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UKRAINE

LAW
ON THE HIGH ANTI-CORRUPTION COURT(*)

(*) *Unofficial translation provided by the authorities*

LAW OF UKRAINE

On the High Anti-Corruption Court

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This Law determines the principles of the organization and functioning of the High Anti-Corruption Court, special requirements to the judges of this court and the guarantees of their activity.

Chapter I

GENERAL PROVISIONS

Article 1. The status of the High Anti-Corruption Court

1. The High Anti-Corruption Court is a permanent high-specialized court in the judicial system of Ukraine.
2. The High Anti-Corruption Court is a legal entity, has a seal with the National Emblem of Ukraine and its name on it.
3. The High Anti-Corruption Court is located in the city of Kyiv.

Article 2. The legislative framework of the functioning of the High Anti-Corruption Court.

1. The legislative framework of the functioning of the High Anti-Corruption Court consists of the Constitution of Ukraine, the Law of Ukraine “On the Judiciary and the Status of Judges,” this law and other laws of Ukraine, international treaties in force, consented by the Verhovna Rada of Ukraine as binding.
2. Amendments to this Law may be made exclusively by laws on the introduction of changes to the Law of Ukraine “On the High Anti-Corruption Court.”

Article 3. Objectives of the High Anti-Corruption Court

1. The objective of the High Anti-Corruption Court is the administration of justice in accordance with the principles and procedures of the judiciary prescribed by the law with the view to protect individuals, society and the state from corruption and related crimes and judicial oversight over pre-trial investigation of these crimes, observance of rights, freedoms and interests of individuals in a criminal proceeding.

Chapter II

ORGANIZATION OF THE FUNCTIONING OF THE HIGH ANTI-CORRUPTION COURT

Article 4. Powers of the High Anti-Corruption Court

1. The High Anti-Corruption Court shall:
administer justice as the first-instance and appeal court in criminal proceedings concerning crimes within its jurisdiction according to procedural law as well as by means of performing, in cases and pursuant to the procedure prescribed by the law, judicial oversight over observance of rights, freedoms and interests of individuals in such criminal proceedings;
analyze judicial statistics, study and generalize judicial practice in criminal proceedings within its jurisdiction, inform the Supreme Court on the results of such generalization and provides it with proposals for conclusions on draft legislative acts pertaining to the organization and activity of the

High Anti-Corruption Court, special requirements to the judges of this court and guarantees of their activity, as well as publish them on its official website.

2. Territorial jurisdiction of the High Anti-Corruption Court shall cover the entire territory of Ukraine.

Article 5. Composition of the High Anti-Corruption Court

1. The number of judges of the High Anti-Corruption Court shall be determined in accordance with the Law of Ukraine “On the Judiciary and the Status of Judges” within the expenses allocated in the national budget of Ukraine for the maintenance of this court and with separate determination, within the number of judges of the High Anti-Corruption Court, the number of judges of the Appeal Chamber of the High Anti-Corruption Court.

2. In order to perform judicial oversight over observance of rights, freedoms and interests of individuals in criminal proceedings within the jurisdiction of the High Anti-Corruption Court, investigative judges shall be elected from among the staff of this court for the period of one year without the right to be re-elected for the position of the investigative judge two years in a row.

3. A judge of the Appeal Chamber of the High Anti-Corruption Court may not be elected for the position of the investigative judge.

4. Determination of the number of investigative judges in the High Anti-Corruption Court, their election, performance of duties of a judge of the first instance in the High Anti-Corruption Court shall be carried out pursuant to the procedure prescribed by the Law of Ukraine “On the Judiciary and Status of Judges” for the purposes of determination of the number of investigative judges, their election and performance of duties of a judge in local courts.

Article 6. The Head of the High Anti-Corruption Court, Deputy Head, the Head of the Appeal Chamber of the High Anti-Corruption Court

1. The Head of the High Anti-Corruption Court exercises administrative powers prescribed by the Law of Ukraine “On the Judiciary and Status of Judges” and this Law.

2. The Head of the High Anti-Corruption Court shall have one deputy exercising administrative powers determined by the Head of the High Anti-Corruption Court.

3. The position of the Head or Deputy Head of the High Anti-Corruption Court shall not grant a judge of the High Anti-Corruption Court relief from exercising the powers of a judge prescribed by the law nor suspend this judge from work in the respective judicial chamber or duties of the secretary of a judicial chamber of the High Anti-Corruption Court.

4. The Head of the Appeal Chamber of the High Anti-Corruption Court shall be elected pursuant to the procedure and exercise powers prescribed by the Law of Ukraine "On the Judiciary and Status of Judges.”

Chapter III

PROCEDURE OF TAKING THE POSITION OF A JUDGE OF THE HIGH ANTI-CORRUPTION COURT

Article 7. Special requirements to a judge of the High Anti-Corruption Court

1. An individual complying with the requirements to the candidates for the position of a judge defined by the Constitution of Ukraine and the Law of Ukraine "On the Judiciary and Status of Judges" as well as additional special requirements established by this article may be a judge of the High Anti-Corruption Court.

