

**Statement of the delegation of Ukraine  
at the Working Session 13 «Rule of law II, including: right to a fair trial,  
independence of the judiciary, democratic law-making» of  
2017 Human Dimension Implementation Meeting**

**Mr. Moderator,**

Ukrainian society shows strong demand for the accessible, transparent and modern justice. The main aim of the Constitutional Reform in the area of justice is to strengthen the independence of judges in Ukraine. Political influence of the President and the Parliament on the decisions of appointment and dismissal of judges has been eliminated. All these decisions now are held by the main bodies of the judiciary – the High Qualification Commission of Judges and the High Council of Justice. The recent amendments to the Ukrainian legislation established the leading role of the Supreme Court within the judicial system of Ukraine.

For the first time in the history of Ukraine an opened and transparent competition has been held for the Supreme Court. It was the first time when not only judges but also advocates and professors in law took part in the competition.

At the beginning of the competition we had 1436 candidates for 120 vacancies. The results of the exam stages as well as all other stages of the competition are published on the HQCJU website. All dossiers of candidates are also published. All interviews with candidates were streamed to YouTube. These videos are available for watching. We also used information provided to us by the National Anti-Corruption Bureau and the National Agency for Prevention of Corruption.

We had one another unique experience during the competition – the Public Council of Integrity. This body, consisting of 20 representatives of NGOs, took active participation in the competition and was preparing opinions on candidates, asking questions and taking part in discussions with candidate. For approving the final decision the Commission reviewed 126 negative opinions of the Public Integrity Council. 53 candidates, who received negative opinions from the PIC, stopped participating in the competition before the ranking was formed. In general, 80% of those who received negative opinions from the PIC, were not included into the final rating.

Among winners we have 46% of female candidates and 54% of male candidates. 76% of them are judges and 24% are advocates and academicians. The youngest candidate is 33 years old and the oldest one is 62 years old.

The presentations will be distributed.

As an advocate and professor in law, I can confirm with all respect that all the accusations from Russian delegation are absolutely groundless.

We do hope that the new Supreme Court on the basis of the Rule of Law and new Procedural Codes will influence positively on all judicial system.

**Thank you.**



High  
Qualification  
Commission of Judges  
of Ukraine



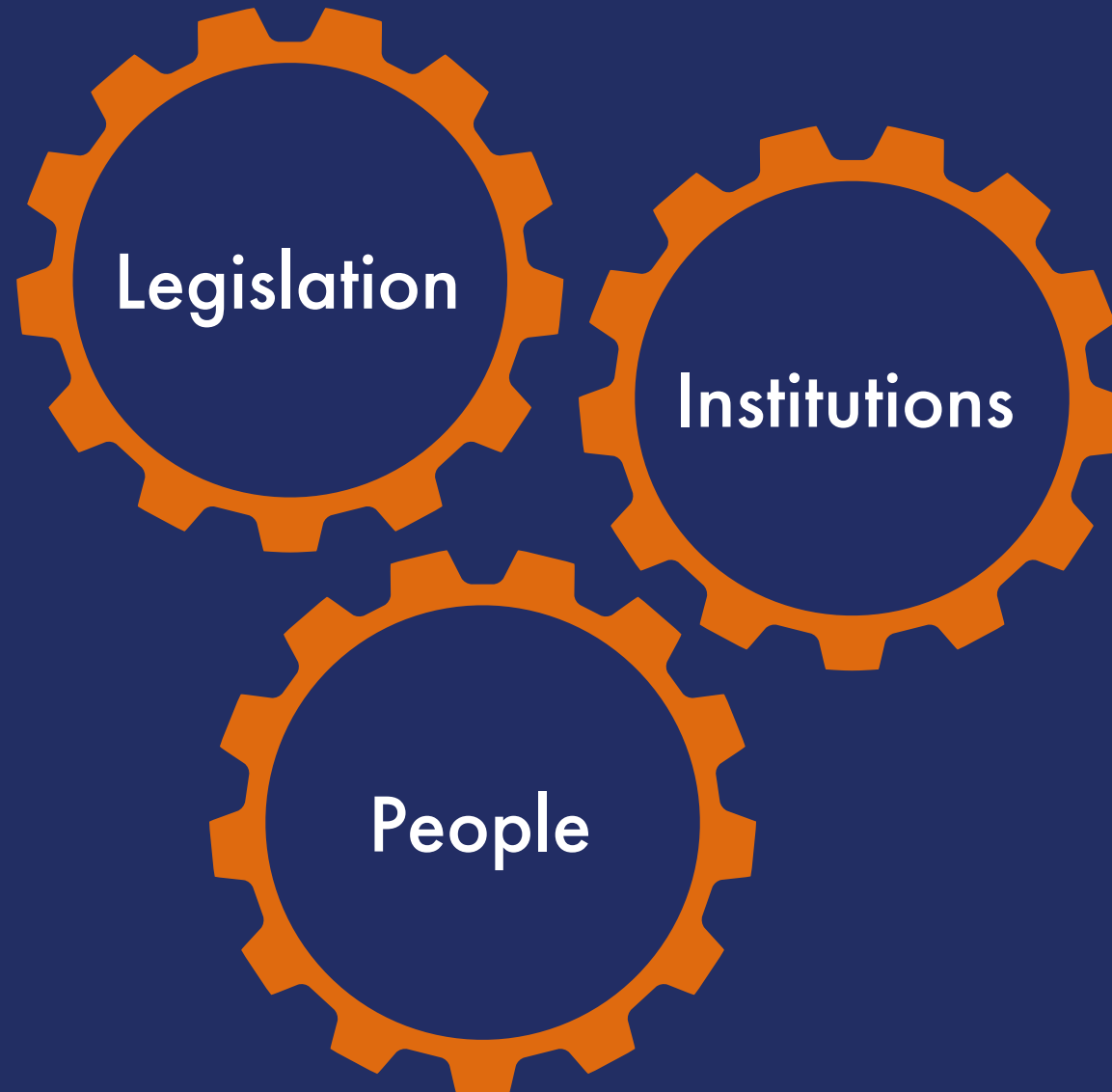
# Competitive selection to the Supreme Court

**Serhii Koziakov**

Chairman of the High Qualification  
Commission of Judges of Ukraine , PhD in Law

Warsaw, September 19, 2017

# Key Elements



# Progress: Legislation

- On Ensuring the Right to Fair Trial February 2015
- Amendments to the Constitution (on Justice) June 2016

---

- On Judiciary and Status of Judges June 2016
- On Enforcement of Judgements June 2016

---

- On High Council of Justice December 2016

---

- On Constitutional Court of Ukraine July 2017
- Procedural Codes Q3 2017
- On the Bar Q4 2017

