisdiction is recognized by Ukraine has ruled, finding the court judgment to have violated Ukraine's international obligations; as well as in such person's defense counsel, legal representative, or representative.

An application for review of a decision of the Supreme Court of Ukraine in a criminal case can be filed on the ground provided by paragraph 2, part one, Article 400<sup>12</sup> of this Code.

An application may not be filed for review of orders of a court of cassation instance which do not prevent proceedings in the case. Objections against such orders may be included in an application for review of a court judgment entered at the conclusion of a cassation proceeding.

Article 400<sup>14</sup>. Deadline for filing an application for review of court judgments

An application for review of a court judgment on the ground provided by paragraph 1, part one, Article 400<sup>12</sup> of this Code shall be submitted within one month from the day of the passing of the judgment whose review is being sought in the application or from the day of the passing of the judgment which is referred to for the purpose of confirming the ground provided by paragraph 1, part one, Article 400<sup>12</sup> of this Code, if it was passed afterwards, but not later than one year from the day of the passing of the judgment whose review is being sought in the application.

An application for review of a court judgment on the ground provided by paragraph 2, part one, Article 400<sup>12</sup> of this Code can be filed within one month from the day of notification, in the manner prescribed by the law, of the persons specified in part two of Article 400<sup>12</sup> of this Code that the decision of the international judicial tribunal has become final.

Review of a sentence of acquittal or of an order or ruling to dismiss a case on the ground provided by paragraph 1, part one, Article 400<sup>12</sup> of this Code shall be allowed only within the period of statutory limitation of criminal liability, but not later than one year from the day of the pronouncement of such decision.

Neither completion of sentence nor death of the convict shall prohibit review of the case for acquittal purposes.

Article 400<sup>15</sup>. Requirements regarding an application for review of court judgments

An application for review of a court judgment by the Supreme Court of Ukraine shall be submitted in writing.

An application for review of a court judgment shall indicate the following:

- 1) the name of the court with which the application is filed
- 2) the applicant's identity, as well as his/her postal address, communication device number and email if available;

3) the specific court judgments of opposite content reflecting uneven application by the court of cassation instance of the same norms of the criminal law in relation to similar socially dangerous acts, if the application is filed on the ground provided by paragraph 1, part one, Article 400<sup>12</sup> of this Code;

4) arguments in support of the necessity for reviewing court judgments in connection with the passing of a judgment by an international judicial tribunal whose jurisdiction is recognized by Ukraine, if the application is filed on the ground provided by paragraph 2, part one, Article 400<sup>12</sup> of this Code;

5) the demands of the applicant;

6) petitions if necessary;

7) a list of appended materials.

The application shall be signed by the person filing it. The application shall be appended with a duly executed document certifying the authority of the person filing it, in accordance with the requirements of this Code.

Article 400<sup>16</sup>. Procedure for filing an application for review of court judgments

An application for review of court judgments shall be submitted to the Supreme Court of Ukraine through the High Specialized Court of Ukraine for Civil and Criminal Cases. The application must be appended with:

1) copies of the application, in accordance with the number of persons involved in the case (except when the application is being filed by a person held in detention);

2) copies of court judgments whose review is sought in the application;

3) copies of the court judgments of opposite content reflecting uneven application by the court of cassation instance of the same norms of the criminal law in relation to similar socially dangerous acts, if the application for review of court judgments is filed on the ground provided by paragraph 1, part one, Article 400<sup>12</sup> of this Code;

4) a copy of the judgment of an international judicial tribunal whose jurisdiction is recognized by Ukraine, if the application for review of court judgments is filed on the ground provided by paragraph 2, part one, Article 400<sup>12</sup> of this Code.

Article 400<sup>17</sup>. Checking an application for compliance with the requirements of this Code by the High Specialized Court of Ukraine for Civil and Criminal Cases

An application for review of a court judgment received by the High Specialized Court of Ukraine for Civil and Criminal Cases shall be registered on the day of its reception and, not later than the following day, be handed over to a

reporting judge, to be assigned in accordance with the procedure established by part three of Article 16<sup>2</sup> of this Code.

The reporting judge shall, within three days, check the application for compliance with the requirements of this Code. Should it be established that the application was filed without observing the requirements of Articles 400<sup>15</sup> and 400<sup>16</sup> of this Code, the applicant shall be notified in writing of the application's faults and of the deadline for eliminating them.

If the applicant eliminates the faults of the application before the established deadline, it shall be considered to have been filed on the day of its initial filing with the High Specialized Court of Ukraine for Civil and Criminal Cases.

An application shall be returned to the applicant if:

- 1) the applicant has failed to eliminate its faults before the established deadline;
- 2) the application was filed by a person not entitled to file such an application;
- 3) the application was filed on behalf of a person lacking proper authority;
- 4) the High Specialized Court of Ukraine for Civil and Criminal Cases has passed an order refusing, on analogous grounds, to accept the case based on the results of its hearing.

The return of an application on grounds specified in part four of this Article shall not prevent it from being filed again if it is properly executed or if it is based on grounds other than the ones which have been the subject of consideration.

Article 400<sup>18</sup>. Acceptance of a case by the High Specialized Court of Ukraine for Civil and Criminal Cases

The decision on whether or not to accept a case shall be adopted by a panel of five judges of the High Specialized Court of Ukraine for Civil and Criminal Cases which shall be formed without the participation of the judges who handed down the judgment being challenged.

The High Specialized Court of Ukraine for Civil and Criminal Cases shall, within fifteen days from the day of receiving an application, pass an order accepting or rejecting the case. The order shall be passed without summoning the persons involved in the case. An order to accept or reject a case must be a motivated one.

An order to accept a case shall, within five days from the day it was passed, be forwarded to the Supreme Court of Ukraine, along with the application for review of the court judgment and the documents appended thereto. A copy of the order to accept the case shall be sent, along with a copy of the application, to the persons specified in Article 348 of this Code; and if the case is rejected, to the person who filed the application.

Article 400<sup>19</sup>. Preparation of a case for review by the Supreme Court of Ukraine

An order to accept a case shall, along with the application for review of the court judgment and the documents appended thereto, be registered on the day of its reception and, not later than the following day, be handed over to a reporting justice, to be assigned by the Court's automated case management system. The reporting justice shall, within three days, pass an order to initiate proceedings in the case and send copies thereof to the persons involved in the case.

The reporting justice shall, within fifteen days from the day of initiation of the proceeding, prepare the case for hearing by the Supreme Court of Ukraine

- 1) pass an order requesting the case file and send it to the respective court;
- 2) select the manner in which the case will be heard (in open court or in chambers in cases established by this Code);
- 3) entrust relevant specialists of the Scientific Consultative Council under the Supreme Court of Ukraine with the preparation of a scientific opinion on the norm of criminal law which was unevenly applied by the court of cassation instance in relation to similar socially dangerous acts;
- 4) determine the state agencies whose representatives can provide clarifications in the Court which will be useful for the adjudication of the case, and give orders that they be summoned to the Court;
- 5) take other measures necessary to secure the elimination of the discrepancies in the application of the norm of substantive law.