2. A citizen of Ukraine may be appointed for the position of a judge of the High Anti-Corruption Court if he or she complies with the requirements to the candidates for the position of a judge specified in the Law of Ukraine "On the Judiciary and Status of Judges" and possesses knowledge and practical skills necessary for performing judicial functions in corruption-related cases, as well as complies with either of the following requirements:

- 1) has at least five years of experience as a judge;
- 2) holds a law degree and has at least seven years of scholarly experience in law;
- 3) has at least seven years of professional experience as a defense attorney, including representation in court and/or defense from criminal charges;
- 4) has at least seven years of total experience of work (professional activity) for items 1-3 of this paragraph.

3. For the purposes of paragraph 2 of this Article, the terms "professional experience in law," "scholarly experience," "degree" are used in the meaning prescribed in Article 69, paragraph 6, of the Law of Ukraine "On the Judiciary and Status of Judges."

4. An individual shall not be eligible for the position of a judge if:

- 1) within the ten years prior to the appointment, this individual:
has worked (served) in prosecution bodies of Ukraine, bodies of interior affairs of Ukraine, the National Police of Ukraine, the State Investigation Bureau, other law enforcement agencies, tax police, the Security Service of Ukraine, customs bodies, the National Anti-Corruption Bureau of Ukraine, the National Agency for Corruption Prevention, the National Agency of Ukraine for Finding, Tracing and Management of Assets, the Anti-Monopoly Committee of Ukraine, the Audit Chamber, the central executive agency responsible for the implementation of the national policy in the area of prevention and counteraction of the legalization (laundering) of revenues obtained through criminal proceeds or the financing of terrorism; has held political office, a representative mandate;
- 2) within the past five years, the individual has been among the top management of a political party or had labor or other contractual relationship with a political party;
- 3) data on the individual is included into the Unified State Register of Individuals and Entities who Committed Corruption or Corruption-Related Offenses;
- 4) the individual has been among the managers or on the supervisory board of a legal entity which was included in the Unified State Register of Individuals and Entities who Committed Corruption or Corruption-Related Offenses;
- 5) the individual has been a member of the High Qualification Commission of Judges of Ukraine or the High Council of Justice before the Law of Ukraine "On the Restoration of Trust in the Judicial Power in Ukraine" came into effect;

6) the individual had been in the Interagency Commission on Public Procurement before the establishment of the electronic procurement system in accordance with the Law of Ukraine "On Public Procurement";

7) a court verdict which came into force and prohibits the individual to hold office or engage in activity connected with the performance of functions of the state of local self-government (with the exception of rehabilitated individuals) regardless of such a conviction having been expunged or removed from official records, or if the individual had a criminal record for any intentional crime regardless of such a conviction having been expunged or removed from official records.

Article 8. Competition for the position of a judge of the High Anti-Corruption Court

1. The competition for the position of a judge of the High Anti-Corruption Court shall take place pursuant to the procedure determined by the Constitution of Ukraine and the Law of Ukraine "On the Judiciary and Status of Judges," taking into account the peculiarities prescribed by this Article.

2. The transfer of judges of other courts to the positions of judges of the High Anti-Corruption Court without competition or within disciplinary measures shall not be permitted.

3. To be admitted to the qualification assessment to participate in the competition for the position of a judge of the High Anti-Corruption Court pursuant to the special procedure, a candidate for the position of a judge submits to the High Qualification Commission of Judges of Ukraine, in addition to the documents defined by the Law of Ukraine "On the Judiciary and the Status of Judges," documents confirming the compliance with the requirements provided in Article 7, paragraph 2 of this Law as well as a statement on the absence of circumstances stated in Article 7, paragraph 4 of this Law.

4. In order to assist the High Qualification Commission of Judges of Ukraine in the establishment of compliance of the candidates for the positions of judges of the High Anti-Corruption Court with the criteria of integrity (moral, honesty, incorruptibility) for the purposes of qualification assessment, namely in terms of lawfulness of the origin of sources of the candidate's property, correspondence of the standard of living of the candidate or his or her family members with the declared income, correspondence of the candidate's lifestyle to his or her status, knowledge and practical skills that the candidate possesses for the consideration of cases within the jurisdiction of the High Anti-Corruption Court, the Public Council of International Experts shall be formed. The Public Integrity Council, established and acting in accordance with the Law of Ukraine "On the Judiciary and the Status of Judges," shall not be involved in the establishment of compliance of the candidates for the positions of judges of the High Anti-Corruption Court to the criteria prescribed by the Law for the purposes of qualification assessment for the duration of activity of the Public Council of International Experts.

5. Upon initiative of at least three members of the Public Council of International Experts, the question of compliance of any candidate for the position of a judge of the High Anti-Corruption Court with the criteria established in paragraph 4 of this Article, shall be reviewed at a special joint meeting of the High Qualification Commission of Judges of Ukraine and the Public Council of International Experts. The decision on compliance of this candidate with these criteria shall be approved by the majority of the joint composition of the High Qualification Commission of Judges of Ukraine and the Public Council of International Experts provided that at least half of the members of the Public Council of International Experts voted in favour of it. Shall such a decision not be taken, the candidate is

considered to cease participation in the competition. Such special joint meeting shall be held no later than thirty days from the day of announcement of the examination results taken by the candidates for the establishment of their compliance with the professional competence criteria for the position of a judge.

