

Procedure and methodology for qualification assessment of a judge

1. General provisions

1.1. Procedure and methodology for qualification assessment of a judge (hereinafter – the Procedure) was developed in accordance with the Law of Ukraine "On the Judiciary and the Status of Judges" (hereinafter – the Law) the Law of Ukraine "On Ensuring the Right to Fair Trial", the European Charter on the Statute for Judges (1998) and with consideration for Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe to member states on judges: independence, efficiency and responsibilities adopted by the Committee of Ministers of the Council of Europe on November 17, 2010, the Kiev Recommendations of OSCE on Judicial Independence in East Europe, Southern Caucasus and Central Asia "Judicial Administration, Selection and Accountability" (2010), Opinion (2014) 17 of the Consultative Council of European Judges on the evaluation of judges' work, the quality of justice and respect for judicial independence of the Consultative Council of European Judges, the Joint opinion on the Law of Ukraine "On the Judicial System and the Status of Judges" by the Venice Commission and the Directorate of Human Rights of the Directorate General of Human Rights and Rule of Law of the Council of Europe, and defines legal and organization principles of qualification assessment of judges.

1.2. Qualification assessment of judges is performed by the High Qualification Commission of Judges of Ukraine (hereinafter – the Commission) in accordance with requirements of articles 83 – 86 of the Law and with consideration for special aspects provided for by items 6 and 7 of the section II "Final and Transitional Provisions" of the Law of Ukraine "On Ensuring the Right to Fair Trial" concerning initial qualification assessment and reassessment.

Qualification assessment to prove the capability of a judge to execute justice in the court of the corresponding level, qualification assessment for lifetime appointment of a judge in cases stipulated by the Law, as well as qualification assessment in connection with imposition of disciplinary sanction on a judge are conducted by the Qualification Chamber of the High Qualification Commission of Judges of Ukraine (hereinafter – the Qualification Chamber).

1.3. Qualification assessment of a judge is a statutory procedure of determination by the Commission of the professional level of a judge and their job competence.

1.4. The objective of qualification assessment is to define professional level of a judge and their ability to execute justice in a relevant court and a court of appropriate level.

1.5. The tasks of qualification assessment are the following:

1.5.1. Checking the ability of a judge to dispense justice in a court of appropriate level.

1.5.2. Confirmation of the professional level of a judge to be appointed as a judge for lifetime.

1.5.3. Confirmation of the ability of a judge to dispense justice in the court where he works in connection with imposed disciplinary sanction.

1.5.4. Making a decision concerning the ability of a judge to dispense justice in relevant court.

1.5.5. Confirmation of the ability to dispense justice in relevant court.

1.6. Principles of qualification assessment are the following: publicity, transparency, openness, unity of procedure and methodology, application of single criteria for a judge's assessment, independence of judges.

1.7. Grounds for holding the qualification assessment are the following:

1.7.1. Judge's application to undergo qualification assessment to confirm their ability to dispense justice in a court of appropriate level.

1.7.2. Judicial candidate's application to undergo qualifications assessment to be appointed for lifetime;

1.7.3. Decision of the High Qualification Commission of Judges of Ukraine on carrying out qualification assessment in connection with disciplinary sanction imposing as envisaged by article 97 of the Law;

1.7.4. Decision of the High Qualification Commission of Judges of Ukraine on initial qualification assessment and reassessment to the satisfaction of requirements of items 6 and 7 of Section II "Final and Transitional Provisions" of the Law of Ukraine "On Ensuring the Right to Fair Trial".

These provisions are also applied to the judges who are either elected or appointed to the High Council of Justice and the High Qualification Commission of Judges of Ukraine and are not retired.

1.8. Information which is used during qualification assessment is received by the Commission pursuant to legislation.

2. Methodology of qualification assessment

2.1. Criteria of qualification assessment of a judge are the following:

2.1.1. Professional competence.

2.1.2. Personal competence.

2.1.3. Social competence.

2.1.4. Ability of professional enhancement.

2.1.5. Ability to dispense justice in a court of appropriate level.

2.1.6. Compliance of a judge with ethical criteria.

2.1.7. Compliance of a judge with anti-corruption criteria.

2.2. Indicators of eligibility are the following:

2.2.1. Professional competence:

2.2.1.1. Knowledge of law (level of legal competence, knowledge and application of international legal acts, conventions, etc.).

2.2.1.2. The ability to hold a court session (the level of practical skills, analytical abilities, etc.).

2.2.1.3. The ability to approve decisions (the level of skills in application of law, the power of reasoning and ability to prove the position in legal terms, writing skills, the reliance of decisions on legislation and facts, analytical abilities, etc.).

2.2.2. Personal competence:

2.2.2.1. The ability to handle a certain scope of work:

2.2.2.1.1. The number of cases considered.

2.2.2.1.2. The number of cancelled judgments and the grounds for their cancelling.

2.2.2.1.3. Availability and the number of judgements which became the grounds for awarding judgement by the international judicial bodies and other international organizations which identified the violation by Ukraine of international legal obligations, including those which were revised after identification of such violation by the Supreme Court of Ukraine.

2.2.2.1.4. The number of amended judgments and the grounds for their modification.

2.2.2.2. Personal leadership:

2.2.2.2.1. Compliance with the length of proceedings.

2.2.2.2.2. Average amount of time to draft the text of a grounded decision with consideration for provisions of item 2.5.2.2.2. of this Procedure.

2.2.2.2.3. Caseload in comparison to other judges in the respective court, region with consideration for instance, specialization of the court and judge.