Based on the results of the preparatory actions, the reporting justice shall prepare a report and pass an order to terminate the preparation and schedule the case for hearing by the Supreme Court of Ukraine.

Article 400<sup>20</sup>. The procedure for the hearing of a case by the Supreme Court of Ukraine

A case shall be heard by the Supreme Court of Ukraine at its session.

A session of the Supreme Court of Ukraine shall be deemed valid if attended by at least two thirds of the statutory number of justices of the Supreme Court of Ukraine.

The opening of the Court's session, the clarification to the participants in the case of their rights and responsibilities, the announcement of the composition of the Court, and the clarification of the right to recusal shall be performed in accordance with the rules set forth in Chapter 25, Section III, of this Code.

After conducting the procedural steps specified in part three of this Article and considering motions from persons involved in the case, the reporting justice shall duly report on the essence of the demands stated in the application received by the Supreme Court of Ukraine and on the results of his/her preparatory actions.

The person who filed the application for review of court judgments and his/her associates attending the Court's session, if any, shall have the right to clarify the essence of the demands stated in the application. If such applications were filed by both parties, the prosecution shall be the first to provide clarification. To identify the essence of the unevenly applied norm of criminal law, clarifications can be heard from representatives of state agencies.

Non-appearance in the Court of persons involved in the case who were duly notified of the date, time, and place of the hearing of the case shall not prevent the case from being heard by the Court.

When clarifications from the persons specified in part five of this Article have been heard, the Court shall retire to the deliberation room to adopt a judgment.

The period of review of a case by the Supreme Court of Ukraine may not exceed one month from the day of initiation of the proceedings in the case.

Article 400<sup>21</sup>. The authority of the Supreme Court of Ukraine

Based on the results of the case review, the majority of the justices of the Court shall adopt one of the following rulings:

on full or partial satisfaction of the application;

on dismissal of the application.

Justices disagreeing with the ruling can express their dissenting opinion, which shall be appended to the ruling.

The ruling of the Supreme Court of Ukraine shall be deemed final, and can only be appealed on the ground provided by paragraph 2, part one, Article 400<sup>12</sup> of this Code.

Article 400<sup>22</sup>. Ruling of the Supreme Court of Ukraine on satisfaction of an application

The Court shall satisfy an application in the presence of one of the grounds provided by part one of Article 400<sup>12</sup> of this Code.

Should the Court find the judgment in the case under review to be unlawful, the Court shall reverse it fully or partially and remand the case for a new trial to the court of cassation instance.

Should the Court find that the court judgment was passed in violation of Ukraine's international obligations, as established by an international judicial tribunal whose jurisdiction is recognized by Ukraine, the Court shall reverse it fully or partially and remand the case for a new trial to the court of appellate or cassation instance, depending on whichever of the courts was the first to violate international obligations.

A ruling of the Supreme Court of Ukraine on satisfaction of an application must be a motivated one.

Article 400<sup>23</sup>. Ruling of the Supreme Court of Ukraine on dismissal of an application

The Supreme Court of Ukraine shall dismiss an application if the circumstances underlying the review of the case were not proved.

A ruling on dismissal of an application must be a motivated one.

Article 400<sup>24</sup>. Notification of the decision taken and preparation thereof

A ruling of the Supreme Court of Ukraine must be prepared and dispatched to the persons specified in Article 348 of this Code not later than five days from the day of completion of the review of the case.

Article 400<sup>25</sup>. The binding nature of decisions of the Supreme Court of Ukraine

A decision passed by the Supreme Court of Ukraine on the basis of consideration of an application for review of a court judgment on grounds of uneven application by the court of cassation instance of the same norms of criminal law in relation to similar socially dangerous acts shall be binding upon all subjects of authority using in their activities the legal norm in question as well as upon all courts of Ukraine. The courts shall be obliged to bring their practice in conformity with the decision of the Supreme Court of Ukraine.

Failure to comply with the Court's decisions shall entail liability under the law;

55) parts one and two of Article 401 shall be amended to read as follows:

“A judgment of a local court shall come into legal force upon expiry of the deadline for filing appeals; a judgment of an appellate court, upon expiry of the deadline for filing a cassation complaint, unless it was challenged. If an appeal or a cassation complaint is filed, the judgment, unless reversed, shall come into legal force upon the review of the case by the court of, respectively, appellate or cassation instance, unless otherwise provided by this Code.

In cases when only a part of a judgment was challenged, or when several persons were sentenced, while the sentence received by only one of them was challenged, the other parts of the judgment or the sentences received by the other convicts shall not come into legal force until the court of appellate or cassation instance has ruled on the matter”;

56) part one of Article 402 shall be amended to read as follows:

“The judgment and ruling of a court of first instance shall, unless otherwise provided by this Code, come into legal force and be executed upon expiry of the deadline for filing appeals; the judgment or ruling of an appellate court, upon expiry of the deadline for filing a cassation complaint. If appeals or cassation complaints against these decisions were filed and they were not reversed, then they

shall come into legal force and be executed upon their review by the appellate or cassation court, except for cases provided by this Code”;

57) part two of Article 407 shall be omitted;

58) in part two of Article 409, the words “and in relation to persons sentenced by military courts, by a judge of a military garrison court” shall be omitted;

59) part one of Article 413 shall be amended to read as follows:

“When there is a non-executed sentence against a convict that was unknown to the court which pronounced the most recent sentence, the court in the place of service of the sentence shall be obliged to determine the procedure for applying punishments specified by all of the sentences pursuant to Article 71 of the Criminal Code of Ukraine. This issue shall be resolved in the manner prescribed by Article 411 of this Code – through a ruling of a judge of a district, city-district, town, or town-and-district court, if all of the sentences were pronounced by judges single-handedly; through an order of a district, city-district, town, or town-and-district court, if at least one of the sentences was pronounced by a panel of judges of a district, city-district, town, or town-and-district court; through an order of the Appellate Court of the Autonomous Republic of Crimea, the appellate courts of the oblasts, of the cities of Kyiv and Sevastopol, if at least one of the sentences was pronounced by the Appellate Court of the Autonomous Republic of Crimea, the appellate courts of the oblasts, of the cities of Kyiv and Sevastopol”;

60) in Article 424:

in the name of the Article, the words “or submission of a prosecutor’s motion against them” shall be omitted;

in part one, the words “or a prosecutor’s appellate or cassation motion was submitted” shall be omitted;

61) in Article 449:

in the name of the Article, the words “or submission of a prosecutor’s motion against it” shall be omitted;

in part one, the words “or a prosecutor’s appellate motion was submitted” shall be omitted.

2.6. In the Code of Ukraine on Administrative Offenses (Vidomosti Verkhovnoi Rady URSR, 1984, supplement to No. 51, p. 1122):

1) in subparagraph two of part one, subparagraph two of part two of Article 185<sup>3</sup>, the words “from six to twelve” shall be replaced with the words “from twenty to one hundred”;

2) the Code shall be appended with Article 188<sup>33</sup> which shall read as follows:

“Article 188<sup>33</sup>. Failure to comply with legitimate demands of the High Qualifications Commission of Judges of Ukraine or of a member of the High Qualifications Commission of Judges of Ukraine regarding provision of information

Failure to comply with legitimate demands of the High Qualifications Commission of Judges of Ukraine or of a member of the High Qualifications Commission of Judges of Ukraine regarding provision of information or copies of documents, as well as violation of legally prescribed deadlines for providing them or provision of misleading information –

shall entail the imposition of a fine in the amount of between twenty and one hundred nontaxable minimum incomes of citizens.