At the request of at least three members of the Public Council of International Experts, before the special joint meeting of the High Qualification Commission of Judges of Ukraine and the Public Council of International Experts, a prior interview may be held with the candidates for the position of a judge of the High Anti-Corruption Court, in which at least six members of the High Qualification Commission of Judges of Ukraine shall take part.

6. In case of the same position in the ranking compiled on the basis of the qualification assessment for participation in the competition for the position of a judge of the Appeal Chamber of the High Anti-Corruption Court, preference shall be given to the participant who has received a greater score for the practical part of the exam taken as part of the qualification assessment, and if the score is identical, as a rule, to the participant who has more work experience on the position of a judge of an appeal or cassation court. If participants of the competition for the position of a judge of the Appeal Chamber of the High Anti-Corruption Court have equal experience on the position of a judge in appeal or cassation courts or do not have any such experience, preference shall be given to the candidate who has more experience on the position of a judge, if experience on the position of a judge is equal for both participants – to the participant who holds a scholarly degree, if both have it or neither does – to the participant with greater professional experience in law.

In case of the same position in the ranking compiled on the basis of the qualification assessment for participation in the competition for the position of a general judge of the High Anti-Corruption Court, preference shall be given to the participant who has received a greater score for the practical part of the exam taken as part of the qualification assessment, and if the score is identical, as a rule, to the participant who has more work experience on the position of a judge. If the participants of the competition for the position of a judge of the High Anti-Corruption Court have equal experience on the position of a judge or do not have any such experience, preference shall be given to the participant who holds a scholarly degree, if both have it or neither does – to the participant with greater professional experience in law.

7. At every stage of the qualification assessment of the candidates for the position of a judge of the High Anti-Corruption Court and during the assessment of the results of such qualification assessment by the secretariat of the High Qualification Commission of Judges of Ukraine, video and audio recording and live broadcast of the respective meetings of the High Qualification Commission of Judges of Ukraine shall be published on the official website of the High Qualification Commission of Judges of Ukraine, and those of the Public Council of International Experts – on the official website of the State Judicial Administration of Ukraine.

8. When the High Council of Justice reviews the matter of the submission of a motion on the appointment of a judge of the High Anti-Corruption Court to the President of Ukraine and takes a decision concerning the candidate for the position of a judge of the High Anti-Corruption Court, video and audio recording and live broadcast of the respective meetings of the High Council of Justice shall be published on the official website of the High Council of Justice provided by the secretariat of the High Council of Justice.

Article 9. The Public Council of International Experts

1. The Public Council of International Experts shall be formed for the period of six years by the High Qualification Commission of Judges of Ukraine to facilitate it in the preparation of decisions on the appointment of judges of the High Anti-Corruption Court and shall be its a subsidiary body.

2. The Public Council of International Experts shall exercise its powers in the composition of six members appointed by the High Qualification Commission of Judges of Ukraine exclusively based on the nominations of international organizations with which Ukraine cooperates in the area of corruption prevention and counteraction in accordance with international treaties of Ukraine.

Every such international organization may suggest to the High Qualification Commission of Judges of Ukraine at least two candidates to the Public Council of International Experts.

The High Qualification Commission of Judges of Ukraine shall decide on the appointment of the members of the Public Council of International Experts if the number of nominated candidates to the Public Council of International Experts at least twice exceeds the number of vacant positions.

Decision on the appointment of the members of the Public Council of International Experts shall be taken at the meeting of the High Qualification Commission of Judges of Ukraine, which is open.

3. Citizens of Ukraine or foreigners with impeccable business standing, high professional and moral qualities, respect in the society, at least five years of experience in other countries in procedural management, support of public prosecution in court or administration of justice in corruption-related cases may be members of the Public Council of International Experts.

4. Individuals to whom the Law of Ukraine “On Corruption Prevention” is applicable or who fail to comply with the requirements provided in Article 7, paragraph 4 of this Law may not be members of the Public Council of International Experts.

5. Members of the Public Council of International Experts shall be appointed for the term of office of two years and may not be reappointed.

6. For the period of participation of the members of the Public Council of International Experts in the procedure of the selection of candidates for the positions of judges of the High Anti-Corruption Court they shall be assigned compensation in the amount of the fixed official salary of a Supreme Court judge. Members of the Public Council of International Experts who do not reside in Ukraine shall have the right for refund of their transport and accommodation expenses.

7. Powers of a member of the Public Council of International Experts shall be terminated early in case of:

1) submission of a personal letter of resignation from the position of a member of the Public Council of International Experts;

2) submission of a proposal on premature termination of powers of a member by the Public Council of International Experts;

3) entrance into force of a court’s verdict against her/him;

4) recognition of the member of the Public Council of International Experts as legally incapable or gone missing;

5) discovery of failure of the member of the Public Council of International Experts to comply with the criteria established by this Law;

6) his or her death;

7) end of term prescribed in paragraph 5 of this Article.

8. The decision on the removal of a member of the Public Council of International Experts shall be taken by the High Qualification Commission of Judges of Ukraine, which, within ten days after taking it, shall take measures to appoint a new member of the Public Council of International Experts.