2.2.2.2.4. Number of complaints against the judge's actions.

2.2.2.2.5. Number of disciplinary proceedings and their results.

2.2.3. Social competence:

2.2.3.1. Impassivity - the data as to compliance of behaviour of a judge with the Code of Judicial Ethics, results of an interview, results of regular assessment reflected in a judge dossier.

2.2.3.2. Stress resistance - the data as to compliance of behaviour of a judge with the Code of Judicial Ethics, results of an interview, results of regular assessment reflected in a judge dossier.

2.2.3.3. Ability to communicate - the data as to compliance of behaviour of a judge with the Code of Judicial Ethics, results of an interview, results of regular assessment reflected in a judge dossier.

2.2.4. Ability of professional enhancement:

2.2.4.1. Information about the results of completing training of a judge in the National School of Judges of Ukraine and advanced training during their judge tenure.

2.2.5. Ability to dispense justice in a court of appropriate level.

2.2.5.1. Ability to dispense justice in a court of appropriate level and specialization, information about the results of a judge's previous qualification assessments reflected in their professional dossier.

2.2.6. Compliance of a judge with ethical criteria:

2.2.6.1. Data as to compliance of a judge's behaviour with the Code of Judicial Ethics, honesty, justice, impartiality, etc.

2.2.7. Compliance of a judge with anti-corruption criteria:

2.2.7.1. Data as to compliance of expenditures and property of a judge and members of their family, as well as of connected persons with their declared incomes, including copies of respective declarations submitted by a judge in accordance with legislation on prevention of corruption.

2.2.7.2. Data as to a compliance of a judge with requirements of legislation on prevention of corruption.

2.3. Methods of receiving results:

2.3.1. Examination.

2.3.2. Review of a judge's dossier.

2.3.3. Interview.

2.4. Methods of determination of indicators:

2.4.1. Examination:

2.4.1.1. Knowledge of law (anonymous testing in writing).

2.4.1.2. Ability to hold court sessions (fulfillment of a practical task).

2.4.1.3. Ability to approve a decision (fulfillment of a practical task).

2.4.1.4. Ability to dispense justice in a court of appropriate level and specialization (fulfillment of a practical task).

2.4.2. Review of a judge's dossier:

- 2.4.2.1. The number of cases considered.
- 2.4.2.2. The number of cancelled judgments with consideration for a judge's explanations.
- 2.4.2.3. The number of judgements which became the grounds for awarding judgement by the international judicial bodies and other international organizations which identified the violation by Ukraine of international legal obligations, including those which were revised after identification of such violation by the Supreme Court of Ukraine.
- 2.4.2.4. The number of amended judgments with consideration for a judge's explanations.
- 2.4.2.5. Compliance with the length of proceedings.
- 2.4.2.6. Average amount of time to draft the text of a grounded decision.
- 2.4.2.7. Caseload in comparison to other judges in the respective court, region with consideration for instance, specialization of the court and judge.
- 2.4.2.8. Number of complaints against the judge's actions.
- 2.4.2.9. Number of disciplinary proceedings.
- 2.4.2.10. Impassivity.
- 2.4.2.11. Stress resistance.
- 2.4.2.12. Ability to communicate.
- 2.4.2.13. Information about the results of completing training of a judge in the National School of Judges of Ukraine and advanced training during their judge tenure.
- 2.4.3. Interview:
 - 2.4.3.1. The grounds for cancellation of judgments with consideration for a judge's explanations.
 - 2.4.3.2. The prerequisites for making judgements which became the grounds for awarding judgement by the international judicial bodies and other international organizations which identified the violation by Ukraine of international legal obligations and an explanation of a judge as to making such judgements.
 - 2.4.3.3. The grounds for amending of judgments with consideration for a judge's explanations.
 - 2.4.3.4. Results of disciplinary proceedings.
 - 2.4.3.5. Data as to compliance of expenditures and property of a judge and members of their family, as well as of connected persons with their declared incomes, including copies of respective declarations submitted by a judge in accordance with legislation on prevention of corruption.

2.4.3.6. Data as to a compliance of a judge with requirements of legislation on prevention of corruption.

2.4.3.7. The data as to compliance of behaviour of a judge with the Code of Judicial Ethics.

2.5. Assessment of indicators of the professional level of a judge:

2.5.1. Professional competence:

2.5.1.1. Knowledge of law - qualified, requires advanced training, not qualified.

2.5.1.2. The ability to hold a court session - qualified, requires advanced training, not qualified.

2.5.1.3. The ability to approve decisions - competent, requires advanced training, incompetent.

2.5.2. Personal competence:

2.5.2.1. The ability to handle a certain scope of work:

2.5.2.1.1. Number of cases considered - sufficient, mediocre, low (with consideration for the causes of such indicators).

2.5.2.1.2. The number of cancelled judgments and the grounds for their cancelling - lower than statistically average, statistically average, above the statistically average.

2.5.2.1.3. Availability and the number of judgements which became the grounds for awarding judgement by the international judicial bodies and other international organizations which identified the violation by Ukraine of international legal obligations, including those which were revised after identification of such violation by the Supreme Court of Ukraine - absence, availability (with consideration for the results of their revision by the courts of higher instance).

2.5.2.1.4. The number of amended judgments and the grounds for their cancelling - lower than statistically average, statistically average, above the statistically average.

2.5.2.2. Personal leadership:

2.5.2.2.1. Compliance with the length of proceedings - complies, complies in general, does not comply.

2.5.2.2.2. Average amount of time to draft the text of a grounded decision - defined after introduction of consideration for the indicator by the State Judicial Administration of Ukraine – reasonable, reasonable in general, unreasonable.

2.5.2.2.3. Caseload in comparison to other judges in the respective court, region with consideration for instance, specialization of the court and judge - high, average, low.