The same actions committed for a second time within a year after the imposition of an administrative penalty –

shall entail the imposition of a fine in the amount of between one and two hundred nontaxable minimum incomes of citizens”;

3) part one of Article 221 after the numerical symbols “188<sup>32</sup>” shall be appended with the numerical symbols “188<sup>33</sup>”;

4) in part one of Article 255:

in subparagraph two of paragraph 1, the numerical symbols “181<sup>3</sup>–185<sup>9</sup>” shall be replaced with the numerical symbols “181<sup>3</sup>–185<sup>2</sup>, 185<sup>4</sup>–185<sup>9</sup>”;

in paragraph 7, the word and numerical symbols “Articles 185<sup>3</sup> and 185<sup>5</sup>” shall be replaced with the word and numerical symbols “Article 185<sup>5</sup>”;

paragraph 11 after the numerical symbols “188<sup>32</sup>” shall be appended with the numerical symbols “188<sup>33</sup>”;

5) in Article 258:

part one after the word and numerical symbols “[by] Articles 134 and 135” shall be appended with the word and numerical symbols “185<sup>3</sup>”;

the first sentence of part four shall be appended with the words “except for cases of administrative prosecution of persons for committing an administrative offense specified in Article 185<sup>3</sup> of this Code”;

6) in part two of Article 268, the words and numerical symbols “by part one of Article 185<sup>3</sup>” shall be omitted.

2.7. Article 382 of the Criminal Code of Ukraine (Vidomosti Verkhovnoi Rady Ukrainy, 2001, No. 25-26, p. 131) shall be amended to read as follows:

“Article 382. Non-execution of a court decision

1. Deliberate non-execution of a court’s sentence, judgment, order, or ruling which has come into legal force, or obstruction of the execution thereof –

shall be punishable with a fine in the amount of between five hundred and one thousand nontaxable minimum incomes of citizens or deprivation of liberty for a term of up to three years.

2. The same actions committed by an official –

shall be punishable with a fine in the amount of between seven hundred fifty and one thousand nontaxable minimum incomes of citizens or deprivation of liberty for a term of up to five years, with deprivation of the right to hold certain offices or to engage in certain activities for a term of up to three years.

3. Actions specified in part one or two of this Article which were committed by an official holding a position of responsibility or special responsibility or by a

person previously convicted for a crime specified in this Article, or if they inflicted essential damage on citizens' legally protected rights and freedoms, state or public interests, or interests of legal entities –

shall be punishable with deprivation of liberty for a term of between three and eight years, with deprivation of the right to hold certain offices or to engage in certain activities for a term of up to three years.

4. Deliberate non-execution by an official of a judgment of the European Court of Human Rights –

shall be punishable with deprivation of liberty for a term of between three and eight years, with deprivation of the right to hold certain offices or to engage in certain activities for a term of up to three years.”

2.8. In the Regulations of the Verkhovna Rada of Ukraine approved by the Law of Ukraine “On the Regulations of the Verkhovna Rada of Ukraine” (Vidomosti Verkhovnoi Rady Ukrainy, 2010, No. 14-15, p. 133):

1) part five of Article 157 shall be appended with the words “[to] the Head of the State Judicial Administration of Ukraine – regarding issues of the funding of courts and other bodies and institutions of the judicial system”;

2) Articles 215 and 216 shall be amended to read as follows:

“Article 215. The procedure for the election of judges by the Verkhovna Rada for an indefinite term

1. Pursuant to paragraph 27, part one, Article 85 and Article 128 of the Constitution of Ukraine and to the Law of Ukraine “On the Judicial System and Status of Judges,” the Verkhovna Rada shall elect judges for an indefinite term.

2. The motion for the election of judges for an indefinite term shall be submitted to the Verkhovna Rada by the High Qualifications Commission of Judges of Ukraine.

3. Copies of the motion for the election of judges for an indefinite term and of the documents appended thereto shall, under instructions from the Chairperson of the Verkhovna Rada of Ukraine, be presented to the people's deputies not later than five days from the day of their reception.

4. The issue of election of a judicial candidate for an indefinite term shall be put on the session agenda of the Verkhovna Rada as a privileged one, without being voted on, and be given consideration at the nearest plenary meeting of the Verkhovna Rada without the opinions of the committees of the Verkhovna Rada of Ukraine.

5. Consideration of the issue of election of a judicial candidate for an indefinite term at a plenary meeting of the Verkhovna Rada shall begin with a report by the Head of the High Qualifications Commission of Judges of Ukraine or by another member of the High Qualifications Commission of Judges of Ukraine acting under instructions from the Head of the High Qualifications Commission of Judges of Ukraine.

6. The decision to elect a judicial candidate for an indefinite term shall be adopted in an open roll-call vote by a majority of the constitutional composition of the Verkhovna Rada of Ukraine and be formalized by a decree of the Verkhovna Rada. Voting on the election of judicial candidates for an indefinite term can be conducted separately for each candidate as well as for a list of judicial candidates. The decision of the Verkhovna Rada of Ukraine to elect a judge for an indefinite term shall be adopted on the basis of a recommendation from the High Qualifications Commission of Judges of Ukraine.

7. Should a judicial candidate seeking election for an indefinite term fail to receive the number of people's deputies' votes which is required having regard to the constitutional composition of the Verkhovna Rada of Ukraine, the voting shall be repeated.

Article 216. Removal of justices of the Constitutional Court of Ukraine and of judges elected for an indefinite term

1. The Verkhovna Rada shall remove justices of the Constitutional Court of Ukraine and judges elected for an indefinite term in the cases and in accordance with the procedure specified in parts five and six of Article 126 of the Constitution of Ukraine, Article 23 of the Law of Ukraine "On the Constitutional Court of Ukraine," and the Law of Ukraine "On the Judicial System and Status of Judges".

2. A motion for removal of a justice of the Constitutional Court of Ukraine shall be submitted to the Verkhovna Rada by the Constitutional Court of Ukraine.

3. To remove a justice of the Constitutional Court of Ukraine, the committee in charge of this issue shall, under instructions from the Chairperson of the Verkhovna Rada of Ukraine, submit a motivated opinion to the Verkhovna Rada.

4. A motion for removal of judges elected for an indefinite term shall be submitted by the High Council of Justice.

5. A motion for removal of a judge elected for an indefinite term shall indicate the date of submission of the motion, the judge's family name, first name and patronymic, year of birth, information on the judicial tenure, name of the court, ground for submitting the motion for removal specified in part five of Article 126 of the Constitution of Ukraine, the factual circumstances (in case of a motion for removal of a judge under special circumstances specified by the Law of Ukraine "On the High Council of Justice"), as well as other information specified by the law. A motion by the High Council of Justice for removal of a judge elected for an indefinite term shall be appended with the personal file and materials proving the presence of grounds for removal.