---

- On High Anticorruption Court discussed

---

- On Legal Education discussed

# Progress: Institutions



(2014 - 2016)

Resetting High Qualification Commission of Judges



(2015 - 2017)

Resetting High Council of Justice



(2017)

New Supreme Court

120

new judges selected  
within transparent  
competition based on  
competence, integrity and  
professional ethics criteria



(2017-2018)

Structural reform of the court system

# Progress: People

- Evaluation of all judges: **started 2016**
- Competition to the Supreme Court completed: **2017**

● (2017-2019)

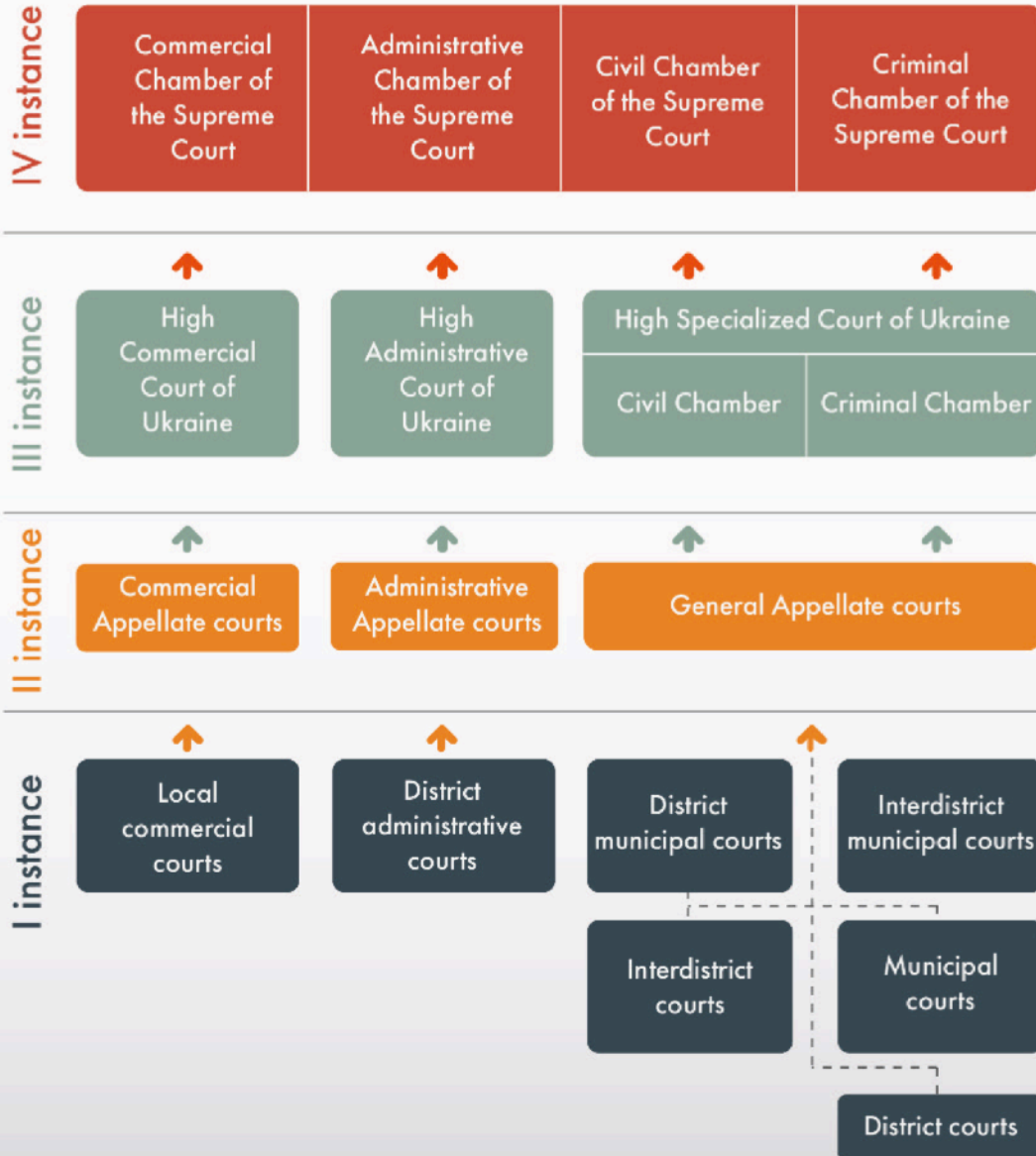
Recruiting judges through transparent evaluation  
and competition