2.5.2.2.4. Number of complaints against the judge's actions - high, average, low (including the complaints taken for consideration).

2.5.2.2.5. Number of disciplinary proceedings and their results - high, average, low (including applied disciplinary actions and their types).

2.5.3. Social competence:

2.5.3.1. Impassivity is defined by the results of review of a judge's dossier and an interview – impassive, impassive in general, not impassive.

2.5.3.2. Stress resistance is defined by the results of review of a judge's dossier and an interview – resistant, resistant in general, not resistant.

2.5.3.3. Ability to communicate - able to communicate, able to communicate in general, not able to communicate.

2.5.4. Information about the results of completing training of a judge in the National School of Judges of Ukraine and advanced training during their judge tenure - positive, average, negative.

2.5.5. Ability to dispense justice in a court of appropriate level and specialization - competent, competent in general, incompetent.

2.5.6. Compliance of a judge with ethical criteria:

2.5.6.1. The data as to compliance of behaviour of a judge with the Code of Judicial Ethics - complies, complies in general, does not comply.

2.5.7. Compliance of a judge with anti-corruption criteria:

2.5.7.1. Data as to compliance of expenditures and property of a judge and members of their family, as well as of connected persons with their declared incomes, including copies of respective declarations submitted by a judge in accordance with legislation on prevention of corruption - comply, comply taking into consideration explanations, do not comply.

2.5.7.2. Data as to a compliance of a judge with requirements of legislation on prevention of corruption - complies, complies in general, does not comply.

2.6. Evaluation of a criterion during qualification assessment:

2.6.1. Negative evaluation of a criterion is determined by negative assessment of the majority of its values.

2.6.2. Final evaluation of quantitative indicators takes place with consideration for the explanations of a judge and attached documents which confirm the related information.

2.7. The assessment methodology for examination is defined by the Provision for the procedure of taking a test and the methodology for its assessment during qualification assessment of a judge, which is approved by the Commission by the agreement with the Judicial Council of Ukraine.

2.8. Test questions and model legal cases of a test are systematically developed by the National School of Judges of Ukraine with consideration for qualification evaluation criteria, the principles of instance and specialization, examination programmes.

2.9. The National School of Judges of Ukraine can involve judges, experts and science workers into development of test questions and model legal cases.

2.10. The National School of Judges of Ukraine shall provide reviewing of the test questions and model legal cases for judges of respective courts by judges of superior courts, after that they will be sent to the Commission.

2.11. Test Program for qualification assessment of a judge (hereinafter - the Examination programme) defines the content, quantitative and qualitative indicators of anonymous testing in writing and fulfillment of a practical task. Examination programmes are developed with consideration for a level and specialization of the court by the National School of Judges of Ukraine and approved by the Commission.

2.12. The National School of Judges of Ukraine under the authority of the Qualification Chamber periodically renews Examination programmes to ensure objective assessment of judges.

2.13. The Examination programme defines, in particular:

2.13.1. Subjects of test questions to identify the level of knowledge of law.

2.13.2. Characteristics, type and number of model legal cases which will be resolved during practical task to identify the ability to hold a court session.

2.13.3. A percent of test problems and practical tasks in a corresponding test.

3. Procedure for qualification assessment

3.1. Each judge who meets the requirements to a judge of the respective court within the announced competition for vacant position of a judge has the right to apply for qualification assessment to confirm their ability to dispense justice in a court of appropriate level.

Judicial candidates for the lifetime position have the right to apply for qualifications assessment in the cases specified by articles 76 – 77 of the Law.

3.2. The samples of applications to undergo qualifications assessment are approved by a decision of the High Qualification Commission of Judges of Ukraine and placed on the Commission's official website.

3.3. Qualification assessment is conducted not later than two months after the day of receiving of a written application of a judge, except for the cases of qualification assessment by the resolution of the High Qualification Commission of Judges of Ukraine in connection with imposition of disciplinary penalty.

3.4. Commission members, inspectors and employees of the Secretariat of the Commission are the authorized subjects on the issues of qualification assessment and performing the functions of administrative-executive character, general control, resolution of emergency and conflict situations, coordination and approval of actions during preparation and holding of qualification assessment (hereinafter – the authorized representatives). Authorized representatives have the right of access to the place of qualification assessment.

The list of authorized representatives is approved by an order of the Head of the High Qualification Commission of Judges of Ukraine.

Organization and holding the meetings on the issues of qualification assessment are carried out according to the standard procedure defined by the Regulations of the Commission.

3.5. A member of the Qualification Chamber or an inspector of the Commission, by authorization of such member, carries out the check of an application for eligibility for consideration of the issue on qualification assessment on the basis of a judge's dossier reclaimed for resolution of a respective issue from the structural subdivision of the Commission Secretariat responsible for its keeping.

3.6. In case when a judge's dossier lacks the information or documents confirming it, the member of the Qualification Chamber or an inspector of the Commission, by authorization of such member, at any stage of qualification assessment has the right to raise the issue on discovery and receiving of the information from the courts, judges, High Council of Justice, State Judicial Administration of Ukraine, bodies of judicial self-administration, State government bodies and local government bodies, their officials, enterprises, institutions, organizations irrespective of the form of their ownership and subordination, associations of citizens and separate individuals, and failure to provide such information entails liability imposed by law.

3.7. The application shall be returned without consideration if:

3.7.1. A judge does not meet the statutory requirements to a job in the court of appropriate level.

3.7.2. A candidate for lifetime appointment of a judge:

3.7.2.1. Earlier applied to the High Qualification Commission of Judges of Ukraine with an application for their lifetime appointment as a judge.

3.7.2.2. Was dismissed from the position of judge under their application on resignation, and more than three years have passed from the moment of such dismissal.