9. The Public Council of International Experts shall:

- 1) collect, verify and analyze information on candidates for the positions of judges of the High Anti-Corruption Court;
- 2) provide the High Qualification Commission of Judges of Ukraine with information on candidates for the positions of judges of the High Anti-Corruption Court;
- 3) participate in a special joint meeting in situations prescribed by this Law;
- 4) take measures to protect personal data, information with restricted access that came to the knowledge of the Public Council of International Experts and its members in connection with their professional activity.

10. In order to exercise powers established by this Article, the members of the Public Council of International Experts shall be entitled to access open state registers for free.

11. A member of the Public Council of International Experts shall be obliged:

- 1) to participate in its work personally without the right to delegate his or her powers to other individuals, including other members of the Public Council of International Experts;
- 2) not to use personal data and other information that became known to him or her in connection with the work in the Public Council of International Experts for any other purposes than the professional duties as a member of the Public Council of International Experts. Any violation of this requirement shall entail responsibility prescribed by the law;
- 3) to refuse to participate in the collection of information on the candidate, reviewing the compliance of a candidate for the position of a judge of the High Anti-Corruption Court with the criteria established in Article 8, paragraph 4 of this Law if the member of the Public Council of International Experts has or had any personal or business relationship with the candidate for the position of a judge of the High Anti-Corruption Court, is involved in cases that are or were reviewed by the judge who is a candidate for the position of a judge of the High Anti-Corruption Court and/or in the event of any other conflict of interest or circumstances which may affect the objectivity and impartiality during the decision-making process by the member of the Public Council of International Experts concerning the candidate for the position of a judge of the High Anti-Corruption Court.

12. Organizational and technical support of the activity of the Public Council of International Experts shall be provided by the State Judicial Administration of Ukraine. The activity of the Public Council of International Experts may be financed with the help of international technical assistance.

Chapter IV

PECULIARITIES OF THE STATUS OF JUDGES OF THE HIGH ANTI-CORRUPTION COURT

Article 10. Additional guarantees of safety of judges of the High Anti-Corruption Court

1. The judges of the High Anti-Corruption Court, in connection with the administration of justice in the criminal proceedings concerning corruption and corruption-related offenses shall be provided,

alongside the guarantees established by the Constitution of Ukraine and the Law of Ukraine "On the Judiciary and the Status of Judges," with additional guarantees of their personal security as well as personal security of their family members and preservation of their property.

2. A judge of the High Anti-Corruption Court and, if necessary upon the judge's motion, his or her family members, shall be provided with round-the-clock security escort. At the motion of a judge of the High Anti-Corruption Court, round-the-clock guard force shall be provided to the personal or official residence of the judge.

3. The home of a judge shall be equipped with security alarm and panic buttons.

4. Security of a judge of the High Anti-Corruption Court, his or her family members and home shall be provided by the Judicial Security Service.

5. If the life or health of a judge of the High Anti-Corruption Court or his or her family members come into jeopardy, the Judicial Security Service, at the request of the judge, shall provide temporary housing of such individuals in places where their safety can be guaranteed.

6. Official premises of the High Anti-Corruption Court shall be equipped with modern security measures which guarantee judges' personal safety, preservation of documentation of the High Anti-Corruption Court, prevention of illegal access to the premises.

7. For the purposes of this article, the term "family member" shall be used in the meaning provided in Article 1, paragraph 1 of the Law of Ukraine "On Corruption Prevention."

[Article 11. The monitoring of integrity of judges of the High Anti-Corruption Court](#)

1. With the view to monitoring integrity, correspondence of the life standard of a judge of the High Anti-Corruption Court and the property owned by the judge and his or her family members to the judge's income, verification of a conflict of interest of a judge of the High Anti-Corruption Court, the following measures shall be taken:

1) full verification of all declarations of individuals authorized to exercise functions of the state or local self-government in accordance with the Law of Ukraine "On Corruption Prevention" submitted by the judges of the High Anti-Corruption Court, the results of which shall be included in the judicial profile of a judge of the High Anti-Corruption Court;

2) the monitoring of the lifestyle of judges of the High Anti-Corruption Court and their family members pursuant to the procedure established by the Law of Ukraine "On Corruption Prevention" at the request of the High Qualification Commission of Judges of Ukraine, the High Council of Justice, the Public Integrity Council, as well as based on the information received from individuals and legal entities, from media and other open information sources containing data on the lack of correspondence between the lifestyle of the subjects of declaration to the property and income declared by them;

3) other measures of financial and other control and the monitoring of observance of anti-corruption legislation prescribed by the law.

Article 12. Enhancement of the professional competence of a judge of the High Anti-Corruption Court

1. Judges of the High Anti-Corruption Court, alongside the measures of maintenance of professional qualifications of judges set forth in the Law of Ukraine "On the Judiciary and the Status of Judges," shall be provided with conditions for satisfaction of the individual needs for personal professional growth, increasing the level of professional competence on justice in the area of corruption counteraction, new international anti-corruption standards and best practices in the area of corruption counteraction.
2. A judge of the High Anti-Corruption Court shall regularly, but no less than once a year, undergo obligatory further training on the judiciary in the area of corruption counteraction.
3. The National School of Judges of Ukraine shall organize regular training for judges of the High Anti-Corruption Court in order to solidify and update necessary knowledge and skills, deliver workshops to study up-to-date international practices of the judiciary in the area of corruption counteraction, including those involving representatives of international organizations, foreign educational institutions.

