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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

UKRAINE

LAW

**ON AMENDING SELECTED LEGISLATIVE ACTS
CONCERNING PROCEDURE FOR ELECTION (APPOINTMENT)
OF MEMBERS OF THE HIGH COUNCIL OF JUSTICE**

AND

**ACTIVITIES OF DISCIPLINARY INSPECTORS OF THE HIGH
COUNCIL OF JUSTICES**

LAW OF UKRAINE
On Amending Selected Legislative Acts of Ukraine concerning Procedure for Election (Appointment) of Members of the High Council of Justice and Activities of Disciplinary Inspectors of the High Council of Justices

The Verkhovna Rada of Ukraine hereby **decrees**:

I. To amend the following legislative acts of Ukraine:

1. In the Ukrainian Code of Administrative Legal Proceedings:

1) To re-word Article 22 Part 4 as follows:

"4. As the first instance court, the Supreme Court shall have subject matter jurisdiction over cases regarding establishment by the Central Election Commission of results of an election or national referendum, matters in action concerning early termination of powers of a People's Deputy of Ukraine as well as cases involving challenging actions or inaction of the Verkhovna Rada of Ukraine, President of Ukraine, High Council of Justice, High Qualifications Commission of Judges of Ukraine; decisions, actions or inaction of agencies which elect (appoint), dismiss members of the High Council of Justice; regarding election (appointment), dismissal of members of the High Council of Justice, failure of the Cabinet of Ministers of Ukraine to submit a draft law to the Verkhovna Rada of Ukraine in furtherance of the Ukrainian People's decision supporting an issue of national importance made at the national referendum on people's initiative";

2) To supplement Section VII "Transitional Provisions" with Item 3 as follows:

"3. As the first instance court, the Supreme Court shall have subject matter jurisdiction over cases involving decisions, actions or inaction of agencies responsible for evaluation of members of the High Council of Justice pursuant to the Law of Ukraine 'On Amending Selected Legislative Acts of Ukraine regarding Procedure for Election (Appointment) of Members of the High Council of Justice and Activities of Disciplinary Inspectors of the High Council of Justice'".

2. In Article 208¹ of the Rules of Procedure of the Verkhovna Rada of Ukraine approved by the Law of Ukraine "On Rules of Procedure of the Verkhovna Rada of Ukraine" (Vidomosty Verkhovnoi Rady Ukrainy, 2010, №№ 14 – 17, p. 133 as amended):

To re-word Parts 1-6 as follows:

"1. Pursuant to Article 131 Part 2 of the Constitution of Ukraine, the Verkhovna Rada shall elect members of the High Council of Justice according to the procedure envisaged by this Article with allowance for specifics defined by the Law of Ukraine 'On High Council of Justice.

2. No later than six months prior to termination of the powers of a member of the High Council of Justice or within 14 days of early termination of his/her powers, the Verkhovna Rada Apparatus, upon a submission of the committee responsible for the judiciary matters, shall post an announcement about conducting competitive selection to fill a vacant position of a member of the High Council of Justice on the official website of the Verkhovna Rada.

3. During 25 days following the day of posting the announcement about the competitive selection, the Verkhovna Rada Apparatus shall accept documents defined by Article 8 Part 1 of the Law of Ukraine "On High Council of Justice" from candidates for the vacant position of a member of the High Council of Justice and register them in the chronological order of receipt. Information on the candidates, together with copies of submitted documents except for document defined by Article 8 Items 4, 8, 9 of the Law of Ukraine "On High Council of Justice", shall be posted on the official website of the Verkhovna Rada no later than on the next business day.

Acceptation of the documents shall end at 24:00 of the last day of the term envisaged by Paragraph one of this part if the documents are submitted electronically and at the close of business of the Verkhovna Rada Apparatus if hard copies of the documents are submitted. The Verkhovna Rada Apparatus may not refuse to accept the documents on other grounds than expiration of the term.

4. The committee responsible for the judiciary matters shall review documents submitted by candidates for participation in the competitive selection of a member of the High Council of Justice and make a decision regarding compliance thereof with the requirements set forth by the Law of Ukraine "On High Council of Justice".

Candidates for participation in the competitive selection of a member of the High Council of Justice regarding whom the committee responsible for the judiciary matters made a decision on non-compliance with the requirements set forth by the Law of Ukraine "On High Council of Justice" based on the submitted documents or individuals who failed to submit all the required documents shall terminate participation in the competitive selection process.

5. No later than on the next business day following the day of the decision on compliance of the documents submitted by a candidate for a position of a member of the High Council of Justice with the requirements set forth by the Law of Ukraine "On High Council of Justice", the committee responsible for the judiciary matters shall send such candidate's documents to the Verkhovna Rada Apparatus for the purpose of organizing a special check pursuant to the Law of Ukraine "On Preventing Corruption" as well as copies of such documents to the Ethics Council which operates pursuant to the Law of Ukraine "On High Council of Justice" for the purposes of establishing the candidate's compliance with the professional ethics and integrity criteria and providing a list of candidate recommended for election to the position of a member of the High Council of Justice.

The Ethics Council shall provide the Verkhovna Rada with its opinion on each candidate's compliance with the professional ethics and integrity criteria as well as with the list of candidates recommended for election to the position of a member of the High Council of Justice. Such list should contain at least twice as many candidates as the number of vacant positions of members of the High Council of Justice.

Should the number of candidates recommended by the Ethics Commission who meet the professional ethics and integrity criteria be smaller than the number of candidates defined by Paragraph two of this part, a new competitive selection shall be announced. The latter shall be conducted according to the procedure envisaged by this Article and Law of Ukraine "On High Council of Justice".

6. Within three days of receiving information on results of the special check from the central executive authority responsible for implementing government policies in the sphere of public service, the Verkhovna Rada Apparatus shall prepare a report on the results of the special check of the candidate for the position of a member of the High Council of Justice and send it to the committee responsible for the judiciary matters and Ethics Council.";

To supplement with three new parts after part six as follows:

"7. If the special check reveals information on the candidate which does not meet statutory requirements regarding filling the vacant position and/or if the candidate is not included in the list of candidates recommended by the Ethics Commission for election to the position of a member of the High Council of Justice, such candidate shall terminate participation in the process of competitive selection of a member of the High Council of Justice.