6. Copies of a motion for removal of a judge elected for an indefinite term and of the documents appended thereto shall, under instructions from the Chairperson of the Verkhovna Rada of Ukraine, be presented to the people's deputies not later than five days from the day of their reception.

7. The issue of removal of a judge elected for an indefinite term shall be put on the session agenda of the Verkhovna Rada as a privileged one, without being

voted on, and be given consideration at the nearest plenary meeting of the Verkhovna Rada without the opinions of the committees of the Verkhovna Rada of Ukraine.

8. A judge facing removal on grounds specified in paragraphs 1, 4, or 5, part five, Article 126 of the Constitution of Ukraine shall be required to attend the plenary meeting of the Verkhovna Rada during the consideration of the issue. His/her failure to attend the plenary meeting of the Verkhovna Rada shall not prevent the Verkhovna Rada of Ukraine from adopting a decision.

9. Each judge elected for an indefinite term who faces removal shall be presented individually at the plenary meeting of the Verkhovna Rada by the Head of the High Council of Justice or by another member of the High Council of Justice acting under instructions from the Head of the High Council of Justice; and a justice of the Constitutional Court of Ukraine, by a representative of the committee in charge of this issue.

10. The Verkhovna Rada shall adopt a decision to remove a justice of the Constitutional Court of Ukraine or a judge elected for an indefinite term in an open roll-call vote of the people's deputies by a majority of the constitutional composition of the Verkhovna Rada. If the number of people's deputies' yes votes is not enough, having regard to the constitutional composition of the Verkhovna Rada of Ukraine, to remove a judge elected for an indefinite term, the voting shall be repeated. The decision to remove a justice/judge shall be formalized by a decree of the Verkhovna Rada;

3) in the name of Chapter 35, the words "of a judge of a general jurisdiction court" shall be omitted;

4) in parts one through three of Article 218, the words "of a judge of a general jurisdiction court" shall be omitted;

5) in parts one, two, paragraph 2 of part three, paragraphs 2 and 3 of part seven of Article 221, the words "of a judge of a general jurisdiction court" shall be omitted;

6) the Regulations shall be appended with Chapter 35<sup>1</sup> which shall read as follows:

"Chapter 35<sup>1</sup>. Consideration of the issue of giving consent to the detention or arrest of a judge of a general jurisdiction court

Article 221<sup>1</sup>. Submission of a motion seeking consent to the detention or arrest of a judge of a general jurisdiction court

1. Pursuant to part three of Article 126 of the Constitution of Ukraine, the detention or arrest of a judge of a general jurisdiction court shall require the consent of the Verkhovna Rada.

2. A motion seeking consent to the detention or arrest of a judge of a general jurisdiction court shall be initiated by, respectively, pretrial inquiry bodies and judicial authorities. Moreover, each type of restrictive measure shall require

submission of a separate motion. A motion in relation to a judge of a general jurisdiction court must be supported and submitted to the Verkhovna Rada by the Prosecutor General of Ukraine.

3. A motion seeking consent to the detention or arrest of a judge of a general jurisdiction court must be a motivated and sufficient one, containing concrete facts and evidence attesting to the commission by the person indicated in the motion of a socially dangerous act specified in the Criminal Code of Ukraine. The motion seeking the detention or arrest of a judge of a general jurisdiction court must contain a clear justification of the necessity for the detention or arrest.

Article 221<sup>2</sup>. Preparation of a motion seeking consent to the detention or arrest of a judge of a general jurisdiction court for consideration at a plenary meeting of the Verkhovna Rada

1. Copies of a motion seeking consent to the detention or arrest of a judge of a general jurisdiction court and of the documents appended thereto shall, under instructions from the Chairperson of the Verkhovna Rada of Ukraine, be presented to the people's deputies on the day of reception of such motion. One copy shall be sent to the person who is the subject of the motion, to the official address of the court where the person works, with notification of the person immediately after the sending of the copy.

2. The person who is the subject of a motion for detention or arrest can present to the Verkhovna Rada a written clarification of the points raised in the motion. Copies of the written clarifications and of documents appended thereto shall, under instructions from the Chairperson of the Verkhovna Rada of Ukraine, be presented to the people's deputies on the day of reception of such written clarifications.

3. The issue of consideration of a motion seeking consent to the detention or arrest of a judge of a general jurisdiction court shall be put on the session agenda of the Verkhovna Rada as a privileged one, without being voted on.

Article 221<sup>3</sup>. Consideration by the Verkhovna Rada of the issue of giving consent to the detention or arrest of a judge of a general jurisdiction court

1. The Verkhovna Rada shall consider the issue of giving consent to the detention or arrest of a judge of a general jurisdiction court at its nearest plenary meeting after the day of reception of a motion to that effect from the Office of the Prosecutor General of Ukraine. The Office of the Prosecutor General of Ukraine and the person who is the subject of the motion shall be notified in advance of the date of consideration of the said issue at a meeting of the Verkhovna Rada of Ukraine.

2. The consideration of the issue of giving consent to the detention or arrest of a judge of a general jurisdiction court shall begin with information from the person presiding at the plenary meeting of the Verkhovna Rada about the motion

that was received, the work performed to prepare for the consideration of the issue at a plenary meeting of the Verkhovna Rada, as well as about the presence or absence of a written clarification from the person who is the subject of the motion.

3. After reading the motion, the person presiding at the plenary meeting of the Verkhovna Rada shall give the floor for up to 30 minutes to:

1) the Prosecutor General of Ukraine, for answering questions from representatives of deputy factions and [individual] people's deputies;

2) the person who is the subject of the motion seeking consent to detention or arrest, or a representative of such person, for providing clarifications of the points raised in the motion.

3. If, at the plenary meeting of the Verkhovna Rada, it is established that the person who is the subject of the motion provides no clarification, the Verkhovna Rada shall consider the issue of giving consent to detention or arrest without the person's clarification.

4. The issue shall be discussed in accordance with the procedure of full discussion (Article 30 of these Regulations).

5. The person presiding at the plenary meeting of the Verkhovna Rada shall, in line with the motion, put to the vote the question whether consent should be given to:

1) detention of the judge of a general jurisdiction court;

2) arrest of the judge of a general jurisdiction court.

6. The decision to give consent to the detention or arrest of a judge of a general jurisdiction court shall be adopted by the Verkhovna Rada in an open roll-call vote of the people's deputies by a majority of the constitutional composition of the Verkhovna Rada of Ukraine and be formalized by a decree of the Verkhovna Rada. Decisions of the Verkhovna Rada to give consent to the detention or arrest of a judge of a general jurisdiction court shall not be subject to revision, except when circumstances are discovered which were unknown to the Verkhovna Rada during the consideration of the motion in question.

7. The Chairperson of the Verkhovna Rada of Ukraine shall immediately notify the Prosecutor General of Ukraine of the adopted decision”;

7) in Article 223:

part one shall be appended with a sentence which shall read as follows: “The issue of early termination of the powers of a people's deputy can also be brought to court by the First Deputy or Deputy Chairperson of the Verkhovna Rada of Ukraine acting under instructions from the Chairperson of the Verkhovna Rada of Ukraine”;

part three after the first sentence shall be appended with a new sentence which shall read as follows: “The Verkhovna Rada of Ukraine can also oblige with its decision the First Deputy or Deputy Chairperson of the Verkhovna Rada of Ukraine to bring to court the issue of early termination of the powers of a people's deputy.”

