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

**DRAFT LAW**

**ON AMENDMENTS TO THE LAW ON THE JUDICIARY  
AND THE STATUS OF JUDGES  
AND TO OTHER LEGAL ACTS**

**OF UKRAINE**

Approved on the fourth plenary session  
of the Commission for Strengthening the Democracy and Rule of Law  
(Consultative body to the President of Ukraine).  
June 30, 2011

**Draft**

**LAW OF UKRAINE**

**On Amendments to the Law of Ukraine On the Judiciary and the Status of Judges**

Verkhovna Rada of Ukraine hereby resolves to:

I. Set forth the Law of Ukraine on the Judiciary and the Status of Judges in the following edition:

**THE LAW OF UKRAINE**

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

**This law determines the legal principles of functioning of the judiciary in Ukraine as a uniform system of court organization and dispensing justice operating on the basis of rule of law according to European standards and ensuring persons' right to fair trial.**

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

**Article 1. The Judicial Power**

- 1. Based on the constitutional principle of division of powers, **judicial power in Ukraine shall be exercised by independent and impartial courts created pursuant to law.****
- 2. Legal proceedings shall be conducted by the Constitutional Court of Ukraine and courts of general jurisdiction.**
- 3. The function of dispensing justice is vested with professional judges, people's assessors and jurors should such be envisaged by law.**

**Article 2. Goal and Objective of Justice**

- 1. The objective of justice is the strengthening of the rule of law in the society and ensuring everyone's right to a fair trial by independent and impartial court in order to protect human rights and basic freedoms as the values determining the content and direction of the state activities.**

**Article 3. The Judicial System of Ukraine**

- 1. The judicial system of Ukraine shall consist of courts of general jurisdiction and a court of constitutional jurisdiction.**
- 2. The courts of general jurisdiction shall form a unified system of courts. The Constitutional Court of Ukraine shall be the sole body of constitutional jurisdiction in Ukraine.**

3. **The access to justice is ensured for** every person according to the procedure **determined** by the Constitution and laws of Ukraine.

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

5. The procedure for organization and operation of the Constitutional Court of Ukraine shall be **determined** by the Constitution of Ukraine and the Law of Ukraine "On the Constitutional Court of Ukraine."

6. **The court as a judiciary body shall have a seal with the State Emblem of Ukraine and the name of the court.**

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

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

#### **Article 5. Administration of Justice**

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

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

3. The people shall participate in the administration of justice through people's assessors and jurors.

#### **Article 6. Autonomy of Courts**

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

2. Petitions filed with a court (in connection with consideration of specific cases) by citizens, organizations, or officials who in legal terms are not participants in the court proceedings **shall not be considered by court except for petitions to participate in the proceedings and in other events determined by the procedural laws and the Law of Ukraine on Access to Court Decisions.**

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

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

#### **Article 7. Right to Judicial Protection**

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

2. Everyone shall have the right to take part in the consideration of his/her case **in a first instance court, court of appeals, court of cassation and the Supreme Court of Ukraine in the manner** prescribed by the procedural law.

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

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

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

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

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

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

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

1. Everyone shall be entitled to use legal aid. Such assistance shall be provided free of charge should such be **determined** by law.

2. Everybody shall be free in their choice of a counsel to protect their right. The procedure and terms of the legal assistance provision shall be established by law.

3. The bar shall be entitled to provide counsel for the defense and legal assistance in consideration of cases in courts of Ukraine.

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

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

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

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

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

#### **Article 12. Language of Legal Proceedings and Court Case Management**

1. Legal proceedings and court records keeping in Ukraine shall be conducted in the state language.

2. Courts shall ensure the equality of **persons'** rights in court process in terms of language.
3. Courts shall implement (use) state language in the adjudication process and shall guarantee the right of citizens to use their native tongue or the language that they speak in the court process.

#### **Article 13. The Binding Nature of Court Decisions**

1. The final judgment in a case shall be passed in the name of Ukraine.
2. Court decisions which have come into legal force shall be binding for all bodies of state power, local self-government bodies, their officials and employees, natural persons and legal entities and associations thereof throughout all of the territory of Ukraine. Whether a court decision must be taken into account by (precedential) other courts shall be determined by the procedural law.
3. Foreign court decisions shall be enforceable in the territory of Ukraine under the conditions set out by law, pursuant to international treaties recognized as binding by the Verkhovna Rada of Ukraine.
4. Failure to comply with court decisions shall entail legal liability under the law.

#### **Article 14. Right to Challenge Court Decisions**

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

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

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

#### **Article 16. Automated Case Management System of the Court** *(pt. 3-5 of the Art. 15 of current Law)*

1. **The automated case management system shall operate in general jurisdiction courts to ensure:**
  - 1) **registration of the court's incoming and outgoing documents and their flow stages;**
  - 2) **objective and unbiased case assignment between judges based on the principle of randomness and taking into account the judge's specialization, workload and procedural law requirements;**
  - 3) **providing the participants of the proceedings with the information on the progress of cases they participate in;**
  - 4) **centralized storage of the texts of court decisions and other procedural documents;**
  - 5) **issue of court decisions and court orders on the basis of the data contained in the automated case management system regarding the decision and registration of the application of a person in favour of whom it is passed;**

- 6) **statistical data preparation;**
- 7) **cases transfer to an electronic archive;**
- 8) **cases information exchange between courts;**
- 9) **fulfillment of other tasks aimed at the due organization of court operations and providing citizens' access to justice.**

**2. Detailed requirements to the functionality of the automated case management system and order of its operating shall be determined by the regulations on the automated case management system as approved by the Council of Judges of Ukraine upon agreement with the State Judicial Administration of Ukraine taking into account the specific features of courts' specialization.**

**Article 17. Symbols of the Judiciary** (*Art. 16 of the current Law*).

1. The symbols of judicial power shall be the state symbols of Ukraine – the State Emblem of Ukraine and the State Flag of Ukraine.
2. A judge administering justice shall wear a judicial robe with a judge's breast badge. The standard robe and the standard chest badge shall be approved by the Council of Judges of Ukraine.

## **SECTION II. COURTS OF GENERAL JURISDICTION**

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

#### **Article 18. System of Courts of General Jurisdiction**

1. According to the Constitution of Ukraine the system of courts of general jurisdiction shall be based on the principles of territorial division, specialization, and instance.
2. The system of courts of general jurisdiction shall be composed of:
  - 1) local courts;
  - 2) courts of appeals;
  - 3) high specialized courts;
  - 4) the Supreme Court of Ukraine.
3. The highest judicial body in the system of courts of general jurisdiction is the Supreme Court of Ukraine. The highest judicial body of specialized courts are the respective high specialized courts.
4. The unity of the system of courts of general jurisdiction shall be **reached** by the following:
  - the unified basis for organization and functioning of courts;
  - the unified status of judges;
  - mandatory nature of rules of legal proceedings specified by law for all courts;
  - ensuring by the Supreme Court of Ukraine the unified application of norms and **principles** of substantive law **by general jurisdiction courts**
  - mandatory compliance with (enforcement of) court decisions on the territory of Ukraine;
  - the single procedure for organizational support of the operations of courts;
  - financing of courts exclusively from the State Budget of Ukraine;
  - resolving the internal issues of courts by judicial self-government bodies.

#### **Article 19. Specialization of Courts of General Jurisdiction** (*Art. 18 of the current Law*)

1. Courts of general jurisdiction shall specialize in **administrative, civil and commercial, criminal and administrative cases, administrative offence cases.**
2. In courts of general jurisdiction the specialization of judges in **separate** categories of cases **may be introduced by the decision of the meeting of judges of the respective court.**

**Article 19. Procedure for Creating and Abolishing General Jurisdiction Courts** (*Art. 19 of the current Law*)

1. Courts of general jurisdiction shall be created, **including by reorganization**, by the President of Ukraine upon recommendation of the **State Judicial Administration of Ukraine** based on the proposal from **the Council of Judges of Ukraine**.
2. The location, territorial jurisdiction, and status of a court shall be determined with regard for the principles of territorial division, specialization, and court level.
3. The grounds for creation or abolishment of a court shall be a change of the system of courts established by this Law, the need to improve **access** to justice or changes in the administrative and territorial division.
4. The number of judges in a **general jurisdiction** court shall be determined by the State Judicial Administration of Ukraine on the basis of proposals **from the Council of Judges of Ukraine** with due regard for the caseload of the court and within the expenses approved in the State Budget of Ukraine for courts maintenance/support.  
**The number of judges in the Supreme Court of Ukraine shall be determined by this Law.**

**Article 21. Procedure for Judges' Appointment to Administrative Positions** (*Art. 20 of the current Law*)

1. Chief judge and deputy (deputies) chief judge offices shall be considered as administrative positions in court.
  2. Chief judge of local court, his/her deputy, chief judge of appellate court, his/her deputies, chief judge of high specialized court, his/her deputies shall be appointed for a **three-year** term from among the judges of that court and shall be removed from office by **the Council of Judges of Ukraine based on the decision of the meeting of judges of the respective court**.
- A judge may not be allowed to occupy one administrative office in a corresponding court longer than **two consecutive terms**.
3. Chief Justice of the Supreme Court of Ukraine, deputy Chief Justice of the Supreme Court of Ukraine shall be appointed and shall be removed from office by the Plenary Session of the Supreme Court of Ukraine following the procedure established by this law.
  5. Taking administrative position in court does not relieve the judge from performing the duties of a judge **determined** by this law in the respective court.
  6. Removal of a judge from an administrative position shall not terminate his/her tenure of judicial office. Removal of a judge as well as expiry of the term for which he/she has been appointed (elected) shall terminate his/her powers associated with holding that administrative office.

**Chapter 2. Local Courts**

**Article 22. Types and Composition of Local Courts** (*Art. 21 of the current Law*)

1. Local general courts are: raion, city-district, city and city-raion courts.
2. Local commercial courts are: commercial courts of Autonomous republic of Crimea, oblasts, city of Kyiv and Sevastopol;
3. Local administrative courts are: circuit administrative courts as well as other courts **determined** by procedural law.
4. A local court shall be composed of local court judges, the chief judge and his/her deputy.

**Article 23. Authority of a Local Court** (*Art. 22 of the current Law*)

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

2. Local general courts shall hear **administrative, civil, criminal cases as well as administrative offence cases** in the event and pursuant to procedure stipulated by procedural law.
3. Local commercial courts shall hear **commercial** cases.
4. Local administrative courts shall hear **administrative** cases.
5. Whether certain category of cases fall under the jurisdiction of local courts and the procedure for their consideration shall be determined by procedural law.

**Article 24. Judge of a Local Court** *(Art. 23 of the current Law)*

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

**Article 25. Chief Judge of a Local Court** *(Art. 24 of the current Law)*

1. The chief judge of a local court shall:
  - 1) represent the court as a body of state power in relations with other bodies of state power, local self-government bodies, physical persons and legal entities;
  - 2) define the administrative powers of the deputy chief judge of the local court;
  - 3) exercise control over the effectiveness of court staff, submit motions to the head of territorial office of State Judicial Administration of Ukraine on appointing the chief of staff, deputy chief of staff, and their removal, as well as on applying to the court chief of staff or his/her deputy incentives or discipline sanctions under the law;
  - 4) notify the **Qualifications Commission of Judges** about the available vacant judicial positions in the court **within a ten-day term from the day of their opening**;
  - 5) provide for the enforcement of decisions of the meetings of the local court's judges;
  - 6) ensure compliance with the requirements regarding on-going training of judges of the local court;
  - 7) **issue an order on sending the court's judges to the National School of Judges of Ukraine for taking on-going training according to the schedule approved by the meeting of judges**;
  - 8) exercise other powers specified by the law.
2. The chief judge of a local court shall **issue orders** regarding matters within his/her administrative authority.
3. In the absence of the chief judge of **local court**, his/her duties and powers shall be performed by the **deputy chief judge**; **and in the absence of the deputy chief judge, the powers shall be exercised by the judge who has the longest years of service as a judge.**

**Article 26. Deputy Chief Judge of the Local Court** *(Art. 25 of the current Law)*

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

**Chapter 3. Courts of Appeals**

**Article 27. Types and Composition of the Courts of Appeals** *(Art. 26 of the current Law)*

1. In the system of courts of general jurisdiction there shall be appellate courts as courts of appellate instance considering **administrative cases, civil and criminal cases, commercial cases and cases on administrative offences.**
2. **Courts of appeals that consider administrative cases include administrative courts of appeal created in the appellate circuits according to the Decree of the President of Ukraine.**
3. **Courts of appeals that consider civil and commercial cases are:**



- 1) **civil appellate courts of oblasts, cities of Kyiv and Sevastopol, Autonomous Republic of Crimea;**
- 2) **commercial appellate courts created in appellate circuits according to the Degree of the President of Ukraine.**
4. **Courts of appeal that consider criminal cases and administrative offence cases are criminal and administrative offence appellate courts of oblasts, cities of Kyiv and Sevastopol, Autonomous Republic of Crimea.**
5. A court of appeals shall be composed of judges **compliant to the requirements set forth in part 2 of Art. 62 of this Law**, from among which chief judge and deputy chief judge shall be appointed.

**Article 28. Powers of Appellate Courts** (*Art. 27 of the current Law*)

1. Courts of appeals shall:
  - 1) hear appellate cases within the respective court jurisdiction according to the procedural law;
  - 2) analyze court statistics; study and generalize judicial practice (case law), **submit to the respective high specialized court the suggestions on the case law improvement;**
  - 3) exercise other powers prescribed by the law.

**Article 29. Judge of a Court of Appeals** (*Art. 28 of the current Law*)

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

**Article 30. Chief Judge of a Court of Appeals** (*Art. 29 of the current Law*)

1. The chief judge of a court of appeals shall:
  - 1) represent the court as a body of state power in relations with other bodies of state power, local self-government bodies, physical persons and legal entities;
  - 2) define the administrative powers of the deputy chief judges of the appellate court;
  - 3) exercise control over the effectiveness of court staff, submit motions to the head of State Judicial Administration of Ukraine on applying to the court chief of staff or his/her deputy incentives or discipline sanctions under the law;
  - 4) notify the **Qualifications Commission of Judges** about the available vacant judicial positions in the court **within a ten-day term after they opened;**
  - 5) provide for the enforcement of decisions of the meetings of the appellate court's judges;
  - 6) organize studies of general judicial practice (case law);
  - 7) ensure compliance with the requirements regarding on-going training of judges of the appellate court;
  - 8) **issue an order on sending the court's judges to the National School of Judges of Ukraine for taking on-going training according to the schedule approved by the meeting of judges;**
  - 9) exercise other powers specified by the law;
2. The chief judge of a court of appeals shall **issue orders** regarding matters within his/her administrative authority.
3. In the absence of the chief judge, his/her administrative duties and powers shall be performed and exercised by one of the deputy chief judges; and in the absence of such deputy chief judge the administrative powers shall be exercised by the judge of that court who has **longer** years of service as a judge.

**Article 31. Deputy Chief Judge of a Court of Appeals** (*Art. 30 of the current Law*)

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

## Chapter 4. High Specialized Courts

### Article 32. Types and Composition of High Courts *(Art. 31 of the current Law)*

1. In the system of courts of general jurisdiction, there shall be high specialized courts operating as courts of cassation instance for **administrative, civil and commercial, criminal cases.**
2. The high specialized courts shall include the **High Administrative Court of Ukraine, Civil and Commercial Court of Ukraine, High Criminal Court of Ukraine.**
3. A high specialized court shall be composed of judges **compliant to the requirements of part 3 of Art. 62 of this Law**, from among them chief judge, his/her deputies shall be appointed.
4. In a high specialized court, Plenary Sessions of the high specialized court shall be held to address issues listed by this law. The composition and procedure for the plenary session of the high specialized court shall be defined pursuant to this law.
5. Under a high specialized court, there shall be Scientific Consultative Council, the status of which is prescribed by this Law.
6. High specialized court shall have its official publication and can act as a co-founder of other publications.

### Article 33. Powers of a High Specialized Court *(Art. 32 of the current Law)*

1. A high specialized courts shall according to its jurisdiction:
  - 1) **hear cases under cassation proceedings according to procedural law;**
  - 2) **in the events prescribed by the procedural law hear cases as a court of first or appellate instance;**
  - 3) **resolve the question of whether the case duly falls within certain court's terms of reference in the events stipulated by the procedural law;**
  - 4) **analyze court statistics, study and generalize case law;**
  - 5) **generalize case law in order to ensure uniform application of the law principles and norms while adjudicating cases of the respective jurisdiction;**
  - 6) **exercise other powers prescribed by the law.**

### Article 34. Judge of a High Specialized Court *(Art. 33 of the current Law)*

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

### Article 35. Chief Judge of a High Specialized Court *(Art. 34 of the current Law)*

1. The chief judge of a high specialized court shall:
  - 1) represent the court as a body of state power in relations with other bodies of state power, local self-government bodies, individuals and legal entities, as well as with judicial bodies of other states and international organizations;
  - 2) define the administrative responsibilities of the deputy chief judges of the court;
  - 3) supervise the efficiency of the operation of the court staff;
  - 4) **appoint chief of staff, deputy chief of staff and remove them upon consent of the meeting of judges of the court, as well as apply to the chief of staff or deputy chief of staff incentives and disciplinary sanctions according to the law;**
  - 5) notify the **Qualifications Commission of Judges** about the available vacant judicial positions in the court **within ten days from their opening;**
  - 6) submit, pursuant to this Law, proposals on creating relevant local and appellate courts, on altering the territorial jurisdiction thereof and the number of judges therein;

- 7) convene the **meeting** of the Plenary Session of the high specialized court, present a submission regarding the appointment of Plenary Session secretary to be considered by the Plenary Session; **create agenda** to be considered by the Plenary Session, and preside at its meetings;
  - 8) inform the Plenary Session of the Supreme Court of Ukraine about the state of justice within the respective court jurisdiction and the practice of resolving particular categories of cases;
  - 9) provide for the enforcement of decisions of the meetings of judges of the high specialized court;
  - 10) organize the study and generalization of judicial practice (case law);
  - 11) ensure compliance with the requirements regarding on-going training of the judges of the high specialized court;
  - 12) **issue an order on sending the court's judges to the National School of Judges of Ukraine for taking on-going training according to the schedule approved by the meeting of judges;**
  - 13) exercise other powers specified by the law.
2. The chief judge of a high specialized court shall **issue orders** regarding matters within his/her administrative authority.
3. In the absence of the chief judge of a high specialized court, his/her administrative duties and powers shall be performed by a deputy chief judge; in the absence of the deputy chief judge the administrative powers shall be exercised by the judge of that court who has **longer** years of service as a judge.

**Article 36. Deputy Chief Judges of a High Specialized Court** *(Art. 35 of the current Law)*

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

**Article 37. Plenary Session of a High Specialized Court** *(Art. 36 of the current Law)*

1. The Plenary Session of a high specialized court shall address issues related to ensuring uniform court practice in dealing with cases within the respective specialized jurisdiction and other matters referred to its authority by this Law. **The Plenary Session is comprised of all the judges of a high specialized court.**
2. The Plenary Session of a high specialized court shall:
  - 1) **appoint from among judges of high specialized court upon suggestion from chief judge of the high court and terminate the secretary of high specialized court Plenary Session;**
  - 2) **generalize/summarize the practice (case law) of applying substantive and procedural law to ensure uniform application of legal norms to cases within the respective court jurisdiction, apply to legislative initiative subjects with the suggestions on making amendments to the current legislation;**
  - 3) **decide on applying to the Supreme Court of Ukraine regarding submission of a constitutional petition requesting assessment of compliance of laws and other regulations of the Verkhovna Rada of Ukraine, acts/regulations issued by the President of Ukraine, regulations of the Cabinet of Ministers of Ukraine, legal acts of the Vekhovna Rada of the Autonomous Republic of Crimea, with the Constitution, requesting for the official interpretation of the Constitution and laws of Ukraine;**
  - 4) **approve the Standing Rules of the Plenary Session of a high specialized court;**
  - 5) **approves provisions on Science and Advisory council of a high specialized court, and decide on its membership;**
  - 6) **decide on the membership of an editing panel for a high specialized court's publication;**
  - 7) **consider and resolve other matters referred to its authority by the law.**
3. **The Plenary Session** of a high specialized court shall be convened by the chief judge of the high specialized court or when requested by at least one fifth of all the judges of the high

specialized court. **The Plenary Session of a high specialized court shall be convened not less than twice a year.**

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

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

**6. The participants must be notified on the date and time of the Plenary Session not later than ten days in advance. They shall receive the materials on the Plenary Session agenda issues within the same timeframe.**

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

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

#### **Article 38. Scientific-Consultative Council and Official Periodical of a High Specialized Court** *(Art. 37 of the current Law)*

**1. Under a specialized court, there shall be created a scientific-consultative council entrusted with the scientific support of case law generalization, preparation of the proposals regarding amendments to the current legislation and consideration of other matters requiring scientific review.**

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

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

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

#### **Article 39. The Supreme Court of Ukraine, the Highest Judicial Body in the General Jurisdiction Courts System** *(Art. 38 of the current Law)*

**1. The Supreme Court of Ukraine shall:**

**1) review cases regarding unequal application by courts (court) of the same rule of substantive or procedural law in similar legal relations regarding the decisions that have entered into force when any other means for appeal were exhausted;**

**2) review cases on application by court of the law or separate provisions thereof contrary to the Constitution of Ukraine and rule of law requirements regarding the decisions that have entered into force when any other means for appeal were exhausted;**

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

**4) resolve the issue of due jurisdiction for consideration of a case in the events determined by the procedural law;**

**5) consider cases acting as a court of appeals in the events determined by the procedural law;**

**6) provide opinion on whether or not the actions of which the President of Ukraine is accused contain elements of state treason or other crime;**

- 7) submit, upon request of the Verkhovna Rada of Ukraine, a written motion stating that the President of Ukraine is incapable of exercising his/her powers for health reasons;
  - 8) apply to the Constitutional Court of Ukraine for constitutionality of laws or other legal acts as well as for the official interpretation of the Constitution and laws of Ukraine.
  - 9) analyze court statistics;
  - 10) generalize case law in order to ensure equal application of the law norms and principles while deciding on court cases;
  - 11) within its powers of reference resolve the matters arising from international treaties to which Ukraine is a party;
  - 12) exercise other powers as determined by law.
2. The Supreme Court of Ukraine based on the interested party application shall on its own decide on admission for consideration of the cases determined by paragraphs 1-3 of pt. 1 of this Article and resolve them on the merits.
  3. The Supreme Court of Ukraine shall be located in the city of Kyiv.

**Article 40. Composition of the Supreme Court of Ukraine** (*Art. 39 of the current Law*)

1. The Supreme Court of Ukraine shall be composed of forty justices: ten judges representing each specialized jurisdiction (administrative, civil, commercial, criminal) meeting the requirements of pt. 4 of Art. 62 hereof, from among whom the Chief Justice of the Supreme Court of Ukraine and his/her deputy are elected.
2. Plenary Sessions of the Supreme Court shall be held to address issues specified by the Constitution of Ukraine and by this Law.
3. To resolve the issues on the cases admission for consideration of cases determined by paragraphs 1-3 of pt. 1 of Art. 39 hereof, as well as the matters envisaged by pt. 5 and 6 of Art. 48 hereof within the Supreme Court of Ukraine the panels of judges of respective jurisdictions shall operate.
4. A scientific-consultative council shall be created under the Supreme Court of Ukraine.
5. The Supreme Court of Ukraine shall publish an official periodical.

**Article 41. Justice of the Supreme Court of Ukraine** (*Art. 40 of the current Law*)

1. A justice of the Supreme Court of Ukraine shall:
  - 1) take part in case consideration in the manner prescribed by the procedural law;
  - 2) **take part in consideration of the issues on case admission to consideration according to the procedure defined by the procedural law;**
  - 3) take part in consideration of matters put on the agenda of meetings of the Plenary Session of the Supreme Court of Ukraine;
  - 4) analyze court practice; submit, according to the established procedure, proposals on ways to improve legislation and its application;
  - 5) exercise other powers specified by the law.

**Article 42. Chief Justice of the Supreme Court of Ukraine** (*Art. 41 of the current Law*)

1. The Chief Justice of the Supreme Court of Ukraine shall:
  - 1) represent the **Supreme Court of Ukraine** as a body of state power in relations with other bodies of state power, local self-government bodies, physical persons and legal entities, as well as with judicial bodies of other states and international organizations;
  - 2) define the administrative responsibilities of the **Deputy** Chief Justice of the Supreme Court of Ukraine;
  - 3) convene the **meeting of the Plenary Session** of the Supreme Court of Ukraine; submit for consideration of the Plenary Session submission/suggestion regarding the appointment

of Plenary Session secretary; **create agenda** to be considered by Plenary Session, and preside at its meetings;

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

5) supervise the activities of the staff of the Supreme Court of Ukraine;

6) **appoint the chief of staff, deputy chief of staff and remove them upon consent of meeting of judges of the Supreme Court of Ukraine, apply reward/disciplinary sanction to the chief of staff and his/her deputy according to the current legislation**;

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

8) exercise other powers specified by the law.

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

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

#### **Article 43. Procedure for Electing the Chief Justice of the Supreme Court of Ukraine** (Art. 42 of the current Law)

1. The Chief Justice of the Supreme Court of Ukraine shall be elected for and removed from office by the Plenary Session of the Supreme Court of Ukraine by majority vote of the total number of the Plenary Session members **through a secret ballot. The Chief Justice is elected for five-year term.**

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

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

#### **Article 44. Deputy Chief Justice of the Supreme Court of Ukraine**

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

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

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

#### **Article 45. Plenary Session of the Supreme Court of Ukraine**

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

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

- 1) elect and remove from office the Chief Justice of the Supreme Court of Ukraine and upon his/her motion - his/her Deputy and the Secretary of the Plenary Session of the Supreme Court of Ukraine;
- 2) hear information provided by the Chief Justice of the Supreme Court of Ukraine and the Deputy Chief Justice of the Supreme Court of Ukraine;
- 3) generalize case law in order to ensure equal application of law principles and norms while resolving cases, applies to legislative initiative subjects with proposals regarding amendments to the current legislation;
- 4) decide on petitioning the Constitutional Court of Ukraine regarding issues of constitutionality of laws and other legal acts by the Verkhovna Rada of Ukraine, decrees of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, legal acts of the Cabinet of Ministers of the Autonomous Republic of Crimea as well as requesting official interpretation of the Constitution and laws of Ukraine;
- 5) submit to the Verkhovna Rada of Ukraine the motion and provide opinion in the events as stipulated by Art. 110 and pt. 6 or Art. 111 of the Constitution of Ukraine;
3. A meeting of the Plenary Session of the Supreme Court of Ukraine shall be competent if attended by at least two-thirds of its members.
4. Invitations to a meeting of the Plenary Session may be extended to representatives of bodies of state power, scientific institutions, non government organizations, mass media, etc.
5. The Plenary Session of the Supreme Court of Ukraine shall be convened as needed, but not less than once a quarter. Chief Justice of the Supreme Court of Ukraine shall convene the meeting and present the respective matters for consideration, and preside over the session. In the absence of the Chief Justice of the Supreme Court of Ukraine the Plenary Session shall be convened by Deputy Chief Justice of the Supreme Court of Ukraine, and in the absence of the Deputy Chief Justice – the judge of this court who has longer term of service. The Plenary session may be also convened if requested by one third of the total number of the Supreme Court Judges by their signatures.
6. The operational procedure of the Plenary Session of the Supreme Court of Ukraine shall be established by this Law and by the Plenary Session Procedural Rules of the Supreme Court of Ukraine adopted pursuant to this Law and approved by the Plenary Session.
7. The Plenary Session of the Supreme Court of Ukraine shall pass resolutions on the issues it has considered. Resolutions of the Plenary Session of the Supreme Court of Ukraine shall be signed by the chair of the meeting of the Plenary Session and by the secretary of the Plenary Session. The resolutions shall be officially disclosed by publishing in the official periodical of the Supreme Court of Ukraine and placing on its website.

#### **Article 46. Scientific-Consultative Council and Official Periodical of the Supreme Court of Ukraine**

1. Under the Supreme Court of Ukraine, there shall be created a scientific-consultative council which will be entrusted with the scientific support of case law generalization, preparing proposals on amendments to the applicable laws and consideration of other matters requiring scientific review.
2. The organizational structure and operating procedures of the scientific-consultative council shall be established by the regulations to be adopted by the Plenary Session of the Supreme Court of Ukraine.
3. The Supreme Court of Ukraine shall publish an official periodical presenting case law of the Supreme Court of Ukraine and other courts of general jurisdiction, materials on organization of operation of courts of general jurisdiction and other materials.