8. Upon receiving the report on the results of the special check of candidates for the position of a member of the High Council of Justice and the list of candidates recommended by the Ethics Council for election to the position of a member of the High Council of Justice, the committee responsible for the judiciary matters shall conduct a preliminary discussion of candidates who have passed the special check and have been included in the list of candidates recommended by the Ethics Council for election to the position of a member of the High Council of Justice.

Based on outcomes of the preliminary discussion, the committee responsible for the judiciary matters shall make a decision on each candidate for the position of a member of the High Council of Justice.

The committee responsible for the judiciary matters shall submit with regard of each candidate the report on the results of the special check, opinion of the Ethics Council, and documents provided by each candidate for consideration by the Verkhovna Rada.

9. All documents (except for classified information) specified in part eight of this Article shall be provided to members of the Verkhovna Rada no later than three days prior to consideration of a relevant issue by the Verkhovna Rada ".

In view of the above, to deem Parts 7 to 21 to be Parts 10 to 24;

In part 14, to replace the word combinations "parts 9" and "part 10 with "part 12" and "part 13", respectively;

To re-word part 15 as follows:

"15. If the Verkhovna Rada has not made a decision on electing a member of the High Council of Justice, a new competitive selection shall be announced promptly. The latter shall be conducted according to the procedure defined by this Article".

3. In the Law of Ukraine "On High Council of Justice" (Vidomosty Verkhovnoi Rady Ukrainy, 2017 p., № 7–8, p. 50 as amended):

1) To re-word Article 6 Part 1 as follows:

"1. A citizen of Ukraine who has turned 35, has a good command of the state language, has a higher legal education and at least 15-year professional experience in the sphere of law, belongs to a legal profession and meets the political neutrality criterion as well as professional competence, professional ethics, and integrity criteria may be elected (appointed) to the position of a member of the High Council of Justice";

2) To re-word Article 9 as follows:

"Article 9. Competitive Basis for Selecting Candidatures for Electing (Appointing) a Member of the High Council of Justice

1. Candidates for the positions of a member of the High Council of Justice shall be selected based on the criteria of professional competence, integrity, and professional ethics. In case of electing a member of the High Council of Justice by the Congress of Ukrainian Judges, Congress of Ukrainian Attorneys, Congress of Representatives of Higher Education Institutions and Research Institutions in the Sphere of Law or the National Conference of Prosecutors, a body which convenes such congress or conference shall advise the Secretariat of the High Council of Justice of the date and venue thereof no later than 45 calendar days prior to holding such congress/conference.

2. No later than on the next business day following the day of receiving a notice of the date and venue of holding the congress or conference, the Secretariat of the High Council of Justice shall post on its official website an announcement specifying:

1) Date and venue of the congress or conference;

2) Information on the beginning of accepting documents for participation in competitive selection of members of the High Council of Justice.

3. A candidate for membership in the High Council of Justice shall submit in person the documents defined by Article 8 Part 1 of this Law to the High Council of Justice or send them by electronic communication means no later than 30 days prior to the date of the congress or conference.

4. The Secretariat of the High Council of Justice shall accept and register documents of candidates for membership in the High Council of Justice in the chronological order of receiving the applications and, no later than on the next business day, post on the official website of the High Council of Justice information on a candidate for the position of a member in the High Council of Justice together with copies of the submitted documents except for the documents defined by Article 8 Part 1 Items 4, 8, 9 of this Law.

5. Acceptation of the documents of candidates for the position of a member of the High Council of Justice shall end at 24:00 of the last day of the term envisaged by part 3 of this Article if the documents are submitted electronically or at the close of business of the Secretariat of the High Council of Justice on the last day envisaged by Part 3 of this Article. The Secretariat of the High Council of Justice may not refuse to accept documents on other grounds than expiration of the said term.

6. No later than on the next business day after acceptation of the documents has ended, the Secretariat of the High Council of Justice shall compile lists of candidates for the positions of members of the High Council of Justices. The lists shall be immediately posted on the official website of the High Council of Justice and be sent to an agency which convenes a relevant congress or conference. Besides, the lists shall be published in *Holos Ukrainy* newspaper.

7. The Secretariat of the High Council of Justice shall ensure conducting of the special check of candidates for the positions of members of the High Council of Justice pursuant to the Law of Ukraine "On Preventing Corruption". The Secretariat of the High Council of Justices shall provide the agency which convenes a relevant congress of conference and the Ethics Council with the

opinion on results of the special check of a candidate for the position of a member of the High Council of Justice and opinion on compliance of the candidate and his/her documents with the requirements set forth by this Law.

8. No later than on the next business day after acceptance of the documents has ended, the Secretariat of the High Council of Justice shall send copies of the documents submitted by candidates for the positions of members of the High Council of Justice to the Ethics Council for the purpose of establishing the candidates' compliance with the professional ethics and integrity criteria.

The Ethics Council shall provide the agency which convenes a relevant congress or conference with the opinion on each candidate's compliance with the professional ethics and integrity criteria as well as the list of candidates recommended for election to the position of a member of the High Council of Justice. Such list shall contain at least twice as many candidatures as the number of vacant positions of members of the High Council of Justice.

Should the number of candidates recommended by the Ethics Commission who meet the professional ethics and integrity criteria be smaller than the number of candidates defined by Paragraph two of this part, a new competitive selection shall be announced. The latter shall be conducted according to the procedure envisaged by this Law.

9. If as a result of the special check the information is found regarding a candidate that does not meet the statutory requirements for the position, and/or if a candidate is not included in the list of candidates recommended by the Ethics Council for election to the position of a member of the High Council of Justice, such a candidate shall terminate his/her participation in the competition for the position of a member of the High Council of Justice.