3.7.2.3. Earlier was already elected as a judge with lifetime appointment and their resignation was accepted, and more than three years have passed from the moment of such dismissal.

3.7.3. A judge (candidate) applied to the Qualification Chamber with an application on the leaving their application on qualification assessment without consideration.

3.8. A member of the Qualification Chamber prepares for the procedure of qualification assessment by the application which is eligible according to the set requirements and is not subject for return.

3.9. Based on the results of decision on the eligibility of an application, a member of the Qualification Chamber, in case there are reasonable grounds for it, within three days after the moment of arriving of a respective application to the Commission shall transfer a judge's dossier to a responsible structural subdivision of the Secretariat of the Commission for it to take measures for the dossier update, clarification, filling with certain information indicated by him and preparation for qualification assessment.

3.10. Qualification assessment shall include the following stages:

3.10.1. Passing by a judge (candidate) of a test.

3.10.2. Judge's dossier review and interview.

3.10.2.1. Resolution of the issue of recommendation of a retired judge of the Constitutional Court of Ukraine for their election for the position of a judge of the Supreme Court of Ukraine for lifetime shall be taken without testing, on the basis of an interview and review of a judge's dossier.

3.11. The process of qualification assessment shall be recorded with the help of technical facilities: a test – video recording, an interview - audio recording.

To ensure appropriate conditions during the test and interview for judges and candidates as well as publicity and transparency of qualification assessment, the Commission can provide live video broadcasting of the assessment procedure in the place of its running in the real time mode with consideration for provisions of item 3.24. of this Procedure.

3.12. The High Qualification Commission of Judges of Ukraine not later than ten days prior to the date of qualification assessment, shall inform a judge (candidate) on the fact of qualification assessment, its place and time.

3.13. Information sharing shall be through the letter of invitation to participation in qualification assessment (hereinafter – the letter of invitation) sent to a judge by mail (registered mail) on the job. The letter of invitation shall be sent to a candidate by mail (registered letter) to the address of their permanent residence indicated by a candidate in an application on qualification assessment. Information about qualification assessment and a copy of the letter of invitation shall be also placed on the official website of the High Qualification Commission of Judges of Ukraine.

3.14. The grounds for sending a letter of invitation shall be a resolution of the High Qualification Commission of Judges of Ukraine on qualification assessment.

3.15. Examination:

3.15.1. The qualification assessment shall include anonymous test and practical written task for a judge (candidate).

Specific features of a test formation for initial qualification assessment shall be defined in Section 5 of this Procedure.

A judge within five-year term is entitled to take a repeated test, but not earlier than three years after its previous taking.

3.15.2. Registration of a judge (candidate) is carried out by the place of testing.

3.15.3. Judges taking the examination within the competition for vacant position of a judge shall embark on written anonymous testing and practical task simultaneously

3.15.4. The judge, who is late for the examination, may be allowed to pass the examination by the Head of the Qualification Chamber within the remaining time.

3.15.5. Test questions and practical tasks for judges (candidates) shall be made taking into account the general courts instance and jurisdiction specifics, in relation to which the ability to dispense justice is checked or the professional level is confirmed.

The exam can be conducted with consideration for specialization of a judge defined by the meeting of judges in accordance with the Provision on meetings of judges of general courts.

3.15.6. Test passing procedure and scoring methodology during qualification assessment of a judge shall be regulated by the provisions to be approved by the Commission on coordination with the Council of Judges of Ukraine.

3.16. Review of a judge's dossier:

3.16.1. Review of a judge dossier consists in systematization, analysis, collection, specification, addition of its data by a member of the Qualification Chamber for the purpose of defining of the previous indicators of qualification assessment criteria.

3.16.2. A judge's dossier review shall cover the period of his/her work as a judge since January 1, 2012, and if the information is available, the whole period of his/her work as a judge.

3.16.3. Implementation of measures on filling a judge's dossier with the information shall be provided by a responsible structural subdivision of the Secretariat of the Commission, as well as by an inspector of the Commission in case it is necessary to complete a judge's dossier with further information under the authorization of a member of the Qualification Chamber.

3.16.4. A judge's dossier is reviewed by a member of the Qualification Chamber on the basis of current and reliable information.

3.16.5. A judge has the right to familiarize themselves with materials of a dossier not later than five working days prior to the interview, except for the cases of qualification assessment by the resolution of the High Qualification Commission of Judges of Ukraine in a connection with imposition of disciplinary sanction, take copies of the materials, provide in a proper way the certified copies of documents which supplement, refute or specify the information contained in a judge's dossier.

A judge has the right to provide their explanations, including, in writing. Written explanations shall be provided by a judge not later than on next working day after the day of their acquaintance with the materials of a judge's dossier. Oral explanations shall be provided by a judge during an interview.

3.16.6. Based on the judge's dossier review results the member of the Qualification Chamber, not later than five days prior to the session, shall draft a report subject to reading during the interview.

3.16.7. The report of the member of the Qualification Chamber based on the results of reviewing a judge's dossier shall be made with consideration for contributions, qualification, and conscientiousness of the person in relation to whom qualification assessment is conducted, their skills and working performance, quantitative and qualitative indicators of work as a judge, and in particular, shall contain such data (in case of their availability and within the limits of a judge's qualification assessment procedure):

3.16.8.1. Achievements connected with career:

3.16.8.1.1. The number of applications and the content of resolutions adopted as to a judge by the High Qualification Commission of Judges of Ukraine, High Council of Justice, President of Ukraine, Verkhovna Rada of Ukraine.

3.16.8.1.2. Results of participation in competitions for judicial appointment.

3.16.8.1.3. Results of completing in the National School of Judges of Ukraine a special training of a candidate for judgeship.