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

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

#### Article 47. Judicial Independence

1. In their professional activities, judges shall be independent of any undue influence, pressure or interference.
2. A judge shall administer justice on the basis of the Constitution of Ukraine and laws of Ukraine and in doing so shall be guided by the rule of law principle.
3. While applying norms and principles of law the judge shall take into account the decisions of the European Court of Human Rights, Constitutional Court of Ukraine, Supreme Court of Ukraine.
4. Interfering with a judge's administering justice shall be prohibited and punishable in accordance with the law.
5. A judge shall not be obliged to provide any explanations regarding the merits of cases under his/her consideration.
6. A judge shall be entitled to report the existence of a threat to his/her independence to the Council of Judges of Ukraine, which shall be obliged to urgently verify and examine such a report and take necessary actions to eliminate the threat.
7. Independence of a judge shall be ensured by:
  - 1) special procedures for his/her appointment, election, disciplining, and removal;
  - 2) judicial immunity;
  - 3) irremovability of a judge;
  - 4) court proceedings prescribed by the procedural law, confidentiality of judicial decision-making;
  - 5) prohibition of interference with the administration of justice;
  - 6) liability under the law for contempt of court or of a judge;
  - 7) special procedure under the law for funding and providing organizational support for the operation of courts;
  - 8) adequate material and social support for judges;
  - 9) functioning of bodies of judicial self-government;
  - 10) means available under the law for ensuring personal safety of a judge and members of his/her family and preservation of their properties, as well as other means of legal protection;
  - 11) the right of a judge to retire and to lifetime allowance.
7. Bodies of state power, bodies of local self-government, their officials and employees, as well as natural persons and legal entities and associations thereof shall be obliged to respect judicial independence and not to infringe upon it.
8. When adopting new laws or amendments to current laws, the meaning and scope of guarantees of judicial independence already established by the Constitution of Ukraine may not be narrowed.

#### Article 48. Judicial Immunity

1. Judges shall be immune. Without the consent of the Verkhovna Rada of Ukraine, no judge may be detained or arrested prior to guilty verdict by court.
2. A judge detained on suspicion of committing an offense entailing criminal or administrative liability must be released immediately after establishing his/her identity. No judge may be forcefully taken to police or any institution or body except for to court.
3. Criminal case of a judge may be opened only by the Prosecutor General of Ukraine or his/her deputy.
4. A judge held criminally liable shall be removed from office by **Disciplinary** Commission of Judges based on reasoned Resolution of the General Prosecutor of Ukraine.
5. Intrusion into the home or other estate or office of a judge, into his/her personal or official vehicle, conduct of examination, search, or seizure therein, interception of his/her telephone



conversations, personal search of a judge, as well as search and seizure of his/her correspondence, belongings, or documents shall only take place on the basis of the **respective ruling of a high criminal court, and with regard to the judges of the Supreme Court of Ukraine and high specialized courts – the ruling of a panel of judges of the criminal jurisdiction of the Supreme Court of Ukraine.**

6. The territorial jurisdiction of a case in which a judge is accused of committing a crime shall be determined by **respective ruling of a high criminal court, and with regard to the judges of the Supreme Court of Ukraine and high specialized courts – the ruling of a panel of judges of the criminal jurisdiction of the Supreme Court of Ukraine.** The case may not be heard **in the first and appellate instance** by the court in which the accused holds or held a judicial position.

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

#### **Article 49. Liability for Contempt of a Judge or of Court**

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

#### **Article 50. Certificate/Identification Card of a Judge**

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

**2. Certificate of a retired judge shall be signed by the head of the Qualifications Commission of Judges.**

**2. Certificate of judge, chief judge, deputy chief judge shall be signed by the Head of the Council of Judges of Ukraine.** Certificate of the Chief Justice of the Supreme Court, his Deputy shall be signed by Secretary of the Plenary Session of the Supreme Court of Ukraine.

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

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

### **Chapter 2. The Judge**

#### **Article 51. Status of a Judge**

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

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

#### **Article 52. Judicial Irremovability**

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

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

### Article 53. Incompatibility Requirements

1. Holding a judicial position shall be incompatible with holding a position in any other body of state power, body of local self-government or with a representative mandate.
2. No judge shall have the right to engage, in parallel with his/her work, in entrepreneurship or practice of law, or do any other paid work (except for teaching, scholarly, or creative activities during off-court hours), **or be a member of a governing, executive or control body or supervisory board of a for-profit enterprise or organization.**
3. **If a judge owns a property share in a commercial company he/she shall manage this share through an authorized representative.**
4. No judge may be a member of a political party or trade union, openly sympathize with them, or take part in political actions, rallies, or strikes.
5. **While holding the office a judge shall not run for elective positions in state authorities (except for the judicial ones) and local self-government bodies or participate in the election campaign.**
6. Pursuant to a judge's application, he/she may be seconded to serve, retaining his/her primary employment salary, on the High Council of Justice, **Qualifications Commission of Judges, Disciplinary Commission of Judges, National School of Judges of Ukraine.**

### Article 54. Rights and Responsibilities of a Judge

1. A judge's rights related to administration of justice shall be determined by the Constitution of Ukraine, procedural and other laws of Ukraine.
2. A judge shall have the right to take part in judicial self-government to address matters of internal operation of courts in the manner pursuant to the law. Judges may form **public organizations** and participate therein so as to protect their rights and interests and to improve their professional skills.
3. A judge shall have the right to improve his/her professional skills and, for that purpose, take appropriate training.
4. **A judge shall strictly observe the judicial oath of office.**
5. **A judge shall be obliged to:**
  - 1) **hear and adjudicate cases in a timely, fair, and impartial manner;**
  - 2) **comply with the rules of judicial ethics;**
  - 3) **show respect for participants in the legal proceedings;**
  - 4) **abstain from disclosing information which constitutes a law-protected secret, in particular secrecy of judges' deliberations or in-camera sessions;**
  - 5) **comply with the incompatibility requirements;**
  - 6) **submit annually to the State Judicial Administration of Ukraine, not later than May 1, a property status, income, expenses and financial liabilities declaration to be made public by posting on the official web portal of the judiciary.**
6. **The property status, income, expenses and financial liabilities declaration shall be filled in and submitted by the judge according to the procedure stipulated by the Law of Ukraine "On Principles of Preventing and Combating Corruption in Ukraine". The declaration must contain information on the income, securities, immovable and valuable movable property, bank deposits, financial obligations of the judge and members of his/her in the event of one-time expenses exceeding the amount of three monthly salaries of the judge.**
7. **A judge first appointed to a judicial position shall be required to take training in the National School of Judges. A judge holding a lifetime judicial position shall be required to take training not less than once every three years.**
8. **A judge appointed to an administrative position in the court shall take the respective training in the National School of Judges of Ukraine.**
9. **Until his/her retirement a judge may be rewarded with state awards as well as other awards, decorations and letters of commendation. A judge may be rewarded only with**

state awards for personal courage and heroism shown in the circumstances connected with a threat to person's life.

#### **Article 55. Judicial Oath of Office**

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

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

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

#### **Article 56. Judicial Ethics**

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

### **Chapter 3. People's Assessors and Jurors**

#### **Article 57. Status of a People's Assessor and Juror**

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

When hearing and adjudicating cases, people's assessors shall exercise powers of a judge.

2. A juror is the citizen of Ukraine who in the events determined by the procedural law is involved in the administration of justice providing direct participation of the people in the administration of justice as required by the Constitution of Ukraine.

3. A citizen of Ukraine who reached the age of thirty or more and resides on the territory under the jurisdiction of the respective court may be an assessor or juror.

4. People's assessors or jurors shall perform the duties determined by paragraphs 1-4 of pt. 4 Art. 54 of this Law.

#### **Article 58. List of People's Assessors and Jurors**

1. The list of people's assessors and jurors upon the submission of the chief judge of the respective local court shall be formed by the commission whose composition is approved by the respective local council. The commission shall include authorized representatives of the court, respective territorial department of the State Judicial Administration of Ukraine, rights protection organizations and the respective council. The list of people's assessors and jurors shall be approved by the respective local council for the term of 4 years and revised as necessary, but not less than once in two years.

2. The list of people's assessors shall include citizens (the number of them to be specified by the chief judge) who permanently reside in the territory covered by the jurisdiction of the respective court, meet the requirements specified in Article 57 of this Law, and have given consent to be people's assessors.

3. The list of jurors shall include the citizens who permanently reside in the territory covered by the jurisdiction of the respective court and meet the requirements specified in Article 57 of this Law. The list of jurors is based on the electoral list.

4. The lists of people's assessors and jurors may not include the citizens who:

1) were found by court to have limited legal capacity or legal incapacity;

2) are suffering from chronic mental or other diseases which prevent them from performing the duties of a people's assessor;

3) have an outstanding or unquashed conviction;

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

5) have reached the age of 65;

6) have no command of the state language.

A person included in the list of people's assessors may not be included in the list of jurors.

5. After the approval the list of people's assessors and the list of jurors shall be transferred to the respective court. The information contained in the said lists may not be used for purposes not connected with the selection of people's assessors or jurors.

**Article 59. Engagement of People's Assessors in the Discharge of Duties in a Court**  
*(Art. 61 of the current Law)*

1. A court shall engage people's assessors and jurors in the administration of justice in a particular case not more than once a year, except that this deadline must be extended to complete the hearing of a case which started with their participation.

2. A court shall send a written invitation to take part in the administration of justice to a people's assessor or juror not later than seven days before the start of the trial. The invitation shall indicate the rights and responsibilities of a people's assessor or juror and include a list of requirements for them as well as the grounds for relieving them of their duties. Along with the invitation, a written notification shall be sent to inform the employer that the person in question has been engaged as a people's assessor or juror.

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

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

5. The procedure for the selection of jurors, their taking the oath and its contents are determined by the procedural law.

**Article 60. Grounds and Procedure for Relieving of the Duty to Act as a People's Assessor**

1. Shall there occur circumstances as specified in pt. 4 of Art. 58 hereof the court shall relieve a person was included in the list of people's assessors or jurors from fulfilling the obligations of a people's assessor or juror.

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

- 1) persons who are on a pregnancy and maternity or child-care leave, or have children of pre-school or junior school age, or provide care to disabled children, other sick persons or elderly family members;
  - 2) heads and deputy heads of bodies of local self-government;
  - 3) persons refusing to administer justice on grounds of religious convictions;
  - 4) other persons, provided that the chief judge finds their reasons justifiable/valid.
3. Persons mentioned in part two of this Article shall be relieved of the duty to act as a people's assessor or juror upon their application, to be submitted before they begin to discharge that duty.
4. A people's assessor shall be relieved of the duty to act as a people's assessor or juror as a result of recusal (self-recusal) for a specific case in the manner prescribed by the procedural law.

#### **Article 62. Guarantees of the Rights of People's Assessors (*Art. 61 of the current Law*)**

1. People's assessors and jurors shall be paid compensation for the period of their service in the court in the amount of their average monthly salary or pension, but not below the subsistence minimum for an able-bodied person.  
People's assessors and jurors shall get compensation for travel expenses and apartment rental as well as to per diem expenses. The said payments shall be made by the territorial offices of the State Judicial Administration at the expense of the State Budget of Ukraine.
2. People's assessors and jurors, while serving in court, shall retain all the guaranties and benefits with the place of their main employment as envisaged by law. Term of people's assessor or juror service in court shall be accounted for all the types of employee tenure. While performing duties in court, a people's assessor may not be dismissed from his/her regular position or transferred to a different position without his/her consent.
3. Guaranties of judicial independence and immunity established by the law shall apply to people's assessors for as long as they perform duties related to administration of justice. Based on a justified request from a people's assessor or juror, measures providing for his/her security may continue when the performance of those duties is already over.

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

#### **Chapter 1. General Provisions**

#### **Article 62. Requirements for Judicial Candidates (*Art. 64 of the current Law*)**

1. To be eligible for recommendation for a judicial position, the candidate must be a citizen of Ukraine at least twenty five years of age who has higher legal education and a record of at least three years of service in the legal profession, has resided in Ukraine for at least ten years, and has command of the state language.
2. A judge of a court of appeals may be a citizen of Ukraine having a record of at least five years of service as a judge in the local court and a respective qualification;
3. A judge of a high specialized court may be the citizen of Ukraine who has a record of at least five years of service as a judge of a court of appeals and the respective qualification.
4. A judge of the Supreme Court may be the citizen of Ukraine having a record of at least five years of work as a judge of a high specialized court and the respective qualification.
5. Citizens shall not be eligible for recommendation for a position of a professional judge if they:

- 1) were found by court to have limited legal capacity or legal incapacity;
  - 2) are suffering from chronic mental or other diseases which prevent them from performing judicial duties;
  - 3) have an outstanding or unquashed conviction.
6. Additional requirements for candidates for a judicial position in a higher-level court shall be specified by this Law.
7. For the purpose of this Article, it shall be deemed as follows:
- 1) higher legal education shall be taken to mean higher legal education of Specialist or Master degree received in Ukraine, as well as higher legal education of relevant educational and qualification level received in foreign countries and recognized in Ukraine as prescribed by the legislation;
  - 2) [length of] record of service in the legal profession shall be taken to mean a person's overall record of service in the legal profession – after receiving complete higher legal education – in positions requiring higher legal education of at least **bachelor** level.

#### **Article 65. Selection of Judicial Candidates** *(Art. 64 of the current Law)*

1. Selection of candidates for a judicial position shall be made from among persons meeting the requirements set forth by the Constitution of Ukraine and Article **62** of this Law. **The selection of candidates for a judicial position shall be** based on selection results, upon special training and qualification exam as required by this Law.
2. During the process of selection of candidates, they shall be equal in rights without distinction of race, color, political, religious or other convictions, sex, ethnic or social origin, property status, domicile or other characteristics.
3. Anyone who meets the **requirements** established for a judicial candidate shall have the right to apply to the **Qualifications Commission of Judges** for participation in the selection to position of a judge.

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

#### **Article 66. Procedure for Appointing to a Judicial Position** *(Art. 64 of the current Law)*

1. **First appointment to a judicial position shall take place exclusively following the procedure defined by this Law and include the following stages:**
  - 1) **the Qualifications Commission of Judges shall post on its web portal an announcement about competition of candidates for judicial positions and publish an announcement in the newspapers Holos Ukrainy or Uriadovyi Kurier taking into account the estimated number of open judicial vacancies. The announcement shall state the requirements for candidates for a judicial position, list and deadline for submission of documents to the Qualifications Commission of Judges;**
  - 2) **persons wishing to become a judge shall submit to the Qualifications Commission of Judges a respective application and documents specified by this Law;**
  - 3) **on the basis of submitted documents the Qualifications Commission of Judges shall review the eligibility of the person whether he/she meets the requirements for a candidate for a judicial position;**
  - 4) **persons who meet the requirements established for a judicial candidate shall take a selection examination with the Qualifications Commission of Judges;**
  - 5) **The list of candidates who have successfully passed the selection examination shall be publicized on the official website of the Qualifications Commission of Judges;**
  - 6) **review of the information on the candidate's integrity received from the public;**
  - 7) **the Qualifications Commission of Judges organizes special integrity check for candidates who have successfully passed the selection examination and passes the decision on the admission to the special training with the National School of Judges of Ukraine;**

- 8) candidates who have successfully passed the selection examination and with respect to whom the background check was completed and decision on the admission to the special training was passed, shall take special training with the National School of Judges of Ukraine;
- 9) candidates who successfully passed the special training with the National School of Judges of Ukraine shall be admitted to take a qualification examination by the Qualifications Commission of Judges;
- 10) taking into account the results of qualification examination the Qualifications Commission of Judges shall rate candidates and put them on reserve list to fill vacancies;
- 11) in the event if the vacancies to be filled are available, the Qualifications Commission of Judges shall announce the competition among candidates from reserve list;
- 12) taking into account the place of candidate in the rating list the Qualifications Commission of Judges shall hold the competition for vacant judicial positions;
- 13) the Qualifications Commission of Judges shall forward to the High Council of Justice recommendation to appoint the candidate to the judicial position;
- 14) the High Council of Justice at its meeting shall consider the issue of compliance with the procedure determined by paragraphs 1-13, pt. 1 of this Art. and submitting a motion to the President of Ukraine for appointment of the candidate to a judicial position;
- 15) appointment of the candidate to a judicial position and determining the court where the candidate will hold the office.

**Article 65. Submission of Documents to the Qualifications Commission of Judges by the Applicant** (*art. 67 of the current Law*)

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

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

The form and contents of the application for the participation in the judicial selection shall be approved by the Qualifications Commission of Judges and placed on its web portal.

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

2. Acceptance of documents shall be terminated **on the day stated in the announcement as the deadline for documents submission.**

3. Admitted to the selection shall be persons who provided all the necessary documents **and comply with the requirements for a candidate for the judicial position.** Refusal to admit an applicant shall be given in a well-grounded decision taken by the Qualifications Commission of Judges.

**Article 66. Procedure of Selection Examination for a Judicial Position** (*pt. 1 of art. 68 of the current Law*)

1. Selection examination shall be aimed at finding the candidate's level of general theoretical knowledge in the field of law, state language and analytical skills and consist of anonymous testing and written task.
2. Qualifications Commission of Judges notifies candidates for judicial positions admitted to take a selection exam on the date, time and place of holding thereof, not later than a week prior to the indicated date.
3. Upon completion of the selection exam the Qualifications Commission of Judges provides checking of examination papers and determines passing score that must not be less than 80 per cent of maximum possible score taking into account the prognosed number of judicial vacancies.
4. Selection examination results shall be publicized on the official web portal of the Qualifications Commission of Judges within three days after holding the examination.
5. based on the results of the selection examination the Qualifications Commission of Judges shall decide on the admission of the persons who have successfully passed the qualification exam to the next selection stage and publicize this decision on its web portal.

**Article 67. Candidate's integrity check.** *(pt. 2-3 of Art. 68 of the current Law)*

1. Qualifications Commission of Judges shall organize special integrity check for the candidates who have passed the selection examination. This check shall be made by the respective state bodies within their terms of reference.
2. For the purposes of special inspection (background check), the Qualifications Commission of Judges shall have the right to collect information about the candidate, make inquiries to enterprises, institutions and organizations of all form of ownership in order to receive the information about candidate. Upon the result of consideration of such inquiries the information shall be provided **by the enterprises, institutions and organizations to the Qualifications Commission of Judges within 10 days**. Not providing or providing such information with violation of defined terms leads to amenability **established** by the Law.
3. Civil society organizations and citizens may provide information about the candidate's integrity to the Qualifications Commission of Judges within one month from the date when the list of candidates who have successfully passed the selection exam was officially published.
4. In the event of receiving information which may be an evidence of the candidate's lack of integrity the Qualifications Commission of Judges shall consider such information on its meeting where the candidate is invited. The candidate for a judicial position shall be entitled to study such information, provide respective explanations, contest or deny it. Based on the consideration results the Qualifications Commission of Judges may decide on denying the candidate in admission to the special training.
5. Background check of candidates for a judicial position shall be completed not later than two months after the official publication of the list of candidates who have successfully completed the selection examination. If the circumstances evidencing the candidate's lack of integrity are missing or ungrounded the Qualifications Commission of Judges shall pass the decision on the admission of candidates for a judicial position for taking special training.

**Article 68. Special Training of Candidates for a Judicial Position** *(Art. 69 of the current Law)*

1. Special training of candidates for a judicial position shall consist of **theoretical and practical training delivered by the National School of Judges of Ukraine**.
2. The program, curriculum and procedure of special training of candidates for a judicial position shall be approved by the Qualifications Commission of Judges upon agreement with the National School of Judges of Ukraine.



**3. Special training shall be conducted by the National School of Judges of Ukraine during one year.** For the period of training the candidate for a judicial position shall retain his/her principal position and receive grant of at least two thirds of official salary of a judge of a local court of general jurisdiction. **The term of special training with the National School of Judges of Ukraine shall be included in the candidate's service record in the field of law.**

4. Based on the results of the special training the candidates shall get the appropriate document of the established form. **The National School of Judges** shall send materials on candidates who passed special training successfully shall be sent to the Qualifications Commission of Judges in order for **such candidates** to take qualification examination.

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

**6. If the candidate for a judicial position within three years after being included in the judicial reserve list had not submitted an application to participate in the competition for a vacant judicial position he/she shall be obliged to reimburse the expenses spent on his/her training.**

#### **Article 69. Qualification Examination** (*Art. 70 of the current Law*)

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

**2. The qualification examination shall involve evaluation of the appropriate level of professional training of the judicial candidate obtained in the course of special training, technical skills, candidate's personal and moral qualities and his/her readiness to administer justice.**

**3. The qualification examination shall include taking by the candidate a written anonymous test, case study to be resolved by the candidate and qualifications interview.**

4. Written anonymous testing shall be conducted by the **Qualifications Commission of Judges** in a special room intended for this purpose.

**5. The process of the qualification examination shall be recorded with means of audio and video record.**

**6. The regulations on the procedure for taking the qualification examination and evaluation methodology shall be approved by the Qualifications Commission of Judges.**

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

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

9. Based on the score of the candidate as a result of the qualification examination the Qualifications Commission of Judges **shall determine rating of the candidates** and enter them into a reserve list of candidates for a judicial position.

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

#### **Article 70. Holding of Competition for a Judicial Position** (*Art. 71 of the current Law*)

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

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

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

**4. The Qualifications Commission of Judges shall conduct a competition and select candidates for a judicial position taking into account their rating. If candidates have identical rating the advantage shall have the candidate who has a longer record of service in the field of law.**

5. Based on the results of the competition the Qualifications Commission of Judges shall send to the High Council of Justice recommendations for appointment to judicial positions according to the number of open vacancies.

6. According to the recommendation submitted by the Qualifications Commission of Judges the High Council of Justice **based on the verification of the procedure determined by par. 1-13 of pt. 1 of Art. 64 hereof shall** submit a motion to the President of Ukraine for appointment of the candidate to a judicial position.

**Article 71. First Appointment to a Judicial Position and Determination of the Court where a Judge Will Be Appointed to a Full-Time Position** (*Art. 72 of the current Law*)

1. **The President of Ukraine shall appoint** a judge to a position on the basis of a motion by the High Council of Justice of Ukraine within 30 days from the day the motion was received.

**2. The court where the judge will be appointed to a full-time position will be determined by the Qualifications Commission of Judges within a month from the day of appointment according to the application submitted by the candidate for competition.**

**Article 72. Transfer of a Judge to Another Court within the Five-year Term of Appointment** (*Art. 73 of the current Law*)

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

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

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

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

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

6. Transfer of a judge within the five-year term of appointment shall be made by the **Qualifications Commission of Judges.**

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

**Article 73. Procedure for Lifetime Election to a Judicial Position.** (*Art. 74 of the current Law*)

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

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

position by the Verkhovna Rada of Ukraine provided there are no circumstances preventing this.

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

- 1) the candidate shall apply in writing to the Qualifications Commission of Judges for a recommendation to be elected to a lifetime judicial position;
- 2) the Qualifications Commission of Judges shall verify the information about candidate, taking into account case consideration rates of the candidate, **facts of the candidate's being held disciplinarily or otherwise legally liable**;
- 3) the Qualifications Commission of Judges shall decide to recommend or to refuse to recommend the judicial candidate to be elected to a lifetime judicial position and shall **forward** the respective motion to the Verkhovna Rada of Ukraine;
- 4) the Verkhovna Rada of Ukraine according to the motion by the Qualifications Commission of Judges shall take a decision to elect the candidate in the manner prescribed by the Law.

**Article 74. Application of the Candidate to the Qualifications Commission of Judges to be Elected for Lifetime** (*Art. 74 of the current Law*)

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

**2. The following persons may also apply to the Qualifications Commission of Judges for a recommendation to be elected to a judicial position for a lifetime:**

**1) A candidate, who was removed from the office due to the expiration of his/her her tenure of judicial office and who didn't apply to the Qualifications Commission of Judges for a recommendation to be elected to a lifetime judicial position before.**

**2) A candidate who previously had been elected for a lifetime judicial position but was removed from the office upon his/her own application.**

**3. If a candidate applies to the Qualifications Commission of Judges for the recommendation to be elected to a lifetime judicial position after three years from his/her removal from the judicial position, he/she may be recommended by the Qualifications Commission of Judges for a lifetime election to a judicial position after passing qualification examination according to requirements of this Law.**

**4. In order to be elected to lifetime judicial position the candidate shall submit:**

1) a written application about recommendation of the candidate to be selected to the judicial office for life;

2) a copy of his/her passport of a citizen of Ukraine;

3) the candidate's personal data sheet and curriculum vitae;

**4) copy** of his/her labor book;

**5) certificate of the applicant's health, issued by a medical institution (medical institutions authorized to issue such certificate and its form are defined by the Qualifications Commission of Judges with the concurrence of authorized government body on health care issues);**

**6) copy of property status, income, expenses and financial liabilities (financial disclosure statement);**

7) [the applicant's] written consent to the collection, storage, and use of information about him/her for the purpose of evaluating his/her fitness work as lifetime judge.

**5. The form and content of the application about recommendation of a judicial candidate for a lifetime appointment, a judicial candidate for lifetime appointment personal information form shall be approved by the Qualifications Commission of Judges and published on its official website.**

6. To demand from candidate documents not prescribed by this Article shall be prohibited except cases when clarifications and explanations related to the information on his/her activities as a judge are needed.

**Article 75. Procedure of the Consideration of Application of the Candidate for a Lifetime Judicial Position by the Qualifications Commission of Judges** (*Art. 76 of the current Law*)

1. The Qualifications Commission of Judges shall consider issues related to the election of a candidate for a lifetime judicial position not later than two months before the expiry of his/her tenure of judicial office.
2. The Qualifications Commission of Judges shall verify the compliance of the candidate for a **lifetime judicial position** with requirements of Articles 53-55, 62 of the present Law.
3. Candidate whose application for a recommendation for a lifetime judicial position is considered shall have the right to get acquainted with the information on his performance, inquiries made by the Qualifications Commission of Judges and responses thereto.

**Article 76. Decision on Recommendation or Refusal to Recommend for the Election of a Candidate to a Lifetime Judicial Position** (*Art. 77 of the current Law*)

1. A decision concerning recommendation or refusal to recommend a candidate for the election to a lifetime judicial position shall be made in the presence of the candidate according to the procedure established by the **Standing Rules of the Qualifications Commission** of Judges at the meeting of the Qualifications Commission of Judges and shall be announced immediately after it was taken. **The candidate's failure to comply with Art. 53-55 and 62 hereof shall be the basis to refuse the recommendation of a candidate for the election to a lifetime judicial position.**

**Article 77. Motion for the Election of a Candidate to a Lifetime Judicial Position** (*Art. 78 of the current Law*)

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

**Article 78. Consideration and Decision on Electing a Candidate to a Lifetime Judicial Position by the Verkhovna Rada of Ukraine** (*Art. 79 of the current Law*)

1. **The procedure of considering issue and making a decision on electing a candidate to a lifetime judicial position shall be determined by the Law of Ukraine on Procedural Rules of the Verkhovna Rada of Ukraine.**
  2. The issue concerning the election of a candidate to a lifetime judicial position shall be considered at a plenary meeting of the Verkhovna Rada without conclusions/opinion of committees of the Verkhovna Rada of Ukraine and any verification.
  3. The consideration of the election of a candidate to a lifetime judicial position at a plenary meeting of the Verkhovna Rada of Ukraine shall begin with a report by the Head of the Qualifications Commission of Judges or a member of the Qualifications Commission of Judges who acts upon his/her instruction.
  4. The decision on electing a candidate for a lifetime judicial position shall be taken by a majority of the constitutional composition of the Verkhovna Rada of Ukraine and shall be recorded in the Resolution of Verkhovna Rada of Ukraine.
  5. **A person elected to a lifetime judicial position shall acquire the status of a judge from the moment the correspondent Resolution of the Verkhovna Rada of Ukraine is passed. This person shall continue to work on the full-time judicial position in the same court where he/she worked before having been elected to the lifetime judicial position.**
- If a candidate is elected to a lifetime judicial position after his/her removal from this position, the Qualifications Commission of Judges upon agreement with the judge**

shall determine the court where he/she will work on the position of the same level considering the availability of a judicial vacancy.