2.9. In part two of Article 5 of the Law of Ukraine “On the Status of a People’s Deputy of Ukraine” (Vidomosti Verkhovnoi Rady Ukrainy, 1993, No. 3, p. 17; 2001, No. 42, p. 212):

subparagraph two shall be appended with a sentence which shall read as follows: “The issue of early termination of the powers of a people’s deputy can also be brought to court by the First Deputy or Deputy Chairperson of the Verkhovna Rada of Ukraine acting under instructions from the Chairperson of the Verkhovna Rada of Ukraine”;

subparagraph four shall be appended with a sentence which shall read as follows: “The Verkhovna Rada of Ukraine can also oblige with its decision the First Deputy or Deputy Chairperson of the Verkhovna Rada of Ukraine to bring to court the issue of early termination of the powers of a people’s deputy.”

2.10. Article 22<sup>3</sup> of the Law of Ukraine “On Scientific and Science Technological Activities” (Vidomosti Verkhovnoi Rady Ukrainy, 1992 , No. 12, p. 165; 2004, No. 14, p. 198) shall be appended with a subparagraph which shall read as follows:

“the period of work in scientific and teaching staff positions at the National School of Judges of Ukraine”.

2.11. In Article 8 of the Law of Ukraine “On Remuneration of Labor” (Vidomosti Verkhovnoi Rady Ukrainy, 1995, No. 17, p. 121; 1997, No. 11, p. 89):

a) in part two, the words “except for the case specified” shall be replaced with the words “except for cases specified by part three of this Article, and”;

b) the Article shall be appended with part three which shall read as follows:

“The conditions relating to the rate of remuneration of judges shall be specified by the law.”

2.12. Part nine of Article 18 of the Law of Ukraine “On the Committees of the Verkhovna Rada of Ukraine” (Vidomosti Verkhovnoi Rady Ukrainy, 1995, No. 19, p. 134; 2006, No. 17, p. 146) shall be omitted.

2.13. In the Law of Ukraine “On the High Council of Justice” (Vidomosti Verkhovnoi Rady Ukrainy, 1998, No. 25, p. 146; 2004, No. 29, p. 369; Ofitsiinyi Visnyk Ukrainy, 2010, No. 37, p. 1242):

1) part one of Article 3 shall be appended with by paragraph 1<sup>1</sup> which shall read as follows:

“1<sup>1</sup>) [shall,] upon a motion by the respective council of judges, appoint judges to the positions of chief judge and deputy chief judge and dismiss them from these positions”;

2) in Article 6:

after part one, a new part shall be added which shall read as follows:

“If, pursuant to this Law, a judge must be appointed as member to the High Council of Justice, he/she shall be appointed from among the judges elected to a judicial position for an indefinite term.”

In this connection, parts two and three shall be deemed to be, respectively, parts three and four;

in part three, the words “of part one” shall be replaced with the words “of parts one and two”;

3) part one of Article 8 shall be appended with a sentence which shall read as follows: “Two of the three members of the High Council of Justice appointed by the Verkhovna Rada of Ukraine must be judges”;

4) part one of Article 9 shall be appended with a sentence which shall read as follows: “Two of the three members of the High Council of Justice appointed by the President of Ukraine must be judges”;

5) part one of Article 10 after the words “shall be nominated” shall be appended with the words “from among judges”;

6) in Article 11:

a) the Article shall be appended with a new part one which shall read as follows:

“The Congress of Advocates of Ukraine shall appoint three members to the High Council of Justice, one of whom shall be appointed from among judges.”

In this connection, parts one through three shall be deemed to be, respectively, parts two through four.

b) part two shall be appended with the words “except for the requirements regarding candidates for membership in the High Council of Justice established by part one of this Article”;

7) in Article 12:

a) the Article shall be appended with a new part one which shall read as follows:

“The Congress of Representatives of Legal Higher Education Institutions and Research Institutions shall appoint three members to the High Council of Justice, one of whom shall be appointed from among judges.”

In this connection, parts one through three shall be deemed to be, respectively, parts two through four;

b) part two shall be appended with the words “except for the requirements regarding candidates for membership in the High Council of Justice established by part one of this Article”;

8) in Article 13:

a) the Article shall be appended with a new part one which shall read as follows:

“The All-Ukrainian Conference of Prosecutors shall appoint two members to the High Council of Justice, one of whom shall be appointed from among judges.”

In this connection, parts one through five shall be deemed to be, respectively, parts two through six.

b) part two shall be appended with the words “except for the requirements regarding candidates for membership in the High Council of Justice established by part one of this Article”;

9) subparagraph two of part one of Article 19 shall be amended to read as follows:

“for issues of appointment and removal of judges”;

10) part one of Article 27 shall be appended with paragraphs 2<sup>1</sup>, 2<sup>2</sup>, 6<sup>1</sup>, and 6<sup>2</sup> which shall read as follows:

“2<sup>1</sup>) decision on appointment of judges to the positions of chief judge and deputy chief judge;

2<sup>2</sup>) decision on dismissal of judges from the positions of chief judge and deputy chief judge”;

“6<sup>1</sup>) decision on a complaint about the results of judicial candidates’ qualification examination;

6<sup>2</sup>) decision on a complaint about refusal to nominate a person as a judicial candidate for election for an indefinite term”;

11) in part one of Article 29, the words “of a qualifications commission of judges” shall be replaced with the words “of the High Qualifications Commission of Judges of Ukraine”;

12) the Law shall be appended with Articles 29<sup>1</sup>, 29<sup>2</sup> and 32<sup>1</sup> which shall read as follows:

“Article 29<sup>1</sup>. Appointment of judges to the positions of chief judge and deputy chief judge

The High Council of Justice shall appoint judges to the positions of chief judge and deputy chief judge in accordance with the procedure established by the Law of Ukraine “On the Judicial System and Status of Judges.”

Candidates for the positions of chief judge and deputy chief judge shall be proposed to the High Council of Justice on the basis of a motion from the respective council of judges and be considered at a meeting of the High Council of Justice on an individual basis. During such a meeting of the High Council of Justice, the candidates shall be interviewed.

The decision on appointment to the position of chief judge or deputy chief judge shall be adopted in an open vote following the assessment of the candidate at a meeting of the High Council of Justice. The decision on appointment of a judge to the position of chief judge or deputy chief judge shall be deemed to be adopted if it is supported by more than half of the constitutional composition of the High Council of Justice.

The requirements regarding the execution of documents on appointment to the position of chief judge or deputy chief judge, as well as the procedure for preparation and consideration of the said issue by the High Council of Justice shall be approved by acts of the High Council of Justice.

Article 29<sup>2</sup>. Consideration by the High Council of Justice of complaints against decisions adopted by the High Qualifications Commission of Judges of Ukraine in the process of appointment or election to judicial positions

Decisions of the High Qualifications Commission of Judges of Ukraine shall be appealed to the High Council of Justice if they are related to:

1) establishment of the results of judicial candidates' qualifications examination;

2) refusal to nominate a judicial candidate for election for an indefinite term.