3.16.8.1.4. Administrative positions been taken by a judge.

3.16.8.1.5. Election of a judge to the judicial self-government bodies, High Qualification Commission of Judges of Ukraine, High Council of Justice.

3.16.8.2. Qualification:

3.16.8.2.1. Higher education.

3.16.8.2.2. The postgraduate degree.

3.16.8.2.3. The academic rank.

3.16.8.2.4. The results of the previous qualification assessment of a judge (including, initial and repeated assessment) during their judge tenure.

- 3.16.8.2.5. Teaching activity in the National School of Judges of Ukraine.
- 3.16.8.3. Conscientiousness:
 - 3.16.8.3.1. Information about the results of completing training of a judge in the National School of Judges of Ukraine and advanced training during their judge tenure.
 - 3.16.8.3.2. Results of a judge's regular assessment during their judge tenure.
- 3.16.8.4. Skills: results of testing within an appropriate procedure of qualification assessment.
 - 3.16.8.5. Performance:
 - 3.16.8.5.1. The number of cases considered.
 - 3.16.8.5.2. The number of judgments cancelled.
 - 3.16.8.5.3. The number of judgements which became the grounds for awarding judgement by the international judicial bodies and other international organizations which identified the violation by Ukraine of international legal obligations, including those which were revised after identification of such violation by the Supreme Court of Ukraine.
 - 3.16.8.5.4. The number of judgments amended.
 - 3.16.8.5.5. Compliance with the length of proceedings.
 - 3.16.8.5.6. Average amount of time to draft the text of a grounded decision.
 - 3.16.8.5.7. Caseload in comparison to other judges in the respective court, region with consideration for instance, specialization of the court and judge
 - 3.16.8.5.8. The number of complaints against the judge's actions (judicial candidate's actions during their tenure as a judge) in relation to which there was a check.
 - 3.16.8.5.9. Number of disciplinary proceedings.
 - 3.16.8.6. Data as to compliance of a judge (judicial candidate) with ethical criteria.
 - 3.16.8.7. Data as to compliance of a judge (judicial candidate) with anti-corruption criteria:
 - 3.16.8.7.1. Compliance of expenditures and property of a judge (judicial candidate) and members of their family, as well as of connected persons with their declared incomes, including copies of respective declarations submitted by a judge in accordance with legislation on prevention of corruption.
 - 3.16.8.7.2. Data as to compliance of a judge with requirements of legislation on prevention of corruption.
 - 3.16.8.8. The data as to compliance of behaviour of a judge with the Code of Judicial Ethics.
- 3.17. Interview:

3.17.1. The interview shall consist of the discussion of a judge's dossier review results and has the following stages:

3.17.1.1. Reading by a member of the Qualification Chamber of a report based on the judge's dossier review results.

3.17.1.2. Giving a judge (judicial candidate) an opportunity to supplement, refute or specify the information contained in the report.

3.17.1.3. Successive discussion with a judge (judicial candidate) of the indicators (in accordance with the criteria) to finally establish the professional level of a judge.

Discussion takes place in the form of a report of a member of the Qualification Chamber on each separate indicator and simultaneously providing the opportunity for a judge to give explanations or to substantiate it.

3.17.2. During the interview data as to a judge's (judicial candidate's) compliance with ethical and anti-corruption criteria are subject to compulsory discussion.

A judge (judicial candidate) who is undergoing qualification assessment during the interview has the right to provide an explanation on the issues related to examination and the information and documents of their dossier, give comments, provide documents and information by the sections of a judge's dossier.

3.17.3. The members of the Qualification Chamber have the right to ask a judge questions concerning the indicators reported during the interview.

3.17.4. A judge (judicial candidate) has the right not to explain their performance indicators.

In such a case the data available in a judge's dossier are not subject to change during the interview in establishing final indicators of qualification assessment criteria.

3.17.5. Representatives of judicial self-government bodies can take part in the discussion of the issue on qualification assessment of a judge (judicial candidate) during the interview.

3.17.6. In case of reasonable necessity the interview may be stopped for a break.

3.18. At any stage of qualification assessment, a judge (judicial candidate) has the right to provide to the Qualification Chamber duly certified copies of documents to supplement, refute or specify the information contained in the judge's dossier.

3.19. Consideration of the issue on qualification assessment of a judge (judicial candidate) shall take place during public meeting of the Qualification Chamber. A judge (judicial candidate) who will undergo this assessment must be invited to the meeting ten days prior to the date of the interview, except for the cases related to qualification assessment in connection with imposition of disciplinary sanction.

3.20. Participation of the members of the Qualification Chamber in considering the issue on qualification assessment is obligatory. A member of the High Qualification Commission of Judges may omit qualification assessment only in case of temporary disability, vacations or business trip to be confirmed with relevant documents, as well as in the event of their grounded recusal by the assessed judge or self-recusal.

3.21. A member of the High Qualification Commission of Judges of Ukraine shall not participate in case consideration and decisions making, and is subject to recusal (self-recusal), if:

3.21.1 There is a conflict of interest toward an assessed judge (judicial candidate);

3.21.2. Other circumstances became known, which can influence the objectivity and impartiality of a member of the Qualification Chamber.

Recusal or self-recusal of a member of High Qualifications Commission of Judges of Ukraine shall be regulated by Art. 107 of the Law.

3.22. Participation of a judge (judicial candidate) in qualification assessment is obligatory

3.22.1. Judge's (judicial candidate's) failure to attend qualification assessment within the announced competition of the High Qualification Commission of Judges of Ukraine for a vacant position of a judge shall not prevent such competition from taking place.