**Article 79. Transfer of a Judge Elected for a Lifetime Position to Another Court** (*Art. 80 of the current Law*)

1. The transfer of a judge elected to a lifetime position to another court shall be performed by the Qualifications Commission of Judges on the basis of competition.
2. To hold the competition for filling in a judicial vacancy the Qualifications Commission of Judges shall place the respective information on its official web portal and publish the respective announcement in *Holos Ukrainy* and *Uriadovyi Kurier* newspapers not later than a month prior to holding the competition.
3. The competition announcement shall indicate the names of courts where judicial vacancies are available, the number of such vacancies, competition conditions, documents submission deadline, date, time and place of competition.
4. Judges who intend to participate in the competition for filling in judicial vacancies shall in due time submit written applications to the Qualifications Commission of Judges.
5. If a judge participates in a competition to fill in a judicial vacancy in the court of the same level and jurisdiction the results of his/her previous examination may be taken into account.
6. Qualifications Commission of Judges based on the results of the qualification examination shall rate the candidate and hold the competition for filling in the judicial vacancies. If the candidates have similar rating the candidate with longer judicial service record shall have an advantage.
7. A judge may be transferred to a lower level court upon his/her application without a competition by the Qualifications Commission of Judges.

## **Section V. Guarantee of Proper Qualification Level of a Judge**

### **Chapter 1. The Qualifications Commission of Judges**

**Article 80. Status of the Qualifications Commission of Judges** (*Art. 90 of the current Law*)

1. The Qualifications Commission of Judges shall be a standing body (operating on a permanent basis) in the judiciary system of Ukraine.
2. The Qualifications Commission of Judges shall be the legal entity, have the seal with imprint of the State Emblem of Ukraine and its name on it, an independent balance sheet and accounts in the bodies of State Treasury of Ukraine.
3. The procedure of operation of the Qualifications Commission of Judges shall be established by **this Law and the Regulation of the Qualifications Commission of Judges. The Regulation of the Qualifications Commission of Judges shall be approved by the Commission.**

**Article 81. Powers of the Qualifications Commission of Judges** (*Art. 91 of the current Law*)

1. The Qualifications Commission of Judges shall:
  - 1) maintain data about the number of judicial positions in courts of general jurisdiction, including the vacant ones;
  - 2) conduct a selection of the candidates for first appointment to judicial position, including organization of special background check according to the law and conduction of a qualification examination;

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

4) provide the Verkhovna Rada of Ukraine with recommendation to appoint a candidate to judicial position to a lifetime position or refuse to provide such recommendation;

5) define the court where a judge takes a position;

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

7) develop and approve regulatory acts regarding rules and internal procedures;

8) exercise other powers specified by law.

2. In order to exercise its powers the Qualifications Commission of Judges shall have the right to demand and receive necessary information in liability specified by this Law.

**Article 82. Composition of the Qualifications Commission of Judges** (*Art. 92 of the current Law*)

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

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

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

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

4) one person to be appointed by the **Head of State Judicial Administration**.

2. The term of appointment of a member of a qualifications commission of judges shall be three years from the day of appointment. One and the same person may not serve as a member of a qualifications commission of judges for two terms in a row.

3. The members of the Commission shall, for the term of their appointment, be seconded to the Commission and may not discharge any professional duties associated with their primary employment.

4. The members of the Commission during the term of their appointment shall keep their status and place of work.

5. **The Commission members shall retain the guarantees of salary and social protection determined by the law accordingly for judges, employees of the State Judicial Administration and the Commissioner of Human Rights of Verkhovna Rada of Ukraine. The salary (monetary provision) shall be paid at the expense of the State Budget of Ukraine based on the salaries on the positions held by these persons with the bodies from which they were dispatched. The Commission members appointed by the congress of representatives of the law higher educational establishments and scientific institutions shall be paid a salary equal to the average monthly salary of other Commission members.**

**Article 83. Procedure for the Formation of the Qualifications Commission of Judges** (*Art. 93 of the current Law*)

1. The members of the Qualifications Commission of Judges who are judges shall be appointed in an open or secret ballot by the Congress of Judges of Ukraine. The Congress of Judges of Ukraine may elect more than **seven** judges appointed under the quota of the Congress of Judges of Ukraine and determine their order of priority. These persons **shall be dispatched to the Commission** when one or several members of the Commission appointed under the quota of the Congress of Judges of Ukraine drop out. Persons appointed by the Congress of Judges of Ukraine to be members of the Qualifications Commission of Judges in case one or more members drop out shall continue to perform

their duties as judges until the moment they fill the position of the member of the Commission according to the set order of priority.

2. The members of the Qualifications Commission of Judges shall be appointed by the congress of representatives of higher education law schools and scientific institutions in an open or secret ballot.

**3. The persons appointed to the Commission by the Congress of Judges of Ukraine and the congress of the representatives of the law higher educational establishments and scientific institutions shall be dispatched to the Commission by the orders of chief judges and chiefs of the respective educational establishments and scientific institutions within three days from their appointment by the Congress or termination of powers of a member of the Commission appointed under the quota of the Congress of Judges of Ukraine.**

4. The Ombudsman of the Verkhovna Rada of Ukraine shall appoint and dispatch a member of the Qualifications Commission of Judges by an ordinance.

5. The Head of the State Judicial Administration of Ukraine shall appoint and dispatch a member of the Qualifications Commission of Judges by his/her order.

6. People's deputies of Ukraine (MPs), members of the Cabinet of Ministers, chief judges of courts, their deputies, secretaries of judicial chambers, members of Council of Judges of Ukraine, members of the High Council of Justice, **Disciplinary Commission of Judges**, Ombudsman of the Verkhovna Rada of Ukraine and officials on whom the disciplinary sanction is imposed may not be appointed to the Qualifications Commission of Judges.

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

#### **Article 84. Termination of Powers of a Member of the Qualifications Commission of Judges**

1. Powers of a member of the Qualifications Commission of Judges shall terminate in case of:

- 1) expiration of term of appointment;
- 2) personal application about resignation of powers of a member of the Commission;
- 3) if there is a medical opinion about impossibility of executing powers for health reasons;
- 4) violation of requirements on incompatibility;
- 5) conviction verdict in respect to him/her came into force;
- 6) termination of citizenship;
- 7) declaration of him/her as a missing or dead person, or in case of death.

2. If there are circumstances specified in points 1 – 6 of part one of this article, Head of the Commission issues an order about termination of powers of a person as a member of the Commission. In a case specified in point 7 of part one of this article Head of the Commission issues an order about excluding a person from the list of members of the Commission and informs the body that appointed a person to the Commission.

3. Decision about termination of powers of a member of the Commission in relation to violation of requirements on incompatibility shall be made on grounds of application of any member of the Commission or the body that appointed this member of the Commission by two thirds of composition of the Commission at the closed hearing by secret voting.

#### **Article 85. Organization of Work of the Qualifications Commission of Judges** *(Art. 94 of the current Law)*

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

2. The head of the Commission shall organize the work of the Commission, determine responsibilities of his/her deputy and run meetings of the Commission. In the absence of the head of the Qualifications Commission of Judges, his/her duties shall be performed by deputy head of the Commission; and in the absence of the deputy head, by the member of the Commission who has the **longer** record of service in the position of a judge.

**3. The Qualifications Commission of Judges shall run an automated case management system. The regulations on the automated case management system shall be approved by the Council of Judges of Ukraine upon agreement with the State Judicial Administration of Ukraine.**

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

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

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

**Article 86. Powers of a Member of the Qualifications Commission of Judges** (*Art. 95 of the current Law*)

**1. A member of the Qualifications Commission of Judges in exercising his/her powers shall have the right to:**

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

**2. The Commission member shall exercise other powers established by law.**

**Article 87. Disqualification of a Member of the Qualifications Commission of Judges** (*Art. 96 of the current Law*)

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

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

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

**Article 88. Decision the Qualifications Commission of Judges** (*Art. 97 of the current Law*)



1. A decision of Qualifications Commission of Judges shall be taken by a majority of the Commission's members **if this Law does not provide otherwise**. The voting shall be held in the absence of the person concerned as well as of the invited persons.
2. A decision of Qualifications Commission of Judges shall be stated in writing. The decision shall indicate the date and place of the decision, the Commission's members present, the issues under consideration, and the **reasoning** for the decision taken. The decision shall be signed by the chair of the meeting and by the Commission's members present thereat.
3. **A Commission member may have a dissenting opinion. The dissenting opinion shall not be announced at the meeting, but it shall be set forth in writing and attached to the case considered. The chair shall announce the fact of attaching a dissenting opinion by a Commission member at the meeting.**
4. A decision of the Qualifications Commission of Judges may be appealed in court in the manner **determined** by the procedural law.

**Article 89. Support for the Operation of the Qualifications Commission of Judges** (*Art. 98 of the current Law*)

1. **The Secretariat shall be established in order to provide organizational support for the operation of the Qualifications Commission of Judges . The status of the Secretariat employees shall be determined by the Law of Ukraine On Public Service. The salary and social protection conditions of the Secretariat employees are equal to those of the staff of central executive bodies. The structure and staff number of the Secretariat shall be approved by the Commission within the expenses allocated for the maintenance of the Commission operations.**
2. **The Head of the Commission shall appoint and remove the employees of the Secretariat.**

**Chapter 2. The National School of Judges of Ukraine**

**Article 90. Status and Structure of the National School of Judges of Ukraine**

1. The National School of Judges of Ukraine shall be a state institution **that** shall ensure training of highly skilled personnel for the judicial system and conduct scientific-research activity. The legislation on higher education shall not be applied to the National School of Judges of Ukraine.
2. The National School of Judges of Ukraine shall be established and **function** under the Qualifications Commission of Judges and shall operate according to this Law and the Charter to be approved by the Qualifications Commission of Judges.
3. The National School of Judges of Ukraine shall be headed by Rector **appointed by the Qualifications Commission of Judges. Vice-rectors of the National School of Judges of Ukraine shall be appointed by the Qualifications Commission of Judges** based on the motion of the Rector of the National School of Judges of Ukraine.
4. **Rector, Vice-rectors, professors that serve on a permanent basis and the staff of the National School of Judges of Ukraine shall be given the same status as public servants. The salary rate and the level of social protection shall not be less than respective categories of public servants in central bodies of executive power.**
5. The National School of Judges of Ukraine shall be the legal entity, have the seal with imprint of the State Emblem of Ukraine and its name on it, an independent balance sheet and accounts in the bodies of State Treasury of Ukraine and may have regional branches.

**Article 91. Objectives of the National School of Judges of Ukraine**

1. The National School of Judges of Ukraine shall conduct:
  - 1) **special training** of candidates for a judicial position;

- 2) **training and upgrading professional qualification of judges;**
- 3) on-going training of court staff;  
periodical on-going training of judges to improve their professional level;
- 4) scientific research in issues concerning judiciary improvement;
- 5) study of international experience of organizing court operation;
- 6) scientific-methodological support of the operation of court of general jurisdiction, the Qualifications Commission of Judges, **the Disciplinary Commission of Judges** and the High Council of Justice.

## **SECTION VI. DISCIPLINARY LIABILITY OF A JUDGE**

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

#### **Article 92. Grounds for Disciplinary Action Against a Judge** *(Article 83 of the current Law)*

1. Disciplinary proceedings against a judge may be initiated on the following grounds:

- 1) **violation of person's right to access to justice, rules of jurisdiction, illegal application of measures to secure the claim, ungrounded refuse to take measures to secure the claim, leading to damages to a person;**
  - 2) **violation of requirements regarding unbiased consideration of case, specifically violation of recusal (self-recusal) rules;**
  - 3) **disclosure of classified information protected by law, including confidential information of deliberation room, or secrets which the judge learned during an in-camera session;**
  - 4) **systematic or gross one-time violation of rules of judicial ethics, other actions which defame the status of a judge and undermine the authority of justice;**
  - 5) **failure to submit or untimely submission of property, income, expenditure and financial liability statement, inclusion of intentionally false information in the statement;**
  - 6) **use of judicial status in order to receive illegal material gain personally or in favour of third parties;**
  - 7) **expenditures by the judge or his family members which exceed the income of the judge or his family members.**
2. **Reversal or alteration of a court decision shall be a ground for disciplinary action against the judge who took part in passing it only in case the decision involved intentional violation of legal norms or careless execution of one's duties.**

#### **Article 93. Disciplinary Bodies** *(Article 85 of the current Law)*

1. Disciplinary proceedings shall be conducted by the following **disciplinary bodies**:

- 1) the **Judicial Disciplinary Commission**, in relation to judges of trial and appellate courts;
- 2) the High Council of Justice, in relation to justices of high specialized courts and of the Supreme Court of Ukraine.

#### **Article 94. Disciplinary Proceedings Against a Judge** *(Article 84 of the current Law)*

1. Disciplinary proceedings are a procedure for consideration by a body specified by the law of an application containing information on violation by a judge of requirements regarding his/her status, official responsibilities, or on violation of the judicial oath of office **as defined in Part 1 of Article 92 of this Law.**

2. Anyone who is aware of such facts shall have the right to file a complaint (application) regarding the conduct of a judge which may be a ground for disciplinary action against the judge. The **Judicial Disciplinary Commission** shall approve and post on its official web portal a sample judicial misconduct complaint (application) form which can be used to inform

the **disciplinary body** of violation by the judge of requirements regarding his/her status, official duties or judge's oath.

**3. A member of the disciplinary body may initiate disciplinary action against a judge based on information disclosed in the media containing information about the actions of a judge which have the elements of judicial misconduct.**

**4. Applications to disciplinary bodies which are not based on the grounds defined in Part 1 of Article 92 of this Law shall not be considered.**

**5. Disciplinary proceedings against a judge may not be initiated on the basis of an application or report containing no specific evidence of elements of a disciplinary offence or on the basis of anonymous applications or reports.**

**Article 95. Procedure for Acceptance of Complaint and its Verification** (*Article 84 of the current Law*)

**1. On the day of submission of the complaint or application from a member of the disciplinary body the secretariat of the disciplinary body shall register it and use an automated system to assign a member of the disciplinary body to take a decision on the acceptance of the complaint (application) or the transfer of the application from an member of the disciplinary body to a disciplinary inspector for verification.**

**2. The member of the disciplinary body in the course of a term of up to five days shall make a decision on the acceptance of the complaint (application), and in case the alleged behaviour of the judge contains the elements of actions defined in Article 92 of this Law, issue the order to conduct verification of the information provided.**

**3. Using an automated system, the secretariat of the disciplinary body shall assign a disciplinary inspector to conduct the verification.**

**4. Based on his/her motivated decision, the disciplinary body member shall return the complaint (application) to the applicant without further consideration in case:**

**1) the conduct of the judge described in the complaint (application) does not contain elements of actions defined in Article 83 of this Law;**

**2) the judge has already been dismissed from office or his/her term of office has been terminated because of his/her death.**

**3) the reported misconduct already had been reviewed and the disciplinary body has already taken a decision thereof.**

**5. The member of the Judicial Disciplinary Commission shall issue a decision to transfer the complaint (application) to the High Council of Justice in case the complaint (application) had been submitted against a judge of a high specialized court or a Supreme Court Justice.**

**The applicant shall immediately get notified of this decision through sending to him a copy of the decision.**

**6. Verification of data on the presence of grounds for taking disciplinary action against a judge shall be conducted in the course of one month following the day of registration of the complaint (application) on judicial misconduct or the application of a member of the disciplinary body. In case it is impossible to complete the verification within this timeframe, the term may be extended by the disciplinary body but no more than for one month.**

**7. Verification is conducted within the scope of information provided in the complaint (application), however, should it disclose other information which may serve as grounds for taking disciplinary action against a judge, this information shall be included into the report of the disciplinary inspector on the results of the verification.**

**8. State and local government bodies, their members, managers of state enterprises, institutions and organizations to whom an information request has been sent by a disciplinary inspector or a member of the disciplinary body, shall provide an answer to the request together with all the information available to them in the course of ten days after receiving the request. In case of necessity, the term for provision of information may be extended to thirty days, about which the disciplinary inspector or**

member of the disciplinary body has to inform the person who submitted a motion to extend the term for provision of information.

9. Failure to provide the disciplinary inspector or member of the disciplinary body with the requested information available to the body or official, as well as the provision of deliberately false information shall entail legal responsibility of the party at fault.

10. Based on the results of the verification, the disciplinary inspector shall write a report containing information on the confirmation or refutation of the information on disciplinary offence; presenting facts and circumstances found during the verification; and the proposal to the panel of disciplinary body members to open or dismiss the disciplinary case.

11. The report and materials collected in the course of the verification shall be provided to the respective members of the disciplinary body no later than five days before the meeting at which the decision to open or dismiss the disciplinary case shall be taken.

#### **Article 96. Opening of a Disciplinary Case** *(Article 86 of the current Law)*

1. The decision on opening or dismissing a disciplinary case shall be taken by a panel of three members of the disciplinary body by a majority of vote. In case the disciplinary proceedings have been initiated by a member of the disciplinary body, he/she shall not participate in the consideration of this matter.

2. Copies of decision on opening or dismissing a disciplinary case shall be sent to the applicant and the judge in the course of three days after the decision has been taken.

#### **Article 97. Consideration of a Disciplinary Case** *(Article 86 of the current Law)*

1. A disciplinary case shall be considered at a meeting of the disciplinary body, to which shall be invited the person whose application was the basis for initiating the case, the judge against whom the case was initiated, their representatives, witnesses and other interested persons if necessary.

2. In case the judge against whom the case was initiated is unable to participate at the meeting of the disciplinary body for a valid reason, he/she may give written explanations on the matter of the raised issues which shall be adjoined to the case file. Written explanations of the judge are announced at the meeting of the disciplinary body. Repeated failure of the judge to attend the meeting of the disciplinary body serves as grounds to consider disciplinary case in his/her absence only in case written explanations have been provided or the judge had failed to provide those explanations within the term established by the disciplinary body.

3. The consideration of a disciplinary case regarding a judge shall be adversary. At its meeting the disciplinary body shall hear the report of the disciplinary inspector who conducted the verification about the verification results, the explanation from the judge who is the subject of the case and/or his/her representative, testimony, as well as reports by other interested persons.

4. A judge subjected to disciplinary action or his/her representative shall be entitled to give explanations, ask questions to participants in the proceeding, express objections, file motions, seek disqualification and request summons of witnesses.

5. The person who applied with the complaint (application) and/or his/her representative are entitled to give explanations and ask questions to participants in the proceeding.

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

#### **Article 98. Decision in a Disciplinary Case against a Judge** *(Article 86 of the current Law)*

1. The disciplinary body shall deliberate on the results of consideration of a disciplinary case no later than in the course of four months after the day of submission of the application (complaint), without taking into account the term of temporary inability to work or vacation of the judge.
2. The decision in a disciplinary case shall be taken by a majority of vote of the total amount of members of the disciplinary body. Before taking the decision, the disciplinary body discusses the results of consideration of the disciplinary case in absence of the accused judge and other invited persons.
3. When deciding on a disciplinary sanction against a judge, taken into account shall be the nature of the offence, its consequences, the personality of the judge, the extent of his/her guilt, and the circumstances impacting the possibility to discipline the judge.
4. A disciplinary sanction may be applied upon a judge not later than two years after the offense had been committed, without taking into account the term of temporary inability to work or vacation of the judge.
5. In case the disciplinary body decides that the judge had violated his/her oath, which makes it impossible for him/her to continue holding the position of a professional judge, this decision shall serve as grounds for the High Council of Justice to decide on submitting a motion for the removal of the judge from office for violation of judicial oath.
6. In case there are no grounds to apply a disciplinary sanction to a judge, the disciplinary body shall close the disciplinary case.
7. The decision of the disciplinary body shall be stated in writing. The decision shall be signed by the chair and members of the disciplinary body who participated in the consideration of the disciplinary case, and announced during the meeting. The decision in a disciplinary case shall contain:
  - 1) the last name, first name, patronymic, and position of the judge subjected to disciplinary action;
  - 2) the statement of facts of the case with reference to evidence;
  - 3) the motivation for the decision taken by the body;
  - 4) the essence of the decision based on the results of consideration, with indication of the type of disciplinary sanction, if one is imposed;
  - 5) the procedure and deadline for appealing the decision.
8. When there is a dissenting opinion, the latter shall be presented in writing by the respective member of the disciplinary body and appended to the case file, about which the chair shall announce at the meeting. The contents of the dissenting opinion shall not be disclosed at the meeting.
9. A copy of the decision of the disciplinary body shall be issued to the judge subjected to the disciplinary action; and if he is not present at the announcement of the decision, it shall be sent to him within seven days by recommended mail with confirmation of receipt. Within the same timeframe, a copy of the decision about the application of a disciplinary sanction shall be mailed to the chief judge of the court where the judge works.
10. In the course of seven days after its taking, the decision of the disciplinary body on the results of consideration of a disciplinary case shall be published on its official Web-portal.

**Article 99. Disciplinary Sanction Regarding a Judge and the Procedure for Removing or Lifting It** (*Article 88 of the current Law*)

1. The following disciplinary sanctions may be imposed on a judge:
  - 1) warning;
  - 2) reprimand;
  - 3) strict reprimand;

4) temporary (for a fixed period) suspension from office without right to receive additional payments to judicial wage and mandatory sending to the National School of Judges of Ukraine for advanced training;

5) decision about the violation of judicial oath, which makes it impossible for a judge to continue holding the position of a professional judge.

Only one disciplinary sanction may be applied to a judge based on the results of consideration of a disciplinary case.

2. The disciplinary sanctions defined in paragraphs 1 and 2 of part 1 of this Article shall be removed six months after the day of their application, and the strict reprimand is removed in one year.

3. The disciplinary sanctions defined in paragraphs 1 - 3 of part 1 of this Article may be lifted pre-term by the disciplinary body based on a petition from the meeting of judges of the respective court.

4. The disciplinary body may take the decision about the violation of judicial oath, which makes it impossible for a judge to continue holding the position of a professional judge in case:

1) the disciplinary offences were of systematic/recurrent nature;

2) the judge committed a disciplinary offence defined in paragraph 6 or 7 of Article 92 of this Law;

3) the judge committed a disciplinary offence while already having a disciplinary sanction which had not been removed or lifted.

**Article 100. Appealing a Decision in a Disciplinary Case against a Judge** *(Article 89 of the current Law)*

1. A judge of a local or appellate court may appeal a decision of the **Judicial Disciplinary Commission** on disciplining him/her to the High Council of Justice or to court not later than **fifteen days** from the day a copy of the decision was handed out to him/her or received by him/her by mail.

2. The complaint to the High Council of Justice shall be filed through the **Judicial Disciplinary Commission**.

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

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

5. The administrative claim against the decision of **the Judicial Disciplinary Commission** or the **High Council of Justice** on disciplining a judge shall be considered in the manner **determined** by the procedural legislation.

6. Filing a complaint to the High Council of Justice or an administrative claim to court about the decision of the **Judicial Disciplinary Commission** or the **High Council of Justice** regarding disciplining a judge shall **suspend the effect** of the disciplinary sanction.

**Chapter 2. Disciplinary Commission of Judges**

**Article 101. Status of the Disciplinary Commission of Judges**

1. **Disciplinary Commission of Judges is a permanent body in the judiciary system of Ukraine.**
2. **Disciplinary Commission of Judges is a legal entity, has a seal with the State Emblem of Ukraine and its name, its own balance and accounts in the bodies of the State Treasury of Ukraine.**
3. **The operating procedures of the Disciplinary Commission of Judges shall be determined by this Law and the Regulations of the Disciplinary Commission of Judges.**

**Article 102. Powers of the Disciplinary Commission of Judges.**

1. The Disciplinary Commission of Judges shall:
  - 1) carry out disciplinary proceedings with regard to judges of local and appellate courts and decide on applying disciplinary sanctions with regard to them;
  - 2) decide on the judge's suspension in connection with his/her bringing to the criminal liability on the basis of grounded resolution by the Prosecutor General of Ukraine;
  - 3) decide on early lifting of a disciplinary sanction applied to a judge;
  - 4) develop and approve legislative documents regarding internal rules and procedures;
  - 5) exercise other powers as determined by Law.
2. In order to exercise their powers Disciplinary Commission of Judges, its members and disciplinary inspectors shall be entitled to request and receive the necessary information according to the procedure established hereby.

**Article 103. Composition of the Disciplinary Commission of Judges.**

1. Disciplinary Commission of Judges shall be composed of eleven members, who are the citizens of Ukraine, have higher education in law and service record in the field of law of not less than 20 years. The Commission shall comprise:
  - 1) seven judges appointed by the Conference of Judges of Ukraine;
  - 2) two persons appointed by the conference of representatives of higher law education establishments and scientific institutions;
  - 3) one person appointed by the Commissioner of Human Rights of Verkhovna Rada of Ukraine;
  - 4) one person appointed by the Verkhovna Rada of Ukraine.
2. The tenure of a Disciplinary Commission of Judges member shall be three years from the day of appointment. The same person may not be the Commission members for two consequential terms.
3. The members of the Disciplinary Commission of Judges shall be dispatched on the business trip to the Commission and cannot perform their professional powers on their principal position.
4. A Disciplinary Commission member shall retain his/her status and position for the term of their tenure with the Commission.
5. Disciplinary Commission members shall retain the guarantees for their monetary and social provision, respectively determined by the law for judges, employees of the State Judicial Administration of Ukraine and the representative of Commissioner of Human Rights of Verkhovna Rada of Ukraine. The salary (monetary allowance) shall be paid at the expense of the State Budget of Ukraine based on the salaries pertaining to the positions held by the persons in the bodies from which they were dispatched. Members of the Commission appointed by the conference of representatives of higher law education establishments and scientific institutions shall receive a salary in the amount of average monthly salary of other members of the Commission.

**Article 104. Procedure of Formation of the Disciplinary Commission of Judges.**

1. The Congress of Judges of Ukraine shall appoint the members of the Disciplinary Commission of Judges from among the judges. The Congress may elect more than six judges for the event if one or several members of the Commission appointed by the ratio of the Congress of Judges of Ukraine quit, determining the sequence of their inclusion in the Commission composition. Such persons shall automatically acquire the powers of

a Commission member if one or several members of the Commission appointed by the ratio of the Congress of Judges of Ukraine quit. The persons appointed to the Commission by the Congress of Judges of Ukraine for the event if one or several members of the Commission quit shall continue to perform the duties of a judge until entering onto the position of a Commission member according to the sequence.

2. The meeting of the representatives of higher law educational establishments and scientific institutions shall appoint the members of the Disciplinary Commission by open or secret ballot.

3. The persons appointed to the Disciplinary Commission of Judges by the Congress of Judges of Ukraine and congress of the representatives of law higher education establishments and scientific institutions shall be dispatched to the Commission by the orders of chief judges and chiefs of the respective scientific establishments within three days from the day of their appointment or from the day of termination of powers of the Commission member appointed according to the quota of the Congress of Judges of Ukraine.

4. The Commissioner of Human Rights of Verkhovna Rada of Ukraine shall appoint and dispatch the Commission member by his/her order.

5. The Chairman of the State Judicial Administration shall appoint and dispatch the Commission member by his/her order.

6. The following persons may not be the members of the Disciplinary Commission of Judges: Members of Parliament of Ukraine, members of the Cabinet of Ministers of Ukraine, chief judges and their deputies, members of the Council of Judges of Ukraine, High Council of Justice, Qualifications Commission of Judges, Commissioner of Human Rights of Verkhovna Rada of Ukraine and officials being administered a disciplinary sanction.

7. Disciplinary Commission of Judges shall be considered competent if not less than 8 members were dispatched to its composition.

#### **Article 105. Termination of Powers of a Disciplinary Commission member.**

1. The powers of a Disciplinary Commission members shall be terminated in the event of:

- 1) termination of his/her appointment term;
- 2) submission of personal application on resignation as a Commission member;
- 3) presence of a medical opinion on the impossibility to continue the powers due to health condition;
- 4) violation of incompatibility requirements;
- 5) entry into force of the conviction sentence against him/her;
- 6) termination of his/her citizenship;
- 7) his/her being pronounced missing or dead;
- 8) death.

2. Shall there be present the circumstances determined by paragraphs 1-6 of pt. 1 of this Article the Head of the Disciplinary Commission of Judges issues an order on the termination of the person's powers as a Commission member. In the events stipulated by paragraphs 7-8 of pt. 1 of this Article the Head of Disciplinary Commission shall issue an order on the exclusion of a person from the list of Commission members whereof the body that dispatched a member shall notify.