10. To enable the President of Ukraine to appoint a member of the High Council of Justice an announcement of a competition for position of a member of High Council of Justice shall be posted on the website of the Official Internet Representation of the President of Ukraine.

11. A person applying for participation in the competition shall submit the documents specified in Article 8 Part 1 of this Law within 15 calendar days of the date of announcement on the website of the Official Internet Representation of the President of Ukraine about the competition for position of a member of the High Council of Justice.

12. Information on persons applying for participation in the competition, along with copies of submitted documents, except for documents specified in Article 8, Part 1, Paragraphs 4, 8, 9 of this Law, shall be posted on the website of the Official Internet Representation of the President of Ukraine no later than on the next business day after the day of receiving the documents.

13. The President of Ukraine shall approve the Regulation on Competitive Selection of Candidates for the purpose of enabling the President of Ukraine to appoint a member of the High Council of Justice and set up the Selection Commission.

14. The Selection Commission shall consider the specified in part one of Article 8 of this Law documents of persons applying for participation in the competition to be appointed by the President of Ukraine to the position of a member of the High Council of Justice and shall decide on compliance of candidates and their documents with the requirements of this Law.

Persons applying for participation in the competitive selection of candidates for the appointment by the President of Ukraine to the position of a member of the High Council of Justice, in respect of whom the Selection Commission based on submitted documents decided that they do not comply with the requirements of this Law, shall terminate their participation in the competitive selection process.

15. The special check of candidates for the position of a member of the High Council of Justice whom the Selection Commission found compliant with the requirements set forth by this Law shall be organized pursuant to the Law of Ukraine "On Preventing Corruption".

The Selection Commission shall promptly send copies of the documents of candidates for the position of a member of the High Council of Justice and the opinion on outcomes of the special check of a candidate to the position of a member of the High Council of Justice to the Ethics Council so that the latter establishes the candidate's compliance with the professional ethics and integrity criteria for filling the position of a member of the High Council of Justice.

The Ethics Councils shall provide the Selection Commission with an opinion on each candidate's compliance with the professional ethics and integrity criteria for filling the position of a member of the High Council of Justice as well as the list of candidates recommended for appointment to the position of a member of the High Council of Justice. The list should contain at least twice as many candidates as the number of vacant positions of a member of the High Council of Justice.

If the special check reveals information on the candidate which does not meet statutory requirements regarding filling the vacant position and/or if the candidate is not included in the list of candidates recommended by the Ethics Commission for election to the position of a member of the High Council of Justice, such candidate shall terminate participation in the process of competitive selection of a member of the High Council of Justice.

16. The Selection Commission shall conduct an interview with a candidate who has passed the special check and is included in the list of candidates recommended by the Ethics Commission for appointment to the position of a member of the High Council of Justice in order to determine his/her professional competency.

Based on the interview outcomes, the Selection Commission shall compile a list of candidates recommended for appointment to the position of a member of the High Council of Justice by the President of Ukraine.

17. The Selection Commission shall submit for consideration by the President of Ukraine the list of candidates recommended for appointment to the position of a member of the High Council of Justice together with reports on results of the special check of the candidates, opinions of the Ethics Council, and documents submitted by the candidates.

18. For the purpose of electing a member of the High Council of Justice by the Verkhovna Rada of Ukraine, the Verkhovna Rada Apparatus shall post an announcement of conducting competitive selection of a member of the High Council of Justice on the official website of the Verkhovna Rada.

19. Information on the individuals willing to participate in the competitive selection along with copies of the submitted documents except for the documents defined by Article 8 Part 1 Items 4, 8, 9 of this Law shall be posted on the official website of the Verkhovna Rada of Ukraine on the next business day after the day of receiving the documents.

20. The procedure for electing members of the High Council of Justice by the Verkhovna Rada of Ukraine shall be defined by the Rules of Procedure of the Verkhovna Rada of Ukraine";

3) To supplement with the following Article 9¹:

"Article 9¹. Ethics Council

1. The Ethics Council shall be set up for the purpose of assisting the agencies which elect (appoint) members of the High Council of Justices with determining the compliance of a candidate for the position of a member of the High Council of Justice with the professional ethics and integrity criteria.

2. Individuals who have impeccable business reputation, high professional and moral qualities, authority in the society, meet the professional ethics and integrity criteria, have at least 15-year experience in the spheres of judicial proceedings, practice of law, prosecution, or academic activities in the sphere of law may be members of the Ethics Council.

Individuals not meeting the said requirements or requirements envisaged by Article 6 Part 10 of this Law may not be members of the Ethics Council.

3. The composition of the Ethics Council shall include:

1) Three individuals from among judges or retired judges as proposed by the Council of Judges of Ukraine;

2) One individual as proposed by the Council of Prosecutors of Ukraine;

3) One individual as proposed by the Ukrainian National Bar Association;

4) One individual as proposed by the Ukrainian National Academy of Legal Sciences as represented by the Presidium.

Judges or retired judges who have successfully passed qualification evaluation may be candidates for the position of a member of the Ethics Council who are judges or retired judges.

4. An entity responsible for formation of the Ethics Council shall provide the High Council of Justice with a list of candidates for the Ethics Council composition together with information confirming such candidates' compliance with the requirements of Part 2 of this Article within 30 days of receiving a submission of the Chair of the High Council of Justice. It is prohibited to request an entity responsible for forming the Ethics Commission or a candidate to the composition of the Ethics Council to provide other documents.

5. The lists of candidates to the composition of the Ethics Councils submitted by the forming entities shall be posted on the official website of the High Council of Justice and official web portal of the judicial power of Ukraine on day following the day of receipt thereof.

6. The Chair of the High Council of Justice shall appoint members of the Ethics Council within five business days of the deadline for submitting the lists of recommended candidates from all entities responsible for formation of the Ethics Council.

Should the Chair of the High Council of Justice fail to appoint members of the Ethics Council by the established deadline, the first three individuals on the list of candidates submitted by the Council of Judges of Ukraine, the first candidate proposed by the Council of Prosecutors of Ukraine, the first candidate proposed by the Ukrainian National Bar Association, and the first candidate proposed by the National Academy of Legal Sciences as represented by the Presidium shall be deemed to be appointed.