3.22.2. Judge's failure to attend qualification assessment without valid reasons shall give the grounds to decide on refusing to confirm the judge's ability to dispense justice at the relevant court or refusing to recommend such judge for lifetime judgeship.

3.22.3. Valid reasons for a judge's failure to attend qualification assessment or its stages shall be temporary disability or availability of other valid reasons (circumstances beyond judge's control and preventing them from participation in the qualification assessment) to be confirmed with relevant documents.

3.22.4. The vacation shall be considered a valid reason for the judge's omission to participate in the qualification assessment only if this is a primary annual vacation having its duration fixed by the law and planned in the appropriate schedule of vacations (without postponing) approved prior to the day of reading of the resolution of the High Qualification Commission of Judges of Ukraine on holding the qualification assessment.

3.22.5. The business trip is considered to be a valid reason for the judge's omission to participate in the qualification assessment only if it is related to the fulfillment of judge's professional functions, was planned and started prior to the day of reading of the High Qualification Commission of Judges of Ukraine of its resolution on holding the qualification assessment.

3.22.6. If the vacation or business trip duration exceeds or is equal to the general period of qualification assessment holding determined by the resolution of the High Qualification

Commission of Judges of Ukraine, a judge shall be obligated to interrupt their vacation or business trip and participate in the qualification assessment within the established period.

3.22.7. If a judge is temporarily incapable to work, including in connection with a parental leave or a maternity leave till the child reaches the relevant age, and the temporary disability or such family leave duration exceeds or is equal to the general period of qualification assessment determined by the resolution of the High Qualification Commission of Judges of Ukraine, a judge shall be obliged within 5 (working) days after the date of commencement to address the High Qualification Commission of Judges of Ukraine with a written request to coordinate their qualification assessment date.

3.23. The candidate who was dismissed from the judgeship in connection with the expiration of their term and who earlier addressed the Commission with the application on confirmation of their professional level to be elected as a judge for lifetime, shall not be entitled to undergo repeated qualification assessment.

Regardless of the made decision a judge can apply to the High Qualification Commission of Judges of Ukraine with a respective application on their qualification assessment not earlier than one year from the day of the Commission's resolution based on the last qualification assessment.

3.24. Any interested persons are entitled to be present as observers during anonymous written testing, fulfillment of practical task and assessment of their results, as well as during the interview.

3.24.1. An interested person shall not later than 10 days prior to the date of the corresponding stage send notice to the Commission on their intention to be present there, attaching to their request all the documents which confirm their interest in objectivity of qualification assessment of a judge, indicating contact details to coordinate the procedure for such observation with the Commission.

3.24.2. Mass media shall not be considered interested persons in qualification assessment procedure and are subject to accreditation according to the procedure defined by the Commission for them.

3.24.3. The Commission in case of such application and in order to provide a possibility for such people to observe shall take measures to coordinate with the interested persons of a procedure for such participation. Participation of the interested persons shall not prevent the Commission from holding examination and a judge from taking it in a proper way and doing the practical task with consideration for the principle of independence and image of the judicial authority.

3.24.4. In case the observes fail to comply with the procedure coordinated with the Commission for their presence during examination, the inspector or the leader of a structural subdivision of the Secretariat of the Commission with participation of a Commission member shall urgently record it in the respective report and refuse such person in presence at the examination with forbidding such a possibility in future.

3.24.5. Members of the High Qualification Commission of Judges of Ukraine, inspectors and employees of the Secretariat of the Commission are the authorized subjects on the issues of organizational preparation for examination and performing the functions of administrative-executive character, general control over examination as well as during the interview, resolution of emergency and conflict situations, coordination and approval of actions during preparation and holding of qualification assessment (hereinafter - the authorized representatives) Authorized representatives have the right of access to the place of qualification assessment during qualification assessment procedure.

3.24.6. The list of authorized representatives is approved by an order of the Head of the High Qualification Commission of Judges of Ukraine.

3.24.7. The procedure for presence of the interested persons at the place of qualification assessment shall be determined by the High Qualification Commission of Judges of Ukraine.

3.25. Upon the results of qualification assessment, the Qualification Chamber shall draw up a reasoned opinion on confirmation or failure to confirm a judge's qualification.

The reasoned opinion shall be drawn in absence of the person in relation to which the issue was discussed, as well as other persons who are not members to the Commission.

A draft of the reasoned opinion shall be prepared by the member of the Qualification Chamber who prepared the report based on the judge's dossier review results.

4. A decision based on the results of qualification assessment

4.1. The Qualification Chamber on the basis of the reasoned opinion by the results of consideration of the issue on qualification assessment shall make a decision on:

4.1.1. Confirmation or failure to confirm a judge's ability to dispense justice in the court of relevant instance,

4.1.2. Recommendation or failure to recommend the candidate for lifetime appointment to the position of a judge.

4.2. The decision of the Qualification Chamber to confirm a judge's ability to dispense justice in the court of relevant instance, the decision to recommend a candidate for lifetime appointment to the position of a judge shall give grounds to the judge's (candidate's) further participation in the procedures stipulated by the Law.

4.3. In case the Qualification Chamber takes a decision not to confirm the ability of a judge to dispense justice in the relevant court, such a decision shall make the grounds to refuse the judge in participation in the competition for a vacant position of a judge.

4.4. In case of the candidate's failure to confirm his/her professional competence, the Commission shall take a decision to refuse in recommending him/her to lifetime appointment to the position of a judge.

4.5. The decision of the Qualification Chamber to confirm the ability of a judge to dispense justice in the relevant court after a disciplinary sanction being imposed thereto, as stipulated by paragraph 4 of part 1 of Article 97 of the Law, shall make the grounds for canceling disciplinary sanction according to the procedure established by the Law.