3. The decision on termination of the Disciplinary Commission member powers in connection with his/her violation of incompatibility requirements shall be taken on the basis of a motion from any member of the Commission or a body that appointed such member by two thirds of the Commission composition on closed hearing by secret ballot.

#### **Article 106. Organization of Work and Sessions of the Disciplinary Commission of Judges**



1. The Disciplinary Commission of Judges shall elect from among its members by open or secret ballot a Head of Commission, one Deputy Head and the Secretary of Commission. The candidate who receives the majority of votes from the total composition of the Commission shall be considered elected.
2. The Head of the Commission shall organize the operation of the Commission, determine the responsibilities of the Deputy Head, hold the meetings of the Commission. If the Head of the Commission is absent, his/her powers shall be performed by the Deputy Head, and if the latter is absent – by the Commission member elected by the quota of the Congress of Judges of Ukraine who has longer record of service on the position of a judge.
3. The Head of the Commission shall determine date, time and place for holding a Commission session, the list of items put on the agenda and shall notify the person whose case is considered not later than 10 days in advance. The Secretary of the Commission shall prepare the Commission sessions and be responsible for the organization of the Commission case management.
4. The Commission sessions shall be open and public. The Commission on its own initiative or by motion of the applicant or judge whose case is considered may by its grounded decision announce the session or a part thereof closed with the purpose of non-disclosure of state or other secret protected by law.
5. The session of the Commission shall be competent if attended by not less than two thirds from the total composition of the Commission.
6. The Regulations on the automated case assignment and case management in the Disciplinary Commission of Judges shall be approved by the Council of Judges of Ukraine by agreement with the State Judicial Administration of Ukraine.

#### **Article 107. Powers of a Disciplinary Commission Member**

1. A member of the Disciplinary Commission of Judges while exercising his/her powers:
  - 1) shall study the materials presented for the Commission's consideration, participate in their review and verification;
  - 2) shall be entitled to request the necessary information, copies of the materials from cases the proceedings in which were completed, or study them in the court;
  - 3) may provide his/her motives and considerations and present additional documents related to the matters in question;
  - 4) may present suggestions regarding draft resolution of the Commission on any matters and vote for or against a certain issue;
  - 5) may express a dissenting opinion in writing with respect to the Commission decision.
2. A Disciplinary Commission member shall exercise other powers as established by the Law.

#### **Article 108. Recusal of a Disciplinary Commission Member**

1. If there are circumstances that may challenge the impartiality of a Disciplinary Commission member, such member shall not participate in consideration of the matter and passing the decision. In this event the Commission member shall be obliged to announce self-recusal. Based on the same grounds the recusal of a Commission members shall be claimed by the persons with regard to whom or upon whose motion the matter is considered.
2. The recusal may be grounded and submitted before the beginning of the consideration of the respective matter in form of a written application to the Head of the Commission. The person presiding on the session shall familiarize the Commission member whose recusal was claimed with the application.
3. The decision on recusal (self-recusal) shall be taken by the majority of votes of the Commission members who participate in the session. The voting shall be carried out

without the Commission member(s) with regard to whom the recusal (self-recusal) issue is considered.

**Article 109. Disciplinary Inspectors Service** (*Art. 99 of the current Law*)

1. In order to provide for proper verification of the grounds for disciplining local and appellate courts judges the Disciplinary Inspectors Service shall operate at the Disciplinary Commission of Judges comprising (...) disciplinary inspectors.
2. Disciplinary inspectors on the instruction of a member of the Disciplinary Commission of Judges shall verify the information on the judges' actions that contain the features of a disciplinary misdemeanour; prepare opinions regarding presence or absence of grounds for disciplining local and appellate courts judges; participate in considering administrative cases in accordance herewith.
3. The disciplinary inspectors are selected and appointed by the Disciplinary Commission of Judges on the basis of competition from among persons who have the experience of working as judges, prosecutors, investigators.
4. The status of disciplinary inspectors shall be determined by this Law and the Law of Ukraine "On State Service".
5. The regulations on the Disciplinary Inspectors Service shall be approved by the Council of Judges of Ukraine upon the motion by the Disciplinary Commission of Judges approved by the High Council of Justice.

**Article 110. Organizational Provision of the Disciplinary Commission of Judges' Activities**

1. With the aim of organizational provision of the activities of the Disciplinary Commission of Judges of Ukraine the Secretariat shall be created. The status of the Secretariat employees shall be determined by the Law of Ukraine "On State Service". The salary and social provision conditions of disciplinary inspectors and Secretariat employees are equal to those of the staff of the central executive bodies. Structure and staff number of the Secretariat shall be approved by the Disciplinary Commission of Judges within the expenses allocated for the maintenance of the Disciplinary Commission of Judges.
2. The Head of the Disciplinary Commission of Judges shall appoint to and remove from positions the employees of the Secretariat.

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

**Chapter 1. General Provisions**

**Article 111. General Conditions for Removal of a Judge** (*Art. 100 of the current Law*)

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

**Article 112. Removal from office of a Judge due to Expiry of Term of Appointment** (*Art. 100 of the current Law*)

1. The High Council of Justice shall submit a motion to the President of Ukraine for the removal of a judge from office in case the term of his/her appointment expired if:
  - 1) the judge has failed to file an application for election to a lifetime position three months prior to the expiration of his/her appointment;
  - 2) the Qualifications Commission of Judges passed a decision not to recommend the judge to be elected to a lifetime position.

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

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

4. If a judge for any reason has not been removed from office or **a decision on his/her lifetime election was not passed**, he/she shall not be entitled to exercise his/her powers in administering justice from the next day after the expiry of the term of his/her appointment.

**Article 113. Removal of a Judge on Grounds of Age** *(Art. 102 of the current Law)*

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

2. The Qualifications Commission of Judges shall, **not later than one month before the day when the judge will reach the age of sixty-five**, notify the High Council of Justice of the presence of a ground for the removal of the judge concerned.

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

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

**Article 114. Removal of a Judge for Health Reasons** *(Art. 103 of the current Law)*

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

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

**Article 115. Removal of a Judge for Violating Incompatibility Requirements** *(Art. 104 of the current Law)*

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

**Article 116. Removal of a Judge for Violating the Oath of Office** *(Art. 105 of the current Law)*

1. **The grounds for the judge's removal for violating the oath of office shall be the motion by the High Council of Justice submitted on the basis of grounded opinion on the judge's violation of the oath of office which prevents a person from further occupying the position of a professional judge.**

2. **If the opinion on the judge's violation of the oath of office which prevents a person from further occupying the position of a professional judge was passed by the Disciplinary Commission of Judges it shall be forwarded to the High Council of Justice for the consideration of the issue on presenting a motion on the judge's removal for violating the oath of office. The High Council of Justice upon the disciplined judge's complaint may check the facts that became grounds for applying the respective disciplinary sanction.**

3. The High Council of Justice shall consider the issue on presenting a motion on the judge's removal for violating the oath of office according to the procedure set forth by the Law of Ukraine "On the High Council of Justice". The decision on presenting a motion by the High Council of Justice on the judge's removal for violating the oath of office as well as the decision on the unfounded nature of the opinion on the judge's violating the oath of office which prevents him/her from further occupying the position of a professional judge shall be taken by two thirds of votes of the constitutional composition of the High Council of Justice.

4. The decision of the High Council of Justice must contain the statement of facts becoming the grounds for the opinion on the violation of oath and reasoning behind the decision.

5. The High Council of Justice shall present the motion on the judge's removal from the office for violating the oath to the body which had elected or appointed a judge.

6. The President of Ukraine on the basis of the submission by the High Council of Justice shall issue a decree on the judge's removal with obligatory reference to the respective motion by the High Council of Justice.

7. The Verkhovna Rada of Ukraine based on the motion by the High Council of Justice shall pass the resolution on the judge's dismissal with the obligatory reference to the respective motion by the High Council of Justice.

8. If the High Council of Justice or court approves the decision on unlawfulness of the opinion on the judge's violating the oath of office preventing a person from further occupying the position of a professional judge in connection with the inadequacy of the chosen disciplinary sanction the case shall be returned to a disciplinary body for it to choose another disciplinary sanction.

If after returning the case upon the decision of the High Council of Justice the Disciplinary Commission of Judges repeatedly passed the opinion related to this case on the judge's violation of the oath preventing him/her from further occupying the position of a professional judge the High Council of Justice shall be obligated to present a motion on the judge's dismissal.

**Article 117. Removal of a Judge due to Entry into Legal Force of a Judgment of Conviction against the Judge** *(Art. 106 of the current Law)*

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

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

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

**Article 118. Removal of a Judge from Office in Case of Termination of the Judge's Citizenship** *(Art. 107 of the current Law)*

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

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

**Article 119. Removal from Office of a Judge Who Was Found Missing or Dead** *(Art. 108 of the current Law)*

1. A court which pronounced a judge missing or dead shall immediately report this fact to the Qualifications Commission of Judges. In case such a decision enters into legal force, the Qualifications Commission of Judges shall report this fact to the High Council of Justice, which shall submit a motion for the removal of the judge from office.
2. **If a person pronounced missing or dead appeared before passing the decision on his/her dismissal by the body that appointed or elected him/her, the High Council of Justice shall withdraw the motion. If a person appeared after passing the decision on his/her dismissal, the issue of his/her restoring on the judicial position shall be resolved by the court.**

**Article 120. Removal of a Judge from Office upon his/her Resignation Application or due to his/her Voluntary Termination of Service** (*Art. 109 of the current Law*)

1. **A judge whose record of judicial service is not less than twenty years, as determined pursuant to this Law, shall have the right to request retirement. The judge whose health condition prevents him/her from fulfilling the professional duties shall also be entitled to submit a retirement request regardless of judicial service record if there is a medical opinion confirming the connection between the disease and performance of the judicial duties.**
2. **A judge shall have the right at any time of his/her tenure of office to submit a request for voluntary termination of service, regardless of the reason.**
3. A request for retirement, request for voluntary termination of service shall be submitted by a judge directly to the High Council of Justice that in the course of one month starting from the day the request is received shall submit a motion for removal to the body which elected or appointed the judge. In case of removal of a judge in the result of submitting such a motion, the High Council of Justice shall inform the Qualifications Commission of Judges .
4. A judge shall continue to perform his/her duties until a decision is passed to remove him/her.

**Article 121. Requirements regarding a Motion for Removal of a Judge from Office** (*Art. 110 of the current Law*)

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

**Article 122. Consideration and Decision by the Verkhovna Rada of Ukraine on Removal of a Judge Elected for a Lifetime Position** (*Art. 111 of the current Law*)

1. The procedure for considering the issues of and making a decision on removal a judge elected for a lifetime position shall be **determined by this Law and the Law of Ukraine "On Procedural Rules of the Verkhovna Rada of Ukraine"**.
2. The issue of the removal of a judge elected for a lifetime position shall be considered at a plenary meeting of the Verkhovna Rada without conclusions of committees of the Verkhovna Rada of Ukraine and any verification.

**3. The Head of the High Council of Justice or a member of High Council of Justice who acts by his order shall report** on the issue of the removal of a judge elected for a lifetime position at a plenary meeting of the Verkhovna Rada of Ukraine.

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

**5. If the decision on the removal of a judge elected for a lifetime position will not be voted for by the majority of the constitutional composition of the Verkhovna Rada of Ukraine, re-voting shall be conducted.**

6. The powers of a judge shall be terminated the moment **the correspondent resolution of the Verkhovna Rada of Ukraine is adopted.**

#### **Article 123. Termination of the Powers of a Judge** *(Art. 112 of the current Law)*

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

**2. The chief judge of the court in which the judge in question served shall report to the Qualifications Commission of Judges on the termination of powers of such judge in the event of his/her death.**

#### **Article 124. Suspension of the Powers of a Judge.**

1. The powers of a judge shall be suspended in the event of:

- 1) expiration of his/her appointment term;
- 2) judge's reaching the age of sixty-five;
- 3) judge's being pronounced missing or dead;
- 4) termination of his/her citizenship;
- 5) entry in the legal force a judgment of conviction against him/her;
- 6) his/her dispatch to the High Council of Justice, Qualifications Commission of Judges, National School of Judges of Ukraine.

2. The suspension of the judge's powers shall last:

- 1) in the event stipulated by par. 1 of pt. 1 of this Article – until the decision on the lifetime election of a judge or his/her removal is passed;
- 2) in the events stipulated by par. 2-5 of pt. 1 of this Art. – until the decision on the judge's removal is passed;
- 3) in the event envisaged by par. 6 of pt. 1 of this Article – until the judge's return from the business trip or removal.

### **SECTION VIII. JUDICIAL SELF-GOVERNMENT**

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

##### **Article 125. Objectives of Judicial Self-government** *(Art. 113 of the current Law)*

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

2. Judicial self-government shall be one of the most important guarantees of the autonomy of courts and independence of judges. The activities of the bodies of judicial self-government shall serve to **facilitate the creation of adequate organizational and other conditions for operation of courts and judges, to assert the independence of the court, to ensure the protection of judges against interference in their activities, as well as to court performance increase.**

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

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

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

**Article 126. Organizational Forms of Judicial Self-government** *(Art. 114 of the current Law)*

1. The organizational forms of judicial self-government shall include meetings of judges, **the Council of Judges of Ukraine**, the Congress of Judges of Ukraine.
2. Judicial self-government in Ukraine shall be realized through:
  - 1) meetings of judges of a local court, a court of appeal, a high specialized court, the Supreme Court of Ukraine;
  - 2) the Council of Judges of Ukraine;**
  - 3) the Congress of Judges of Ukraine.**
3. Pursuant to the Constitution of Ukraine, the procedure for realization of judicial self-government shall be determined by this Law, other laws, as well **as by regulations and statutes approved by bodies of judicial self-government in accordance with this Law.**

**Chapter 2. Meetings of Judges**

**Article 127. Meetings of Judges** *(Art. 115-116 of the current Law)*

1. Meetings of judges are gatherings of judges of a particular court at which issues of internal operation of the courts are discussed and a collective decision on the issues under discussion is taken.
- 2. Meetings of judges shall be convened by the chief judge of the respective court on his/her initiative as well as at the request of at least one-third of all the judges of this court.**
3. Meetings of judges of local and appellate courts shall be convened as necessary, but not less than once every three months.
4. A meeting of judges shall be competent if attended by at least half of all the judges of the court. Invitations to a meeting of judges **may be extended** to the court's staff, **retired judges** and other persons. Only the judges of that specific court shall be eligible to vote. **The decisions of the meeting of judges shall be taken by the majority of votes of the judges attending the meeting.**
5. A meeting of judges of local and appellate court shall:
  - 1) discuss issues related to internal operation of the court or performance of specific judge or court staff employee and take decisions on these issues binding for the judges or court staff of that court;**
  - 2) determine the specialization of judges in considering specific categories of cases in respective judicial jurisdiction upon suggestion of the chief judge or one-third of judges of the respective court;
  - 3) hear reports from judges holding administrative positions in the given court and the manager of the court staff;
  - 4) send a representative to the joint meeting of respective courts to elect delegates to participate in the Conference of Judges and appoint members of the Council of Judges of Ukraine;**

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

**The meeting of judges of the Supreme Court of Ukraine, high specialized court, in addition to the above, approve the regulations on the staff, its structure and staffing plan of the respective court upon a motion by the chief judge of the respective court.**

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

7. Meetings of judges may discuss issues related to the practice of application of legislation, develop relevant proposals on ways to improve that practice and legislation.

**8. Judges of local courts on joint meetings within the respective circuit shall elect delegates to the Conference of Judges of Ukraine and the members of the Council of Judges of Ukraine according to the procedure envisaged by this Law.**

**9. Judges of the courts of appeal on joint meetings within the respective circuit shall elect delegates to the Conference of Judges of Ukraine and the members of the Council of Judges of Ukraine according to the procedure envisaged by this Law.**

**10. The meetings of judges of the Supreme Court of Ukraine and meetings of judges of high specialized court shall elect delegates to the Conference of Judges of Ukraine and the members of the Council of Judges of Ukraine according to the procedure envisaged by this Law.**

**Article 128. Implementation of Decisions of Meetings of Judges** (*Art. 117 of the current Law*)

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

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

**Article 129. The Congress of Judges of Ukraine** (*Art. 123 of the current Law*)

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

2. The Congress of Judges of Ukraine shall:

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

**2) hear reports from the Qualifications Commission of Judges and the Disciplinary Commission of Judges about the operation of each;**

**3) hear report of the Head of the State Judicial Administration of Ukraine about its operation;**

4) appoint and dismiss justices of the Constitutional Court of Ukraine in accordance with the Constitution of Ukraine and laws of Ukraine;

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

6) appoint members of the Qualifications Commission of Judges;

**7) appoint members of the Disciplinary Commission of Judges;**

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

9) consider other issues of judicial self-government according to law.

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

**Article 130. Procedure for Convening the Congress of Judges of Ukraine** (*Art. 124 of the current Law*)



1. A Regular Congress of Judges of Ukraine shall be convened by the Council of Judges of Ukraine once in every two years. An Extraordinary Congress of Judges of Ukraine may also be convened by the decision of the Council of Judges of Ukraine. **The meeting of judges may if necessary submit to the Council of Judges of Ukraine a proposal to convene an Extraordinary Congress of judges.**

2. Present at the Congress of Judges of Ukraine may be the President of Ukraine, the Parliament Speaker, the Commissioner of the Verkhovna Rada of Ukraine for Human Rights, members of the High Council of Justice and the Qualifications Commission of Judges, **Disciplinary Commission of Judges**, the Minister of Justice, **who may not participate in the voting while passing the decision by the Congress of Judges of Ukraine.**

3. **Delegates from respective councils of judges and the invited persons shall be notified of the date of the Congress of Judges of Ukraine and of the issues on its agenda not later than 30 days before the beginning of the Congress.**

**Article 131. Election of Delegates to the Congress of Judges of Ukraine** (*Art. 125 of the current Law*)

1. Delegates to the Congress of Judges of Ukraine shall be elected by:

1) joint meetings of local courts judges in the central, southern, eastern and western circuit – thirty judges of local general jurisdiction courts of each circuit, ten judges of local administrative courts of each circuit, ten judges of local commercial courts of each circuit;

2) joint meetings of the judges of appellate courts in the central, southern, eastern and western circuits – ten judges from administrative courts of appeal of each circuit, ten judges from civil and criminal courts of appeal of each circuit and ten judges from criminal and administrative offense courts of appeal of each circuit;

3) meetings of judges of high specialized courts – ten judges from each court;

4) meeting of judges of the Supreme Court of Ukraine – ten judges.

One delegate from the meeting of judges of each respective court shall participate in the joint meeting. Joint meeting shall be considered competent if attended by not less than two thirds of delegates.

2. For the purposes of pt. 1 of this Article and Art. 127 hereof the central circuit shall comprise Vinnytsya, Zhytomyr, Kyiv, Kirovohrad, Poltava, Sumy, Khmelnytsk, Cherkasy, Chernihiv Oblast and the City of Kyiv; the southern circuit shall comprise the Autonomous Republic of Crimea, Mykolayiv, Odesa, Kherson Oblast and the City of Sevastopol; eastern circuit shall comprise Zaporizhya, Donetsk, Dnipropetrovsk, Luhansk, Kharkiv Oblast; western circuit shall comprise Volyn, Ivano-Frankivsk, Zakarpattia, Lviv, Rivne, Ternopil, Chernivtsi Oblast.

3. Delegates to the Congress of Judges of Ukraine shall be elected by open ballot with the possibility to elect among many candidates on the basis of free nomination of candidates.

**Article 132. Procedure for Holding the Congress of Judges of Ukraine** (*Art. 126 of the current Law*)

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

2. A Congress of Judges of Ukraine shall be inaugurated by the head of the respective council of judges, which took decision to convene the Congress; and in his/her absence, by the deputy head of that council of judges.

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

4. The Congress of Judges of Ukraine shall discuss and approve its agenda and procedural rules of the Congress, elect a credentials commission/counting board, a secretariat and other working bodies of the Congress.

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

6. The decisions of the Congress of Judges of Ukraine shall be taken by a majority of votes of the delegates present at the Congress in an open or secret ballot. The decisions on issues specified in Items 4-7 of part two, Article 129 of this Law shall be taken by secret ballot.

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

**Article 133. The Council of Judges of Ukraine** (*Art. 127 of the current Law*)

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

**2. The Council of Judges of Ukraine shall be elected as composed of thirty seven judges.**

**1) The Council of Judges of Ukraine shall comprise:**

- three judges from local general jurisdiction courts of each circuit;
- one judge from local administrative courts of each circuit;
- one judge from local commercial court of each circuit;

**2) Judges elected by joint meetings of judges of the courts of appeal in the central, southern, eastern and western circuits:**

- one judge from administrative appellate courts of each circuit;
- one judge from civil and commercial appellate courts of each circuit;
- one judge from criminal and administrative offense appellate court of each circuit;

**3) Elected by the meeting of judges:**

- two judges from the High Civil and Commercial Court of Ukraine;
- one judge from the High Administrative Court of Ukraine and one judge from High Criminal Court of Ukraine;
- one judge from the Supreme Court of Ukraine.

**Proposals on nomination of candidates to the Council of Judges of Ukraine may be submitted by the judges participating in the Congress. Judges holding administrative positions and secretaries of judicial chambers can not be members of the Council of Judges of Ukraine.**

3. Members of the Council of Judges of Ukraine, at their meeting shall elect from among themselves the head of the Council of Judges of Ukraine, the deputy head, and the secretary.

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

5. The Council of Judges of Ukraine shall:

- 1) Develop and provide for the implementation of measures to ensure judicial independence and improvement of organizational support for the operation of courts;
- 2) Consider issues related to legal protection of judges, social protection and welfare support for judges and members of their families, and take decisions to this effect;
- 3) present budget requests of general jurisdiction courts staff while the Draft Law on the State Budget of Ukraine for the relevant year or amendments thereto are being prepared;**

- 4) appoint and terminate the Head and the deputy heads of the State Judicial Administration of Ukraine;
- 5) supervise organization of the operation of courts;
- 6) submit proposals regarding resolution of court operation issues to bodies of state power and bodies of local self-government;
- 7) approve the form of certificates of judges, retired judges, people's assessors, and jurors;
- 8) exercise other authority according to this Law.

6. Decisions taken by the Council of Judges of Ukraine within the competence stipulated by this Law shall be binding on all bodies of judicial self-government. A decision of the Council of Judges of Ukraine may be cancelled by the Congress of Judges of Ukraine.

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

**Article 134. Support of the Operation of Bodies of Judicial Self-government** (*Art. 128 of the current Law*)

1. Support for the work of the Congress of Judges of Ukraine and for the operation of the Council of Judges of Ukraine, **carrying out joint meetings of judges within the respective circuits** shall be provided by the State Judicial Administration and its territorial offices at the expense of the State Budget of Ukraine as required by Section XI of this Law.

**SECTION IX. SUPPORT FOR A JUDGE**

**Article 135. Judicial Remuneration** (*Art. 129 of the current Law*)

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

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

- 1) length of service record;
- 2) holding an administrative position in a court.
- 3) scientific degree
- 4) work involving access to state secrets.

3. The official salary of a judge of a local court shall be fixed at 15 times the minimum salary established by the law, which shall be introduced by stages:

- From January 1, 2012 – 8 minimal salaries
- From January 1, 2013 – 10 minimal salaries
- From January 1, 2014 – 12 minimal salaries
- From January 1, 2015 – 15 minimal salaries;

4. The official salaries of other judges shall be fixed proportionally to the fixed official salary with the following coefficients:

- 1) judge of an appellate court - 1.1;
- 2) judge of a high specialized court - 1.2;
- 3) justice of the Supreme Court of Ukraine and the justice of the Constitutional Court of Ukraine - 1.3.

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

First appointed Constitutional Court Justices shall get additional payment for years of service in the amount of 5.5 % for each year of work.

**6. Judges holding positions of secretary of the Plenary Session of a high specialized court, secretary of the Plenary Session of the Supreme Court of Ukraine shall be**

**granted a monthly bonus payment of 5 percent of the fixed official salary of a judge of the respective court; deputy chief judge/justice – 8 percent of the fixed official salary of a judge of the respective court; for chief judge/justice - 11 percent of the fixed official salary of a judge of the respective court.**

7. Judges shall be paid additional monthly bonuses for scientific degree of candidate or doctor of sciences in the respective specialization in the amount of 15 and 20 per cent of the fixed official salary of a judge of the respective court respectively.

8. Judges shall be given additional monthly payments for work involving access to state secrets in the amount depending on the degree of confidentiality of the information: data and its carriers marked as “top secret” - 10 % of the fixed official salary of a judge of the respective court, data and its carriers marked as “secret” – 5% of the fixed official salary of a judge of the respective court.

**Article 136. Vacation** (*Art. 130 of the current Law*)

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

**Article 137. Judge’s Length of Service** (*Art. 131 of the current Law*)

1. The length of a judge’s term of service shall include work in positions of:

1) a judge in courts of Ukraine, arbitrator (judge) of arbitration courts of Ukraine, state arbitrator of the former State Arbitration Court of Ukraine, arbitrators of departmental arbitration courts of Ukraine;

**2) a member of the High Council of Justice, the Qualifications Commission of Judges, Disciplinary Commission of Judges elected from among the judges;**

3) judges in courts and arbitrators in the state and departmental arbitration courts of the former USSR and the republics which were previously part of the USSR.

**Article 138. Provision of a Judge with Housing** (*Art. 132 of the current Law*)

1. Not later than in six months from the appointment a judge of the Constitutional Court of Ukraine, the Supreme Court of Ukraine, a high specialized court, an appellate court and a local court who needs to improve his/her housing conditions shall be provided with official accommodation in the area where court is located.

**Article 139. Provision for a Judge’s Needs Relating to Professional Activity** (*Art. 133 of the current Law*)

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

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

**Article 140. State Protection of Judges and Members of their Families** (*Art. 134 of the current Law*)

1. Judges, members of their families and their property are subject to special protection of the state. Offices of internal affairs are obligated to take necessary actions to ensure security/safety of a judge, members of his/her family and protection of their property if those offices receive the respective application from the judge.

2. Infringements of judges life and health related to judges performance of his official duties as well as destruction or damage of his/her property, threats of homicide, violence or

damages to property of a judge, insults or perjury, as well as infringements of life and health of judge's close relatives (parents, wife, husband, children) threats of homicide or damage to their property shall entail responsibility/liability established by law.

3. A judge shall be entitled to provision with protection means which will be provided to him/her by the internal affairs offices.

**Article 135. Social Insurance of Judges** *(Art. 135 of the current Law)*

1. The life and health of judges shall be subject to obligatory state insurance to be covered by the Fund for Social Insurance Against Industrial Accidents and Disease of Ukraine pursuant to "Law on Compulsory Social Insurance Against Industrial Accidents and Disease".

**SECTION X. STATUS OF A RETIRED JUDGE**

**Article 142 Judge's Resignation/Retirement** *(Art. 136 of the current Law)*

1. Each judge shall be entitled to resign of his/her own accord regardless of age.
2. A judge shall be considered resigned if he/she was dismissed from a judicial position on the grounds specified in pt. 1 of Art. 120 hereof.
3. The retired judge shall retain the title of a judge.

**Article 143. One-Time Retirement Benefit for a Judge** *(Art. 137 of the current Law)*

1. Upon resignation, a judge shall be paid a non-taxable retirement benefit in the amount of a monthly salary for each full year of working on the judicial position, but not less than a six-months salary.
2. If a judge whose resignation was suspended due to reappointment to a judicial position applies again for resignation, the retirement benefit shall be granted in the amount a monthly salary for each full year of work on the judicial position after his/her reappointment.