7. The Ethics Council shall be deemed competent if at least four members in its composition have been approved.

8. The term of powers of a member of the Ethics Council shall be six years without the right to be re-appointed.

9. Powers of a member of the Ethics Council shall be terminated early in the following cases:

1) The member has filed a letter of termination of the powers of a member of the Ethics Council of his/her own volition;

2) A court's guilty verdict with regard to the member of has come into force or the member is held administratively liable for a corruption-related offence or administrative offence;

3) A court's judgement finding the member legally uncapacious or limiting his/her civil capacity or recognizing him/her missing or announcing him/her deceased has come into force;

4) The member has passed away.

10. A decision on early termination of powers of a member of the Ethics Council shall be made by the Chair of the High Council of Justice. Once such decision has been made and no later than on the next business day, the latter shall (i) request the entity on whose initiative such member of the Ethics Council has been appointed to propose a new candidature and (ii) take measures to appoint a new member of the Ethics Council.

11. Meetings of the Ethics Council shall be held in an open manner. Information on the time, venue, agenda of a meeting and decisions of the Ethics Council shall be posted on the official web portal of the judicial power of Ukraine.

12. The State Judicial Administration of Ukraine shall ensure video- and audio recording and broadcasting of the Ethics Council meetings in real time mode on the official web portal of the judicial power of Ukraine.

13. A member of the Ethics Council may participate in meetings and making decisions of the Ethics Council remotely in the video conference mode using electronic communications means.

14. The Ethics Council shall select candidates for the positions of a member of the High Council of Justice in two stages:

1) Selecting candidates based on results of reviewing documents submitted by the candidates, special check results, and relevant information from open sources; and compiling a list of candidates admitted to the interview;

2) Conducting the interview with selected candidates and compiling a list of candidates to be recommended to entities responsible for electing (appointing) members of the High Council of Justice.

Such list should contain at least twice as many candidatures as the number of vacant positions of members of the High Council of Justice.

15. If the number of candidates for filling vacant positions of a member of the High Council of Justice who have been selected by the Ethics Council and meet the professional ethics and integrity criteria is fewer than the number of candidates envisaged by Part 14 of this Article, the Ethics Council shall advise the entity responsible for appointment (election) of a need to conduct a new competitive selection process.

16. A candidate for the position of a member of the High Council of Justice shall be deemed compliant with the professional ethics and integrity criterion if he/she is independent, honest, unbiased, corruption-free, industrious, adheres to ethical norms, demonstrates impeccable behavior in professional activities and private life, and with regard to whom there are no doubts about lawful origin of his/her assets, conformity of his/her and his/her family members' living standards to reported incomes or conformity of the candidate's lifestyle to his/her status.

17. A candidate shall be deemed compliant with the professional competency criterion if he/she possess necessary knowledge for exercising powers of a member of the High Council of Justice, demonstrated analytical capabilities, oral and written communication skills, ability to interact with colleagues, and ability to work persistently.

18. For the purpose of checking a candidate for compliance with the professional ethics and integrity criteria, the Ethics Council shall apply the given indicators in the following way:

1) Determining compliance with the indicators shall be based on information without time or territorial limitations;

2) A candidate shall be found incompliant with an indicator if non-compliance is proved or there are reasonable doubts in compliance;

3) Any opinion or assessment of a national or international agency with regard to candidate's integrity or professional competency shall not be a priori determinative or binding on the Ethics Council.

19. A decision of the Ethics Council shall be deemed approved if at least four members of the Ethics Council have voted for it.

20. For the purpose of exercising its powers, the Ethics Council:

1) Shall develop, approve, and disclose the Rules of Procedure of the Ethics Council;

2) Shall develop, approve, and disclose the methodology for assessing compliance of a candidate for filling the position of a member of the High Council of Justice with the professional ethics and integrity criteria, compliance indicators for such assessment, and means to develop such indicators;

3) Shall review, study, and analyze documents of a candidate for the position of a member of the High Council of Justice which have been sent to the Ethics Council;

4) Shall collect, verify, and analyze information on a candidate for the position of a member of the High Council of Justice including confidential information with personal data received from government authorities and local governments, information received from individuals and legal entities, from the mass media and other sources which is needed to exercise the Ethics Council's powers;

5) May request a candidate for the position of a member of the High Council of Justice as well as specially authorized entities in the sphere of counteracting corruption, other government authorities, local governments, enterprises, institutions, and organizations irrespective of ownership form and subordination, their officials, any legal entities to provide explanations, documents or information for the purpose of checking candidates for the position of a member of the High Council of Justice.

An individual or agency who/which has received such request from the Ethics Council shall be bound to provide relevant explanations, information and/or documents (copies thereof) within ten calendar days of receiving the request;

6) Shall compile a list of candidates for administering an interview based on outcomes of review of the documents submitted by the candidates, results of the special check and analysis of relevant information from open sources;

7) Shall conduct interviews with selected candidates;

8) Shall approve a grounded opinion on the compliance of each candidate for the position of a member of the High Council of Justice with the professional ethics and integrity criteria and

post it on the official website of the High Council of Justice, compile and disclose a list of candidates recommended by the Ethics Council for election (appointment) to the position of a member of the High Council of Justice;

9) Shall send to the entity responsible for electing (appointing) a member of the High Council of Justice an opinion on each candidate and the list of candidates recommended by the Ethics Council for election (appointment) to the position of a member of the High Council of Justice. The said list should contain at least twice as many candidatures as the number of vacant positions of a member of the High Council of Justice;

10) Shall exercise other powers defined by law.

For the purpose of exercising their powers, members of the Ethics Council shall be granted a free-of-charge and full access to open state-run registers and judicial (candidates') dossiers.