A complaint against a decision of the High Qualifications Commission of Judges of Ukraine can be filed with the High Council of Justice not later than one month from the next day after the adoption of the decision.

A complaint against a decision specified in paragraph 1 of part one of this Article can be filed by a judicial candidate who took the qualifications examination and objects to its results; against a decision specified in paragraph 2 of part one of this Article, by a judicial candidate who was denied nomination for election for an indefinite term.

The complaint shall be considered by the High Council of Justice within one month from the day of its reception, after a verification conducted by a member of the High Council of Justice.

Based on the results of the consideration of the complaint, the High Council of Justice can, depending on the circumstances, do the following:

1) satisfy the complaint, reversing the decision of the High Qualifications Commission of Judges of Ukraine on the establishment of the results of the qualifications examination of the judicial candidate who filed the complaint and obliging the High Qualification Commission of Judges of Ukraine to conduct the qualifications examination of this candidate for a second time;

2) satisfy the complaint, reversing the decision of the High Qualifications Commission of Judges of Ukraine to refuse to nominate the judge as a judicial candidate for election for an indefinite term and obliging the High Qualification Commission of Judges of Ukraine to adopt a new decision;

3) dismiss the complaint, upholding the decision of the High Qualifications Commission of Judges of Ukraine.

Invitations to the meeting of the High Council of Justice shall be extended to the judicial candidate who filed the complaint and to a representative of the High Qualifications Commission of Judges of Ukraine. Their failure to appear for any reasons whatsoever shall not prevent the consideration of the complaint”;

Article 32<sup>1</sup>. Dismissal of judges from the positions of chief judge or deputy chief judge

The High Council of Justice shall dismiss a chief judge or a deputy chief judge in accordance with the procedure established by the Law of Ukraine “On the Judicial System and Status of Judges.”

The issue of dismissal from the positions of chief judge or deputy chief judge shall be considered upon a motion of the council of the respective specialized courts at a meeting of the High Council of Justice, an invitation to

which shall be extended to the chief judge or deputy chief judge facing dismissal. In the event of being unable to attend the meeting of the High Council of Justice for a valid reason, the chief judge or deputy chief judge whose case is to be heard can provide a written clarification, which shall be appended to the case file. The written clarification from the chief judge or deputy chief judge shall necessarily be read at the meeting of the High Council of Justice. A second non-appearance of the chief judge or deputy chief judge whose case is to be heard shall be a ground for hearing the case in absentia.

The decision to dismiss a chief judge or deputy chief judge shall be deemed to be adopted if it is supported by more than half of the constitutional composition of the High Council of Justice.

The requirements regarding the execution of documents on dismissal from the position of chief judge or deputy chief judge, as well as the procedure for preparation and consideration of the said issue by the High Council of Justice shall be approved by acts of the High Council of Justice.

13) in Article 30:

paragraph 1 of part one shall be amended to read as follows:

“1) the High Qualifications Commission of Judges of Ukraine”;

14) in Article 32:

in part one, the words “by a qualifications commission” shall be replaced with the words “by the High Qualifications Commission of Judges of Ukraine”;

after part three, the Article shall be appended with a new part which shall read as follows:

“A judge whose case is being heard and/or his/her representative shall have the right to provide clarifications, ask questions of participants in the meeting, express objections, submit petitions and request recusals.”

In this connection, parts four and five shall be deemed to be, respectively, parts five and six;

15) paragraph 4 of part one of Article 34 shall be amended to read as follows:

“4) the High Qualifications Commission of Judges of Ukraine”;

16) in Article 37:

part two shall be amended to read as follows:

“The High Council of Justice can impose a disciplinary sanction – a reprimand – on these judges”;

in part three, the words “and send this decision to the body that appointed or elected the judge” shall be replaced with the words “and on submitting a motion for the removal of this judge to the body that appointed or elected him/her”;

17) part four of Article 42 shall be appended with a sentence which shall read as follows: “A judge facing disciplinary action and/or his/her representative shall have the right to provide clarifications, ask questions of participants in the meeting, express objections, submit petitions and request recusals”;

18) in Article 46:

in part one, the words “of a qualifications commission” shall be replaced with the words “of the High Qualifications Commission of Judges of Ukraine”;

in part four, the words “of qualifications commissions” shall be replaced with the words “of the High Qualifications Commission of Judges of Ukraine”;

in paragraphs 2 and 3 of part five, the words “of the respective qualifications commission” shall be replaced with the words “of the High Qualifications Commission of Judges of Ukraine.”

2.14. Article 5 of the Law of Ukraine “On State Awards of Ukraine” (Vidomosti Verkhovnoi Rady Ukrainy, 2000, No. 21, p. 162) after part one shall be appended with a new part which shall read as follows:

“State awards may not be conferred upon judges until their resignation or retirement.”

In this connection, parts two through four shall be deemed to be, respectively, parts three through five.

2.15. In paragraph 10, part one, Article 34 of the Law of Ukraine “On the Enforcement Proceedings” (Vidomosti Verkhovnoi Rady Ukrainy, 1999, No. 24, p. 207; 2003, No. 5, p. 46; 2004, No. 6, p. 37), the words “of a cassation motion” shall be replaced with the words “of a cassation complaint”;

2.16. In the Law of Ukraine “On the Public Prosecutor’s Office” (Vidomosti Verkhovnoi Rady Ukrainy, 1991, No. 53, p. 793; 2001, No. 44, p. 233):

1) in Article 36<sup>1</sup>:

in subparagraph four of part three of Article 36<sup>1</sup>, the words “of an appellate or cassation motion” shall be replaced with the words “of an appellate or cassation complaint”;

in part four, the words “of a cassation motion” shall be replaced with the words “of an appellate or cassation complaint, application for review of court judgments by the Supreme Court of Ukraine, or application for review of a court judgment on the basis of newly discovered circumstances”;

2) in Article 37:

in the name of the Article, the words “appellate or cassation motion” shall be replaced with the words “appellate or cassation complaint”;

in part one, the words “[of] an appellate, cassation, or special motion” shall be replaced with the words “[of] an appellate or cassation complaint”;

3) in Article 40:

in the name of the Article, the words “of an appellate, cassation, or special motion” shall be replaced with the words “of an appellate or cassation complaint”;

in part one of Article, the words “an appellate, cassation, or special motion” shall be replaced with the words “appellate or cassation complaint.”