**Article 144. Pension or Non-Taxable Lifetime Allowance of a Retired Judge** *(Art. 138 of the current Law)*

1. A retired judge who reached retirement age shall be paid, at his/her choice, either a pension on terms provided by Article 37 of the Law of Ukraine "On Public Service" or a monthly **non-taxable** lifetime allowance.
2. A retired judge who didn't reach retirement age shall be paid a **non-taxable** monthly lifetime allowance. Once the judge reaches the retirement age he shall have the right to be paid, at his/her choice, either a monthly **non-taxable** lifetime allowance, or a pension on terms provided by Article 37 of the Law of Ukraine "On Public Service".
3. A **non-taxable** monthly lifetime allowance shall be paid to a judge in the amount of 80 percent of the **judicial remuneration** of an active judge holding a comparable position. For each full year of work in excess of 20 years in a judicial position, the rate of the monthly **non-taxable** lifetime allowance shall be increased by two percent of the salary, provided that it does not exceed 90 percent of a judge's salary, there being no upper limit to the amount of the **non-taxable** monthly lifetime allowance.
4. In case a monetary remuneration of sitting judges of the Constitutional Court changes, the **non-taxable** monthly lifetime allowance granted earlier shall be recalculated. Recalculation of the **non-taxable** monthly life time allowance shall be done for the entire sum of salary of sitting judges of the Constitutional Court of Ukraine from the day the right to the respective recalculation emerged.
5. Pension or **non-taxable** monthly lifetime allowance of a judge shall be paid irrespective of the salary (income) received by the judge after retirement. **Non-taxable monthly lifetime**

**allowance shall be paid according to the last employment, and shall the respective court be reorganized – according to the court determined by the State Judicial Administration of Ukraine.**

**Article 145. Termination of a Judge's Retirement** *(Art. 139 of the current Law)*

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

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

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

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

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

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

**Article 146. Specific Features of Support for the Functioning of the Judiciary** *(Art. 140 of the current Law)*

1. The funding and adequate conditions for the functioning of courts and activities of judges shall be provided by the state.

2. Support for the functioning of the judiciary shall include the following:

- 1) determining in the State Budget of Ukraine the expenditures to fund courts not lower than a level high enough to ensure full and independent administration of justice in accordance with the law;
- 2) legislative guarantees for full and timely funding of courts;
- 3) guarantees for a sufficient level of social protection of judges.

**Article 147. System of Providing for the Functioning of the Judiciary** *(Art. 141 of the current Law)*

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

2. Judicial bodies, other bodies of state power shall take part in organizational support for the operation of courts in cases and pursuant to the requirements of this and other Laws.

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

**Article 148. Principles of Funding of Courts** *(Art. 142 of the current Law)*

1. All courts in Ukraine shall be funded from the State Budget of Ukraine. Budget allocations for maintenance of courts shall be protected items of expenditures in the State Budget of Ukraine.

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

- 1) courts of general jurisdiction;**

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

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

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

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

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

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

#### **Article 149. Procedure for the Funding of Courts** *(Art. 143 of the current Law)*

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

#### **Article 150. Material and Welfare Support and Social Protection of Judicial System Employees** *(Art. 144 of the current Law)*

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

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

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

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

#### **Article 151. Status of the State Judicial Administration of Ukraine** *(Art. 145 of the current Law)*

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

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

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

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

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

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

**Article 152. Powers of the State Judicial Administration of Ukraine** (*Art. 146 of the current Law*)

1. The State Judicial Administration of Ukraine shall:

**1) combine and present budget requests of the courts of general jurisdiction, as well as other bodies and institutions of the judiciary in the Cabinet of Ministers of Ukraine during the preparation of draft law on the State budget of Ukraine for the relevant year or amendments to this law;**

2) ensure adequate conditions for the operation of courts of general jurisdiction, the Qualifications Commission of Judges, the **Disciplinary Commission of Judges**, the National School of Judges of Ukraine and bodies of judicial self-government;

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

**4) together with the relevant high specialized court and the Supreme Court of Ukraine ensure necessary conditions for raising the professional level (continuous training) of court staff;**

**5) together with the relevant high specialized court and the Supreme Court of Ukraine organize the keeping of court statistics, case management, and archiving; supervise the state of case management in local and appellate courts;**

**6) provides methodological assistance in the formation of budget requests of the courts of general jurisdiction;**

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

8) provide for the operation of automated **case management** systems of the Qualifications Commission of Judges and the **Disciplinary Commission of Judges**;

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

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

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

13) approve Regulations on court library;

14) exercise other powers specified by the law.

**Article 153. Head of the State Judicial Administration of Ukraine** (*Art. 147 of the current Law*)

1. The State Judicial Administration of Ukraine shall be chaired by the Head of the State Judicial Administration of Ukraine.

2. The Head of the State Judicial Administration of Ukraine shall be appointed and removed from office by the Council of Judges of Ukraine.

3. The Head of the State Judicial Administration of Ukraine shall have no right to combine his/her official service with other work except for teaching, scholarly, or creative activities during off-office hour, be a member of a governing body or supervisory council of a profit-seeking commercial organization.

4. The Head of the State Judicial Administration of Ukraine shall:



- 1) direct the operation of the State Judicial Administration of Ukraine, be personally responsible for the performance of the tasks assigned thereto;
- 2) organize the operation of the State Judicial Administration of Ukraine;
- 3) **be responsible for providing free public access to court buildings (other than Chambers) and creating appropriate conditions for their stay in courthouses;**
- 4) **appoint, on the basis of a competition to be conducted by State Judicial Administration of Ukraine in accordance with the legislation on public service, and dismiss employees of the State Judicial Administration of Ukraine;**
- 5) **appoint the chief of staff of appellate courts, their deputies – on the basis of the submission of the Chief Judge;**
- 6) **dismiss the chief of staff of appellate courts, their deputies – on the basis of the submission or with the consent of the Chief Judge;**
- 7) **apply incentives or impose disciplinary penalties to the chief of staff of appellate courts, their deputies according to the law - on the basis of the submission or with the consent of the Chief Judge;**
- 8) **assign ranks of public servants to the chief of staff of appellate courts, their deputies according to legislation on public service - on the basis of the submission of the Chief Judge;**
- 9) **approves the structure and the staff list of appellate courts within the costs of maintaining of the respective court – in consultation with the Chief Judge of the respective court;**
- 10) **appoint one member to the Qualifications Commission of Judges and to the Disciplinary Commission of Judges in accordance with this Law;**
- 11) **approve regulations on territorial offices of the State Judicial Administration of Ukraine and determine job descriptions for the employees of the State Judicial Administration of Ukraine;**
- 12) **establish official salary rates for employees of the State Judicial Administration of Ukraine and its territorial offices, confer on them state employee ranks, apply incentives or impose disciplinary penalties in accordance with the legislation;**
- 13) **report to the congress of judges of Ukraine on the activity of the State Judicial Administration of Ukraine, inform the Council of Judges of Ukraine about the activities of the State Judicial Administration regarding the issues of organizational-material provision of operation of courts of general jurisdiction;**
- 14) **present to the Cabinet of Ministers of Ukraine proposals on the draft State Budget of Ukraine for the appropriate year as to the funding of general jurisdiction courts and other bodies and institutions of the judiciary and in amending the Law on State Budget of Ukraine for the current year;**
- 15) **exercise other powers determined by the law.**

5. The Head of the State Judicial Administration of Ukraine shall issue orders regarding matters within his/her authority.

6. The Head of the State Judicial Administration of Ukraine shall have deputies which shall be appointed and removed from office by the Council of Judges of Ukraine upon a motion submitted by the Head of the State Judicial Administration of Ukraine. The responsibilities of the Deputy Heads of the State Judicial Administration of Ukraine shall be determined by the Head of the State Judicial Administration of Ukraine.

**Article 154. Territorial Offices of the State Judicial Administration of Ukraine** (*Art. 148 of the current Law*)

1. The territorial offices of the State Judicial Administration of Ukraine shall be the territorial bodies of the State Judicial Administration of Ukraine.

2. A territorial office of the State Judicial Administration of Ukraine shall be chaired by a chief, to be appointed and removed by the Head of the State Judicial Administration of Ukraine.

**3. Chief of the territorial office of the State Judicial Administration of Ukraine**

- 1) appoint the chief of staff of local courts and the deputy chief of staff of local courts upon suggestion from the Chief Judge of the respective local court;
- 2) apply to them incentives or impose disciplinary penalties - on the basis of the submission or with the consent of the Chief Judge;
- 3) assign ranks of public servants to the chief of staff of local courts, their deputies according to legislation on public service;
- 4) dismiss the chief of staff of local courts, the deputy chief of staff of local courts – on the basis of the submission or with the consent of the Chief Judge
- 5) approves the structure and the staff list of local courts within the costs of maintaining of the respective court – in consultation with the Chief Judge of the respective court;
- 6) appoint by competitive selection conducted in accordance with legislation on public service, employees of the respective territorial office of the State Judicial Administration of Ukraine and dismiss them;
- 7) provides interaction between the staff of local and appellate courts with the State Judicial Administration to ensure the performance of the respective courts;
- 8) exercise other powers determined by the law.

4. The structure and manning table of a territorial office of the State Judicial Administration of Ukraine shall be approved by the Head of the State Judicial Administration of Ukraine upon a motion by the chief of the territorial office of the State Judicial Administration of Ukraine.

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

6. The territorial offices of the State Judicial Administration of Ukraine shall operate on the basis of the Regulations on the territorial offices of the State Judicial Administration of Ukraine approved by the Head of the State Judicial Administration.

#### **Article 155. Court Staff** *(Art. 149-150 of the current Law)*

1. Organizational support for the operation of a court shall be provided by its staff, to be run by the manager of the staff.

2. The chief of the court staff **represents the court as a legal entity and** shall be personally responsible for providing adequate organizational support for the court, the judges, and the court proceedings, functioning of automated case management system, **providing free public access to court buildings (other than Chambers) and creating appropriate conditions for their stay in courthouses**, inform the meeting of judges about his/her activity.

Meetings of judges may impeach credibility to the court chief of staff what shall result in his/her removal from office.

**3. The chief of the court staff after determining the court where the judge embrace position gives the order to create conditions for the judge activities.**

**4. Court staff employees shall be selected on a competitive basis. Appointments to positions in the court shall be in accordance to public service legislation.**

The court chief of staff shall appoint and dismiss court employees, apply incentives and disciplining sanctions to them.

5. The **status** of employees working on the staff of a court shall be determined by the Law of Ukraine “On Public Service.” The payment terms (salaries), **social security** for court staff members shall be determined on the basis established for the respective categories of staff of central or local executive bodies.

**Court employees must observe the rules of professional conduct of court personnel, approved by the Council of Judges of Ukraine.**

6. Within the staff of the courts of general jurisdiction, there may be created structural units which shall perform their functions on the basis of the regulations on the respective unit, to be approved by the manager of the staff of the respective court.

7. Within the staff of courts of general jurisdiction a chancellery (intake office) shall be created, which on a daily basis during the office hours of court shall ensure that the submitted documents are accepted and registered. Chancellery will also perform other tasks established by regulations approved by manager of court staff of the respective court.

8. The staff of courts of general jurisdiction shall also include secretaries of court hearings, scientific consultants, and court officers. Scientific consultants shall have scientific degree of candidate sciences or Doctor of Legal Sciences.

**9. Court is a legal entity of public law, which has the seal of the State Emblem of Ukraine and its name, its own balance sheet and accounts in the State Treasury of Ukraine.**

**Article 156. Judges' assistants in courts of general jurisdiction** (*Art. 151 of the current Law*)

**1. Every judge of court of general jurisdiction may have an assistant, the legal status and terms of activity of which are determined by this Law, Law of Ukraine "On Public Service" and regulation on judge's assistant approved by Council of Judges of Ukraine.**

2. Judge's assistant may be a citizen of Ukraine who has higher education in law and a good command of the state language. Assistants to justices of the Supreme Court of Ukraine should additionally have at least three years of experience in the field of law.

3. Judges on their own shall select assistants. A judge's assistant shall be appointed to the position and terminated by manager of court staff of the respective court upon suggestion from the judge.

4. Judges' assistances on issues of preparation of cases for hearing shall report only to the respective judge.

5. The time of serving as judge's assistant shall be included into the years of service in the area of expertise of such assistant.

**Article 157. Court Libraries** (*Art. 152 of the current Law*)

1. In order to provide judges with normative legal acts, specialized scientific literature, and case law materials, court libraries shall be created in each court. The stock of a library shall consist of printed editions and a computer database.

**2. The model regulations on court libraries shall be approved by the State Judicial Administration of Ukraine.**

**Article 158. Service of Court Officers/Bailiffs** (*Art. 153 of the current Law*)

1. Each court shall have a service of court officers. The court officers shall ensure that the people inside the court comply with the established rules and obey the instructions of the chair of the hearing.

2. Court officers shall be appointed and removed by the manager of the staff of the respective court.

3. Court officers shall be provided with uniforms the samples of which shall be approved by Head of the State Judicial Administration of Ukraine after consultation with the Council of Judges of Ukraine.

4. Court officers shall be guided in their activities by this Law, the requirements of the procedural law, applicable rules and instructions, and orders of the chief judge and the judge.

5. The procedure for the creation and operation of the service of court officers shall be established by the regulations to be approved by Head of the State Judicial Administration of Ukraine after consultation with the Council of Judges of Ukraine.

**Article 159. Ensuring Security and Maintaining Public Order in Courts** (*Art. 154 of the current Law*)

1. The responsibilities for ensuring the security of court premises, bodies of court system, performing functions related to state protection of judges and court employees and providing for the security of participants in the proceedings shall be vested with the specialized units of court militia, acting accordingly to the Law of Ukraine "On Militia".

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**II. The following amendments shall be made to the legal acts of Ukraine:**

**1. In the Criminal Procedural Code of Ukraine:**

1) to set forth Part 3 of Art. 16-2 in the following edition:

"3. Assignment of judges or a panel of judges to hear a certain case or issue shall be made by automated case assignment system during the registration of the respective documents according to the principle of randomness taking into account:

- 1) number and level of complexity of cases considered by a judge;
- 2) judge specialization, if implemented;
- 3) prohibition for a judge to participate in decisions review for a judge who took part in passing the decision subject to review;
- 4) judge's being on vacation, sick leave, business trip;
- 5) judge's holding an administrative position;
- 6) judge's participation in judicial self-government bodies functioning;
- 7) termination of a judge's powers.

After assigning a judge or a panel of judges for the consideration of a specific case making amendments to the registration data of the respective case and elimination of these data from the automated court case management system is not allowed except for the cases stipulated by law. ";

2) in pt. 1 of Art. 32:

- a) in item 1 the words "High Specialized Civil and Criminal Court of Ukraine» shall be substituted by the words "High Criminal Court of Ukraine";
- b) in item 5 the words "High Specialized Civil and Criminal Court of Ukraine» shall be substituted by the words "High Criminal Court of Ukraine";

3) to set forth Art. 38 as follows:

**"Article 38. Case Transfer From One Court to Other**

1. A judge of a court shall transfer the case to other court for consideration if:

- 1) the case or issue shall be resolved according to other branch of justice rules;
- 2) the case or issue are under the other court's jurisdiction;
- 3) after satisfying recusals (self-recusals) or in other events it is impossible to form a new composition of the court to hear a case (issue);
- 4) in order to provide for more objective and full case consideration it should be considered by a court located at the place of residence of the accused or the place where the majority of witnesses resides.

If in the process of case consideration it became subject to the jurisdiction of other court, it shall be considered and adjudicated by the court that carried out proceedings in that case in compliance with jurisdiction rules if the law does not stipulate otherwise.

2. The case may be transferred in the events indicated in items 2 and 4 of part 1 of this Article only before the beginning of its trial in the court hearing.

3. In the event stipulated by item 3 of pt. 1 of this Article the case must be transferred to the court that is territorially closest to this court.

4. The issue on case transfer shall be decided by court order or a judge's ruling. If the court is not authorized to consider the claim only in part it shall transfer duly certified copies of the respective materials and an order or a ruling.

5. The case transferred from one court to another according to the procedure established hereby shall be considered by the court to which it is sent.

6. If the court to which the case is transferred establishes that the case is not subject to its jurisdiction, such court shall by its grounded order pass it to the Supreme Court of Ukraine to determine due jurisdiction. The Supreme Court of Ukraine shall decide the issue according to the Articles 400-26 – 400-29 of this Code.

7. If the court to which the claim or the case is transferred establishes that the case is not subject to its jurisdiction it shall transfer the case by its grounded order together with all the materials to the High Criminal Court of Ukraine to determine proper jurisdiction. The High Criminal Court of Ukraine shall resolve the issue according to the Articles 400-30 – 400-33 of this Code";

4) remove Articles 40 and 41;

5) in Art. 57:

a) to set forth part 2 as follows:

"The issue of the judge's recusal (self-recusal) shall be considered by the court of the same composition which considered the case and resolved by a grounded order. The issue of recusal of several judges or the whole panel shall be decided by simple majority";

b) to supplement the Article after pt. 2 with pt. 3-5 of the following contents:

"If the order on the dismissal of the recusal motion has been passed the person shall be entitled to claim the recusal again after the order was announced or handed to him/her.

The issue of the repeatedly claimed recusal shall be considered and resolved by another judge of this court according to the procedure established by pt. 3 of Art. 16-2 of this Code.

In the event of systematic (more than three times) claiming the recusal in order to drag out the trial the court hearing the case shall independently dismiss the recusal".

In connection with this the parts three – six shall be considered parts six – nine accordingly;

6) in item 3 of part 2 of Art. 156 the words "High Specialized Civil and Criminal Court of Ukraine" shall be substituted with the words "High Criminal Court of Ukraine";

7) in part 4 of Art. 165-3 the words «High Specialized Civil and Criminal Court of Ukraine" shall be substituted with the words "High Criminal Court of Ukraine";

8) in part 3 of Art. 349 the word "fifteen" shall be substituted with the word "twenty";

9) Article 385 shall be set forth as follows:

"Article 385. The Court of Cassation

Cassations against court decisions taken by the Court of Appeals of the Autonomous Republic of Crimea, courts of appeals of oblasts, cities of Kyiv and Sevastopol, as well as decisions of district, district in the city, city and city district courts after their appellate review shall be reviewed by the panel of the High Criminal Court of Ukraine.

The panel of judges to consider a specific case shall be determined according to the procedure established by pt. 3 of Art. 16-2 of this Code.";

**10) in Art. 386:**

- a) in pt. 1 the wording “indicated in pt. 1of Art. 383 of this Code” shall be removed, and after the word “pronouncement” supplemented with the words “of a court of appeals”;
- b) part two shall be removed;
- c) in part four the words “by parts one and two” shall be substituted with the words “by part one”;

**11) title and part 1 of Art. 400-12 shall be set forth as follows:**

**"Article 400-12. Grounds to Submit the Application on the Court Decisions Review**

The application on the court decisions review may be submitted only on the following grounds:

- 1) unequal application by the courts (court) of the same norm of material and(or) procedural right in equal legal relations – regarding the decisions that have entered into force if all other means to appeal against court decisions have been exhausted;
- 2) The court’s application of a law or separate provisions thereof contrary to the Constitution of Ukraine and rule of law requirements – regarding the decisions that have entered into force if all other means to appeal against a court decision were exhausted;
- 3) if an international judicial entity whose jurisdiction was ratified by Ukraine has pronounced the violation by Ukraine of its international obligations in resolving the case”;

**12) in part two of Art. 400-15:****a) set forth item 3 as follows:**

**"3) specific decisions by the court, differing by contents, with regard to which all means of appeal were exhausted and which contain uneven application by the court of the same norms of substantial and procedural law in equal legal relations if the motion was submitted based on the grounds established by item 1 of pt. 1 of Art. 400-12 hereof”;**

**b) after the item 3 supplement the article with a new item of the following contents:**

**"3-1) the motives due to which a person is convinced that the court applied the law or its separate provisions contrary to the Constitution of Ukraine and rule of law requirements if the claim was submitted on the basis of the grounds determined by the item 2 of pt. 1 of Art. 400-12 hereof, – with reference to specific requirements of the Constitution of Ukraine and the Rule of Law ”;**

**c) in item 4 the word and number “item 2” should be substituted with a word and number “item 3”;**

**13) in pt.1 of Art. 400-16:**

**a) in the first sentence after the word “submitted” add the word “directly”, and the words “through the High Specialized Civil and Criminal Court of Ukraine” should be excluded;**

**b) to set forth item 3 as follows:**

**"3) copies of court decisions different by contents in which the court unequally applied the same norms of substantial and(or) procedural law in equal legal relations - in the event of submitting an application based on item 1 of pt.1 of Art. 400-12 hereof”;**

**c) in item 4 the word and number “item 2” should be substituted by word and number “item 3”;**

**14) In Art. 400-17:**

**a) set forth the title of the Article as follows:**

"The Admission by the Supreme Court of Ukraine of the Application on Case Revision";

b) in parts one, three and item 4 of pt. four the words "High Specialized Civil and Criminal Court of Ukraine" shall be substituted with the words "Supreme Court of Ukraine";

c) after pt. 5 add pt. 6 of the following contents:

"The results of the performed actions as indicated in parts two – four of this Article and the contents of requirements set forth in the application shall be presented by the reporting judge to the panel of the Supreme Court of Ukraine ";

15) Articles 400-18 – 400-22 shall be set forth as follows:

"Article 400-18. Case Admission for Proceedings

The question on case admission for proceedings shall be resolved by a panel consisting of three judges of the Criminal Chamber of the Supreme Court of Ukraine. Personal composition of the panel shall be determined according to the procedure established by part 3 of Art. 16-2 hereof. The reporting judge shall be included in the panel.

On the case admission to the proceedings and reclamation of case materials or refusal thereof the Criminal Chamber of the Supreme Court of Ukraine during 15 days from the day of receiving the appeal shall pass an order which is not subject to appeal. The order is passed without the summoning of persons who participate in the case and must be grounded.

The case shall be considered admitted for proceedings and reclaimed if at least two judges in the panel consider it necessary.

In the event of refusal to admit the case to the proceedings the copy of the refusal order together with the copy of application and documents attached thereto shall be sent to a person who submitted the application.

**Article 400-19. Preparation of the case for consideration in the Supreme Court of Ukraine**

The order on case admission to the proceedings together with the application on the review of court decisions and attached documents may be transferred to the reporting judge not later than the next day after its passing. The reporting judge shall within three days after receiving the case materials pass an order on case scheduling for hearing and send its copies to the case participants.

The reporting judge shall within 15 days in order of the case preparation for consideration by the Supreme Court of Ukraine:

1) resolve the issue of discontinuing the enforcement of the respective court decisions;

2) send copies of the order on case review application admission to proceedings together with the copies of the application to the persons participating in the case;

3) determine case consideration procedure in the court session: whether with summoning of the persons participating in the case or based on the present materials without summoning such persons;

4) carry out other measures aimed to prepare the case for consideration.

Based on the results of carrying out preparative actions the reporting judge shall prepare the report and pass the order on completion of the preparation and case scheduling for consideration by the Supreme Court of Ukraine.

**Article 400-20. Case Consideration by the Supreme Court of Ukraine**

The Supreme Court of Ukraine shall consider the case on its session.

The sessions of the Supreme Court of Ukraine shall be authorized if attended by not less than two thirds of judges from its lawful composition.

The session of the Supreme Court of Ukraine shall be led by the Chief Judge of The Supreme Court of Ukraine, and if he/she is absent – the judge of the Supreme Court of Ukraine acting as a Chief Judge.

The Chairman shall open the court session, pronounce the case to be heard, composition of the court and explain the parties their right to claim recusal and other rights and responsibilities.

The reporting judge shall set forth the contents of application and statement of facts of the case.

The person who submitted an application on the review of case decisions and other participants, if they attend court session, shall be entitled to provide explanations on the merits of the application requests. If such applications had been submitted by both parties the claimant is the first to provide explanations.

The failure of the parties to attend the hearing if they were duly notified on day, time and place of hearing shall not be the obstacle for hearing the case.

The Supreme Court of Ukraine may if necessary explore the evidence and state the facts of the case.

The time for case consideration by the Supreme Court of Ukraine shall not exceed one month since the case was admitted for proceedings. In exceptional events taking into account case consideration peculiarities the court may by its order extend case consideration, but not more than fifteen days.

#### **Article 400-21. Authority of the Supreme Court of Ukraine**

Upon results of the review of the case the Supreme Court of Ukraine adopts one of the following reasoned orders:

- 1) to fully or partially satisfy the claim;
- 2) to refuse to satisfy (reject) the claim.

The judge who does not agree with the order may express a dissenting opinion which is attached to the order.

The Supreme Court order is final. It may be subject of review only on the basis stipulated in par. 3 part one of Article 400-12 of this Code.

#### **Article 400-22. Order of the Supreme Court of Ukraine on satisfying the claim**

The Supreme Court shall satisfy the claim if it is established that courts violated principles and norms of law in the considered case within one of the grounds stipulated in Article 400-12 of this Code.

When satisfying the claim, the Supreme Court of Ukraine may:

- 1) reverse the decision of cassation instance court and sustain mistakenly reversed decisions of first instance and/or appellate courts;
- 2) alter the court decision which was the subject of review;
- 3) reverse court decisions on the case and pass a new decision.

Order of the Supreme Court of Ukraine on satisfying the claim should be reasoned";

#### **16) Article 400-25 shall have the following wording:**

"Article 400-25. Mandatory nature of the Supreme Court decisions

Decisions of the Supreme Court of Ukraine is binding for courts of general jurisdiction and subjects of power (entities and their officials with government authority (including those with delegated government management functions)) regarding application of principles and norms of law in respective legal relations";

#### **17) after Chapter 32-1 Section IV add a new Chapter 32-2 of the following content:**

"Chapter 32-2

**IDENTIFYING COURT OF THE RELEVANT COMPETENCE TO CONSIDER THE CASE**



## **§ 1. Determining the respective jurisdiction**

### **Article 400-26. Initiating consideration of the issue on appropriate jurisdiction**

1. Court may initiate in the Supreme Court of Ukraine the issue of appropriate jurisdiction to consider the case in the instance stipulated in part six Article 38 of this Code by sending a respective determination along with materials to the Supreme Court of Ukraine.

### **Article 400-27. Preparations for consideration of the issue on appropriate jurisdiction**

The court determination along with the materials that arrived to the Supreme Court of Ukraine shall be registered on the day of arrival and not later than the next day shall be forwarded to the reporting judge assigned by computerized court case management system.

The reporting judge within 10 days shall carry out the preparation for consideration of the issue on appropriate jurisdiction:

- 1) identifies contentious issues to be resolved by the Supreme Court of Ukraine;
- 2) finds out if there is previous practice (case law) on this issue;
- 3) drafts proposals on identifying jurisdiction as well as a specific court to send the case for consideration.

### **Article 400-28. Consideration of the issue on appropriate jurisdiction**

The Supreme Court of Ukraine shall consider the issue of the appropriate jurisdiction at its meeting without summoning and notifying the persons participating in the case.

Meeting of the Supreme Court of Ukraine shall be competent on condition at least two thirds of the number of Supreme Court judges as defined by law are present at the meeting.

Meetings of the Supreme Court of Ukraine shall be run by Chief Justice of the Supreme Court of Ukraine, in case of his\her absence – by the Justice of the Supreme Court of Ukraine who is acting Chief Justice.

The term for considering the case by the Supreme Court of Ukraine may not exceed one month from the day the respective materials arrived.

### **Article 400-29. Ruling of the Supreme Court of Ukraine on determining the appropriate jurisdiction**

Upon results of consideration of issue on the appropriate jurisdiction the Supreme Court of Ukraine shall pass an order which will name the appropriate jurisdiction and the type of adjudication of the case and shall forward the respective materials to the respective court for proceedings.

The ruling of the Supreme Court of Ukraine should be reasoned. Opinion of the Supreme Court of Ukraine regarding determination of the appropriate jurisdiction is binding for all courts of general jurisdiction in this case and in similar cases.

## **§ 2. Determining the appropriate court jurisdiction**

### **Article 400-30. Initiating consideration of the issue on appropriate court jurisdiction of the case**

Court may initiate before the High Court of Ukraine for Criminal Cases the issue of appropriate court jurisdiction of the case in the instances stipulated in part seven Article 38 of this Code by forwarding the respective determination along with materials (case file) to High Court of Ukraine for Criminal Cases.