Article 13. Provision of housing to a judge of the High Anti-Corruption Court

1. A judge of the High Anti-Corruption Court who is not provided with housing shall be provided by the government with official accommodation for the term of office.
2. Housing allocated for judges of the High Anti-Corruption Court shall be state-owned. Removal of the premises provided to the judges of the High Anti-Corruption Court for the term of office from the list of official housing and their alienation shall not be permitted.

Chapter V

SPECIAL SUPPORT OF ACTIVITY OF THE HIGH ANTI-CORRUPTION COURT

Article 14. Financial support of the activity of the High Anti-Corruption Court

1. The High Anti-Corruption Court shall be the principal manager of the funds of the national budget of Ukraine allocated for financial support of its activity.
2. The expenses for maintenance of the Appeal Chamber of the High Anti-Corruption Court shall constitute a separate item in the national budget of Ukraine.

Article 15. Requirements to the location of the High Anti-Corruption Court

1. The Appeal Chamber of the High Anti-Corruption Court and the judicial chambers of the High Anti-Corruption Court for administration of justice in the first instance may not be located in the same building.
2. The High Anti-Corruption Court, its chambers and its administration may not be located in the same building as other courts, national agencies, their territorial, structural units, representative offices, bodies of local self-government, institutions, organizations.

Article 16. Organizational Support of the Work of the High Anti-Corruption Court

1. Organizational support of the work of the High Anti-Corruption Court shall be provided by the administration of the High Anti-Corruption Court in accordance with the Law of Ukraine "On the Judiciary and the Status of Judges."
2. A separate structural unit shall be established in the administration of the High Anti-Corruption Court for organizational support of the work of the Appeal Chamber of the High Anti-Corruption Court.
3. The Head of the Appeal Chamber of the High Anti-Corruption Court shall control the efficiency of activity of the separate structural unit providing organizational support to the work of the High Anti-Corruption Court, submit proposals on the appointment of the head of this unit and authorize his or her dismissal, submit motions on his or her recognition or application of disciplinary measures in accordance with the law, approve draft regulation on this structural unit and amendments to this regulation.

Chapter VI. Final and Transitional Provisions

1. This Law shall come into force on the next day after its publication with the exception of sub-paragraph 3 of paragraph 2 of this Chapter, which shall come into force on the day the High Anti-Corruption Court starts its activities.
2. The following changes shall be made in the following legislative acts of Ukraine:
 - 1) in Article 172⁸ of the Code of Ukraine on Administrative Offences (The Official Bulletin of the Verkhovna Rada of the UkrSSR, 1984, Supplement to No. 51, Page 1122):

the words "due to the exercise of official duties" shall be replaced with the words "due to the exercise of official or other duties provided by law" in the title and sub-paragraph 1 of paragraph 1;

the note after the words and number "given in item 1" shall be supplemented by words and number "and sub-item C of item 2";
 - 2) in Article 343 of the Criminal Code of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 2001, No. 25-26, Page 131):

the title shall be supplemented with the words "forensic expert" after the words "law enforcement officer";

paragraph 1 after the words "law enforcement officer" shall be supplemented with the words "forensic expert", after the words "official duty" shall be supplemented with the words "running forensic activities";
 - 3) in the Criminal Procedure Code of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 2013, No. 9-13, Page 88):
 - a) items 20, 22, and 23 of paragraph 1 of Article 3 shall be formulated as follows:

"20) a court of an appellate instance is the respective appeal court within territorial jurisdiction of which the court of the first instance that passed the appealed court decision, is located; as well as the Appeal Chamber of the High Anti-Corruption Court – regarding court decisions of the High Anti-

Corruption Court adopted as by the first instance court and regarding court decisions of other first instance courts delivered before the start of operation of the High Anti-Corruption Court in the criminal proceedings concerning crimes referred by this Code to the jurisdiction of the High Anti-Corruption Court”;

“22) court of the first instance is a local general court authorized to deliver a sentence or render a ruling on the closure of criminal proceedings, as well as the High Anti-Corruption Court in the criminal proceedings concerning crimes referred by this Code to its jurisdiction as well as a court of appeal in the case provided for by this Code”;

“23) judge is a head, deputy head, judge of the Supreme Court of Ukraine, the High Anti-Corruption Court, an appeal court, local general courts which according to the Constitution of Ukraine are authorized to administer justice on professional basis, as well as a juror”;

b) in Article 31

the words “of Criminal Cassation Court” in paragraph 5 shall be substituted by the words “of the Cassation Criminal Court”;

Section 12 shall be formulated as follows:

“12. Criminal proceedings in the High Anti-Corruption Court shall be conducted:

1) in the court of the first instance by a panel of three judges provided that at least one of them has a record of work as a judge of no less than five years apart from cases when none of the judges in court may consider the case on the grounds provided by law”;

2) in the appellate procedure – by a panel of three judges provided that at least one of them has a record of work as a judge of no less than five years apart from cases when none of the judges in court may consider the case on the grounds provided by law.