4.6. The decision of the Qualification Chamber not to confirm the ability of a judge to dispense justice in the relevant court after a disciplinary sanction being imposed thereto, as stipulated by paragraph 4 of part 1 of Article 97 of the Law, shall make the grounds for not canceling their disciplinary sanction.

4.7. Decisions of the Qualification Chamber are taken by the majority of its members stipulated by the Law with consideration of the members of another Chamber in case of their involvement into the procedures.

4.8. The voting shall take place in absence of the judge in relation to which the issue was discussed, as well as other persons who are not members to the Commission.

4.9. The decision of the Qualification Chamber shall be announced upon its taking at the public with the assessed person being present, in accordance with the procedure established by the Regulations of the Commission.

4.10. Any interested persons as well as representatives of mass media are entitled to be present at the meeting of the Qualification Chamber.

4.11. Qualifying Chamber shall take its decision on behalf of the Commission, indicating the membership of the Chamber, which considered the issue of qualification assessment.

4.12. The decision of the Qualification Chamber shall be set forth in writing. The decision shall indicate the date and place of the decision-making, membership of the Chamber, the judge who underwent qualification assessment, and the reasons for the made decision. The decision shall be signed by the Chairman and the members of the Chamber who participated in decision-making.

4.13. When there is a separate opinion of the Commission member who took part in consideration of the issue on qualification assessment, it shall be set out in writing and attached to a judge's dossier, whereof the Chairman reports at the meeting.

4.14. When there is a separate opinion of two or more Commission members who took part in consideration of an issue and decision-making by the Qualification Chamber, the Head of the Commission has the right to put such issue for consideration of the general meeting of chambers of the Commission where the final decision shall be taken in relation to a judge's qualification assessment in accordance with the established procedure.

4.15. The decision of the Qualification Chamber can be appealed to the court in accordance with the established procedure.

4.16. The decision on qualification assessment which took legal force is subject to inclusion into a judge's dossier.

5. Special aspects of initial and repeated qualification assessment

5.1. The initial qualification assessment shall be held to take a decision on a judge's ability to dispense justice at the relevant court.

5.2. Tasks of the initial qualification assessment include confirmation of a judge's ability to dispense justice at the relevant court.

5.3. Initial qualification assessment of the judges of the Supreme Court of Ukraine, high specialized courts, courts of appeal shall be held by the Qualification and Disciplinary Chambers of the Commission jointly with formation of the Panel consisting of three members (hereinafter – the Panel) with mixed representation of each Chamber of the Commission.

The Panels are formed upon the resolutions of the High Qualification Commission of Judges of Ukraine specifying the composition of the Panels, their Heads and operational procedure.

5.4. Qualification assessment, including initial and repeated assessment, of judges of local courts who took an oath of the judge prior to the Law becoming effective, and who dispense justice, shall be made by the Qualification Chamber in compliance with the decision taken by it.

5.5. The decision about initial and repeated qualification assessment, shall contain the terms, schedule and location(s) and time when the qualification assessment is held.

The decision shall be made public on the official website of the High Qualification Commission of Judges of Ukraine within two working days since the day of taking of a corresponding decision.

Participation of a judge in initial and repeated qualification assessment is obligatory.

5.6. Initial qualification assessment shall comprise the following stages:

5.6.1. Examination:

5.6.1.1. Anonymous written test of the examination during initial qualification evaluation shall be carried out in the form of written statement by a judge of the established legal views and practice of the European Court of Human Rights proposed by the Commission.

5.6.1.2. The practical task during initial qualification assessment shall be fulfilled by a judge through solving the model case proposed by the members of the Penal or Qualification Chamber with consideration for specialization and judicial instance of a judge.

5.6.1.3. Review of a judge's dossier and the interview shall be carried out with consideration for provisions of Section 2 and items 3.16. – 3.18. of this Procedure.

5.7. Based on the results of initial qualification assessment the Penal or the Qualification Chamber shall make a reasoned opinion as to the ability of a judge to dispense justice in the respective court.

5.8. If the results of initial qualification assessment fail to confirm the ability of a judge to dispense justice in the respective court, a decision shall be taken about disqualification of a judge from dispensing justice in the respective court with compulsory enrollment of the judge into the National School of Judges of Ukraine for retraining and further repeated qualification assessment to confirm their ability to dispense justice in the respective court.

5.9. The decision on failure to confirm the ability of a judge to dispense justice by the results of initial qualification assessment shall indicate the term of disqualification of a judge, duration of retraining of a judge in the National School of Judges of Ukraine with consideration for a specialization and instance of the court where the judge occupies the position, the requirements to the report of the National School of Judges of Ukraine based on the results of retraining, the period for the repeated qualification assessment.

After the judge having exercised the decision on retraining, the National School of Judges of Ukraine, within three days after the retraining has been completed, shall submit the report on the retraining outcomes to the High Qualification Commission of Judges. Within five days, since the report by the National School of Judges of Ukraine has been received, the Qualification Chamber shall make a decision on the repeated qualification assessment of the judge and inform the judge about it, in compliance with the procedure stipulated by items 3.12 - 3.14 of this Procedure.

5.10. Repeated qualification assessment of judges of the Supreme Court of Ukraine, high specialized courts, courts of appeal and local courts shall be held by the Qualification Chamber.

5.11. The decision on the issues of initial and repeated qualification assessment shall be adopted by the Qualification Chamber or Penal on behalf of the High Qualification Commission of Judges of Ukraine.