### **Article 400-31. Preparation for consideration of the issue on appropriate court jurisdiction of the case**

**Court determination along with the file that arrived to the High Court of Ukraine for Criminal Cases shall be registered the day it arrived and not later than the next day shall be forwarded to the reporting justice assigned by computerized court case management system.**

**The reporting justice within ten days shall carry out the preparation to consideration of the issue on appropriate court jurisdiction of the case:**

- 1) identifies contentious issues to be resolved by High Court of Ukraine for Criminal Cases;**
- 2) finds out if there is previous practice (case law) on these issues;**
- 3) drafts proposals on identifying court jurisdiction of the case as well as a specific court to send the case for consideration.**

**Article 400-32. Consideration of the issue on appropriate court jurisdiction of the case**

**High Court of Ukraine for Criminal Cases shall decide by a panel of five justices at its meeting the issue of the appropriate court jurisdiction of the case without summoning and notifying the persons participating in the case.**

**The term for considering the issue by High Court of Ukraine for Criminal Cases may not exceed twenty days from the day the respective file materials were received.**

**Article 400-33. Order of the High Court of Ukraine for Criminal Cases on court jurisdiction of the case**

**Upon results of consideration of issue on the appropriate court jurisdiction of the case the High Court of Ukraine for Criminal Cases shall pass an order which will state the appropriate court jurisdiction for the case and shall forward the respective materials to the court for proceedings.**

**The order of the High Court of Ukraine for Criminal Cases is binding for courts in this case and in similar cases".**

## **2. In the Code of Ukraine On Administrative Offences:**

**1) in the title and in part one Article 188-35 the words "High Qualifications Commission of Judges of Ukraine, member of High Qualifications Commission of Judges of Ukraine " shall be replaced with " Qualifications Commission of Judges, Disciplinary Commission of Judges, their members, as well as disciplinary inspectors";**

**2) part ten Article 294 shall be supplemented with sentence two of the following content:**

**"The final order on the administrative offence case may be reviewed by the Supreme Court of Ukraine according to Chapter 32-1 Section IV of Criminal Procedural Code of Ukraine in case an international judicial institution whose jurisdiction is recognized by Ukraine establishes that Ukraine violated international obligations when deciding this case".**

## **3. In the Commercial Procedural Code of Ukraine:**

- 1) in Art. 2:**
  - a) the name of the Article shall be set forth as follows: "Opening the proceedings in the case by a commercial court";**
  - b) in part 1:**
    - in the first paragraph the words "open a case" substitute for the words "open the proceedings in the case";**
    - delete paragraph 5;**

c) in pt. 3 the words “open a case” substitute for the words “open the proceedings in the case”;

2) part three of Art. 2-1 shall be set forth as follows:

"The assignment of judge or a panel of judges to hear a certain case shall be performed by automated case management system of the court during the registration of the respective documents according to the principle of randomness taking into account:

- 1) number and complexity of cases being considered by judges;
- 2) judge specialization, if implemented;
- 3) prohibition for a judge to participate in decisions review for a judge who took part in passing the decision subject to review;
- 4) judge's being on vacation, sick leave, business trip;
- 5) judge's holding an administrative position;
- 6) judge's participation in judicial self-government bodies functioning;
- 7) termination of a judge's powers.

After assigning a judge or a panel of judges for the consideration of a specific case making amendments to the registration data of the respective case and elimination of these data from the automated court case management system is not allowed except for the cases stipulated by law.";

3) in part 3 of Art. 4-6 the words "shall be carried out by the High Commercial Court of Ukraine" shall be substituted by the words " shall be carried out by the High Civil and Commercial Court of Ukraine";

4) after Art. 12 add new Articles 12-1 and 12-2of the following contents:

"Article 12-1. Case Transfer from a Commercial Court to Other Jurisdiction Court

If the case is not under jurisdiction of a commercial court to which an application was submitted the court shall transfer the case to the proper jurisdiction not later than five days after receiving an application or passing a order on proceedings termination and case transfer.

If the case is not under jurisdiction of this commercial court in part of the claims it shall transfer to a proper jurisdiction the copies of applications, materials and orders certified by its signature.

If in the process of case consideration it was refereed to the jurisdiction of other courts this case shall be considered and adjudicated by the commercial court which opened proceedings therein compliant to the jurisdiction rules according to this Code if the law does not require otherwise.

Article 12-2. Case Transfer from a Commercial Court to the Court of Other Jurisdiction

If the commercial court to which the application or case was transferred from the court of other jurisdiction establishes that the case does not belong to the jurisdiction of commercial courts it shall by its grounded order transfer it together with all materials to the Supreme Court of Ukraine in order to determine proper jurisdiction. The Supreme Court of Ukraine shall resolve the issue according to Art. 111-29 – 111-32 of this Code";

5) in part 5 of Art. 15 substitute the words “High Commercial Court of Ukraine” with the words “High Civil and Commercial Court of Ukraine”;

6) Article 17 shall be reworded as follows:

"Article 17. Case Transfer from a Commercial Court o Another Commercial Court

If the case is not under the jurisdiction of the commercial court to which the application was filed the court shall transfer the case together with all the materials to the proper jurisdiction not later than five days after the day when the application was

filed of case transfer order passed. If the case is not under the jurisdiction of this court regarding the part of claims it shall transfer to the proper jurisdiction copies of case and all materials and orders certified by its signature.

If the commercial court to which the application is transferred establishes that the case is not subject to its jurisdiction it shall by its grounded opinion transfer it together with all the materials to the High Civil and Criminal Court of Ukraine to determine proper jurisdiction of the case. High Civil and Criminal Court of Ukraine shall decide on this issue according to Art. 111-33 –111-36 thereof.

If in the course of case consideration it became subject to the jurisdiction of other commercial court it shall be considered and adjudicated by the commercial court that opened proceedings therein if the law does not require otherwise.

If after the recusal of judges it is impossible to consider the case in the commercial court to the jurisdiction of which it pertains such case shall be considered to the territorially closest commercial court";

7) Article 20 set forth as follows:

"Article 20. Recusal of a Judge

A judge shall have no right to participate in the consideration of the case and shall be recused (self-recused) if he/she:

1) is a family member, relative or relative-in-law of a person participating in the proceedings;

2) the case assignment procedure as set forth in pt. 3 of Art. 2-1 of this Code was violated;

3) there exist other circumstances challenging the judge's impartiality.

The judge who heard the case cannot hear the same case if the decision passed by him or with his participation was cancelled.

In the event of the said circumstances the judge must self-recuse.

The parties to the case, prosecutors, third parties participating in the proceedings may claim the judge's recusal for the same reasons.

The motion on recusal must be grounded. The recusal after the beginning of the hearing may be allowed only if the reason therefore became known only in the course of case consideration on the merits.

The court shall decide on the recusal (self-recusal) in the composition which hears the case by its grounded order. The issue of recusal of several judges or all the composition shall be resolved by the simple majority.

If the order on dismissal of the recusal motion was passed the person shall be entitled to repeatedly claim the recusal after announcement of the order.

The issue of repeated recusal shall be considered and adjudicated by another judge of this commercial court according to the procedure established by part 3 of Art. 2-1 thereof.

In the event of systematic (more than three times) claiming the recusal in order to drag out the trial the court hearing the case shall independently dismiss the recusal.

If the recusal (self-recusal) of one of the judges or the whole composition of the court is satisfied the case shall be considered by the same commercial court with the same quantitative composition of the judges' panel without the participation of a recused judge or by other composition as determined by the procedure set forth in pt. 3 of Art. 2-1 hereof";

8) in Art. 29:

a) in part 1 the word "initiated" shall be substituted with the words "proceedings in which are opened";

b) in part 3 the words "in already initiated case" shall be substituted with the words "in case the proceedings in which are initiated";

9) in part 1 of Art. 47-1 the words "upon submission of the High Commercial Court of Ukraine" shall be deleted;

10) in part 2 of Art. 58 and part 1 of Art. 59 the words "case opening" shall be substituted by the words "opening proceedings in the case";

11) in the title of Section IX the word "initiation" shall be substituted for the word "opening";

12) Art. 62 shall be given the following wording:

**"Article 62. Refusal to Open the Proceedings**

A judge shall refuse to open the proceedings in a commercial case if:

- 1) the application is not subject to the commercial court jurisdiction;
- 2) the application cannot be considered and resolved in the court;
- 3) the case on the dispute between the same parties, on the same subject on the same grounds is in the proceedings by the court or another commercial disputes ruling body or there exists a decision on the said bodies on the said dispute;
- 4) the lawsuit was filed against a liquidated legal entity.

The judge shall pass an order on the refusal to open the proceedings and send the same to the parties and the prosecutor if the latter is the applicant, not later than three days after receiving the application.

If a judge refuses to open the proceedings on the grounds that the application does not pertain to the jurisdiction of a commercial court according to Art. 12-1 hereof shall transfer the application and lawsuit materials to a court of proper jurisdiction together with the copy of his/her order to resolve the issue on opening of the proceedings. If the judge refuses to open proceedings regarding the part of the claims he shall submit to the proper jurisdiction court the copies of the application and materials attached thereto as certified by his/her signature, as well as orders.

The lawsuit materials shall be attached to the order on the refusal to open the proceedings that is sent to the applicant except for the cases when they are sent to court of proper jurisdiction.

The order on the refusal to open the proceedings may be appealed except for the events if the case is transferred to the proper jurisdiction court. If this order is cancelled this application is considered submitted on the day of applying to a commercial court";

13) in the title and part 1 of Art. 64 the word "initiation" shall be substituted for the word "opening";

14) In Art. 80:

a) item 1 of part 1 shall be set forth as follows:

"1) the case is not subject to the jurisdiction of the commercial courts of Ukraine";

b) after part two shall be supplemented by a part of the following contents:

"The court, terminating the proceedings on the basis of the case not pertaining to the jurisdiction of the commercial court according to Art. 12-1 of this Code shall transfer its materials certified by its signature, as well as orders, to a court of proper jurisdiction".

In connection with this the parts three and four shall be considered accordingly parts four and five;

c) in part four the word "commercial" shall be substituted with the word "court";

15) Article 87 shall be set forth as follows:

**"Article 87. Handing of Decisions and Orders**

The court immediately after pronouncing the decision (or its introductory and operative part) or an order on request of a party, prosecutor, third party who participated in the proceedings hand the respective decision or an order upon a return receipt.

If only introductory and operative part of a decision is announced on a court session the court shall send the full text of the decision by a registered letter upon a return receipt to the parties, prosecutor, third parties within two days from the date of its drafting. Upon the petition of the proceedings participants full text of the decision shall be handed upon the return receipt directly in the courtroom.

The decision shall be sent to the party, prosecutor, third party who did not attend the court hearing by a registered letter upon the return receipt within two days after its drafting in full. Upon their petition the decision shall be handed to them directly in the courtroom.

If a decision or an order is handed to a representative the decision shall be deemed handed to a person whom he/she represents.

The court decision shall be considered handed if it is:

- 1) handed to a person directly in the courtroom upon the return receipt;
- 2) delivered at the address of location, residence or sojourn of the person which this person had communicated to the court;
- 3) delivered at the address of location, residence or sojourn of a person registered according to the law if this person had not communicated other address to the court;
- 4) returned as failed to be handed to the addressee – if the person is not present at the address that he/she had provided to the court;
- 5) returned as failed to be handed to the addressee – if the person is not present at the indicated address or sojourn of the person registered according to the law, if this person had not provided another address to the court";

16) In part 1 of Art. 93:

a) in the first sentence:

the words "ten" and "five" substitute for the words "twenty" and "ten" respectively;

After the words "local commercial court" supplement with the words "or from the day of handing to a person which was not present at the pronouncing",

b) In the second sentence the word "signing" shall be substituted with the words "handing to a person a full";

17) In Art. 106:

a) in part 1:

Item 3 shall be set forth as follows:

"3) on refusal to open proceedings in the case (except for the order on refusal to open proceedings in connection with the application being not subject to the jurisdiction of commercial courts and transferring the application to the court of proper jurisdiction));

Delete item 4;

Supplement item 7 with the words "(except for the order on termination of the proceedings in connection with the application being not subject to the jurisdiction of commercial courts and case transfer to a court of proper jurisdiction));

b) In part seven the words "claim admission or" shall be substituted for the words "opening proceedings in the case or admission";

18) in part 1 of Art. 108 the words "High Commercial Court of Ukraine" shall be substituted with the words "High Commercial and Civil Court of Ukraine";

19) in part 1 of Art. 109 the words "High Commercial Court of Ukraine" shall be substituted with the words "High Commercial and Civil Court of Ukraine";

20) Article 110 shall be set forth as follows:

"Article 110. Term of Lodging a Cassation Appeal

Cassation appeal may be lodged within one month from the day of:

- 1) announcing the ruling or order of a commercial court of appeals;
- 2) handing a ruling or order to the person at the time of pronouncing thereof;

3) handing a person the ruling or order in the event of postponing the drafting of full ruling or order by the court of appeals";

21) in item 5 of part 1 of Art. 111-3 the words "without motion or if such motion was dismissed on renewal of such term" shall be substituted with the words "without the motion on renewal of such term or if such motion is dismissed by court";

22) in part 1 of Art. 111-8 the words "High Commercial Court of Ukraine" shall be substituted with the words "High Civil and Commercial Court of Ukraine";

23) in part 4 of Art. 111-13 the words "claim admission or" substitute with the words "opening proceedings in case or admission";

24) in part 2 of Art. 111-15 the words "item 2 of pt.1 of Art. 111-16" shall be substituted with the words "item 3 of Art. 111-16";

25) Article 111-16 shall be set forth as follows:

**"Article 111-16. Grounds for Appeal against Decisions of the Commercial Courts**

An appeal against court decisions of commercial courts may be lodged exclusively on the following grounds:

1) non-uniform application of the same norms of substantive law by a court (courts) for similar legal relationship, with regard to the decisions that have entered into force if all other means to appeal against court decisions have been exhausted;

2) application by the commercial court of the law or its separate provisions contrary to the Constitution of Ukraine and Rule of Law requirements with regard to the decisions that have entered into force if all other means to appeal against court decisions have been exhausted;

3) finding by an international tribunal, whose jurisdiction is recognized by Ukraine, that Ukraine violated international obligations when deciding the case by commercial court";

26) in part 2 of Art. 111-18:

a) item 3 shall be set forth as follows:

"3) specific court decisions, different by content, with regard to which all means of appeal had been exhausted and in which the court (courts) had unequally applied the same norms of substantial and(or) procedural law in similar legal relationship if the application was filed on the basis set forth in item 1 of Art. 111-16 of this Code";

b) after item 3 supplement the new item 3-1of the following content:

"3-1) motives due to which the person considers that the court applied the law or separate provisions thereof contrary to the Constitution of Ukraine and rule of law requirements if the application was filed on the basis established by item 2 of Art. 111-16 hereof, – with reference to specific requirements of the Constitution of Ukraine and rule of law";

c) In item 4 the words "by item 2 of pt. 1of Art. 111-16" shall be substituted with the words "item 3 of Art. 111-16";

27) In Art. 111-19:

a) In part 1:

In the first sentence after the word "submitted" add the word "directly"; the words "through the High Commercial Court of Ukraine» shall be deleted;

Set forth item 3as follows:

"3) copies of court decisions different by content in which the court (courts) have unequally applied the same norms of substantial and (or) procedural law in the similar legal relationship, if the application was filed on the basis established by item 1 of Art. 111-16 hereof";

b) In item 4 of pt. 1 and in pt. 2 the words "by item 2 of pt. 1 of Art. 111-16 " shall be substituted with the words "item 3 of Art. 111-16";

28) In item 111-20:

a) The title of the article shall be set forth as follows:

"Article 111-20. Passing by the Supreme Court of Ukraine of the Application on the Revision of Court Decision»;

b) in parts one, three and item 4 of part four the words "High Commercial Court of Ukraine" shall be substituted with the words "Supreme Court of Ukraine";

c) supplement with new part six of the following contents:

"The results of performed actions indicated in parts two – four hereof, and the contents of requirements set forth in the application shall be presented by the reporting judge to the panel of the Supreme Court of Ukraine";

29) Article 111-21 shall be set forth as follows:

"Article 111-21. Acceptance of Case to Proceeding

The case shall be admitted to proceedings by the panel of three judges of the Supreme Court of Ukraine. Personal composition of the panel shall be determined according to pt. 3 of Art. 2-1 of this Code. The reporting judge shall be included in the panel.

The issue on case admission to proceedings and reclamation of case materials or refusal to admit shall be considered by the panel of judges of the Supreme Court of Ukraine without summoning the persons who participated in the proceedings, within 15 days from receiving the application. According to the consideration results the court provides a grounded order not subject to appeal.

In the event of refusal to admit case for proceedings the copy of order on refusal to accept the case for proceedings together with the copy of application and documents attached thereto shall be sent to the person who filed it";

30) parts one and two of Art. 111-22 shall be set forth as follows:

"The order on case acceptance to proceedings together with the application on revision of court decision shall be transferred to the reporting judge not later than the next day. The reporting judge shall within three days from receiving case materials pass a ruling on case scheduling for hearing and send the copies to the parties of the case.

The reporting judge shall within fifteen days in order to prepare case for consideration by the Supreme Court of Ukraine:

1) decide on the issue of termination of fulfillment of the respective court decisions;

2) send the copies of the order on case review application admission for proceedings together with copies of the application to the persons participating in the case;

3) determine case consideration procedure: whether in the court hearing with summoning of persons who participated in the proceedings, or according to case materials without summoning the parties;

4) carry out other measures necessary to prepare the case for consideration";

31) Articles 111-23 – 111-25 shall be set forth as follows:

"Article 111-23. Case Consideration by the Supreme Court of Ukraine

A case shall be considered by the Supreme Court of Ukraine at its session.

The session of the Supreme Court of Ukraine shall be deemed plenipotentiary if it is attended by at least two thirds of the constitution of the Supreme Court of Ukraine set forth by the law.



The session of the Supreme Court of Ukraine shall be led by the Chief Judge of the Supreme Court of Ukraine, and if the latter is absent – the judge of the Supreme Court of Ukraine acting as a Chief Judge.

The Chairman shall open the session, announce the case which is to be considered by court, court composition, and explain the persons participating in the case their right to claim recusal and other rights and responsibilities.

The reporting judge shall set forth the contents of appeal and facts of the case.

The person who filed an application on the review of court decisions and the persons who participated in the case, in the event of their attending the court session, shall be entitled to provide explanations on the merits of the asserted claims.

If such claims were filled by both parties the claimant shall be the first to give explanations. To clarify the essence of the substantial (procedural) law norm, which was unequally applied the explanations by the state bodies representatives may be listened to.

The failure of the parties or other persons who were duly notified on the day, time and place of case consideration shall not prevent carrying out case hearing.

The Supreme Court of Ukraine may, if necessary, explore the evidence and state the facts of the case.

The term of case consideration by the Supreme Court of Ukraine shall not exceed one month from the day of case admission to the proceedings. In exceptional cases taking into account the peculiarities of case consideration the court may by its order extend case consideration term, but no more than for fifteen days.

#### **Article 111-24. Powers of the Supreme Court of Ukraine**

Based upon the results of the case consideration, the Supreme Court shall adopt one of the following rulings:

- 1) to allow the appeal in full or in part;
- 2) to dismiss the appeal.

Justices, who do not agree with a ruling, may express their dissenting opinion, which shall be attached to the ruling.

The ruling by the Supreme Court of Ukraine is final. It may be subject to revision only on the grounds determined by item 3 of Art. 111-16 hereof.

#### **Article 111-25. A Ruling of the Supreme Court of Ukraine on Allowing an Appeal**

The Supreme Court of Ukraine shall allow an appeal if it finds that the commercial court violated principles and norms of the law in the considered case within one of the grounds stipulated in Article 111<sup>16</sup> of this Code.

In allowing a claim the Supreme Court of Ukraine may:

- 1) cancel the decision of a cassation court and uphold erroneously cancelled decisions of first and (or) appellate instance;
- 2) change court decisions which were the subject of review;
- 3) cancel court decisions in the case and pass a new court decision.

The ruling of the Supreme Court of Ukraine on allowing an appeal must be grounded";

#### **32) Article 111-28 shall be set forth as follows:**

##### **"Article 111-28. Binding Nature of Decisions of the Supreme Court of Ukraine**

The ruling by the Supreme Court of Ukraine shall be obligatory for the general jurisdiction courts and the holders of authority regarding the application of principles and norms of the law in similar legal relations";

#### **33) after Section XXII-2 supplement with Section XII-3of the following contents:**

##### **"Section XII-3**

**DETERMINATION OF PROPER COMPETENCE OF COURT FOR CASE CONSIDERATION**

## **Chapter 1. Determination of Court Competence**

### **Article 111-29. Initiation of Competence Issue Consideration**

A commercial court may initiate the proper jurisdiction issue to consider the case before the Supreme Court of Ukraine according to the procedure determined by Art. 12-2 of this Code by sending the respective order together with the materials to the Supreme Court of Ukraine.

### **Article 111-30. Preparation of Competence Issue for Consideration**

The order by a commercial court together with the materials received by the Supreme Court of Ukraine shall be registered on the day of receiving and not later than the next day shall be transferred to the reporting judge determined by the automated case assignment system by the court.

The reporting judge shall within ten days prepare the competence issue for consideration:

- 1) determine disputed matters to be resolved to the Supreme Court of Ukraine;
- 2) find out availability of previous case law on the said matters;
- 3) prepare suggestions on determination of the competent specific court to which the case must be transferred for consideration.

### **Article 111-31. Competence Issue Consideration**

The Supreme Court of Ukraine shall consider the competence issue on its session without summoning and notifying the persons who take part in the court proceedings.

The session of the Supreme Court of Ukraine shall be deemed plenipotentiary if it is attended by at least two thirds of the constitution of the Supreme Court of Ukraine set forth by the law.

The session of the Supreme Court of Ukraine shall be led by the Chief Judge of the Supreme Court of Ukraine, and if the latter is absent – the judge of the Supreme Court of Ukraine acting as a Chief Judge.

The term of consideration by the Supreme Court of Ukraine shall not exceed two months from the day of receiving the materials.

### **Article 111-32. Ruling of the Supreme Court of Ukraine on the Determination of Competence**

Based on the results of consideration of the competence issue the Supreme Court of Ukraine shall pass a ruling in which it determines competent court and type of the judiciary for case consideration and forward the respective materials to the respective court for it to open proceedings.

The ruling of the Supreme Court of Ukraine must be grounded. The conclusion of the Supreme Court of Ukraine on determination of proper jurisdiction shall be binding upon the general jurisdiction courts in this case, as well as in similar cases.

## **Chapter 2. Determination of Case Jurisdiction**

### **Article 111-33. Initiation of Proper Case Jurisdiction Issue Consideration**

A commercial court may initiate the issue on proper case jurisdiction before the High Civil and Commercial Court of Ukraine in the event determined by pt.2 of Art. 17 of this Code by sending the respective order together with the materials to the High Civil and Commercial Court of Ukraine.

### **Article 111-34. Preparation of Proper Jurisdiction Issue for Consideration**

The order of a commercial court together with materials received by the High Civil and Criminal Court of Ukraine shall be registered on the day of receiving and not later than the next day transferred to the reporting judge determined by the automated case management system.

The reporting judge shall within ten days prepare for consideration the issue of proper case jurisdiction:

- 1) determine disputed issues to be resolved by the High Civil and Commercial Court of Ukraine;
- 2) find out availability of previous case law on the said matters;
- 3) prepare propositions regarding the determination of case jurisdiction and the specific court to which the case should be forwarded for consideration.

**Article 111-35. Consideration of the Proper Case Jurisdiction Issue**

High Civil and Commercial Court of Ukraine shall consider the issue of proper jurisdiction of the case by the panel of five judges on its session without summoning and notifying the persons who participate in the proceedings.

The term for consideration of the issue by the High Civil and Commercial Court of Ukraine shall not exceed twenty days from the time of receiving the respective materials.

**Article 111-36. The Ruling of the High Civil and Commercial Court of Ukraine on the Proper Jurisdiction of the Case**

Based on the results of considering the issue of proper jurisdiction the High Civil and Criminal Court shall pass a ruling determining proper jurisdiction of the case and send the respective materials to court to initiate the proceedings.

The ruling of the High Civil and Criminal Court must be grounded. The conclusion of the High Civil and Criminal Court on determining proper jurisdiction of the case shall be binding for commercial courts with regard to this case and other similar cases".

**4. In Civil Procedural Code of Ukraine:**

**1) Pt. 3 of Art. 11-1 shall be set forth as follows:**

**"3. Assignment of judges of a panel of judges to hear a certain case or issue shall be made by automated case assignment system during the registration of the respective documents according to the principle of randomness taking into account:**

- 1) number and level of complexity of cases considered by a judge;
- 2) judge specialization, if implemented;
- 3) prohibition for a judge to participate in decisions review for a judge who took part in passing the decision subject to review;
- 4) judge's being on vacation, sick leave, business trip;
- 5) judge's holding an administrative position;
- 6) judge's participation in judicial self-government bodies functioning;
- 7) termination of a judge's powers.

**After assigning a judge or a panel of judges for the consideration of a specific case making amendments to the registration data of the respective case and elimination of these data from the automated court case management system is not allowed except for the cases stipulated by law";**

**2) After Art. 15 it shall be supplemented with new articles 15-1 and 15-2 of the following contents:**

**"Article 15-1. Case transfer to Other Jurisdiction Court**

**1. If the case is not subject to civil jurisdiction the court shall transfer the claim or case to the established jurisdiction not later than five days from receiving the application or passing the order on termination of proceedings and case transfer.**

**2. If the case is not subject to civil jurisdiction in part of asserted claims the court shall transfer to the proper jurisdiction orders and copies of the claim and materials attached thereto certified by its signature.**

**3. If in the process of case consideration it was found subject to the jurisdiction of other courts it shall be considered and adjudicated by the court which opened the**

proceedings, compliant to the jurisdiction rules, if the Law does not provide otherwise.

**Article 15-2. Case Transfer for Determination of the Competence**

1. If a court to which the application or case was transferred from the other jurisdiction court establishes that the case is not within the competence of civil courts it shall by its grounded order transfer it together with all the materials to the Supreme Court of Ukraine to determine proper jurisdiction. The Supreme Court shall resolve this issue according to Art. 360-8 – 360-11 of this Code";

**3) In Art. 24:**

**a) pt. 2 shall be set forth as follows:**

"2. The issue on recusal of the secretary of court hearing, expert, specialist, interpreter shall be resolved by court which considers the case";

**b) after pt.2 the article shall be supplemented with pt. 3 of the following content:**

"3. The issue of recusal (self-recusal) of the judge shall be decided by court in the composition as considering the case, by its grounded ruling. The issue of recusal to several judges or all the composition of court shall be decided by simple majority.

If the order is passed to refuse allowing an application the person may repeatedly require the recusal after announcing or handing the order.

The issue of recusal raised repeatedly shall be considered and adjudicated by another judge determined according to the order established by pt.3 of Art. 11-1 hereof.

In the event of systematic (more than three times) repeated claiming recusal in order to drag out the proceedings the court considering the case may independently refuse in allowing a recusal";

**4) item 3 of pt. 1 of Art. 96 shall be set forth as follows:**

"the claim was asserted on debt recovery under a written deed";

**5) Article 116 shall be set forth as follows:**

"Article 116. Case transfer from one court to another

**1. The court shall pass the case for consideration to another court if:**

1) before the beginning of case consideration on the merits the defendant's motion was allowed as registered according to the law, whose place of residence (sojourn) was not known before, on case passing to the court at the place of his residence(sojourn);

2) while resolving the issue on opening the proceedings or after opening the proceedings in the case it was found that the case is subject to the jurisdiction of another court;

3) after allowing recusals (self-recusals) or in other events it is not possible to create a new composition of court to consider the case.

If in the process of case consideration it became subject to the jurisdiction of other court it shall be considered and adjudicated by the court which opened proceedings herein compliant to the jurisdiction rules if the law does not require otherwise.

2. In the event established by item 3 of pt.1 of this Art. The case shall be transferred to the court that is territorially the closest to this court.

3. Case transfer issue (and before opening the proceedings – the claim together with the materials attached thereto) the court shall decide by its order. If the case is not subject to the jurisdiction of this court in part of claims it shall transfer to the proper jurisdiction the copies of claim and materials attached thereto certified by its signature, as well as orders.

4. The case transferred from one court to the other according to the procedure stipulated hereto shall be considered by court to which it was sent.