21. A member of the Ethics Council shall be bound:

1) To take part in its activities in person without a right to devolve his/her powers to other individuals;

2) Not to use, transfer or disclose personal data and other information which have become known to him/her because of exercising powers of a member of the Ethics Council for purposes other than discharging his/her duties as a member of the Ethics Council;

3) Not to participate in collecting information on a candidate for the position of a member of the High Council of Justice or in considering a candidate-related issues if the member of the Ethics Council has or had personal or business relationships with such candidate and/or if there is another conflict of interests or there are other circumstances which may affect the objectivity or impartiality of the Ethics Council member;

4) To take measures to protect personal data or other information which have become known to him/her in connection with exercising powers of a member of the Ethics Council.

22. The responsibility for organizational-and-technical support of the Ethics Council operations rests with the State Judicial Administration of Ukraine.

23. At a request of the Ethics Council for the purpose of supporting its operations and its members' activities, additional experts and specialists may be engaged by international and foreign organizations which have been providing Ukraine with technical assistance in the sphere of judicial reform and/or preventing and counteracting corruption at their own cost pursuant to international or interstate agreements for the last five years.

24. Members of the Ethics shall exercise their powers on a pro bono basis. They shall be released of discharging their official duties at their primary employment with retention of the average salary/wages for the period of working at the Ethics Council.

4) In Article 10:

To re-word Part 2 as follows:

"2. A vote shall be held solely for those candidates for members of the High Council of Justice who have submitted documents according to the procedure set forth by this Law, meet the requirements defined by Article 6 of this Law, and are included in the list of candidates recommended by the Ethics Council for election to the position of a member of the High Council of Justice";

To supplement Article 10 with a new part after Part 4 as follows:

"5. Should the Congress of Judges of Ukraine have failed to elect a member of the High Council of Justice, a new competitive selection shall be announced promptly. It shall be held according to the procedure defined by this Law".

In this connection, to deem Part 5 to be Part 6;

5) In Article 11:

To re-word Part 2 as follows:

"2. A vote shall be held solely for those candidates for members of the High Council of Justice who have submitted documents according to the procedure set forth by this Law, meet the requirements defined by Article 6 of this Law, and are included in the list of candidates recommended by the Ethics Council for election to the position of a member of the High Council of Justice";

To supplement Article 11 with a new part after Part 4 as follows:

"5. Should the Congress of Ukrainian Attorneys have failed to elect a member of the High Council of Justice, a new competitive selection shall be announced promptly. It shall be held according to the procedure defined by this Law".

In this connection, to deem Part 5 to be Part 6;

6) In Article 12:

To re-word Part 2 as follows:

"2. A vote shall be held solely for those candidates for members of the High Council of Justice who have submitted documents according to the procedure set forth by this Law, meet the requirements defined by Article 6 of this Law, and are included in the list of candidates recommended by the Ethics Council for election to the position of a member of the High Council of Justice";

To supplement Article 12 with a new part after Part 4 as follows:

"5. Should the National Conference of Prosecutors have failed to elect a member of the High Council of Justice, a new competitive selection shall be announced promptly. It shall be held according to the procedure defined by this Law".

In this connection, to deem Part 5 to be Part 6;

7) In Article 13:

To amend Part 2 to read:

"2. A vote shall be held solely for those candidates for members of the High Council of Justice who have submitted documents according to the procedure set forth by this Law, meet the requirements defined by Article 6 of this Law, and are included in the list of candidates recommended by the Ethics Council for election to the position of a member of the High Council of Justice";

To supplement Article 13 with a new part after Part 4 as follows:

"5. Should the Congress of Representatives of Higher Education and Research Institutions in the Sphere of Law have failed to elect a member of the High Council of Justice, a new competitive selection shall be announced promptly. It shall be held according to the procedure defined by this Law".

In this connection, to deem Parts 5 through 11 to be Parts 6 through 12;

8) In Article 24:

To supplement Part 2 with paragraph two as follows:

"A decision on dismissing a member of the High Council of Justice on the grounds defined in Part 1 Items 3-6 of this Article shall be made by the entity which has elected (appointed) the member of the High Council of Justice at the request of the High Council of Justice. A decision to file the request for dismissing the member of the High Council of Justices shall be approved by majority members of the High Council of Justice. Effective the day of filing the said request, such member of the High Council of Justice shall be suspended from office whereas his/her powers shall be suspended until such time as the entity which has elected (appointed) this member of the High Council of Justice adopts a decision";

To delete Part 3;

9) In Article 27:

To re-word Part 5 as follows:

"5. A Disciplinary Inspectors Service shall operate in the Secretariat of the High Council of Justice as a standalone structural unit which is set up for the purpose of exercising the High Council of Justice's powers of administering disciplinary proceedings with regard to judges. It shall operate based on the principle of functional independence from the High Council of Justice.

The status and powers of the Disciplinary Inspectors Service shall be defined by this Law. The procedures for setting up, funding, and interacting with other bodies of the High Council of Justices and operating procedures shall be defined by the Regulation on Disciplinary Inspectors Service to be approved by the High Council of Justice";

In Part 6, to replace the word "inspectors" with the word combination "disciplinary inspectors";

To supplement Part 8 with "with allowance for the requirements set forth by this Law";

10) To re-word Article 28 as follows:

"Article 28. Disciplinary Inspectors Service of the High Council of Justice

1. The Disciplinary Inspectors Service of the High Council of Justice shall be formed from among individuals with higher legal education and at least 15-year legal professional experience of which at least eight years in total were spent on the positions of judge, prosecutor or attorney.

Disciplinary inspectors of the High Council of Justice shall be appointed to the positions on a competitive basis according to the procedure set forth by the legislation on public service with allowance for specifics defined by this Law.

A decision on appointing a disciplinary inspector of the High Council of Justice shall be made after a winner of competitive selection has passed the special check pursuant to the Law of Ukraine "On Preventing Corruption" as well as the checks for integrity and compliance with the ethical standards set forth for a judge.

If a retired judge is appointed to the position of a disciplinary inspector of the High Council of Justice, his/her pension benefits, live-time allowance, and other guarantees defined by the Law of Ukraine "On Judiciary and Status of Judges" shall be retained.