### SECTION XIII. TRANSITIONAL PROVISIONS

1. This Law shall come into force and effect on August 1, 2010, except for:

the provisions of Articles 32 and 36 regarding the exercise of powers by the High Specialized Court of Ukraine for Civil and Criminal Cases, which shall take effect after the inauguration of the High Specialized Court of Ukraine for Civil and Criminal Cases;

the provisions of Articles 65–70, 73–77, 79, 84–88, 90, 96, and 98 regarding the exercise of powers by the High Qualifications Commission of Judges of Ukraine, which shall take effect after the inauguration of the [new] High Qualifications Commission of Judges of Ukraine which shall be formed in accordance with the procedure established by this Law;

the provisions of Article 68, paragraph 2 of part one of Article 81, paragraph 6 of part one of Article 90 regarding a judicial candidate’s special training, which shall take effect as of July 1, 2010;

the provisions of Articles 78, 79, 110, subparagraph 2 paragraph 2.8 of Section XII “The Final Provisions” regarding the procedure for consideration of issues and adoption of decisions by the Verkhovna Rada of Ukraine in relation to election of a judicial candidate for an indefinite term, reassignment of a judge elected for an indefinite term, removal of a judge elected for an indefinite term; of subparagraph 6 paragraph 2.8 of Section XII “The Final Provisions” regarding the procedure for consideration by the Verkhovna Rada of Ukraine of the issue of giving consent to the detention or arrest of a judge of a general jurisdiction court; of paragraph 2.12 of Section XII “The Final Provisions,” which shall take effect after the inauguration of the High Qualifications Commission of Judges of Ukraine formed in accordance with the procedure established by this Law;

of Articles 128 and 129 regarding judicial remuneration and health promotion assistance, which shall take effect as of January 1, 2011;

the provisions of Article 139, subparagraph 1, paragraph 2.1 of Section XII “The Final Provisions” regarding determination of the chief administrators of the funds of the State Budget of Ukraine, which shall take effect as of January 1, 2011;

the provisions of subparagraphs 14 and 15 of paragraph 2.2 of Section XII “The Final Provisions” regarding the sending of the text of subpoenas by email or fax (telefax), which shall take effect from the moment of announcement by the State Judicial Administration of Ukraine in the newspapers *Holos Ukrainy* and *Uriadovyi Kurier* of the beginning of the functioning of the Unified Database of Electronic Addresses and Fax (Telefax) Numbers of Subjects of Authority;

the provisions of subparagraphs 1, 2, 4, 8, 13, 17, 34 of paragraph 2.3, subparagraphs 1–3, 5, 11, 21, 35, 46 of paragraph 2.4, subparagraphs 1, 2, 11, 13, 20, 26, 31, 33 of paragraph 2.5 of Section XII “The Final Provisions” regarding the implementation of the automated case management system for the courts, which shall take effect as of January 1, 2011;

the provisions of paragraphs 2.4 and 2.5 regarding the exercise of powers by the Supreme Court of Ukraine and by the High Specialized Court of Ukraine for Civil and Criminal Cases, which shall take effect after the inauguration of the High Specialized Court of Ukraine for Civil and Criminal Cases.

2. The High Specialized Court of Ukraine for Civil and Criminal Cases shall be formed on October 1, 2010, and begin its operation on November 1, 2010. Prior to the inauguration of this court, its powers shall be exercised by the relevant chambers of the Supreme Court of Ukraine.

3. Cassation complaints (motions) against judgments of general courts in criminal and civil cases filed with the Supreme Court of Ukraine before October 15, 2010, and scheduled (accepted) by it for cassation review shall be reviewed by the Supreme Court of Ukraine in accordance with the procedure which was in effect before the coming into force of this Law.

Cassation complaints (motions) against decisions of general courts in criminal and civil cases filed with the Supreme Court of Ukraine after October 15, 2010, shall be referred by it to the High Specialized Court of Ukraine for Civil and Criminal Cases.

4. The procedure for reassignment of a judge elected for an indefinite term to another court which is established by Article 79 of this Law shall not apply to the justices of the Supreme Court of Ukraine who at the moment of the coming into force of this Law will be hearing civil, criminal, administrative, or commercial cases or to justices of the Military Collegium of the Supreme Court of Ukraine.

Justices of the Supreme Court of Ukraine who at the moment of the coming into force of this Law will be hearing civil or criminal cases shall, with their consent, be reassigned to the High Specialized Court of Ukraine for Civil and Criminal Cases on the basis of an application for reassignment upon a decision by the body which elected or appointed them. Such justices of the Supreme Court of Ukraine also can, if they wish, be reassigned to appellate or local courts of general jurisdiction on the basis of an application for reassignment upon a decision by the body which elected or appointed them.

Justices of the Supreme Court of Ukraine who at the moment of the coming into force of this Law will be hearing administrative or commercial cases shall, with their consent, be reassigned, respectively, to the High Administrative Court of Ukraine or to the High Commercial Court of Ukraine on the basis of an application for reassignment upon a decision by the body which elected or appointed them. Such justices of the Supreme Court of Ukraine also can, if they wish, be reassigned, respectively, to appellate or local administrative courts or to appellate or local commercial courts of general jurisdiction on the basis of an application for reassignment upon a decision by the body which elected or appointed them.

Justices of the Supreme Court of Ukraine who were reassigned to the high specialized courts or to other courts of general jurisdiction shall be equated in status, in particular in terms of the level of financial and social support, to justices of the Supreme Court of Ukraine.

If a relevant court does not have enough vacancies for the reassignment of justices of the Supreme Court of Ukraine, the number of such vacancies shall be increased in accordance with the procedure established by this Law, so as to provide for the reassignment of justices of the Supreme Court of Ukraine.

Justices of the Supreme Court of Ukraine who were not reassigned to the high specialized courts or to other courts of general jurisdiction shall continue to exercise their powers until removal in accordance with part five of Article 126 of the Constitution of Ukraine. Upon the removal of such justices, the vacancies thus created shall not be filled and shall be disestablished, so that the number of remaining justices shall be as specified by this Law.

The quorum for the adoption of decisions by the Supreme Court of Ukraine shall be determined, until its size has been reduced to the number of justices established by this Law, on the basis of the number of justices holding positions in the Supreme Court of Ukraine at the moment of adoption of its decision.

5. Military courts shall be disbanded from September 15, 2010. After the coming into force of this Law, military garrison courts, regional appellate military courts, and the Appellate Court of the Navy shall only hear cases already pending before them. Such cases shall be adjudicated within the time periods specified by the relevant procedural code, but not later than September 15, 2010.

Cases in which proceedings have not been instituted shall be referred before September 15, 2010, by the chief judge of such a military court to the chief judge of the respective appellate court of the Autonomous Republic of Crimea, or the oblasts, the cities of Kyiv and Sevastopol, depending on the territorial jurisdiction.

The judges of military garrison courts, regional appellate military courts, and the Appellate Court of the Navy shall, with their consent, be reassigned to local or appellate courts, except specialized ones, on the basis of an application for reassignment upon a decision by the body which elected or appointed them, and be discharged from military service. Such judges also can, with their consent, be removed, in accordance with the established procedure, from judicial office and be dispatched for active service to the Armed Forces of Ukraine or to other military formations.

The justices of the Military Judicial Collegium of the Supreme Court of Ukraine shall, with their consent, be reassigned to the High Specialized Court of Ukraine for Civil and Criminal Cases or to other courts in accordance with the procedure established by paragraph 5 of this Section, and be discharged from military service. Such justices also can, with their consent, be removed, in accordance with the established procedure, from judicial office and be dispatched for active service to the Armed Forces of Ukraine or to other military formations.