5. If the court to which the claim or the case was transferred establishes that the case is not subject to its jurisdiction it shall by grounded order pass it together with all the materials to the High Civil and Commercial Court of Ukraine for the determination of proper jurisdiction. The High Civil and Commercial Court of Ukraine shall resolve the issue according to Art. 360-12 – 360-15 of this Code";

6) pt. 3 of Art. 118 shall be deleted;

7) pt.7 of Art 130 shall be set forth as follows

"7. Preliminary session in cases of action proceedings is obligatory. The issue on the necessity of its holding in severed proceedings shall be decided by a judge while opening proceedings in the case";

8) parts one and three of Art. 131 after the words "during preliminary court session in the case, and" shall be supplemented with the words "the applicant and other interested parties in severed proceedings cases, if preliminary session in the case is not held";

9) item 4 of pt.3 of Art. 121 shall be removed;

10) In Art. 122:

a) in item three of pt. 3 the words "shall return the claim based on item 4 of pt. 3 of Art. 121 of this Code" shall be substituted with the words "transfer the claim to the other court with the proper jurisdiction";

b) Supplement pt. 6 with the words "except for the case if the claim is transferred to the proper jurisdiction court";

c) After pt. 7 supplement the Article with parts eight and nine of the following contents:

"8. In the event of refusal to open proceedings in the case on the grounds established by item 1 of pt. 2 of this Article the court according to Art. 15-1 hereof shall transfer the application and materials attached thereto to the proper jurisdiction court together with the order to resolve the issue of opening the proceedings. The court shall send to a person who submitted the claim a copy of such order.

If the court refuses to open the proceedings with regard to the part of asserted claims it shall transfer the application and materials attached thereto to the proper jurisdiction court together with the orders.

9. If the case is not subject to the jurisdiction of this court the court according to Art. 116 hereof the court compliant to Art. 116 of this Code shall transfer by its order the claim together with all the materials attached thereto. The court shall send the person who submitted a claim the copy of such order";

11) in part 2 of Art. 206 the words "shall notify the applicant to the jurisdiction of which such cases pertain" shall be substituted with the words "shall according to Art. 15-1 hereof transfer its materials to the court of proper jurisdiction together with the copy of its order to resolve the issue on opening of the proceedings;

12) Article 222 shall be set forth as follows:

"Article 222. Handing Court Decision to Case Participants

1. The court shall immediately after having pronounced the decisions (or its introductory and operative part) or order on request of the case participant hand him/her a copy of the respective decisions or order against receipt.

Participants in the case shall be sent copies of the complete court decision be registered notified letter within two days from the day of its completion. Upon their petition the complete court decision shall be given to them directly in the court against receipt.

2. Participants in the case who were not present at the session shall be sent copies of the complete court decision be registered notified letter within two days from the day of its passing or completion. Upon their petition the complete court decision shall be given to them directly in the court against receipt.

3. The court decision shall be considered handed if it is:

- 1) handed to a person directly in the courtroom upon the return receipt;
- 2) delivered at the address of location, residence or sojourn of the person which this person had communicated to the court;
- 3) delivered at the address of location, residence or sojourn of a person registered according to the law if this person had not communicated other address to the court;
- 4) returned as failed to be handed to the addressee – if the person is not present at the address that he/she had provided to the court;
- 5) returned as failed to be handed to the addressee – if the person is not present at the indicated address or sojourn of the person registered according to the law, if this person had not provided another address to the court.

If a decision or an order is handed to a representative the decision shall be deemed handed to a person whom he/she represents. "

4. If the court decision prohibits the defendant to take certain action which requires certain actions to be taken by the state authorities, local self-government bodies, their officials or employees the copy of such decision shall also be sent to these bodies and/or persons within the terms and according to the procedure determined by this Article.

5. Copies of court decisions may be issued again upon a party's application for a certain fee as established by law.

13) in part four of Art. 231 the words "from the day of passing" shall be substituted for the words "from the day of handing a copy to the person";

14) in part one of Art. 293:

- a) items 4 and 14 shall be supplemented with the words "(except for the event of transferring the case to a proper jurisdiction court)";
- b) Item 6 shall be deleted;

15) In Art. 294:

a) Part one shall be set forth as follows:

"1. An appeal against court decision shall be lodged within twenty days of the date of its announcement. If the court applies pt. 3 of Art. 209 hereof the appeal shall be lodged within twenty days from the day of handing a copy of full decision";

b) In part two:

The words "five" shall be substituted with the words "ten";

The word "receiving" shall be substituted with the word "handing";

16) Art. 304-1 shall be deleted;

17) in part 1 of Art. 323 the words "High Specialized Civil and Criminal Court of Ukraine" shall be substituted with the words "High Civil and Criminal Court of Ukraine";

18) part 1 of Art. 325 shall be set forth as follows:

"1. Cassation appeal may be lodged within one month from the day of:

- 1) announcing of decision or order by the court of appeals;
- 2) handing a decision or order to a person if the person is absent at the time of their being announced by the court of appeals;
- 3) handing the decision to a person if the court of appeals has postponed its completion";

19) in part 2 of Art. 354 the words "by item 2 of pt. 1 of Art. 355" shall be substituted with the words "item 3 of Art. 355";

20) Art. 355 shall be set forth as follows:

"Article 355. Grounds for filing an application for review of court judgments

1. An application for review of court judgments in civil cases may be filed exclusively on the grounds of:

1) uneven application by the court (courts) of the same norms of substantive and/or procedural law resulting in the passing of judgments of opposite content in similar legal relationships – with regard to the decisions that have entered into force if all other means of appeal have been exhausted;

2) court's application of the law or separate provisions thereof contrary to the Constitution of Ukraine or rule of law requirements - with regard to the decisions that have entered into force if all other means of appeal have been exhausted;

3) finding, by an international judicial tribunal whose jurisdiction is recognized by Ukraine, of violation of international obligations by Ukraine in the adjudication of a case by a court";

21) in part 2 of Art. 239:

a) item 3 shall be set forth as follows:

"3) specific decisions by the court, differing by contents, with regard to which all means of appeal were exhausted and which contain uneven application by the court of the same norms of substantial and procedural law in equal legal relations if the motion was submitted based on the grounds established by item 1 of Art. 355 of this Code";

b) After item 3 supplements the article with a item of the following content:

"3-1) motives due to which a person is convinced that the court applied the law or its separate provisions contrary to the Constitution of Ukraine and rule of law requirements if the claim was submitted on the basis of the grounds determined by the item 2 of Art. 355 of this Code, – with reference to specific requirements of the Constitution of Ukraine and rule of law ";

c) In item 4 the words "by the item 2 of pt. 1 of Art. 355" shall be substituted with the words "item 3 of Art. 355";

22) In Art. 358:

a) In pt. 1:

In the first sentence after the word "submitted" add the word "directly", and the words "through the High Specialized Civil and Criminal Court of Ukraine" should be excluded;

Item 3 shall be set forth as follows:

"3) Copies of court decisions different by contents in which the court unequally applied the same norms of substantial and (or) procedural law in equal legal relations - in the vent of submitting an application based on item 1 of Art. 355 of this Code";

b) In item 4 of pt.1 and in pt.2 the words "by item 2 of pt.1 of Art. 355" shall be substituted with the words "item 3 of Art. 355";

23) In Art. 359:

a) Title of the article shall be set forth as follows:

"Acceptance of the Application for Review of Court Judgments by the Supreme Court of Ukraine";

b) in parts one, three and item 4 of pt. 4 the words «High Specialized Civil and Criminal Court of Ukraine" shall be substituted with the words "Supreme Court of Ukraine";

c) After pt. five supplement the new pt. six of the following contents:

"Results of fulfilled actions indicated in pt. two – four of this Article, and the contents of claims asserted in the application shall be presented by the reporting judge to the panel of judges of the Supreme Court of Ukraine";

24) Article 360 shall be set forth as follows:

"Article 360. Case Admission to Proceedings

1. The question on case admission for proceedings shall be resolved by a panel consisting of three judges of the Supreme Court of Ukraine. Personal composition of the panel shall be determined according to the procedure established by part 3 of Art. 11-1 of this Code. The reporting judge shall be included in the panel.

2. Regarding the case admission to the proceedings and reclamation of case materials or refusal thereof the Supreme Court of Ukraine during 15 days from the day of receiving the appeal shall pass a grounded order which is not subject to appeal.

3. In the event of refusal to admit the case to the proceedings the copy of the refusal order together with the copy of application and documents attached thereto shall be sent to a person who submitted the application";

25) Article 360-1 shall be set forth as follows:

"Article 360-1. Preparation of Case for Proceedings in the Supreme Court of Ukraine

1. The order on case admission for proceedings together with the application on review of court decision and documents attached thereto may be transferred to the reporting judge not later than the next day after its passing. The reporting judge shall within three days after receiving case materials pass an order on the case scheduling for consideration and send its copies to the parties of the case.

2. The reporting judge shall within fifteen days in order to prepare the case for consideration by the Supreme Court of Ukraine:

1) resolve the issue of discontinuing the enforcement of the respective court decisions;

2) send copies of the order on case review application admission to proceedings together with the copies of the application to the persons participating in the case;

3) determine case consideration procedure in the court session: whether with summoning of the persons participating in the case or based on the present materials without summoning such persons;

4) carry out other measures aimed to prepare the case for consideration.

3. Based on the results of carrying out preparative actions the reporting judge shall prepare the report and pass the order on completion of the preparation and case scheduling for consideration by the Supreme Court of Ukraine";

26) Article 360-2 shall be set forth as follows:

"Article 360-2. Case Consideration by the Supreme Court of Ukraine

1. The Supreme Court of Ukraine shall consider the case on its session.

The sessions of the Supreme Court of Ukraine shall be authorized if attended by not less than two thirds of judges from its lawful composition.

2. The session of the Supreme Court of Ukraine shall be led by the Chief Judge of The Supreme Court of Ukraine, and if he/she is absent – the judge of the Supreme Court of Ukraine acting as a Chief Judge.

3. The Chairman shall open the court session, pronounce the case to be heard, composition of the court and explain the parties their right to claim recusal and other rights and responsibilities.

4. The reporting judge shall set forth the contents of application and statement of facts of the case.

5. The persons, who submitted an application on the review of case decisions and other participants, if they attend court session, shall be entitled to provide



explanations on the merits of the application requests. If such applications had been submitted by both parties the claimant is the first to provide explanations.

6. The failure of the parties to attend the hearing if they were duly notified on day, time and place of hearing shall not be the obstacle for hearing the case.

7. The Supreme Court of Ukraine may if necessary explore the evidence and state the facts of the case.

8. The time for case consideration by the Supreme Court of Ukraine shall not exceed one month since the case was admitted for proceedings. In exceptional events taking into account case consideration peculiarities the court may by its order extend case consideration, but not more than fifteen days";

27) Article 360-3 shall be set forth as follows:

"Article 360-3. Powers of the Supreme Court of Ukraine

1. Based on the results of case consideration the Supreme Court of Ukraine shall take one of the following grounded rulings:

1) on allowing a claim in full or in part;

2) on dismissing a claim.

2. Justices, who do not agree with a ruling, may express their dissenting opinion, which shall be attached to the ruling.

The ruling by the Supreme Court of Ukraine is final. It may be subject to revision only on the grounds determined by item 3 of Art. 355 of this Code";

28) Article 360-4 shall be set forth as follows:

"Article 360-4. A Ruling of the Supreme Court of Ukraine on Allowing a Claim

1. The Supreme Court of Ukraine shall allow a claim if it finds out the violation of the principles and norms of law by courts in the considered case within one of the grounds determined by Art. 355 of this Code.

2. Allowing a claim the Supreme Court of Ukraine may:

1) cancel the decision of a cassation court and uphold erroneously cancelled decisions of first and (or) appellate instance;

2) change court decisions which were the subject of review;

3) cancel court decisions in the case and pass a new court decision.

3. The ruling of the Supreme Court of Ukraine on allowing an appeal must be grounded";

29) Article 360-7 shall be set forth as follows:

"Article 360-7. Mandatory Character of the Decisions of the Supreme Court of Ukraine

1. The ruling of the Supreme Court of Ukraine shall be binding for the general jurisdiction courts and holders of authority with regard to the application of principles and norms of law in the respective legal relations";

30) after Chapter 3 of Section V add a chapter of the following contents:

"Chapter 3-1

**DETERMINATION OF THE COMPETENT COURT FOR CASE CONSIDERATION**

**§ 1. Determination of proper jurisdiction**

**Article 360-8. Initiating consideration of the issue on proper jurisdiction**

1. Court may initiate in the Supreme Court of Ukraine the issue of appropriate jurisdiction to consider the case in the instance stipulated in part six Article 15-2 of this Code by sending a respective order along with materials to the Supreme Court of Ukraine.

**Article 360-9. Preparations for consideration of the issue on proper jurisdiction**

1. The court order along with the materials that arrived to the Supreme Court of Ukraine shall be registered on the day of arrival and not later than the next day shall be forwarded to the reporting judge assigned by automated court case management system.

2. The reporting judge within 10 days shall carry out the preparation for consideration of the issue on appropriate jurisdiction:

- 1) identifies contentious issues to be resolved by the Supreme Court of Ukraine;
- 2) finds out if there is previous practice (case law) on this issue;
- 3) drafts proposals on identifying jurisdiction as well as a specific court to send the case for consideration.

#### **Article 360-10. Consideration of the issue of proper jurisdiction**

1. The Supreme Court of Ukraine shall consider the issue of proper jurisdiction at its meeting without summoning and notifying the persons participating in the case.

2. The session of the Supreme Court of Ukraine shall be competent on condition at least two thirds of the number of Supreme Court judges as defined by law are present at the session.

3. Sessions of the Supreme Court of Ukraine shall be run by Chief Justice of the Supreme Court of Ukraine, in case of his\her absence – by the Justice of the Supreme Court of Ukraine who is acting Chief Justice.

4. The term for considering the case by the Supreme Court of Ukraine may not exceed one month from the day the respective materials arrived.

#### **Article 360-11. Order of the Supreme Court of Ukraine on determining the appropriate jurisdiction**

1. Upon results of consideration of issue on the appropriate jurisdiction the Supreme Court of Ukraine shall pass an order which will name the appropriate jurisdiction and the type of adjudication of the case and shall forward the respective materials to the respective court for proceedings.

2. The order of the Supreme Court of Ukraine should be reasoned. Opinion of the Supreme Court of Ukraine regarding determination of the appropriate jurisdiction is binding for all courts of general jurisdiction in this case and in similar cases.

### **§ 2. Determination of proper court jurisdiction**

#### **Article 360-12. Initiating consideration of the issue on appropriate court jurisdiction of the case**

1. Court may initiate before the High Court of Ukraine for Civil and Commercial Cases the issue of appropriate court jurisdiction of the case in the instances stipulated in part five of Article 116 of this Code by forwarding the respective order along with materials (case file) to High Court of Ukraine for Civil and Commercial Cases.

#### **Article 360-13. Preparation for consideration of the issue on appropriate court jurisdiction of the case**

1. Court determination along with the file that arrived to the High Court of Ukraine for Civil and Commercial Cases shall be registered the day it arrived and not later than the next day shall be forwarded to the reporting justice assigned by computerized court case management system.

2. The reporting justice within ten days shall carry out the preparation to consideration of the issue on appropriate court jurisdiction of the case:

- 1) identifies contentious issues to be resolved by High Court of Ukraine for Civil and Commercial Cases;
- 2) finds out if there is previous practice (case law) on these issues;
- 3) drafts proposals on identifying court jurisdiction of the case as well as a specific court to send the case for consideration.

**Article 360-14. Consideration of the issue on appropriate court jurisdiction of the case**

**1. High Civil and Commercial Court of Ukraine shall decide by a panel of five justices at its meeting the issue of the appropriate court jurisdiction of the case without summoning and notifying the persons participating in the case.**

**2. The term for considering the issue by High Civil and Commercial Court of Ukraine may not exceed twenty days from the day the respective file/materials were received.**

**Article 360-15. Order of the High Civil and Commercial Court of Ukraine on court jurisdiction of the case**

**1. Upon results of consideration of issue on the appropriate court jurisdiction of the case the High Civil and Criminal Court of Ukraine shall pass a order which will state the appropriate court jurisdiction for the case and shall forward the respective materials to the court for proceedings.**

**2. The order of the High Civil and Criminal Court of Ukraine must be grounded. The conclusion of the High Civil and Criminal Court of Ukraine regarding the determination of proper court jurisdiction of the case is binding for courts in this case and in similar cases".**

**5. In the Administrative Code of Ukraine:**

**1) part 3 of Art. 15-1 shall be set forth as follows:**

**"3. Determination of judge or a panel of judges to consider a specific case shall be carried out by automated case management system during registration of the respective documents according to the principle of randomness taking into account:**

- 1) number and level of complexity of cases considered by a judge;**
- 2) judge specialization, if implemented;**
- 3) prohibition for a judge to participate in decisions review for a judge who took part in passing the decision subject to review;**
- 4) judge's being on vacation, sick leave, business trip;**
- 5) judge's holding an administrative position;**
- 6) judge's participation in judicial self-government bodies functioning;**
- 7) termination of a judge's powers.**

**After assigning a judge or a panel of judges for the consideration of a specific case making amendments to the registration data of the respective case and elimination of these data from the automated court case management system is not allowed except for the cases stipulated by law";**

**2) After Art. 17 add Articles 17-1 and 17-2of the following contents:**

**"Article 17-1. Case Forwarding from Administrative Court to Other Jurisdiction Court**

**1. If the case is not subject to the jurisdiction of the administrative court the court shall forward claim or case to the established jurisdiction not later than five days after receiving the application or passing an order on termination of proceedings and case forwarding.**

**2. If the case is not subject to the jurisdiction of administrative courts with regard to part of the claims the court shall forward to proper jurisdiction the copies of orders and materials certified by its signature.**

**3. If in the process of case consideration it was found to be subject to the jurisdiction of other courts it shall be considered and adjudicated by the court which opened the proceedings in compliance with the jurisdiction rules according to this Code if the Law does not require otherwise.**

**Article 17-2. Case Forwarding to Determine Proper Jurisdiction**

1. If an administrative court to which the case was forwarded establishes that the case is not subject to the jurisdiction of administrative courts it shall by its grounded order pass the case together with all the materials to the Supreme Court of Ukraine for determination of appropriate jurisdiction. The Supreme Court of Ukraine shall resolve this issue according to Art. 244-3 – 244-6 of this Code";

**3) In Article 18:**

a) In part two the words "by this Code, except for the cases regarding their decisions, actions or omissions in administrative offence cases and cases subject to the jurisdiction of local general courts as administrative ones" shall be substituted with the words "items 3, 4 of pt.1, parts 3 and 4 of this Article";

b) part four shall be given the following wording:

"4. High Administrative Court of Ukraine shall be the first instance court with regard to:

1) Establishment by the Central Election Commission of the results of elections or all-Ukrainian referendum;

2) early termination of powers of a Member of Parliament of Ukraine;

3) appeal against individual acts, actions or omissions of the Verkhovna Rada of Ukraine, President of Ukraine, High Council of Justice, Qualifications Commission of Judges, Disciplinary Commission of Judges connected with their powers regarding judicial corps ";

4) in part three of Art. 19 after the word "acts" supplement the words "of the Verkhovna Rada of Ukraine, President of Ukraine";

**5) in Article 20:**

a) the second sentence of pt. 3 shall be set forth as follows:

"In the events stipulated by this Code the High Administrative Court of Ukraine shall review court decisions according to the appellate procedure as the appellate court";

b) part four shall be set forth as follows:

"The Supreme Court of Ukraine shall review decisions by administrative courts after their review in cassation. In the event stipulated by part two of Art. 171-1 of this Code, the Supreme Court of Ukraine shall review in appeal as an appellate court the decisions by the High Administrative Court of Ukraine";

**6) item four of pt. 1 of Art. 21 shall be set forth as follows:**

"If the case with respect to one of the claims is subject to the jurisdiction of the High Administrative Court of Ukraine, and with respect to other claim – to other administrative court, this case shall be considered by the High Administrative Court of Ukraine;

**7) Article 22 shall be set forth as follows:**

**Article 22. Administrative Case Forwarding from One Administrative Court to Another**

1. The court shall forward the case for consideration to another court if:

1) before the beginning of case consideration on the merits the defendant's motion was allowed as registered according to the law, whose place of residence (sojourn) was not known before, on case passing to the court at the place of his residence (sojourn);

2) while resolving the issue on opening the proceedings or after opening the proceedings in the case it was found that the case is subject to the jurisdiction of another court;

3) after allowing recusals (self-recusals) or in other events it is not possible to create a new composition of court to consider the case.

If in the process of case consideration the case became subject to the jurisdiction of other administrative court it shall be considered and adjudicated by the administrative court that opened proceedings therein, compliant to court jurisdiction rules if the law does not require otherwise.

2. The court shall forward an administrative case for consideration to other administrative court which is territorially closest to this court if the court or a judge thereof is one of the parties to a case.

3. Court jurisdiction of cases in which one of the parties is the Supreme Court of Ukraine, High Administrative Court of Ukraine or a judge of one of these courts shall be established according to the general court jurisdiction rules.

4. The issue on forwarding administrative case (and before opening of the proceedings – an action claim together with the materials attached thereto) shall be decided by a court order. If the case is not subject to the jurisdiction of this court with regard to a part of asserted claims, it shall forward to the proper jurisdiction the copies of the claim and materials attached thereto, certified by its signature, as well as orders.

5. Administrative case forwarded from one administrative court to another shall be considered by administrative court to which it is sent.

6. If the administrative court to which the claim or case is forwarded finds out that the case is not subject to its court jurisdiction it shall by its grounded order pass it together with all the materials to the High Administrative Court of Ukraine to determine appropriate court jurisdiction. High Administrative Court of Ukraine shall resolve this issue according to Articles 244-7 – 244-10 of this Code";

8) In Art. 24:

a) in part one of Art. 24 after the word "omission" supplement with the words "of the Verkhovna Rada of Ukraine, President of Ukraine";

b) part five shall be deleted;

9) item 1 of pt. 3 of Art. 30 shall be set forth as follows:

"Recusal (self-recusal) of a judge shall be motivated and presented in writing before the beginning of court hearings on the merits of an administrative case. The recusal (self-recusal) may be claimed only in the event if the grounds for the recusal (self-recusal) became known after the beginning on case consideration on the merits";

10) pt. 2 of Art. 31 shall be set forth as follows:

"2. The court shall pass a grounded order on the issue on recusal (self-recusal) in the same composition which considered the case. The issue of recusal for several judges or the whole composition of court shall be resolved by the simple majority of votes.

In the event of passing an order on the recusal a person may repeatedly claim the recusal after announcement or handing the order.

The issue on the repeated recusal shall be considered and adjudicated by other judge of this administrative court determined according to the procedure set forth by part three of Art. 15-1 of this Code.

In the event of systematic (more than three times) recusal of judges in order to drag out the proceedings the court shall independently dismiss the recusal";

11) Article 100 shall be set forth as follows:

"Article 100. The Consequences of Exceeding the Terms to Apply to the Administrative Court

1. Administrative lawsuit filed after the expiration of the term established by law shall be deferred, if a person did not submit an application stating valid reasons to exceed the terms.

2. If the court receives an application on the renewal of the term to apply to court or on case consideration, if the claimant provides reasons confirming that he/she had not exceeded the terms the court shall open proceedings in the case and resolves the

issue of the exceeded term renovation in court hearing with notice to the participants. If the application term was exceeded without valid reasons the court shall close proceedings in the case upon the application from the defendant";

12) part four of Art. 105 shall be supplemented with a item of the following content:

"The action claim may contain other lawful requirements aimed to the protection of rights, freedoms or interests in the public legal relations sphere";

13) In Art. 107:

a) items 5 and 6 of pt. 1 shall be set forth as follows:

"5) The action claim was filed;

6) there are no grounds to return the claim, defer it or refuse to open the proceedings in the administrative case established by this Code";

b) in part two the words "leave without hearing on the merits" shall be substituted with the words "leaving without hearing on the merits, forwarding a claim to another administrative court with appropriate court jurisdiction";

c) In item three of pt. 3 the words "returns the claim to the claimant" shall be substituted with the words "pass the claim to another administrative court with appropriate court jurisdiction";

d) In item 1 of pt. 5 the word "consideration" shall be substituted with the words "defer, return claim, and forward the claim to another administrative court with appropriate jurisdiction";

e) Part seven shall be set forth as follows:

"7. If the case is not within the jurisdiction of this administrative court it shall according to Art. 22 of this Code forward the claim by its order together with the materials attached thereto. The court shall send a copy of such order to a person who submitted the claim";

f) Part eight shall be deleted;

14) Item 6 of part 3 of Art. 108 shall be deleted;

15) In Art. 109:

a) Parts three and four shall be supplemented with the words "except for the forwarding of the case to a proper jurisdiction court";

b) Part six shall be set forth as follows:

"6. In the event of refusal to open the proceedings on the basis established by item 1 of part 1 of this Article the court shall in accordance with this Code forward the claim and action materials to the appropriate jurisdiction court together with the copy of its order to resolve the issue on opening of the proceedings. The court shall send a copy of such order to a person who submitted the claim.

If the Court refuses to open preceding in part of requirements it shall pass the copies of statement of claim and attached materials as well as the court resolutions verified by its signature to the court of appropriate jurisdiction.

16) Part six of the Article 128 read as follows:

"6. The Court can try a case in written proceeding if any person that takes part in a case and is appropriately informed about the date, time and place of trial has not come to the court hearing without valid reasons or without notification about such valid reasons, and if there is no need to hear a witness or expert, and if there are no other obstacles foreseen by this Article";

17) Parts two and three of the Article 157 read as follows:

"2. If the proceeding on a case is closed by reason stated by point 1 of part one of this Article the Court shall pass materials of the case together with copy of its resolution

to the court of appropriate jurisdiction for deciding an issue on opening proceeding according to the Article 17-1 of this Code.

3. The Court enacts resolution about closing of proceeding on a case. The court resolution about closing of proceeding on a case can be appealed except the case of passing the claim to the court of appropriate jurisdiction.

Repeated application with the same statement of claim is not allowed;

18) Article 167 read as follows:

“Article 167. Announcement of court decision, handing court decision to persons that take part in a case

1. The court decision shall be announced in public immediately after the Court comes out from the deliberation room. The chairman of the court hearing explains substance of the decision, order and term of its appeal.

2. Right after announcement of the decision (or its introductory and resolute parts) or resolution by requirement of a person that takes part in a case the Court hands appropriate decision or resolution against receipt.

In case of announcement of introductory and resolute parts of decision only at the court hearing the Court shall send the full text of the decision by recommended letter with notice about handing to persons that take part in a case during two days after it is composed. The Court composes the full text of the decision in terms foreseen by part three of the Article 160 of this Code.

By appeal of persons that take part in a case the full decision shall be handed against receipt directly in the court.

3. The copy of the court decision shall be sent to persons that took part in a case but have not been present at the court hearing by recommended letter with notice about handing in two days after it is resolved or composed in full. By application of these persons the court decision shall be handed against receipt directly in the court.

4. The court decision is considered to be handed if it is:

1) handed to a person directly in the court against receipt;

2) delivered by address of location, place of living or staying of a person given to the court by this person;

3) delivered by address of location, place of living or staying of a person which is registered in order stated by law if this person has not informed the court about another address;

4) returned as undelivered to addressee in case of absence of a person by address given to the court by this person;

5) returned as undelivered to addressee in case of absence of a person by address of living or staying of a person which is registered in order stated by law if this person has not informed the court about another address.

If the copy of decision is handed to the representative it is considered that it is handed to a person which he/she represents”;

19) Article 171-1 read as follows:

“Article 171-1. Specific features of proceeding in cases regarding appealing the acts of individual action, activities or inactivity of the Verkhovna Rada of Ukraine, the President of Ukraine, the High Council of Justice, the High Qualification Commission of Judges, Disciplinary Commission of Judges related to their authorities in respect to judiciary

1. Rules of this Article cover investigation of administrative cases regarding legality (except constitutionality) of regulations of the Verkhovna Rada of Ukraine, decrees and orders of the President of Ukraine, regarding appealing their actions or inactivity, and also acts of individual action, activities or inactivity of the High Council of Justice, the

**High Qualification Commission of Judges, Disciplinary Commission of Judges (including disciplinary inspectors).**

By rules of this Article the Court tries the cases regarding appealing the mentioned acts, activities or inactivity if they are related with execution of powers of the mentioned state bodies in respect to judiciary (in particular, powers regarding selection, appointment and election of judges, bringing them to liability, dismissal from position of a judge).

2. Acts, activities or inactivity of the Verkhovna Rada of Ukraine, the President of Ukraine, the High Council of Justice, the High Qualification Commission of Judges, Disciplinary Commission of Judges can be appealed to the High Administrative Court of Ukraine during fifteen days from a day when a person finds out or should have find out about violation of its rights, freedoms or interests.

3. Administrative case on appealing the acts, activities or inactivity of the Verkhovna Rada of Ukraine, the President of Ukraine, the High Council of Justice, the High Qualification Commission of Judges, Disciplinary Commission of Judges shall be tried by the board of judges composed of no less than five judges.