# JUDICIAL SYSTEM OF UKRAINE



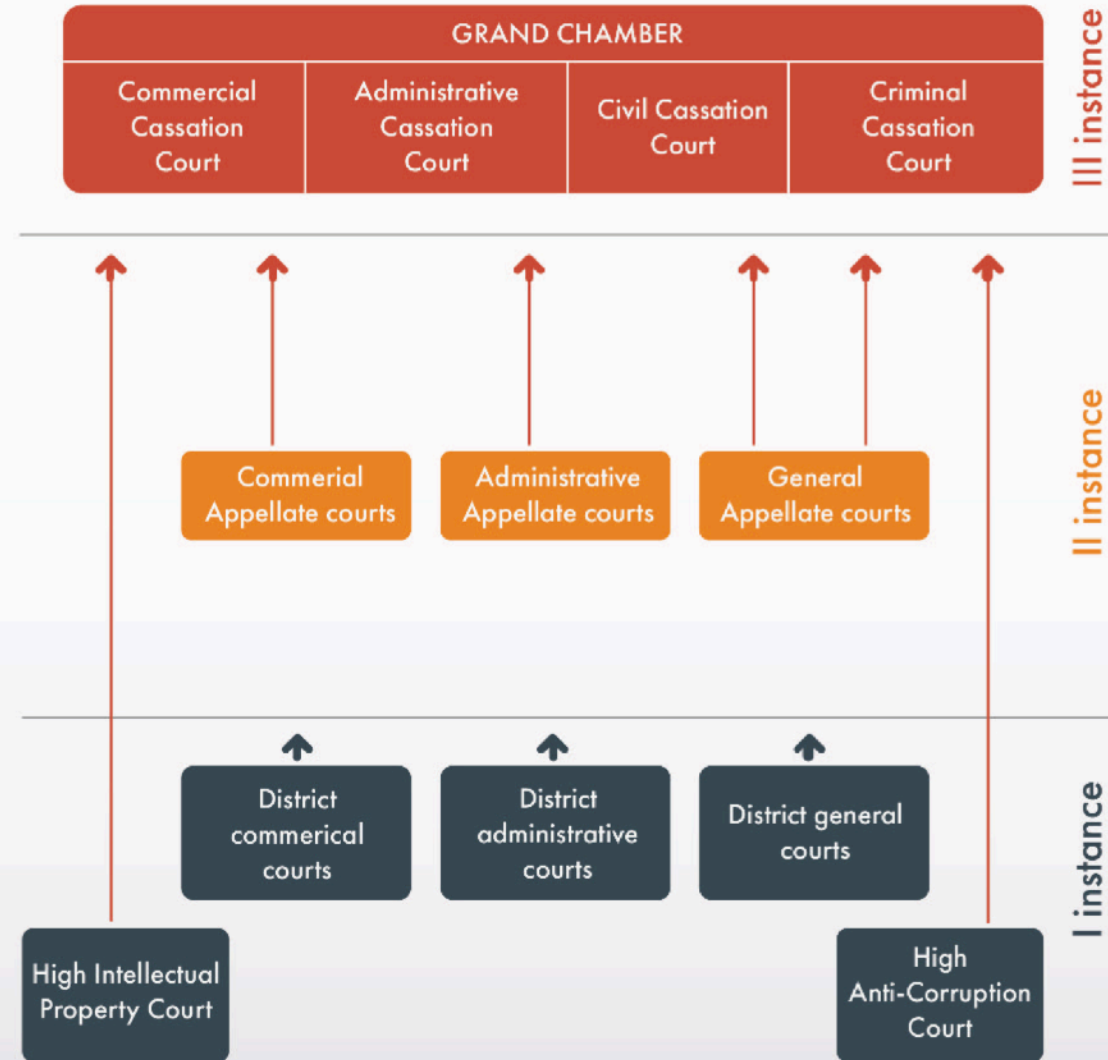
Before the judicial reform

## THE SUPREME COURT OF UKRAINE



After the judicial reform

## THE SUPREME COURT





# Competition to the Supreme Court



- The competition procedure include:  
review of candidates by public authorities including National Police, National Anticorruption Bureau of Ukraine (NABU) and National Agency for Prevention of Corruption;
- Qualification evaluation of candidates including:

1. Professional exam

2. Psychological testing of qualities and general

3. Interviews with professional psychologists

4. Review of the candidate dossiers and interviews with candidates with participation of PIC

5. Plenary sessions of HQCJ to decide on the PIC opinions

Formation of a rating and determining the winners

Submission of recommendations to the High Council of Justice to appoint candidates to the positions of judges of Supreme Court

The procedures were elaborated in cooperation with international experts (USAID and the EU project "Support for Justice Reforms in Ukraine")

# Transparency



The results of the exam stages as well as all steps of the competition are published on HQCJ website

All interviews were streamed on YouTube. Videos are available for watching.

The public council of integrity (PCI) take active participation

# Transparency



**5** press-conferences for media



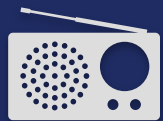
**10** meetings with regional media



more than **50** meetings with international organizations



more than **20** interview for electronic and print media among them two – in international media



more than **50** comments for TV and radio channels





# Key figures of the competition

1436

846

625

613

520

382

320

120

registered  
applications

submitted  
documents

admitted to  
the  
qualification  
assessment

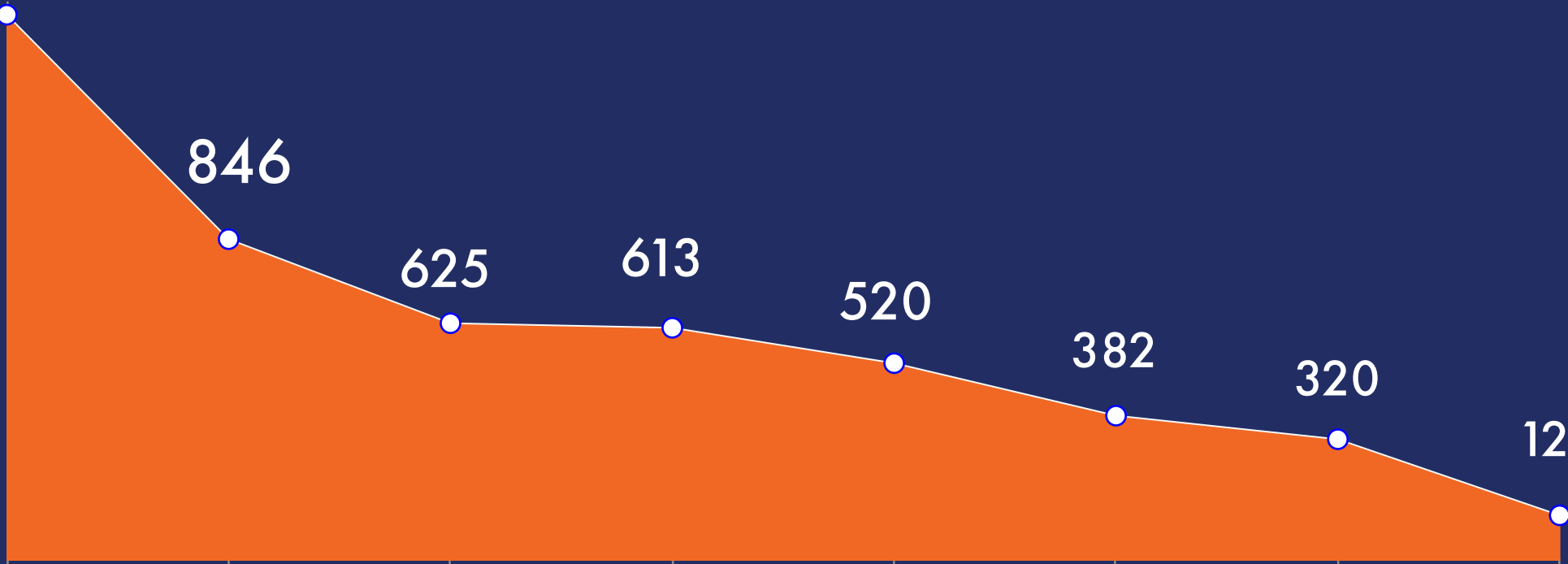
wrote  
anonymous  
written  
testing

wrote  
practical  
assignment

made in  
to the  
final  
stage

took part  
into  
rating list

winners  
of the  
competi  
tion



The High Qualifications Commission of Judges considered **126** negative Conclusions of the Public Council of Integrity regarding candidates who have passed the second stage of the qualification assessment.

HQCJ reviewed **126 negative opinions** of by the Public Integrity Council. **51 candidates** who received negative opinions from the PIC stopped participating in the Competition before the ranking was formed. In general, **80%** of those who received negative opinions were not included into the final rating.