The judges of military garrison courts, regional appellate military courts, the Appellate Court of the Navy, and the justices of the Military Judicial Collegium of the Supreme Court of Ukraine shall –

if discharged from military service, be paid a demobilization allowance in the manner and amount established by the Law of Ukraine “On the Social and Legal Protection of Servicepersons and their Family Members”;

if removed from judicial office and dispatched for active service to the Armed Forces of Ukraine or to other military formations, be paid the benefit upon retirement from judicial office in the manner and amount established by this Law;

if discharged from military service with simultaneous retirement from judicial office, be paid, at their choice, either a demobilization allowance in the manner and amount established by the Law of Ukraine “On the Social and Legal Protection of Servicepersons and their Family Members” or the benefit upon retirement from judicial office in the manner and amount established by this Law.

6. The chief judges of all courts and their deputies who were appointed to the positions of chief judges or deputy chief judges before the coming into force of this Law shall continue to exercise the powers specified by the Law of Ukraine “On the Judicial System of Ukraine” until the expiry of the term for which they were appointed.

If at the moment of the coming into force of this Law a judge was holding an administrative position not provided for by this Law, the material, social, and medical services to which he/she was entitled in the position which was cancelled shall continue to be provided to him/her until the expiry of the term for which he/she was appointed.

The secretaries of the judicial chambers of the appellate courts and the secretaries of the judicial chambers of the high specialized courts shall be appointed in accordance with the procedure established by this Law.

7. Not later than one month from the day of the coming into force of this Law, meetings of judges shall be held in all the courts of general jurisdiction for the purpose of nominating candidates for delegates to the respective conference of judges. Moreover, the meetings of judges of the appellate courts of the Autonomous Republic of Crimea, the oblasts, the cities of Kyiv and Sevastopol shall each elect one representative to the organizing bureau for conducting the first conference of judges of general courts from among judges, taking account of the candidates’ judicial work experience and their renown.

The first conference of judges of general courts shall be preceded with the first meeting of the organizing bureau for conducting the first conference of judges of general courts, so as to elect the chair of the organizing bureau and his/her deputy.

The conducting of conferences of judges of administrative and commercial courts shall be entrusted to councils of judges of, respectively, administrative and commercial courts.

The organizing bureau for conducting the first conference of judges of general courts, the council of judges of administrative courts, and the council of judges of commercial courts shall appoint, from among the candidates for delegates nominated by the meetings of judges, the composition of the respective conference of judges, taking account of the work experience and renown of the candidates for delegates, and, not later than two months from the day of the coming into force of this Law, organize the conduct of the respective conferences in accordance with the procedure specified by this Law.

The conferences of judges shall form a new composition of the councils of judges, elect delegates to the Congress of Judges of Ukraine, and, from among the

delegates, elect the members of the organizing committee for conducting the Congress of Judges of Ukraine on the basis of equal representation of all the conferences of judges – three delegates from each one.

Not later than two months from the day of conduct of the last one of these conferences, the organizing committee for conducting the Congress of Judges of Ukraine shall organize the conduct of the Congress in accordance with the procedure specified by this Law. At its first meeting, the organizing committee shall elect its chair and deputy thereof.

The Congress of Judges of Ukraine shall form a new composition of the Council of Judges of Ukraine in accordance with this Law.

It shall be recommended that the State Judicial Administration of Ukraine take measures to provide organizational support for the conduct of the first conference of judges of general courts and the Congress of Judges of Ukraine, in particular in terms of providing adequate premises for their conduct.

8. A new composition of the High Qualifications Commission of Judges of Ukraine shall be formed in accordance with the procedure established by this Law; it shall begin its operation after the appointment at least two thirds of its members.

The qualifications commission of judges of military courts shall, before September 15, 2010, hand over its materials to the High Qualifications Commission of Judges of Ukraine which was formed prior to the coming into force of this Law.

The High Qualifications Commission of Judges of Ukraine which was formed prior to the coming into force of this Law, as well as the qualifications commissions of judges of general courts and the qualifications commissions of judges of relevant specialized courts, shall hand over their materials to the High Qualifications Commission of Judges of Ukraine formed in accordance with the requirements of this Law not later than within 10 days from the day of its first meeting.

The deadlines for taking disciplinary action against judges in the cases whose files are to be handed over to the High Qualifications Commission of Judges of Ukraine formed in accordance with this Law shall be suspended until it has received the case files.

The materials about judges' appointment or election which are handed over in the prescribed manner prior to the coming into force of this Law shall be given consideration in accordance with the procedure which was in effect prior to its coming into force.

9. The members of the High Council of Justice who were appointed prior to the coming into force of this Law shall continue to exercise their powers until the expiry of the term for which they were appointed.

10. The Head of the State Judicial Administration of Ukraine and the Deputy Heads of the State Judicial Administration of Ukraine shall continue to exercise their powers until the appointment of a new Head of the State Judicial Administration of Ukraine and new Deputy Heads of the State Judicial

Administration of Ukraine in accordance with the procedure established by this Law.

11. The National School of Judges of Ukraine shall be formed on the basis of the Academy of Judges of Ukraine.

12. Judges appointed or elected prior to the coming into force of this Law shall have the right to submit before January 1, 2011, an application for retirement if they have sufficient length of service determined in accordance with the legislation which was in effect prior to the coming into force of this Law.

13. The requirements regarding the length of service required for assuming a judicial office at an appellate court, a high specialized court, or the Supreme Court of Ukraine shall not apply to judges holding these offices at the moment of the coming into force of this Law.

14. Until the Council of Judges of Ukraine has adopted, in coordination with the State Judicial Administration of Ukraine, the Regulations on a Court's Automated Case Management System, the administrative courts shall continue to apply the legislative norms which were in effect at the moment of the coming into force of this Law.

15. The Cabinet of Ministers of Ukraine shall be required:

1) within a month from the day of the coming into force of this Law, to resolve the issue of accommodating the High Specialized Court of Ukraine for Civil and Criminal Cases in the administrative premises housing, at the moment of the coming into force of this Law, the judicial chambers for civil and criminal cases of the Supreme Court of Ukraine;

2) within three months from the day of the publication of this Law:

to bring its normative legal acts in conformity with this Law;

to provide, within the limits of its competence, for the revision or annulment of normative legal acts which are at variance with this Law;

to ensure that ministries and other central bodies of executive power bring their normative legal acts in conformity with this Law;

to adopt the Regulations on Social and Material Support for the Employees of the National School of Judges of Ukraine and provide for appropriate funding in the draft laws on the State Budget of Ukraine for 2011 and subsequent years;

to develop a Judge's Financial Status Declaration, having regard to the requirements of this Law;

to approve the Regulations on the Unified Database of Electronic Addresses and Fax (Telefax) Numbers of Subjects of Authority;

3) to provide, in the Draft Law of Ukraine "On the State Budget of Ukraine for 2011," for expenses related to the implementation of the provisions of this Law coming into force as of January 1, 2011.

16. It shall be recommended that the State Judicial Administration of Ukraine take measures to create, before January 1, 2011, the Unified Database of Electronic Addresses and Fax (Telefax) Numbers of Subjects of Authority.

17. It shall be recommended that the Council of Judges of Ukraine approve, in coordination with the State Judicial Administration of Ukraine, before December 1, 2010, the Regulations on a Court's Automated Case Management System.