4. In case of admission of the act as illegal and abolishing it the respondent shall publish the court decision in the way it officially published this act immediately after the court decision comes into force.

5. Decision of the High Administrative Court of Ukraine regarding appealing the acts, activities or inactivity of the Verkhovna Rada of Ukraine, the President of Ukraine, the High Council of Justice, the High Qualification Commission of Judges, Disciplinary Commission of Judges can be reconsidered in appellate review by the Supreme Court of Ukraine by general rules of appellate proceeding”;

20) in Article 171-2:

- a) in part one the word “five” should be replaced by word “twenty”;
- b) in part two after words “administrative responsibility” the words “can be appealed only to the court of the appellate instance who’s decision” should be added;

21) part two of the Article 183-1 read as follows:

“2. Administrative cases on compulsory acquisition of ground area, other objects of real estate that are situated on it by cause of public necessity shall be considered and decided by the circuit administrative court by place of location of the real estate in respect to which the decision about compulsory acquisition can be made”;

22) In Art. 183-2:

- a) items 3 and 4 of part 1 shall be deleted;
- b) in part three the word "render" shall be substituted with the word "pass", the fourth sentence shall be deleted;
- c) In part four the words "lawful and grounded court decision" shall be substituted with the words "ruling on allowing a claim in full or in part";
- d) items 2 and 3 in part five shall be set forth as follows:
  - "2) not later than three days – if within five days from the expiration of the term indicated in part three of this Article the court did not receive objection from the defendant;
  - 3) not later than five days after submitting the objection against the claim by the defendant";
- e) item 4 shall be deleted;
- f) paragraph four of part eight shall be deleted;



- 23) In Article 186:
- a) in part two:  
the word “ten” shall be substituted with the word “twenty”;  
the word “receiving” shall be substituted with the word “handing”;  
after the words “in the event of” shall be supplemented with the words "absence of the person while announcing the ruling";  
paragraph 2 shall be deleted;
  - b) in part three:  
the words "five» shall be substituted with the words “ten”;  
the word “receiving” shall be substituted with the word “handing”;  
paragraph 2 shall be deleted;
- 24) item 6 of Art. 198 shall be deleted;
- 25) part two of Art. 212 shall be set forth as follows:  
"2. Cassation appeal may be submitted within one month from the day of:
- 1) announcing the ruling or order of a court of appeals;
  - 2) handing a ruling or order to the person at the time of pronouncing thereof;
  - 3) handing a person the ruling or order in the event of postponing the drafting of full ruling or order by the court of appeals";
- 26) In Art. 233:
- a) In the title of Article the word “appellate” shall be substituted with the word “cassation”;
  - b) the words "appellate court" shall be substituted with the words "cassation court";
- 27) In Art. 236:
- a) in part one of the Art. 236 the words "their review in cassation" shall be substituted with the words "exhaustion of other means of appeal established by this Code";
  - b) in part two the words "by item 2 of pt. 1 of Art. 237" shall be substituted with the words "item 3 of Art. 237";
- 28) Art. 237 shall be set forth as follows:  
"Article 237. Grounds for Filing an Application on Review of Court Decisions  
1. The application on review of court decisions in administrative cases shall be submitted only on the following reasons:
- 1) unequal application by the courts (court) of the same norm of substantial and(or) procedural law in equal legal relations – regarding the decisions that have entered into force if all other means to appeal against court decisions have been exhausted;
  - 2) The court’s application in an administrative case of a law or separate provisions thereof contrary to the Constitution of Ukraine and rule of law requirements – regarding the decisions that have entered into force if all other means to appeal against a court decision were exhausted;
  - 3) if an international judicial entity whose jurisdiction was ratified by Ukraine has pronounced the violation by Ukraine of international obligations in resolving the case”;
- 29) in part 2 of Art. 239:
- a) item 3 shall be set forth as follows:  
"3) specific court decisions, different by content, with regard to which all means of appeal had been exhausted and in which the court (courts) had unequally applied

the same norms of substantial and(or) procedural law in similar legal relationship if the application was filed on the basis set forth in item 1 of Art. 237 of this Code";

b) after item 3 supplement the item of the following content:

"3-1) motives due to which the person considers that the court applied the law or separate provisions thereof contrary to the Constitution of Ukraine and rule of law requirements if the application was filed on the basis established by item 2 of Art. 237 of this Code, – with reference to specific requirements of the Constitution of Ukraine and rule of law";

c) in item 4 the words "by item 2 of part one of Art. 237" shall be substituted with the words "by item 3 of Art. 237";

30) In Article 239-1:

a) In part one:

in the first sentence after the word "submitted" shall be added the word "directly", and the word "through the High Administrative Court" shall be deleted;

item 3 shall be set forth as follows:

"3) copies of specific court decisions, different by content, with regard to which all means of appeal had been exhausted and in which the court (courts) had unequally applied the same norms of substantial and(or) procedural law in similar legal relationship if the application was filed on the basis set forth in item 1 of Art. 237 of this Code";

b) in item 4 of part and part two the words "by item 2 of part 1 of Art. 237" shall be substituted with the words "by item 3 of Art. 237";

31) In Art. 239-2:

a) Title of the Article shall be set forth as follows:

"Admission by the Supreme Court of Ukraine of the Application on the Review of Court Decision";

b) in parts one, three and item 4 of part 4 the words "High Administrative Court of Ukraine";

c) supplement with part six of the following contents:

" The results of the performed actions as indicated in parts two – four of this Article and the contents of requirements set forth in the application shall be presented by the reporting judge to the panel of the Supreme Court of Ukraine";

32) Article 240 shall be set forth as follows:

"Article 240. Case Admission for Proceedings

1. The question on case admission for proceedings shall be resolved by a panel consisting of three judges of the Supreme Court of Ukraine. Personal composition of the panel shall be determined according to the procedure established by part 3 of Art. 15-1 hereof. The reporting judge shall be included in the panel.

2. On the case admission to the proceedings and reclamation of case materials or refusal thereof the panel of judges of the Supreme Court of Ukraine during 15 days from the day of receiving the appeal shall pass an order which is not subject to appeal. Based on the consideration results the court shall pass a grounded ruling that is not subject to appeal.

3. In the event of refusal to admit the case to the proceedings the copy of the refusal order together with the copy of application and documents attached thereto shall be sent to a person who submitted the application";

33) parts one and two of Art. 240-1 shall be set forth as follows:

"1. The order on case admission to the proceedings together with the application on the review of court decisions and attached documents may be transferred to the reporting judge not later than the next day after its passing. The reporting judge shall within three days after receiving the case materials pass an order on case scheduling for hearing and send its copies to the case participants.

2. The reporting judge shall within 15 days in order of the case preparation for consideration by the Supreme Court of Ukraine:

- 1) resolve the issue of discontinuing the enforcement of the respective court decisions;
- 2) send copies of the order on case review application admission to proceedings together with the copies of the application to the persons participating in the case;
- 3) determine case consideration procedure in the court session: whether with summoning of the persons participating in the case or by written proceedings;
- 4) carry out other measures aimed to prepare the case for consideration";

34) Articles 241 – 243 shall be set forth as follows:

"Article 241. Case Consideration by the Supreme Court of Ukraine

1. The Supreme Court of Ukraine shall consider the case on its session.

The sessions of the Supreme Court of Ukraine shall be authorized if attended by not less than two thirds of judges from its lawful composition.

2. The session of the Supreme Court of Ukraine shall be led by the Chief Judge of The Supreme Court of Ukraine, and if he/she is absent – the judge of the Supreme Court of Ukraine acting as a Chief Judge.

3. The Chairman shall open the court session, pronounce the case to be heard, composition of the court and explain the parties their right to claim recusal and other rights and responsibilities.

4. The reporting judge shall set forth the contents of application and statement of facts of the case.

5. The person who submitted an application on the review of case decisions and other participants, if they attend court session, shall be entitled to provide explanations on the merits of the application requests. If such applications had been submitted by both parties the claimant is the first to provide explanations.

6. The failure of the parties to attend the hearing if they were duly notified on day, time and place of hearing shall not be the obstacle for hearing the case.

7. The Supreme Court of Ukraine may if necessary explore the evidence and state the facts of the case.

8. The time for case consideration by the Supreme Court of Ukraine shall not exceed one month since the case was admitted for proceedings. In exceptional events taking into account case consideration peculiarities the court may by its order extend case consideration, but not more than fifteen days.

Article 242. Powers of the Supreme Court of Ukraine

1. Upon results of the review of the case the Supreme Court of Ukraine adopts one of the following grounded rulings:

1) to fully or partially satisfy the claim;

2) to refuse to satisfy (reject) the claim.

2. The judge who does not agree with the order may express a dissenting opinion which is attached to the ruling.

3. The Supreme Court ruling is final. It may be subject of review only on the basis stipulated in part 3 of Art. 237 of this Code.

Article 243. Ruling of the Supreme Court of Ukraine on Satisfying the Claim

1. The Supreme Court shall satisfy the claim if it is established that courts violated principles and norms of law in the considered case within one of the grounds stipulated in Article 237 of this Code.

2. When satisfying the claim, the Supreme Court of Ukraine may:

1) reverse the decision of cassation instance court and sustain mistakenly reversed decisions of first instance and/or appellate courts;

2) alter the court decision which was the subject of review;

3) reverse court decisions on the case and pass a new decision.

3. Ruling of the Supreme Court of Ukraine on satisfying the claim should be reasoned ";

35) Article 244-2 shall be set forth as follows:

"Article 244-2. Mandatory Character of Rulings of the Supreme Court of Ukraine

1. Ruling of the Supreme Court of Ukraine shall be mandatory for general jurisdiction subjects and holders of authority with regard to application of the principles and rules of law in the respective legal relations";

36) after Chapter 3 of Section IV add a new chapter 3-1 of the following contents:

"Chapter 3-1

IDENTIFYING COURT OF THE RELEVANT COMPETENCE TO CONSIDER THE CASE

§ 1. Determining the respective jurisdiction

Article 244-3. Initiating consideration of the issue on appropriate jurisdiction

1. Court may initiate in the Supreme Court of Ukraine the issue of appropriate jurisdiction to consider the case in the instance stipulated in Article 17-2 of this Code by sending a respective determination along with materials to the Supreme Court of Ukraine.

Article 244-4. Preparations for consideration of the issue on appropriate jurisdiction

1. The court determination along with the materials that arrived to the Supreme Court of Ukraine shall be registered on the day of arrival and not later than the next day shall be forwarded to the reporting judge assigned by computerized court case management system.

2. The reporting judge within 10 days shall carry out the preparation for consideration of the issue on appropriate jurisdiction:

1) identifies contentious issues to be resolved by the Supreme Court of Ukraine;

2) finds out if there is previous practice (case law) on this issue;

3) drafts proposals on identifying jurisdiction as well as a specific court to send the case for consideration.

Article 244-5. Consideration of the issue on appropriate jurisdiction

1. The Supreme Court of Ukraine shall consider the issue of the appropriate jurisdiction at its meeting without summoning and notifying the persons participating in the case.

2. Meeting of the Supreme Court of Ukraine shall be competent on condition at least two thirds of the number of Supreme Court judges as defined by law are present at the meeting.

3. Meetings of the Supreme Court of Ukraine shall be run by Chief Justice of the Supreme Court of Ukraine, in case of his\her absence – by the Justice of the Supreme Court of Ukraine who is acting Chief Justice.

4. The term for considering the case by the Supreme Court of Ukraine may not exceed one month from the day the respective materials arrived.

Article 244-6. Ruling of the Supreme Court of Ukraine on determining the appropriate jurisdiction

1. Upon results of consideration of issue on the appropriate jurisdiction the Supreme Court of Ukraine shall pass an order which will name the appropriate jurisdiction and the type of adjudication of the case and shall forward the respective materials to the respective court for proceedings.

2. The order of the Supreme Court of Ukraine should be reasoned. Opinion of the Supreme Court of Ukraine regarding determination of the appropriate jurisdiction is binding for all courts of general jurisdiction in this case and in similar cases.

## **§ 2. Determination of the proper jurisdiction of the case**

### **Article 244-7. Initiating consideration of the proper jurisdiction of the case**

1. The court may initiate the issue concerning proper jurisdiction of the case before the High Administrative Court of Ukraine in the case referred to part six of Article 22 of the Code, by sending the appropriate decisions with the materials to the High Administrative Court of Ukraine.

### **Article 244-8. Preparing to consider the proper jurisdiction of the case**

1. The court decision, together with materials submitted to the High Administrative Court of Ukraine shall be registered the day of receipt and not later than the next day shall be passed to judge-reporter defined by automated court management system.

2. The judge-reporter during ten days performs preparation for consideration the issue of proper jurisdiction of the case:

- 1) determines the disputed question, which should be resolved by High Administrative Court of Ukraine;
- 2) ascertains the existence of prior litigation on these issues;
- 3) prepares proposals for definition of jurisdiction of the case, as well as specific court, to which the case should be directed for consideration.

### **Article 244-9. Consideration of appropriate jurisdiction of the case**

1. High+ Administrative Court of Ukraine considers the proper jurisdiction of the case as part of the panel of five judges at their meeting without a call and notifying people involved in the case.

2. The terms of consideration by the High Administrative Court of Ukraine shall not exceed twenty days from receipt of materials.

### **Article 244-10. Resolution of the High Administrative Court of Ukraine on the proper jurisdiction of the case**

1. After considering the question of the proper jurisdiction of the case the High Administrative Court of Ukraine shall adopt a resolution, which determines the proper jurisdiction of the case and directs the appropriate case files to the court for admission to its proceedings.

2. Resolution of the High Administrative Court of Ukraine must be motivated. The Conclusion of the High Administrative Court of Ukraine concerning determination of the proper jurisdiction of the case is binding on the administrative courts in this case and in similar cases ";

37) the first part of Article 267 read as follows:

"1. The Court that approved the court decision in an administrative case, requires the authority to submit in due time the court record of execution, which requires it to commit certain acts."

6. Amend the Criminal Code of Ukraine by Article 375-1 as follows:

#### **"Article 375-1. Assigning of Court functions**

1. Assigning of court functions shall be punished by a fine from five hundred to one thousand untaxed minimum incomes, or arrest for up to four months, or imprisonment for up to three years, with disqualification to hold certain positions or engage in certain activities or without.

2. The same act committed by an official shall be punished by a fine from one to two thousand untaxed minimum incomes, or arrest for up to six months, or imprisonment for a term of two to five years, or imprisonment for the same term, with disqualification to hold certain positions or engage in certain activities".

**7. The Budget Code of Ukraine:**

1) in item 1 of part 2 of Article 22 the words "Supreme Court of Ukraine, high specialized courts" replace by the words "court staff of the courts of general jurisdiction, the State Judicial Administration of Ukraine";

2) In Article 34:

a) part two after the word "restriction" add "except as outlined in part three of this article";

b) after the second part add a new part three as follows:

"3. Instructions for preparation of budget requests by the Constitutional Court of Ukraine, the court staff of courts of general jurisdiction, the State Judicial Administration of Ukraine shall not impose financial restrictions set out in part two of this article";

3) In Article 36 after the first part add a part as follows:

"2. If the Ministry of Finance of Ukraine considers that the budget requests of the Constitutional Court of Ukraine, the court staff of court of general jurisdiction, the State Judicial Administration of Ukraine are not reasonable or can not be met, the Ministry of Finance of Ukraine includes them to the suggestions to the draft State Budget of Ukraine for the relevant year and with the Draft Law "On State Budget of Ukraine" shall submit to the Cabinet of Ministers of Ukraine reasoned conclusions, stating the reasons that counteract the satisfaction of these requests, and suggestions on ways to resolve differences".

In this regard, second and third parts of Article 36 shall be considered as parts three and four;

4) article 38 after item twenty-eighth add by the following paragraph:

"If the Cabinet of Ministers of Ukraine considers that the budget requests of the Constitutional Court of Ukraine, the court staff of court of general jurisdiction, the State Judicial Administration of Ukraine is not reasonable or can not be met, the Cabinet of Ministers of Ukraine also submits to the Verkhovna Rada of Ukraine, the reasoned conclusion, stating the reasons that counteract the satisfaction of these requests, and suggestions on ways to resolve differences";

5) delete item 4-1 of Section VI "Final and Transitional Provisions".

8. In the second part of Article 13 of the Law of Ukraine "On Renewing Debtor's Solvency or Declaring it Bankrupt" words "High Commercial Court of Ukraine" replace by the words "High Civil and Commercial Court of Ukraine".

**9. In the Law of Ukraine On the High Council of Justice**

1) item 1-1, part one, of Article 3 shall be excluded;

2) Article 5 should be appended with new parts 4-5 which shall read as follows:

"The High Council of Justice composition majority should be consisted from representatives of the judiciary.

Members of the High Council of Justice performing their duties on permanent basis. The members of the High Council of Justice, for the term of their appointment, shall be seconded to the High Council of Justice with keeping their place of work.

Requirements of the part four of this Article shall not be applied to the ex officio members of the High Council of Justice";

3) in part four of the Article 10 words "On Judicial Self Governance" shall be replaced with the words "On Judiciary and Status of Judges";

**4) in Article 19:**

**a) part one shall be set forth to read as follows:**

**“The High Council of Justice shall form:**

**1) section on preparation of representations for initial appointment of judges and their release from duties;**

**2) disciplinary section to conduct disciplinary proceedings, review/consider complaints on decisions about disciplining and adoption of the decision on violation of requirements of non-combination of jobs by judges and prosecutors”.**

**b) part three shall be excluded;**

**5) in Article 25:**

**a) part three shall be set forth to read as follows:**

**“The High Council of Justice to implement its mandate may demand from the courts the copies of certain documents from court cases, consideration of which is completed, except for those documents containing state secrets. Copies of the documents should be provided to the High Council of Justice in order stated in parts one and two of this Article”;**

**b) in part three words “court cases” shall be substituted by the words “documents”;**

**c) in part four word “from” shall be substituted by the words “in court with the materials of the court cases, proceeding of which is completed, and also”;**

**6) in Article 27:**

**a) items 2-1, 2-2, 6-1, 6-2 and 7 of part one shall be excluded;**

**b) item 5 of part two shall be excluded;**

**c) in part 3 words “exclusively to the High administrative court of Ukraine” shall be excluded;**

**7) Article 29 shall be reworded as follows:**

**“Article 29. Submission on initial appointment on a position of a judge**

**The High Council of Justice based on the recommendation of the Qualification Commission of Judges submits to the President of Ukraine submission about citizen of Ukraine initial appointment on a position of a judge.**

**The High Council of Justice is considering submission about initial appointment of judicial candidate after the report of the High Council of Justice member who acts on behalf of certain section where judicial candidate materials previously studied.**

**The High Council of Justice on its meeting/session takes a decision about submitting the submission on initial appointment on a position of a judge by open voting (by show of hands). Decision to submit to the President of Ukraine submission on initial appointment on a position of a judge shall be considered approved if voted in favor by more than one half of the constitutional membership of the High Council of Justice.**

**The decision of the Qualification Commission of Judges to recommend candidate on a position of a judge and that candidate materials shall be added to the High Council of Justice submission on initial appointment on a position of a judge “;**

**8) Articles 29-1 and 29-2 shall be excluded;**

**9) in Article 30:**

**a) item one shall be set forth to read as follows:**

**“Qualification Commission of Judges”;**

**b) to add after item one new item which shall read as follows:**

**“Disciplinary Commission of Judges”.**

**In this regard item 2 shall be considered as item 3.**

**10) in Article 32:**

**a) in part one words “by the High Qualification Commission of Judges of Ukraine” shall be substituted by the words “by the Disciplinary Commission of Judges”;**

b) after part two to add new part which shall read as follows:

“The High Council of Justice consider issue regarding removal of a judge based on violation of the oath only if present appropriate conclusion of the Disciplinary Commission of Judges or of the High Council of Justice about violation of the oath by judge that makes it impossible to remain a person on a position of a professional judge”;

c) part three shall be excluded;

11) Article 32-1 shall be excluded;

12) in Article 34:

a) item 4 shall be reworded as follows:

“Qualification Commission of Judges”;

b) after item 4 to add new item 5 which shall read as follows:

“Disciplinary Commission of Judges”;

13) Article 37 shall be reworded as follows:

“Article 37. The procedure of disciplining judges of the Supreme Court of Ukraine and judges of high specialized courts

Grounds for disciplinary action against judges of the Supreme Court of Ukraine and judges of high specialized courts, disciplinary proceedings against them, types of disciplinary sanctions and the procedure for removing them are stipulated by the Law on Judiciary and the Status of Judges”;

14) Article 38 shall be reworded as follows:

“Article 38. Service of Disciplinary Inspectors

In the High Council of Justice acts the service of disciplinary inspectors consisted of three disciplinary inspectors to conduct verification of information on the presence of grounds for disciplinary action against a judges of the Supreme Court of Ukraine and judges of high specialized courts.

Disciplinary inspectors based on the instruction of a member of the High Council of Justice conduct verification of information on the presence of actions that may contain the signs of disciplinary offenses; prepare draft conclusions on existence of the grounds for disciplinary action against judges of the Supreme Court of Ukraine and judges of high specialized courts; participate in disciplinary cases hearings in order with the Law on Judiciary and the Status of Judges”.

Disciplinary inspectors shall be selected and appointed by the High Council of Justice on the competition basis from among persons having the record of working as a judge, prosecutor, investigator.

The status of disciplinary inspectors shall be determined by this Law, the Laws of Ukraine On Judiciary and the Status of Judges, On State Service.

The Regulations on the Disciplinary Inspectors Service shall be approved by the Council of Judges of Ukraine upon the submission from the Disciplinary Commission of Judges approved by the High Council of Justice”;

15) Articles 39 – 44 shall be deleted.

10. Article 215 Of the Law of Ukraine "On Standing Rules of Verkhovna Rada of Ukraine" shall be deleted.

### III. Transitional provisions

1. This Law shall enter into force from January 1, 2012.

2. High Civil and Commercial Court of Ukraine and High Criminal Court of Ukraine shall be established from January 1, 2012 and commence their activities from February 1, 2012.



Before the beginning of their operation their powers shall be respectively performed by the High Commercial Court of Ukraine, Civil Chamber of High Specialized Civil and Criminal Court of Ukraine and Criminal Chamber of High Specialized Civil and Criminal Court of Ukraine.

3. Civil courts of appeal and criminal courts of appeal shall be established since January 1, 2012 and commence their activities since February 1, 2012.

Before the beginning of their operation their powers shall be exercised by the respective oblast courts of appeals, cities of Kyiv and Sevastopol, Autonomous Republic of Crimea.

4. Cassation appeals (motions) on the court decisions in civil, commercial and criminal cases, motions (applications) on review of court decisions in connection with newly found facts, submitted to High Specialized Civil and Criminal Court of Ukraine and High Commercial Court of Ukraine submitted before January 1, 2012 and scheduled (admitted) by them for cassation consideration shall be considered according to the procedure which was valid before this Law was enacted.

Cassation claims (motions) against court decisions in civil, commercial and criminal cases, motions (applications) on the review of court decisions in connection with newly found facts submitted to the High Specialized Civil and Criminal Court of Ukraine and High Commercial Court of Ukraine after January 1, 2012 shall be forwarded by them respectively to the High Civil and Commercial Court of Ukraine and High Criminal Court of Ukraine.

5. Appeals (motions) on decisions of local courts in civil and criminal cases submitted to oblast courts of appeals, Kyiv and Sevastopol Courts of Appeals, Autonomous Republic of Crimea Court of Appeals before January 1, 2012 and scheduled (admitted) by them for appellate consideration shall be considered according to the procedure which was valid before this Law will be enacted.

Appeals (motions) on decisions of local courts in civil and criminal cases submitted to oblast courts of appeals, Kyiv and Sevastopol Courts of Appeals, Autonomous Republic of Crimea Court of Appeals after January 1, 2012 shall be forwarded by them to the respective civil courts of appeals and criminal courts of appeals.

6. Judges of the High Specialized Civil and Criminal Court of Ukraine which as for the day of enactment of this law are dispensing justice in civil and criminal cases shall be transferred to the High Civil and Commercial Court of Ukraine or to the High Criminal Court of Ukraine on the basis of application on transfer by the decision of the Qualifications Commission of Judges.

Judges of High Commercial Court of Ukraine shall be Transferred to the High Civil and Commercial Court of Ukraine on the basis of application on transfer by the decision of the Qualifications Commission of Judges.

The judges of the said courts upon their accord may also be transferred to the appellate or local courts on the basis of application on transfer by the decision of the Qualifications Commission of Judges. These judges transferred to local or appellate courts shall be equal by status, including the level of monetary and social provision, to the judges of high specialized courts.

If the number of vacancies in the respective court is insufficient to provide for the transfer of judges of High Commercial Court of Ukraine, High Specialized Civil and Criminal Court of Ukraine, the number of such vacancies may be increased according to the procedure stipulated by this law to provide for the transfer of judges.

7. Chief judges and their deputies appointed to their positions before the enactment of this Law shall perform their duties on their positions until the expiration of their appointment term.

The judges acting as chief judges in the event of absence of the latter shall continue to act as such until the chief judge is appointed according to the procedure stipulated hereby.

Chief judges and their deputies appointed before the enactment of this Law, whose tenure expires after the enactment of this Law shall continue to exercise their powers till the appointment of chief judges and their deputies according to the procedure stipulated by this Law.

8. Not later than February 1, 2012 the meetings of judges will be held aimed to the election and dispatching the representatives to the joint meetings of the respective courts to elect delegates to the Congress of Judges of Ukraine and appointment of the members of Council of Judges of Ukraine.

Not later than one month after expiration of the term envisaged by the item 1 of this item the current composition of the Council of Judges of Ukraine shall organize holding the Congress of Judges of Ukraine in May 2012 according to the procedure stipulated hereby.

9. Qualifications Commission of Judges shall be created in the new composition according to the procedure stipulated hereby and commence its activities after the appointment of not less than two thirds of its composition.

Disciplinary Commission of Judges shall be created according to the procedure established hereby and commence its activities after the appointment of not less than two thirds of its composition.

High Qualifications Commission of Judges of Ukraine created before this Law entered into force shall forward its available materials accordingly to the Qualifications Commission of Judges and Disciplinary Commission of Judges created according to this Law not later than June 1, 2012.

The passage of terms for disciplinary liability of judges in cases transferred to the Disciplinary Commission of Judges created according to this Law shall be suspended until it accepts the cases.

Materials on appointment or election of judges to the positions transferred according to the established procedure before this Law enters into force shall be considered according to the procedure valid before its enactment.

10. Members of the High Council of Justice, appointed to their positions before this Law enters into force shall continue to exercise their powers until the expiration of their appointment term.

11. Chiefs of staff of the Supreme Court of Ukraine, high specialized courts and their deputies shall continue to exercise their powers till the appointment of new chiefs of staff of the Supreme Court of Ukraine, high specialized courts and their deputies according to the procedure established by this Law.

12. Judges appointed or elected to the position before this Law enters into force shall retain the registered length of work record as a judge according to the legislation valid for the day of this Law entering into force.

13. Requirements regarding the work record to hold the position of judge of appellate, high specialized court, Supreme Court of Ukraine shall not apply to judges who hold these positions as for the day of this Law entering into force.

14. The Cabinet of Ministers of Ukraine shall:

1) within one month from this Law entering into force:

provide for the accommodation of the High Criminal Court of Ukraine in the administrative premises where for the day of this Law entering into force the High Specialized Civil and Criminal Court was located, and the High Civil and Commercial Court – in the administrative premises where for the day of this Law entering into force High Commercial Court of Ukraine was located;

2) within three months from this Law entering into force:

develop and submit for the consideration of the Verkhovna Rada of Ukraine the Draft Law on Peculiarities of Preparation and Consideration of the Draft Law on the State Budget of Ukraine to the extent of funding courts, other bodies and institutions of the judiciary;

bring its legislative acts in compliance with this Law;

ensure, within its powers, the review or cancellation of laws which go contrary to this Law;

provide for bringing by the ministries and other central executive bodies their legislative acts in compliance with this Law;

3) to provide in the Law of Ukraine On the State Budget of Ukraine for 2012 the expenses connected with the implementation of the provisions of this Law which shall enter into force since January 1, 2012.

15. Recommend the State Judicial Administration of Ukraine take actions aimed to organizational maintenance of holding the Congress of Judges of Ukraine, in particular regarding the allocation of appropriate facilities to hold it.