The criminal proceedings in the High Anti-Corruption Court shall be carried out by an investigative judge alone; in case of challenging his/her decisions by way of appeal, by a panel of at least three judges”;

paragraph 13 shall be supplemented by the words “(apart from the High Anti-Corruption Court)” after the words “obliged to run criminal proceedings”;

c) in Article 32:

paragraph 1:

the fourth sentence shall be added to sub-paragraph 1: “The present paragraph shall not cover criminal proceedings referred to the subject-matter jurisdiction of the High Anti-Corruption Court pursuant to the rules of Article 33¹ of this Code”;

Sub-paragraph 2 shall be added:

“The criminal proceedings in respect of crimes committed in the territory of Ukraine referred to the subject-matter jurisdiction of the High Anti-Corruption Court shall be carried out by the High Anti-Corruption Court”;

Paragraph 3 after the words “the pre-trial investigation of which was conducted by the territorial department of the National Anti-Corruption Bureau of Ukraine” shall be supplemented with the words “(apart from the crimes referred to the subject-matter jurisdiction of the High Anti-Corruption Court by this Code)”;

d) paragraphs 1 and 2 of Article 33 shall be formulated as follows:

“1. Criminal proceeding of the first instance shall be carried out by local general courts and as well as the High Anti-Corruption Court.

2. Criminal proceeding of the appellate instance shall be carried out by respective appeal courts as well as the Appeal Chamber of the High Anti-Corruption Court”;

e) The following Article 33¹ shall be added:

“Article 33¹. Subject-matter jurisdiction of the High Anti-Corruption Court

1. The High Anti-Corruption Court shall have within its jurisdiction the criminal proceedings concerning corruption crimes provided for in the note to Article 45 of the Criminal Code of Ukraine, Articles 206², 209, 211, 366¹ of the Criminal Code of Ukraine if there is at least one of the conditions envisaged by items 1-3 of paragraph 5 of Article 216 of the Criminal Procedure Code of Ukraine.

2. The investigative judges of the High Anti-Corruption Court shall execute judicial oversight over respect of rights, freedoms, and interests of individual in criminal proceedings in respect of crimes referred to the jurisdiction of the High Anti-Corruption Court according to paragraph 1 of this Article.

3. Other courts defined by this Code may not consider criminal proceedings in respect of crimes referred to the jurisdiction of the High Anti-Corruption Court (apart from the case stipulated by sub-paragraph 7 of paragraph 1 of Article 34 of this Code)”;

f) in Article 34:

in paragraph 1

in item 1 the word “territorial” shall be excluded;

Sub-paragraph 6 after the words “in special cases the criminal proceeding” shall be supplemented with the words “(apart from the criminal proceedings registered for the consideration of the High Anti-Corruption Court)”;

Sub-paragraph 7 shall be added:

“In case if the accused or the victim is or was the judge or officer of the High Anti-Corruption Court and criminal proceeding belong to the jurisdiction of this Court such proceeding of the first instance shall be considered by the appeal court the jurisdiction of which covers Kyiv. The verdicts pronounced in such situations shall be challenged by way of appeal in the appeal court defined by the judge panel of the Cassation Criminal Court of the Supreme Court”;

In paragraph 3:

In sub-paragraph 1 the words “the judge panel of the Supreme Court” shall be substituted by the words “the judge panel of the Cassation Criminal Court of the Supreme Court”;

Sub-paragraph 2 shall be added:

“The issue of the redirecting criminal proceeding from the High Anti-Corruption Court to a different court shall be decided by a five judge panel of the Appeal Chamber of the High Anti-Corruption Court”

g) Paragraph 2 of Article 65 shall be updated by item 11:

“11) experts – on the explanation of conclusions delivered by them”;

h) in item 2 paragraph 5 Article 69 the words “investigator, prosecutor” shall be excluded;

i) Paragraph 3 Article 95 shall be formulated as follows:

“3. A witness shall be obliged to give testimony to the investigator, prosecutor, investigative judge and court, and the expert – to the investigative judge and the court according to the procedure prescribed by this Code”;

j) Article 100, paragraph 7, after the words “within the territorial jurisdiction of which pre-trial investigation is carried out” shall be supplemented by the words “and in criminal proceedings concerning crimes within the jurisdiction of the High Anti-Corruption Court – to the investigative judge of the High Anti-Corruption Court”;

k) Article 132, paragraph 2 shall be formulated as follows:

“2. A Motion for the application of measures of ensuring a criminal provision based on the ruling of the investigative judge shall be submitted:

1) to the local court within the territorial jurisdiction of which the pre-trial investigation agency is located unless otherwise stipulated by item 2 of this paragraph;

2) in criminal proceedings concerning crimes under the jurisdiction of the High Anti-Corruption Court – to the High Anti-Corruption Court”;

l) Article 184, paragraph 1, sub-paragraph 1 after the words “within the territorial jurisdiction of which the pre-trial investigation agency is located” shall be supplemented with the words “and in criminal proceedings concerning crimes under the jurisdiction of the High Anti-Corruption Court – to the High Anti-Corruption Court.”

m) Article 192, paragraph 1, shall be supplemented with the following sentence: “If an individual is detained without a motion on detainment of an individual based on a suspicion of commission of a criminal offense under the jurisdiction of the High Anti-Corruption Court, the aforementioned motion shall be submitted to the High Anti-Corruption Court”;

n) Article 199, paragraph 2 shall be supplemented with the words “and in criminal proceedings concerning crimes under the jurisdiction of the High Anti-Corruption Court – to the High Anti-Corruption Court”;

o) Article 201, paragraph 1 after the words “within the territorial jurisdiction of which pre-trial investigation is carried out” shall be supplemented by the words “and in criminal proceedings concerning crimes under the jurisdiction of the High Anti-Corruption Court – to the High Anti-Corruption Court”;

p) Article 216, paragraph 5, item 1, sub-paragraph 5 shall be formulated as follows:

“by a judge (except for judges of the High Anti-Corruption Court), a judge of the Constitutional Court of Ukraine, a juror (when he or she is performing his or her duty in court), Head, Deputy Head, a member, an inspector of the High Qualification Commission of Judges of Ukraine”;

q) Article 244, paragraph 3 after the words “within the territorial jurisdiction of which pre-trial investigation is carried out” shall be supplemented by the words “and in criminal proceedings concerning crimes under the jurisdiction of the High Anti-Corruption Court – to the investigative judge of the High Anti-Corruption Court”;

r) in Article 247:

paragraph 1 shall be formulated as follows:

“1. Review of motions which, according to this part, belong to the remit of the investigative judge, shall be carried out by the investigative judge of the appeal court within the territorial jurisdiction of which pre-trial investigation agency is located, and in criminal proceedings concerning crimes within the jurisdiction of the High Anti-Corruption Court – by the investigative judge of the High Anti-Corruption Court”;

in paragraph 2:

sub-paragraph 1 shall be supplemented with the words “and in criminal proceedings concerning crimes under the jurisdiction of the High Anti-Corruption Court – by the investigative judge of the High Anti-Corruption Court (except for the case stipulated by Article 34, paragraph 1, sub-paragraph 7 of this Code)”

sub-paragraph 2 shall be formulated as follows:

“In this case the investigator, the prosecutor shall file motions on the permission to carry out covert surveillance with the investigative judge of the respective appeal court which is located closest to the appeal court within the territorial jurisdiction of which pre-trial investigation is carried out, or with the High Anti-Corruption Court (and in the case stipulated by Article 34, paragraph 1, sub-paragraph 7 of this Code – with the appeal court stated in Article 34, paragraph 1, sub-paragraph 7 of this Code)”;

s) Article 290, paragraph 10, after the words “within the territorial jurisdiction of which pre-trial investigation is carried out” shall be supplemented by the words “and in criminal proceedings concerning crimes under the jurisdiction of the High Anti-Corruption Court – by the investigative judge of the High Anti-Corruption Court”;

t) Article 306, paragraph 1, after the words “reviewed by the investigative judge of the local court” shall be supplemented with the words “and in criminal proceedings concerning crimes within the jurisdiction of the High Anti-Corruption Court – by the investigative judge of the High Anti-Corruption Court”;

u) in Article 334, paragraph 2, words “first-instance court” shall be substituted for the words “local court”;

v) Article 480, paragraph 1, item 2, after the words “Constitutional Court of Ukraine” shall be supplemented with the words “judges of the High Anti-Corruption Court”;

w) Article 480¹ shall be added, stating the following:

Article 480¹. Peculiarities of starting pre-trial investigation of criminal offenses committed by a judge of the High Anti-Corruption Court

1. Information that can attest to commission of a criminal offense by a judge of the High Anti-Corruption Court shall be entered into the Unified Register of Pre-Trial Investigations by the Prosecutor General (acting Prosecutor General) pursuant to the procedure established by this Code.

2. Prosecutor General (acting Prosecutor General) shall instantly, but no later than within 24 hours from the moment of such data being entered, notify the Supreme Court of the commencement of the investigation”;

x) Article 481 shall be supplemented with item 3¹, stating the following:

3¹) judges of the High Anti-Corruption Court – by the Prosecutor General (acting Prosecutor General)”;

y) Article 482¹ shall be added, stating the following:

Article 482¹. Criminal proceeding concerning judges of the High Anti-Corruption Court

1. During the pre-trial investigation in a criminal proceeding concerning a judge of the High Anti-Corruption Court motions of participants of a criminal proceeding shall be reviewed by the investigative judge as established in this Code, Article 3, paragraph 1, item 18 pursuant to the procedure established by this Code;

z) chapter XI “Transitional Provisions” shall be supplemented with item 20², stating the following:

20². From the day of the start of operation of the High Anti-Corruption Court:

1) investigative judges (except for the investigative judges of the High Anti-Corruption Court) shall cease accepting motions in criminal proceedings concerning crimes referred by this Code to the jurisdiction of the High Anti-Corruption Court, and first-instance courts (except for the High Anti-Corruption Court) – [shall cease accepting] indictments, motions concerning the application of enforced medical measures and concerning release from the criminal responsibility in the aforementioned criminal proceedings. Such motions and indictments shall be filed as prescribed by the established procedure with the investigative judges of the High Anti-Corruption Court, with the High Anti-Corruption Court;

2) courts of the appeal instance (except for the Appeal Chamber of the High Anti-Corruption Court) shall cease accepting for consideration appeal complaints in criminal proceedings concerning crimes referred by this Code to the jurisdiction of the High Anti-Corruption Court;

3) motions in criminal proceedings concerning crimes referred by this Code to the jurisdiction of the High Anti-Corruption Court, which have been received by investigative judges and not reviewed before the day when the High Anti-Corruption Court starts operating, shall be transferred to the High Anti-Corruption Court for consideration by the investigative judges of this Court pursuant to the established procedure;