There are some of the peculiarities of the PIC opinions that the HQC had to make final decisions on:

- opinions did not have unanimous support (adopted only by 8 votes out of 18).
- conflict of interest
- double legal standards
- cancelled own opinions
- opinions based on assumptions
- opinions beyond on the mandate



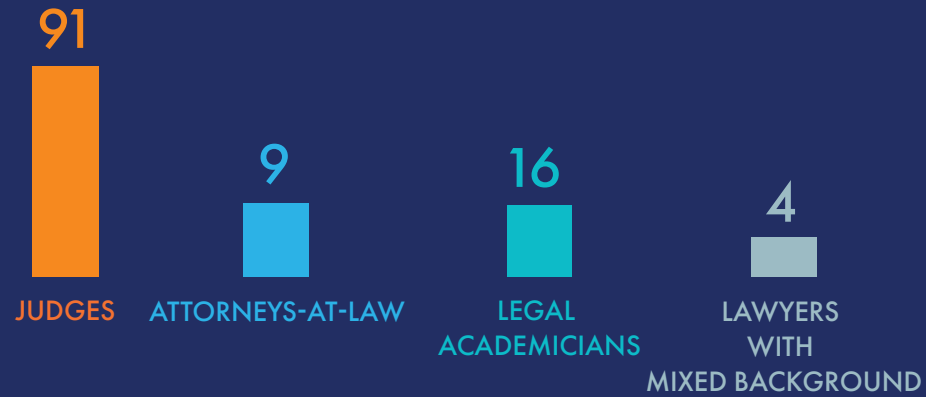
The PIC is entitled only to analyze and check the information relating to the integrity and professional ethics of judges, but is not authorized to decide on the legality of judgments. This provision meets European standards because nobody outside the judiciary and judicial control cannot assess the validity of judicial actions or decisions"



**Opinion of the Council of Europe on the Rules of  
Procedure of the Public Council of Integrity of  
Ukraine**

# 120

candidates HQCJ  
selected to be included  
in the winners rating



 54


 66

 34 CANDIDATES ---● PHD IN LAW

 12 CANDIDATES -----● DOCTOR IN LAW

 33

 36 years

 58

 62 years

the youngest candidate

the oldest candidate

Only

# 5

judges of the current Supreme Court of Ukraine made it to the final winners rating. The chairman of the Supreme Court of Ukraine decided to withdraw from competition though his score allowed him to be included in the final winners rating

## THE NEW SUPREME COURT WILL CONSIST OF



NEW PEOPLE

The candidates represent a diverse selection in terms of geography and gender

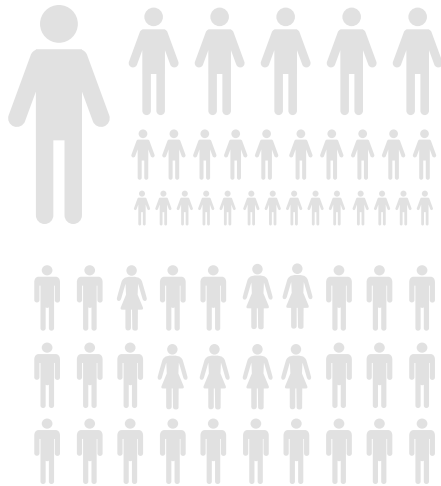


It is obvious that the HQCJ has used all available means to adhere to the principles of openness and publicity during the contest to the Supreme Court. The HQCJ reports, coverage of competition statistics, briefings, meetings with civil society, media, international partners are a clear indication of transparency and openness of the competition. I must point out that broadcasting interviews with candidates or publicizing their files on the Commission's website is not common practice of the member states of the Council of Europe. At the same time, we understand that these steps are being taken by the Ukrainian authorities in order to restore full confidence in the justice system, and therefore these measures can be considered to be effective at this stage

**Régis Brillat, Special Adviser of the Secretary General of the  
Council of Europe for Ukraine**

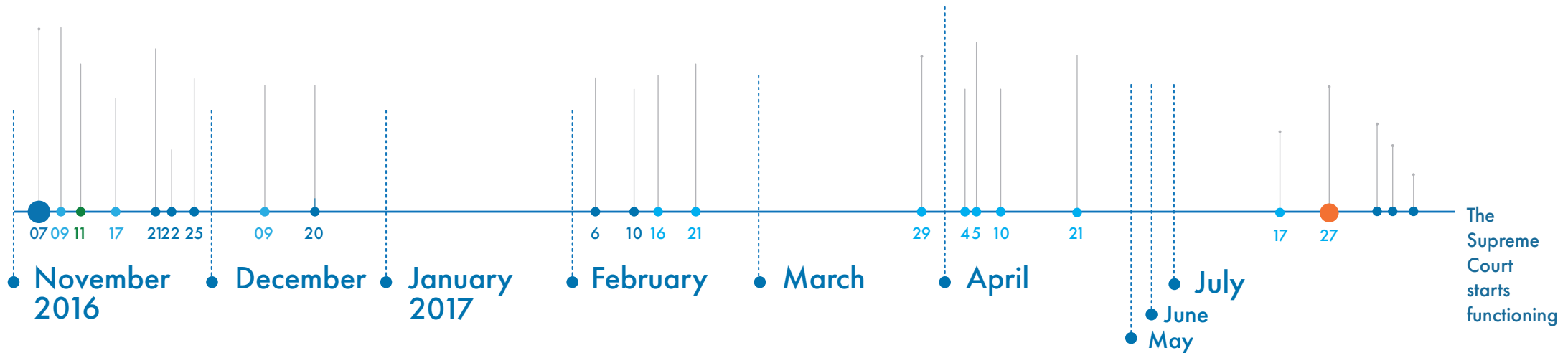


THANK YOU  
FOR YOUR ATTENTION!



# First Competition for the Vacancies of Supreme Court Judges:

# Retrospective



# Appointment of the Supreme Court Judges



## PRIOR TO THE JUDICIAL REFORM

The appointment to the Supreme Court had been done without selection, upon a voting in the Parliament of Ukraine under the MPs discretion

An open selection for a position of the Supreme Court judge had never been held (before 2016)

Selection rules for the Supreme Court judges were not open to public

Only judges were eligible for the position of the Supreme Court judge, with at least a 15 years professional experience or the judges from the Constitutional Court of Ukraine

There was no legal definition of the selection criteria for the Supreme Court judges, neither were they made public

No candidate's dossier for those applying to the Supreme Court judge's position were not made public



## UPON THE JUDICIAL REFORM



Judges are now appointed to the Supreme Court only upon a selection. Any political influence has been removed. Decision are taken only by the High Council of Justice and the High Qualification Commission of Justice of Ukraine. The President has a solely ceremonial role that he performs by issuing a decree based on the submission of the High Council for Justice



The selection is made by the High Qualification Commission of Judges of Ukraine based on the Law of Ukraine "On the Judiciary and Status of Judges". An open selection for the Supreme Court judges was announced. A vacancies' list in the Supreme Court of Ukraine is now open and publicly available