5.12. In case if a judge's ability to dispense justice in the relevant court failed to be confirmed by the results of initial qualification assessment due to: the judge's failure to comply with the decision on holding initial or repeated qualification assessment without valid reasons, indicated in item 3.22.3 of this Procedure; the judge's failure to submit the application, written explanations or documents confirming the valid reasons for non-compliance with the aforementioned decision, as prescribed by the current paragraph, or the situation where either the Panel, or the Qualification Chamber establishes lack of valid reasons for non-compliance with the aforementioned decision upon the results of consideration of the relevant case; the judge's failure to comply with the requirements of this Procedure, the decision shall be made either by the Penal or Qualification Chamber to refuse in confirming the fact, that the judge is able to dispense justice at the relevant court, disqualification of a judge from dispensing justice in the respective court with compulsory enrollment of the judge into the National School of Judges of Ukraine for retraining and further repeated qualification assessment to confirm their ability to dispense justice in the respective court.

5.13. In case if a judge's ability to dispense justice in the relevant court failed to be confirmed by the results of repeated qualification assessment due to: the judge's failure to comply with the decision on holding initial or repeated qualification assessment without valid reasons, indicated in item 3.22.3 of this Procedure; the judge's failure to submit the application, written explanations or documents confirming the valid reasons for non-compliance with the aforementioned decision, as prescribed by the current paragraph, or the situation where either the Panel, or the Qualification Chamber establishes lack of valid reasons for non-compliance with the aforementioned decision upon the results of consideration of the relevant case; the judge's failure to comply with the requirements of this Procedure, the decision shall be made either by the Penal or Qualification Chamber to refuse in confirming the fact, that the judge is able to dispense justice at the relevant court, and to approve the conclusion on sending recommendations to the High Council of Justice on submitting the motion on dismissal from office for breaking the oath.

5.14. Repeated qualification assessment shall be held according to the procedure stipulated herein, to confirm the ability to dispense justice in the respective court according to the rules defined by section 3 of this Procedure.

5.15. Based on the results of repeated qualification assessment the Qualification Chamber gives a reasoned opinion on whether to confirm or not to confirm the ability of a judge to dispense justice in the respective court.

If by the results of repeated qualification assessment a judge failed to confirm their ability to dispense justice in the relevant court, the decision shall be made on approving the conclusion

of the High Qualification Commission of Judges of Ukraine on sending recommendations to the High Council of Justice on submitting the motion on dismissal of the judge from office for breaking the oath.

Decisions on adoption of the conclusion of the High Qualification Commission of Judges of Ukraine on sending recommendations to the High Council of Judges on submitting the motion on dismissal of the judge from office for breaking the oath in case envisaged by part three of paragraph 6 of Section II “Final and Transitional Provisions” of the Law of Ukraine “On Ensuring the Right to Fair Trial” shall be made by the High Qualification Commission of Judges of Ukraine by the complete membership of both chambers.

6. Special aspects of qualification assessment in connection with imposition of disciplinary sanctions

6.1. Qualification assessment of a judge in connection with imposition of disciplinary sanctions (hereinafter in this Section - Qualification assessment) shall be held in case of application to a judge of a disciplinary sanction provided for by item 4 section 1 art. 97 of the Law (hereinafter – a disciplinary sanction).

6.2. The purpose of qualification assessment is to confirm the ability of a judge to dispense justice in the court where they work after undertaking in the National School of Judges of Ukraine of advanced training course determined by the body which exercised disciplinary procedure as to the judge.

6.3. The resolution of the body which exercised disciplinary procedure as to the judge on imposition disciplinary sanction shall make the grounds for qualification assessment.

Participation of a judge in qualification assessment is obligatory.

6.4. Bodies, which exercise disciplinary proceedings in relation to a judge, shall comprise the High Council of Justice and the High Qualification Commission of Judges of Ukraine.

6.5. The decision on a judge's qualification assessment shall be taken by the High Qualification Commission of Judges of Ukraine as a member of the Qualification Chamber.

6.6. The decision taken according to items 6.3., 6.4 of this Procedure shall indicate the term of disqualification of a judge, duration, subjects, specialization of the career enhancement course of a judge in the National School of Judges of Ukraine with consideration for a specialization and instance of the court where the judge occupies the position, the requirements to the report of the National School of Judges of Ukraine based on the results of retraining, the period for the repeated qualification assessment.

A copy of a decision on imposition of a disciplinary sanction shall be sent to the court where the judge occupies the position and to the Qualifying Chamber.

6.7. After the judge having exercised the decision on retraining, the National School of Judges of Ukraine, within three days after the course (retraining) has been completed, shall submit the report on career enhancement outcomes to the High Qualification Commission of Judges. Within five days, since the report by the National School of Judges of Ukraine has been received, the Qualification Chamber shall make a decision on qualification assessment of the judge and inform the judge about it.

6.8. The decision about qualification assessment shall contain, in particular, the terms, schedule, location and time when the qualification assessment will be held.

The decision shall be made public on the official website of the High Qualification Commission of Judges of Ukraine within two working days since the day of taking of a corresponding decision.

6.9. Organization and the procedure of qualification assessment shall be carried out by the rules specified by Section 3 of this Procedure.

6.10. Upon the results of the qualification assessment of a judge the Qualification Chamber shall draw up a reasoned conclusion giving basis for one of the following decisions:

1) decision of the Qualification Chamber to confirm the judge's ability to dispense justice in the relevant court;

2) decision of the High Qualification Commission of Judges of Ukraine on refusal in confirming the fact, that the judge is able to dispense justice at the relevant court.

6.11. The decision of the Qualification Chamber on the qualification assessment outcomes shall be formalized within five working days since it has been made.

A copy of the decision shall be delivered to the judge on their written request within five working days since the relevant request was registered at the High Qualification Commission of Judges of Ukraine.

6.12. A copy of the decision of the Qualification Chamber shall be enclosed to the judicial dossier.