2. The legal status of disciplinary inspectors of the High Council of Justice shall be defined by the Law of Ukraine "On Public Service" with allowance for the specifics defined by this Law.

Specifics aspects of activities of disciplinary inspectors of the High Council of Justice shall be defined by the Regulation on a Disciplinary Inspector of the High Council of Justice to be approved by the High Council of Justice.

3. The Disciplinary Inspectors Service of the High Council of Justice shall be led by the Deputy Head of the Secretariat of the High Council of Justice – Director of the Disciplinary Inspectors Service who is appointed and dismissed by the High Council of Justice according to the procedure set forth by the legislation on public service with allowance for the specifics defined by this Law.

The powers of the Director of the Disciplinary Inspectors Service shall include:

- 1) Organizing operations of the Disciplinary Inspectors Service;
- 2) Coordinating activities of disciplinary inspectors;
- 3) Appointing the Deputy Director of the Disciplinary Inspectors Service;
- 4) Approving appointment and dismissal of disciplinary inspectors, applying measures of rewards and disciplinary punishment to them, initiating a process of conferring public servant ranks to disciplinary inspectors;
- 5) Sharing powers with the Deputy Director of the Inspection;
- 6) Exercising other powers as defined by this Law and Regulation on Disciplinary Inspection.

4. A disciplinary inspector of the High Council of Justice shall:

- 1) Make a preliminary review of a disciplinary complaint received as a result of automated case distribution;
- 2) Analyze materials of disciplinary cases;
- 3) Collect information, documents, other materials as a need might be;
- 4) Draft rulings and decisions of the Disciplinary Chamber and High Council of Justice as part of disciplinary proceedings with regard to a judge;
- 5) Analyze materials associated with complains against decisions in disciplinary cases regarding judges and prosecutors; draft opinions and decisions of the High Council of Justice;
- 6) Review and summarize disciplinary proceedings and adopted decision on disciplining judges or refusals to discipline a judge.

5. In their activities and beyond, disciplinary inspectors are bound:

- 1) To comply with judicial ethics standards;
- 2) Not to disclose classified information and information that became known to them and not to use it for purposes other than discharging their duties;
- 3) To meet requirements and adhere to limitations set forth by the legislation on public service and anti-corruption legislation";
- 11) To delete Article 28¹;
- 12) In Article 31:

To word the new title of the article as follows:

"Article 31. Requests of the High Council of Justice, its Bodies, Members of the High Council of Justice and Disciplinary Inspectors of the High Council of Justice ";

To insert "and disciplinary inspector of the High Council of Justice" after "member of the High Council of Justice" in Part 1 Paragraph 1";

To amend Part 2 Sentence 2 to read "A member of the High Council of Justice, disciplinary inspector of the High Council of Justice shall have the right to file requests in relation to a case in which he/she is acting as a rapporteur";

In the first paragraph of Part 3 and Part 5, to replace "its body or a member of the High Council of Justice" with "its body or a member of the High Council of Justice or disciplinary inspector of the High Council of Justice";

In Part 6:

In the first sentence, to replace "its body or a member of the High Council of Justice" with "its body or a member of the High Council of Justice or disciplinary inspector of the High Council of Justice";

In the second sentence, to insert "disciplinary inspector of the High Council of Justice" after "member of the High Council of Justice";

In Part 7, to replace "its bodies or a member of the High Council of Justice" with "its bodies or a member of the High Council of Justice or disciplinary inspector of the High Council of Justice";

To delete Part 8;

In Part 10, to replace "its bodies or a member of the High Council of Justice" with "its bodies or a member of the High Council of Justice or disciplinary inspector of the High Council of Justice";

In Part 11:

To supplement the first sentence with "disciplinary inspector of the High Council of Justice" after "member of the High Council of Justice";

To supplement the second sentence with "disciplinary inspectors of the High Council of Justice" after "members of the High Council of Justice";

13) To amend Article 32 Part 1 to read:

"1. For the purpose of distributing cases in the High Council of Justice and its bodies, a system of automated case distribution (selection of a member of the High Council of Justice – rapporteur, disciplinary inspector of the High Council of Justice – rapporteur) shall be operated";

14) In Article 42:

To delete Part 1;

To supplement Part 2 with the following paragraph:

"Disciplinary proceedings shall commence after receiving a complaint of disciplinary offense of a judge (disciplinary complaint) filed pursuant to the Law of Ukraine "On Judiciary and Status of Judges" or on the initiative of the Disciplinary Chamber of the High Council of Justice or High Qualifications Commission of Judges of Ukraine in cases defined by law";

To delete Part 4;

15) In Article 43:

In Part 1:

To amend Paragraph 1 to read:

"1. A disciplinary inspector of the High Council of Justice appointed by the automated case distribution system for conducting the preliminary check of a relevant disciplinary complaint (the disciplinary inspector of the High Council of Justices – rapporteur) shall:";

To amend Item 4 to read:

"4) In the absence of grounds to leave the complaint without consideration and return the disciplinary complaint, prepare materials within thirty days of receiving such complaint with a proposal to open or to refuse to open a disciplinary case. This term may be extended by the disciplinary inspector by at most 15 days if there is a grounded need in an additional check of the disciplinary complaint";

In Part 2, to replace "rapporteur" with "disciplinary inspector of the High Council of Justice – rapporteur";

16) In Article 46:

To amend Part 1 to read:

"1. Within thirty days of receiving the opinion of the disciplinary inspector of the High Council of Justice – rapporteur, the Disciplinary Chamber shall examine such opinion and accompanying

materials without summoning the judge and the complainant. Based the examination results, the Disciplinary Chamber shall adopt a decision to open a disciplinary case or to dismiss it.";

To supplement Part 3 with "or at the request of the disciplinary inspector of the High Council of Justice – rapporteur" after "such decision";

17) In Article 47:

To supplement Part 1 with "disciplinary inspector of the High Council of Justice – rapporteur" after "with participation";

To supplement the Article with Part 4 as follows:

"4. If the judge is absent for a good reason, consideration of the disciplinary case by the Disciplinary Chamber shall be postponed.