Selection rules for the Supreme Court judges are announced prior to the selection at the web-page of the High Qualification Commission of Judges



Judges, defence counsellors, academicians from the legal field with a total professional experience of 10 years can apply for a position of the Supreme Court judge



Qualification assessment is an integral part of the selection, based on the criteria of competences, professional ethics and integrity. All the criteria and procedures are defined by legal acts beforehand



A candidate's dossier for those applying to the Supreme Court judge's position has been introduced; such dossiers are published at the web-site of the High Qualification Commission of Judges of Ukraine

Judicial candidates to the Supreme Court of Ukraine were only filing a short paper declaration



Judicial candidates to the Supreme Court of Ukraine are filling out an electronic declaration, integrity declaration, family relations declaration. The High Qualification Commission of Judges receives information and materials concerning the candidates from more than 20 sources, including the National Anticorruption Bureau of Ukraine, National Agency on Corruption Prevention

Judicial candidates to the Supreme Court of Ukraine did not have any examination on professional competence



Judicial candidates to the Supreme Court of Ukraine sat through anonymous tests and practical exams under an open procedure. All the stages are broadcasted live in the Internet. Examination syllabus and lists of questions are published beforehand

Judicial candidates to the Supreme Court of Ukraine were not sitting through a psychological test



Judicial candidates to the Supreme Court have sat through 4 psychological tests and a general skills test: HCS Integrity Check, BFQ-2, MMPI-2, MBTI and General skills test

Candidates were analysed by the relevant committee of the Parliament of Ukraine



Interviews with the candidates are held publicly, broadcasted live online

Public had no influence on the selection procedure of judges for the Supreme Court of Ukraine



Under the Law "On Judiciary and the Status of Judges", the Public Integrity Council is acting together with the High Qualification Commission of Judges, assisting the HQCJ to evaluate the candidates' compliance with the professional ethics and integrity criteria

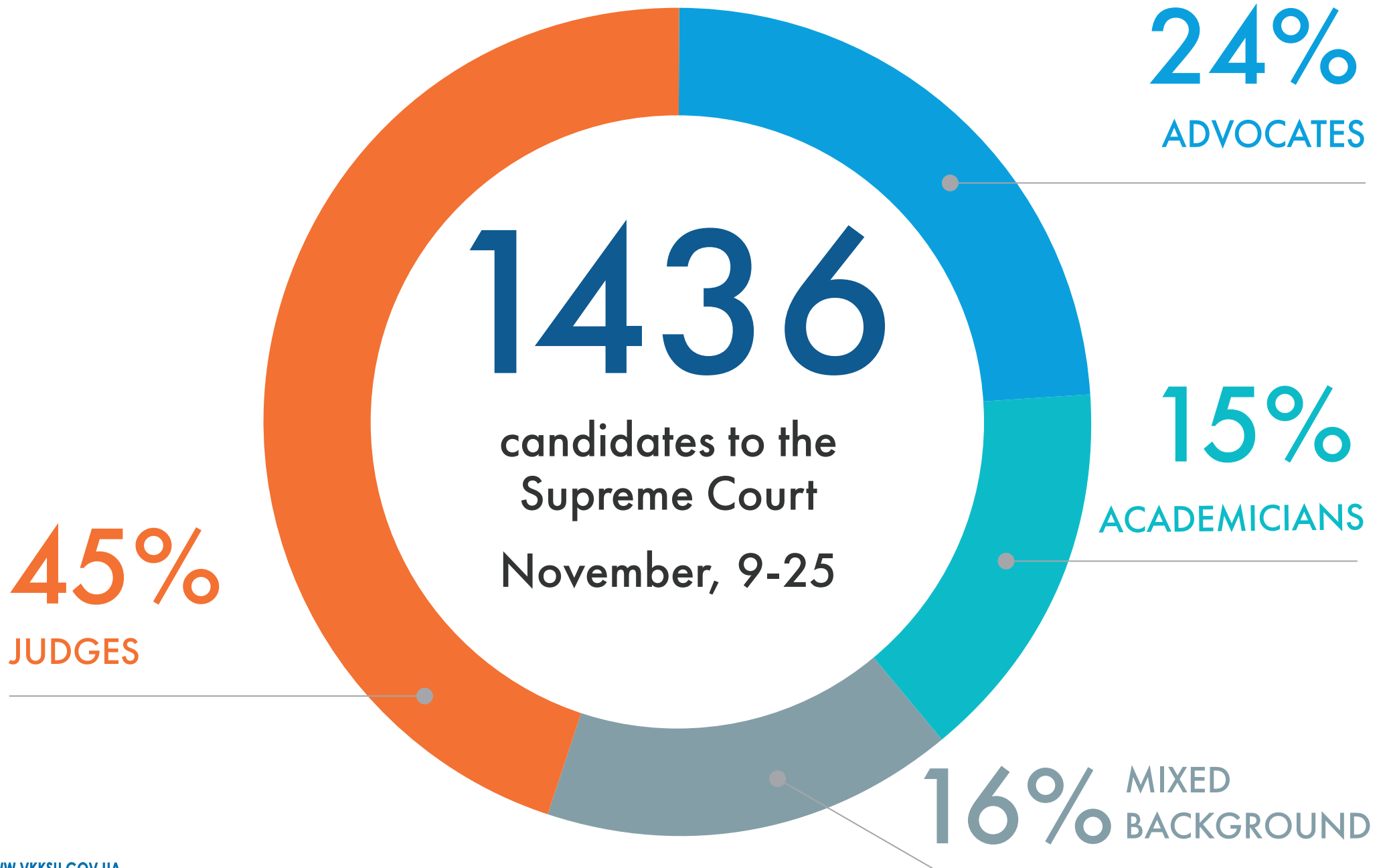
During the selection of judges to the Supreme Court of Ukraine, no ranking was done



During the selection to the Supreme Court, the High Qualification Commission of Judges of Ukraine drafts and publishes the ranking, upon the results of which the winners are defined



# Electronic Registration



# 846

candidates filed their application to participate  
in the selection of judges for the Supreme Court