4) criminal proceedings concerning crimes referred by this Code to the jurisdiction of the High Anti-Corruption Court the judicial review in the first instance and appeal instance courts of which has not been completed before the day when the High Anti-Corruption Court starts operating, shall be transferred to the High Anti-Corruption Court for consideration pursuant to the established procedure;

5) appealing against court decisions delivered before the day when the High Anti-Corruption Court starts operating, in criminal proceedings concerning crimes referred by this Code to the jurisdiction of the High Anti-Corruption Court, shall be carried out according to the rules of judicial jurisdiction provided for in this Code;

6) requests for review due to the newly detected circumstances of the court decisions delivered by the first instance and appeal instance courts before the day when the High Anti-Corruption Court starts operating in criminal proceedings concerning crimes referred by this Code to the jurisdiction of the High Anti-Corruption Court shall be filed with the High Anti-Corruption Court and considered by it pursuant to the established procedure”.

aa) in the text of the Code, the words “respective appeal court” in the respective grammatical case shall be substituted for the words “Appeal court of the Autonomous Republic of Crimea, Oblast appeal court, Kyiv Appeal court, Sevastopol Appeal court” in all grammatical cases;

4) in the text of the Code of the Administrative Proceedings of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 2017, No. 48, Page 436), the words “appeals administrative court in the appeals territory including the city of Kyiv” shall be substituted for the words “Kyiv Appeals Administrative Court” in the respective grammatical cases;

5) in the Law of Ukraine “On the High Council of Justice” (The Official Bulletin of the Verkhovna Rada of Ukraine, 2017, No. 7-8, Article 50):

a) add “if not stipulated by the law otherwise” to sub-paragraph 2 of paragraph 8 of Article 2;

b) add “in case the motion is related to the High Anti-Corruption Court judge, it shall be submitted by the Prosecutor General (acting Prosecutor General)” to the first sentence of the Section 2, Article 58;

c) the following shall be added to paragraph 2 of Article 59 as sub-paragraphs 2 and 3:

“A motion for permission to arrest the High Anti-Corruption Court judge and keep him/her in custody shall be considered by the High Council of Justice with an obligatory participation of the judge or his/her representative. The prosecutor General (acting Prosecutor General) and the High Anti-Corruption Court judge shall be immediately informed of the date, time and place of consideration of the respective motion.

“In case of no-show of the judge of the High Anti-Corruption Court or his/her representative at the meeting of the High Council of Justice, it shall be held without their participation.”

d) add the following sentence to paragraph 1 of Article 60: “In case it is related to the High Anti-Corruption Court judge, this decision shall be immediately delivered to the Prosecutor General (acting Prosecutor General)”

e) in Article 63:

the first sentence shall be supplemented with the following: “in case it concerns a judge of the High Anti-Corruption Court, he/she may be detained on the basis of a grounded motion of the Prosecutor General (acting Prosecutor General)”

Paragraph 4 shall be supplemented with “with the exception of a judge of the High Anti-Corruption Court” after the phrase “to deliver to the judge...”

f) paragraph 2 of Article 64 shall be supplemented with “by the Prosecutor General (acting Prosecutor General), with regard to a judge of the High Anti-Corruption Court” after the following: “by the Prosecutor General” or his/her deputy”

3. Within 12 months after this law comes into force, the following shall be done:

1) the Anti-Corruption Court shall be formed according to the procedure and in the composition stipulated by this law;

2) a competition for the vacancies of judges of the High Anti-Corruption Court’s Appeal Chamber and other judges of the High Anti-Corruption Court shall be announced and held according to the law of Ukraine “On the Judiciary and Status of Judges” and according to this law. As a result of this competition, judges of the High Anti-Corruption Court shall be appointed.

4. The day when the High Anti-Corruption Court, in the composition determined by this law, starts its operation shall be determined by the decision of a meeting of this court, and the decision shall be published on the judiciary web-portal and in *Holos Ukrainy* paper.

5. The High Anti-Corruption Court shall start its operation provided at least thirty five judges of the High Anti-Corruption Court have been appointed based on the results of the competition held in accordance with the Law of Ukraine "On the Judiciary and the Status of Judges" and this Law, including at least ten judges of the Appeal Chamber of the High Anti-Corruption Court.

6. Within thirty calendar days of the day of appointment of the judges of the High Anti-Corruption Court in the number specified in item 5 of this chapter, the oldest judge of the High Anti-Corruption Court shall convoke a meeting of judges of the High Anti-Corruption Court to decide on the day of the start of operation of the High Anti-Corruption Court, resolve organizational issues of the court's activity and elect investigative judges.

If investigative judges are not elected before the day when the High Anti-Corruption Court starts its operation, their duties shall be performed by three judges of the High Anti-Corruption Court selected by means of drawing lots at a meeting of judges of the High Anti-Corruption Court. Judges of the Appeal Chamber of the High Anti-Corruption Court shall not participate in such drawing of lots.

7. The President of Ukraine shall be proposed to submit a draft law on the creation of the High Anti-Corruption Court in accordance with the established procedure.

President of Ukraine

P. POROSHENKO

Kyiv

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