If the judge is absent for the second time, the Disciplinary Chamber shall consider the disciplinary case without participation thereof except for cases when the judge was not notified or was notified with violation of Article 48 Part 5 of this Law";

18) In Article 48:

In Part 1:

To replace "rapporteur" with "disciplinary inspector of the High Council of Justice – rapporteur";

To supplement the Article with the following paragraph:

"Based on case preparation results, the disciplinary inspector of the High Council of Justice – rapporteur – shall prepare an opinion and send it for consideration by the Disciplinary Chamber within thirty days of opening the disciplinary case.";

To delete the word "other" in Part 3;

To delete Part 4;

To amend Part 5 to read:

"5. The judge and complainant shall be notified of the meeting of the Disciplinary Chamber no later than ten days prior to conducting the meeting according to the procedure defined by the Rules of Procedure of the High Council of Justice and by means of posting relevant information on the official website of the High Council of Justice.

The judge is deemed to be duly notified if the notification was forwarded to the address of his/her residence or stay or to the address of the court where he/she sits. Should this not be possible the notification shall be posted on the official website of the High Council of Justice.";

19) In Article 49:

To supplement Part 1 with "disciplinary inspector of the High Council of Justice – rapporteur" after "take part";

In Part 7:

In the first paragraph, to replace "rapporteur" with "disciplinary inspector of the High Council of Justice – rapporteur";

In the second paragraph, to replace "rapporteur" with "chair of the meeting";

20) To delete Article 50 Part 3;

21) To amend Article 51 Part 8 Sentence 2 to read: "In case of adopting a relevant decision by the High Council of Justice at the meeting at which the appeal on the Disciplinary Chamber decision is considered, the disciplinary inspector of the High Council of Justice – rapporteur – shall be invited to report on this disciplinary case.";

22) In Article 62 Part 4 to replace "on the official web portal "The Judicial Power of Ukraine" with "on the official web portal of the judicial power of Ukraine".

23) To supplement Section III "Final and Transitional Provisions" with new Items 23¹ through 23³ as follows:

"23¹. The first composition of the Ethics Council shall consist of three individuals from among judges or retired judges proposed by the Council of Judges of Ukraine and three individuals proposed by international and foreign organizations which have been providing Ukraine with international technical assistance in the sphere of judicial reform and/or preventing and counteracting corruption for the last five years. Such international and foreign organizations shall agree on a proposed joint list of candidates.

The Ministry of Foreign Affairs, within five days of the day on which the Law of Ukraine "On Amending Selected Legislative Acts of Ukraine with regard to the Procedure for Election

(Appointment) of Members of the High Council of Justice" and Activities Disciplinary Inspectors of the High Council of Justice" comes into force, shall compile a list of international and foreign organizations which according to international or interstate agreements have been providing Ukraine with international technical assistance in the sphere of judicial reform and/or preventing and counteracting corruption for the last five years (hereinafter referred to as the "List of International and Foreign Organizations") and send it to the Chairperson of the High Council of Justice.

No later than on the day following the day of receiving the list of international and foreign organizations, the Chairperson of the High Council of Justice shall request agencies responsible for nominating candidates to the Ethics Council to nominate their candidates. Individuals who have impeccable business reputation, high professional qualities, authority in the society and meet the integrity criterion may be candidates for the position of a member of the Ethics Council.

Judges or retired judges who have successfully passed qualification evaluation may be candidates for the position of a member of the Ethics Council who are judges or retired judges.

Members of the Ethics Commission nominated by the international and foreign organizations which are included in the List of International and Foreign Organizations must have at least ten-year experience including that in other countries in doing procedural management of pre-trial investigation, supporting state prosecution in court or administering corruption-related proceedings.

The entity responsible for formation of the Ethics Council shall provide the Chairperson of the High Council of Justice with the list of candidates to the Ethics Council composition within 30 days of receiving the relevant request from the Chairperson of the High Council of Justice.

The lists of candidates to the Ethics Council composition submitted by the entities responsible for formation thereof shall be posted on the official website of the High Council of Justice and the official web portal of the Judicial Power of Ukraine.

If international and foreign organizations which are included in the List of International and Foreign Organizations failed to nominate individuals to the Ethics Council or nominated a number of individual which is insufficient to form the competent composition of the Ethics Council within the timeframe defined by Paragraph 6 of this Item, then candidates to the Ethics Council composition shall be nominated by the Council of Prosecutors of Ukraine, Ukrainian National Bar Association, and National Academy of Legal Sciences of Ukraine as represented by the Presidium within 15 days of receiving a relevant notice from the Chairperson of the High Council of Justice.

The Chairperson of the High Council of Justice shall appoint members of the first composition of the Ethics Council within five days of the deadline for submitting the lists of recommended candidatures by all the entities responsible for formation of the Ethics Council. Should the Chairperson of the High Council of Justices fails to appoint members of the Ethics Council by the established deadline, the first three candidates from the list of the Council of Judges of Ukraine and the list of international and foreign organizations shall be deemed to be appointed.

The first composition of the Ethics Council shall commence operations on the condition that at least four members of the Ethics Council have been appointed according to the procedure defined by this Law.

A decision of the Ethics Council shall be adopted by a majority of votes of the members present provided it was supported by two votes of members proposed by international and foreign organizations.

In case of an equal number of "for" and "against" votes, one more voting shall be held.

In the event of an equal number of "for" and "against" votes cast at the re-voting, the votes of the members of the Ethics Council, of whom at least two are proposed by international and foreign organizations, shall be decisive.

23². Members of the Ethics Council proposed by international and foreign organizations who do not reside in the city of Kyiv permanently shall be entitled to reimbursement of the travel and accommodation costs from the State Budget of Ukraine.

The procedure of paying out such reimbursements and caps thereon shall be defined by the Cabinet of Ministers of Ukraine.