# Admissibility Results

December 20, 2016



653

out of 846 candidates were admitted to the competition



193

candidates were refused the admission



846

out of 846 applications were considered

# Admission to Qualification assessment upon Special Background Check



630

out of 653 candidates were admitted

among them 5 with a suspension of qualification assessment



20

applications were rejected



3

applications were left without consideration

# Candidate to Become a Supreme Court Judge: General Portrait

630 candidates were admitted to the competition, out of them 5 were suspended



# 625

CANDIDATES TO TAKE PART IN THE QUALIFICATION ASSESSMENT

70%



JUDGES

10,4%



ADVOCATES

12,2%

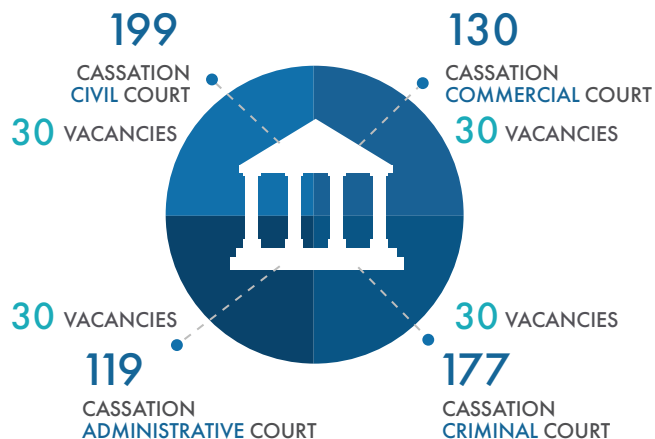


ACADEMICIANS

7,2%



MIXED BACKGROUND



## SUPREME COURT

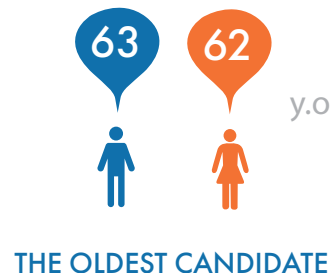
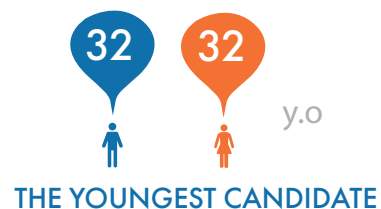
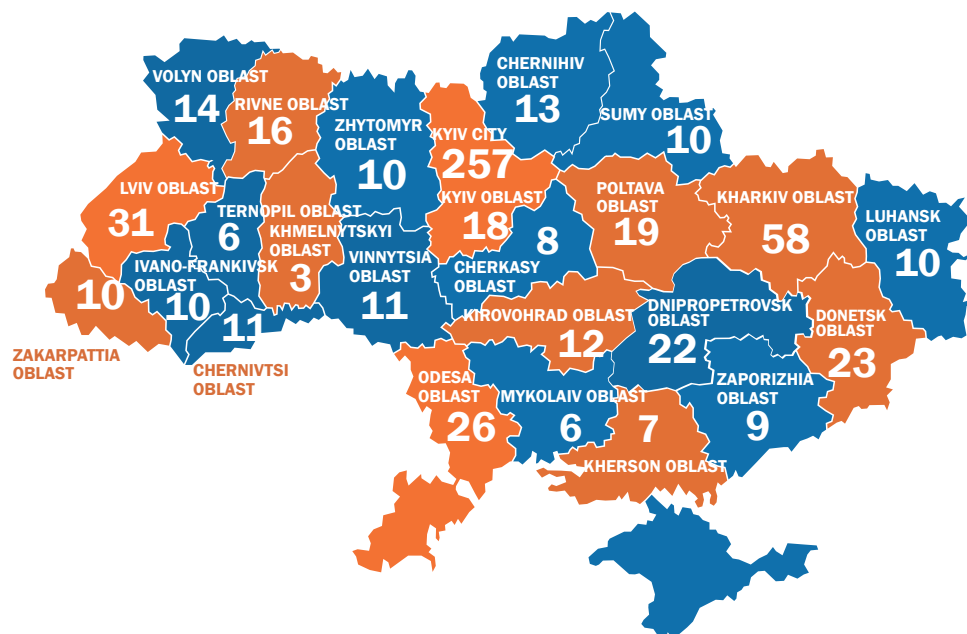
OUT OF THEM:



# 225



# 400



# 613

candidates (out of 625) attended the anonymous written test. Out of them, 521 successfully sat through the test

68,3%

JUDGES

521

candidates were admitted to  
the second examination –  
practical exercise

12,7%

ACADEMICIANS

10,7%

ADVOCATES

8,3% MIXED  
BACKGROUND

# 520

candidates successfully made it to the second part of the examination. The same amount of judgment drafts is to be analysed by the HQCJ. Out of them, 382 candidates successfully sat through the examination and are admitted to the second stage of the qualification assessment



# Candidate to Become a Supreme Court Judge: General Portrait



**382**

CANDIDATES WERE ADMITTED TO THE SECOND STAGE OF THE QUALIFICATION ASSESSMENT

73%



JUDGES

10%



ADVOCATES

10%

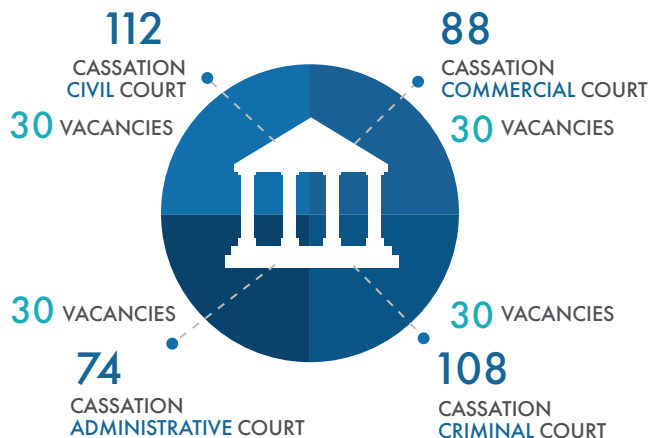


ACADEMICIANS

7%



MIXED BACKGROUND



SUPREME COURT

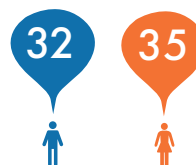
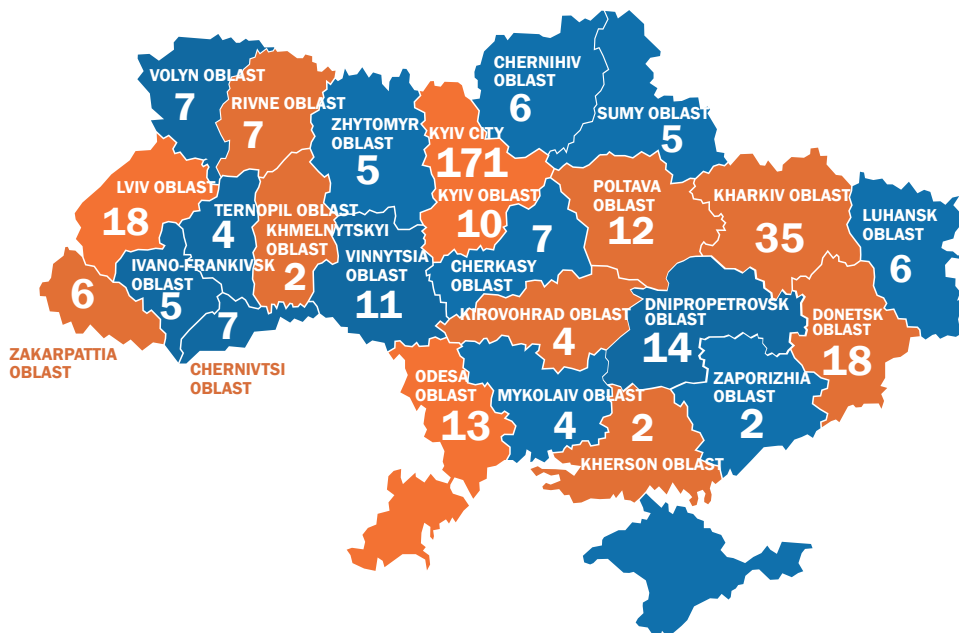
OUT OF THEM:



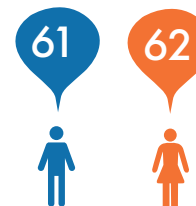
**143**



**239**



THE YOUNGEST CANDIDATE



THE OLDEST CANDIDATE



# 1841

pages is the longest personal dossier of a  
Supreme Court candidate

# Interview on the results of candidate's personal dossier to become the Supreme Court judge

Interviews with candidates are held by the HQCJ members:



Interviews are held by the Commission's panels in accordance with the specialisation of cassation courts. Panels consist of **3 or 4 members** of the HQCJU



To the interview, those candidates are admitted who have the **minimum acceptable total score** during the first qualification assessment stage



The **schedule of interviews** is published on the Commission's web-page and on its Facebook page



**Online broadcast** of all the interviews is held on the Commission's YouTube channel



Candidates who received a **negative opinion** from members of the Public Integrity Council, come to interview at a certain time. They can provide clarification of the information contained in the opinion.



If the panel members agree with the opinion of the PIC, the **candidate gets zero points** for integrity indicator

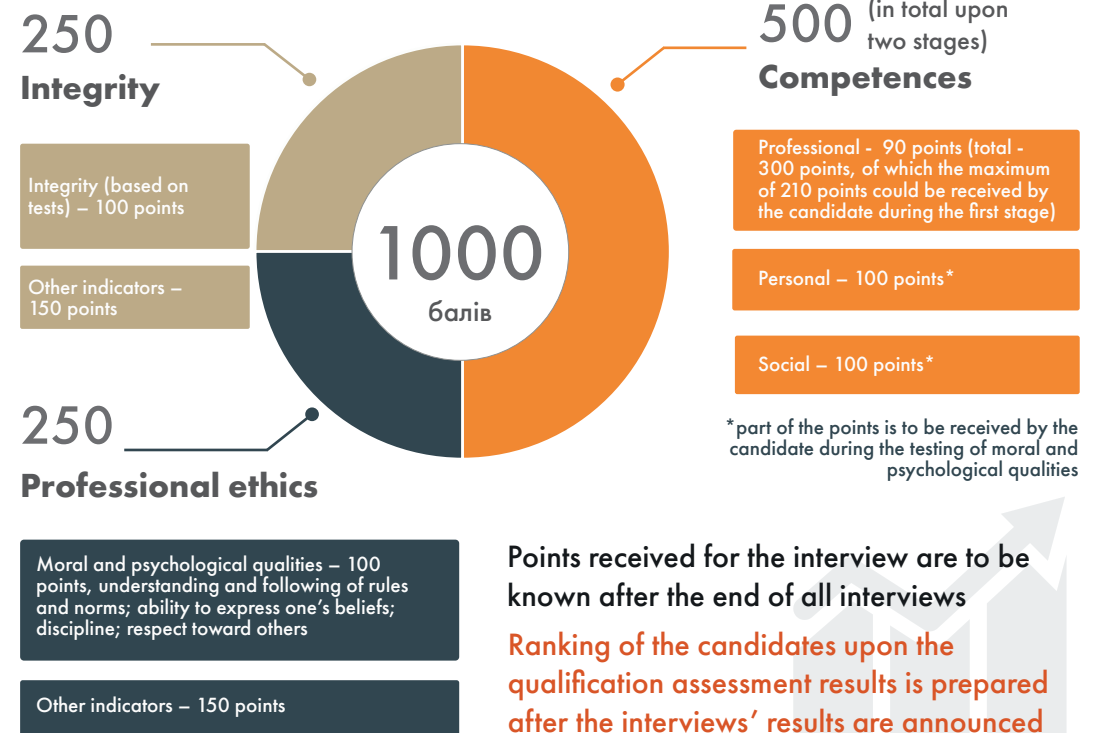


If the panel members do not agree with the opinion of the PIC about non-compliance of the candidate with the criteria of integrity and professional ethics, this question is put forward on voting of all members of the Commission. The HQCJ decides to reject the PIC opinion, if such a decision is taken by **11 out of 16 members** of the Commission

Voting on this opinion is to take place in dedicated days after interviewing all the candidates

- 1 Introduction
- 2 Oral report of the HQCJ member
- 3 Questions from the HQCJ members to the rapporteur
- 4 Questions from the HQCJ members to the candidate
- 5 Candidate's commentaries to the HQCJ member's oral report
- 6 PIC members read their own opinion or information (if available). The candidate gives an explanation regarding this opinion. Members of the Commission make questions to the PIC member. The PIC member and the candidate can ask each other questions
- 7 The candidate has his final word

The Commission's members shall evaluate whether the candidate fulfils the following criteria