23³. The Chairperson of the High Council of Justice shall request the entities responsible for formation of the Ethics Council for nominating candidatures to its composition within five days of termination of powers of the first composition of the Ethics Council.

II. Final and Transitional Provisions

1. This Law shall come into force effective the day following the day of publication thereof.

2. Uncompleted processes of competitive selection of members of the High Council of Justice which were commenced and not completed as of the day of this Law's coming into force shall be terminated. A new competition for the position of a member of the High Council of Justice shall be conducted using the procedure envisaged by this Law.

3. The entities responsible for electing (appointing) members of the High Council of Justice shall announce competitive selection of candidates to fill positions of members of the High Council of Justice which are vacant as of the day of this Law coming into force promptly but no later than 30 days after this Law comes into force.

4. To establish that the Ethics Council shall make a one-time assessment of compliance of members of the High Council of Justice (except for the Chief Justice of the Supreme Court) elected (appointed) before this Law came into force with the professional ethics and integrity criteria set forth for filling the position of a member of the High Council of Justice within six months of the day of approving its personal composition.

The Ethics Council shall define the procedure and sequence of assessing sitting members and candidates for members of the High Council of Justice for compliance with the professional ethics and integrity criteria with allowance for the capability of exercising powers by the High Council of Justice according to the Constitution of Ukraine.

For the purpose of such assessment, the Ethics Council shall act according to Article 9¹ Parts 11-18, 20, 21 of the Law of Ukraine "On High Council of Justice".

A member of the High Council of Justice shall be guaranteed a right to get familiar with materials of assessment of his/her compliance with the professional ethics and integrity criteria, provide oral and written explanations, take part in the Ethics Council meeting when his/her case is considered, and use services of a representative.

Based on the assessment results, the Ethics Council may adopt a decision to give a reasoned recommendation to the agency that elected (appointed) the member of the High Council of Justice on dismissing the member of the High Council of Justice on grounds defined by Article 24 Part 1 Items 3-5 of the Law of Ukraine "On High Council of Justice".

Effective the day of adopting the said decision by the Ethics Council, the member of the High Council of Justice whom such decision concerns shall be suspended from the office, and his/her powers shall be suspended until such time as the agency that elected (appointed) this member of the High Council of Justice approves a decision.

If the Ethics Council makes a reasoned recommendation to the relevant entity which elected (appointed) a member of the High Council of Justice for dismissing the member of the High Council of Justice, this entity shall consider such recommendation and adopt a relevant decision within three months of receiving such recommendation.

Based on outcomes of consideration of the reasoned recommendation for dismissing the member of the High Council of Justice, the entity which elected (appointed) the member of the High Council of Justice may adopt a decision:

- 1) To endorse the recommendation and dismiss the member of the High Council of Justice;
- 2) To reject the recommendation of the Ethics Council for dismissing the member of the High Council of Justice.

If the entity which elected (appointed) the member of the High Council of Justice fails to adopt the decision on dismissing the member of the High Council of Justice or a decision to reject the recommendation of the Ethics Council for dismissing the member of the High Council of Justice within the timeframe set forth by Paragraph 7 of this Item, then once this term has expired, such member of the High Council of Justice shall be deemed dismissed pursuant to law.

The Congress of Judges of Ukraine, Congress of Attorneys of Ukraine, National Conference of Prosecutors, Congress of Representatives of the High Education Institutions and Research Institutions devoted to consideration of the Ethics Council's recommendation for dismissing a

member of the High Council of Justice shall be held according to the statutory procedure with allowance for the specifics set forth by this Item within 35 days of receiving such recommendation by the entity which convenes a relevant congress or conference.

A decision of the congress or conference regarding consideration of the Ethics Council's recommendation for dismissing a member of the High Council of Justices shall be made by majority vote of elected delegates.

When considering the Ethics Council's recommendation for dismissing a member of the High Council of Justice by the relevant congress or conference, the decision to endorse the Ethics Council's recommendation and to dismiss the member of the High Council of Justice shall be put to voting first. If such decision has not received a number of votes which would be sufficient for approval, then the decision to reject the Ethics Council's recommendation for dismissing the member of the High Council of Justice shall be put to voting next.

If neither decision has received a sufficient number of delegates' votes for approval, the Ethics Council's decision shall be deemed not considered. Within the timeframe set forth by Paragraph 7 of this Item, the relevant congress or conference may re-consider the Ethics Council's recommendation according to the order and sequence defined by Paragraphs 13, 14 of this Item.

If a decision is made to dismiss a member of the High Council of Justice, the agency that elected (appointed) this member of the High Council of Justices shall promptly announce a competition for filling the vacant position of a member of the High Council of Justice.

The Ethics Council's decision made on the basis of the one-time assessment of compliance of members of the High Council of Justice (except for the Chief Justice of the Supreme Court) who had been elected (appointed) before this Law came into force with the professional ethics and integrity criteria shall be posted on the official web portal of the judicial power of Ukraine.

If the Ethics Council gives a reasoned recommendation to the agency that elected (appointed) the member of the High Council of Justice on dismissing the member of the High Council of Justice on grounds defined by Article 24 Part 1 Items 3-5 of the Law of Ukraine "On High Council of Justice", provisions of Article 24 Part 2 Paragraph 2 of the Law of Ukraine "On High Council of Justice" governing filing of a request of the High Council of Justice for dismissal of a member of the High Council of Justice shall not be applied.

5. To establish that all cases associated with challenging decisions, actions or inaction of agencies responsible for electing (appointing), assessing members of the High Council of Justice concerning electing (appointing), assessing members of the High Council of Justice shall fall under the subject matter jurisdiction of the Supreme Court as the first instance court and the Grand Chamber of the Supreme Court as the appellate instance court.

6. A competition for filling positions of disciplinary inspectors of the High Council of Justice shall be announced after completion of assessment of compliance of members of the High Council of Justice (except for the Chief Justice of the Supreme Court) with the professional ethics and integrity criteria but no later than one year after this Law comes into force.

President of Ukraine

V. ZELENSKYI

City of Kyiv

July 14,

2021

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