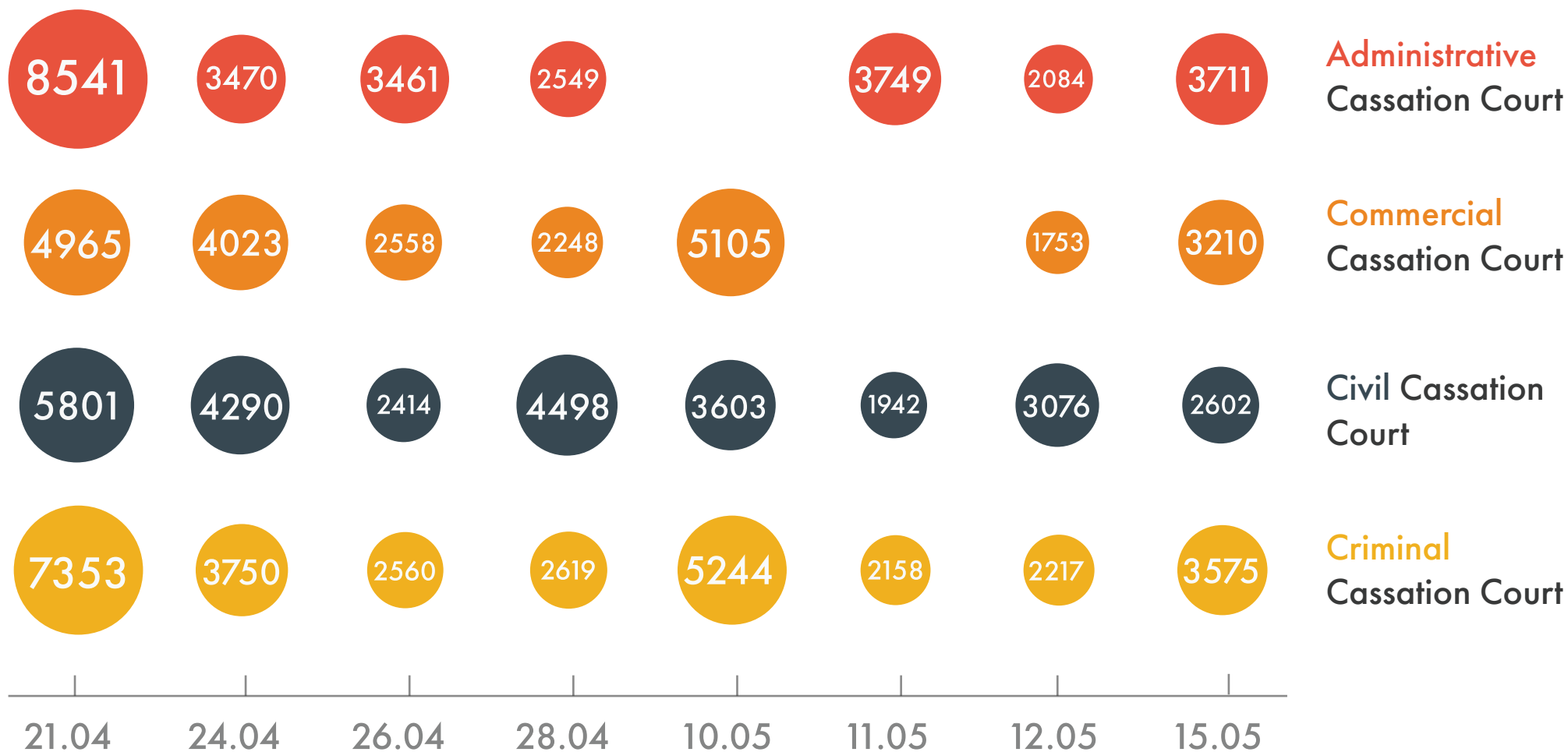


Points received for the interview are to be known after the end of all interviews

**Ranking of the candidates upon the qualification assessment results is prepared after the interviews' results are announced**

# Interviews' viewed at the YouTube channel of the HQCJ

As of May, 16



# Duration of interviews with candidates to the Supreme Court

From April 21 to May 22

Number of persons interviewed to the Supreme Court



Total: 11 days / 404 hours 58 minutes

 93

Civil Cassation Court

91 hours 44 minutes

 74

Administrative Cassation Court

93 hours 50 minutes

 72

Commercial Cassation Court

101 hours 26 minutes

 94

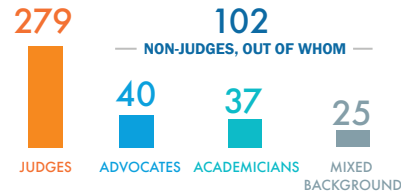
Criminal Cassation Court

117 hours 58 minutes

# Interviews with Supreme Court candidates



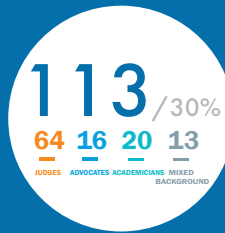
\* 1 candidate withdraw his application



No grounds were detected by the PIC to claim the candidate does not fulfil the criteria

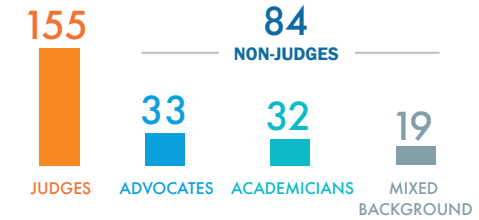
The PIC provided information concerning the candidate / a dissenting opinion of the PIC members exist (where a decision was taken not to provide information)

The PIC filed an opinion on non-compliance

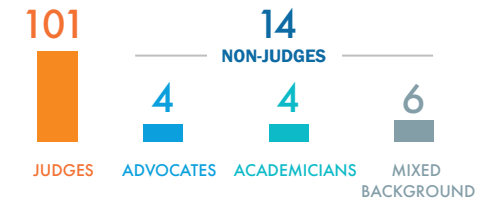


# Decisions of the HQCJ per type

A break was taken



A break was taken and the question is to be considered by the Commission at the plenary meeting



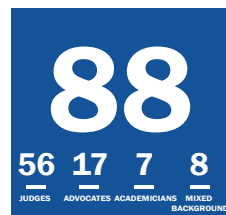
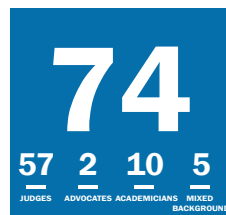
Ability to administer justice is not confirmed



# Cassation Courts

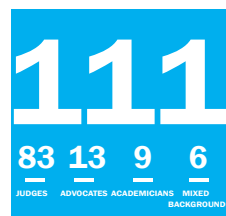
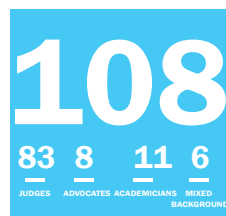
CANDIDATES WHO SAT THROUGH INTERVIEWS

ADMINISTRATIVE COURT



COMMERCIAL COURT

CRIMINAL COURT



CIVIL COURT

# Results of HQCJ plenary sessions\*

140

negative opinions are filed to the HQCJ

126

negative opinions were considered by the HQCJ

26

Decision adopted by a plenary meeting of the HQCJ

102  
CANDIDATES

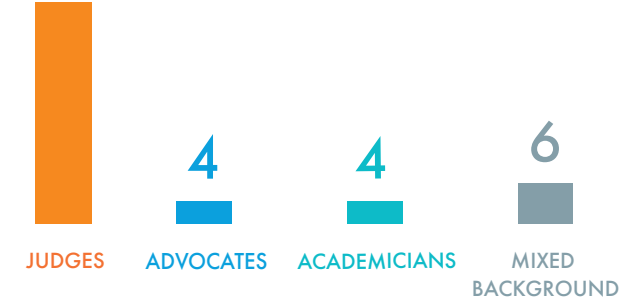
88%

76

Submitted to a consideration by the plenary meeting of the HQCJ\*\*

116  
CANDIDATES

102



Where the PIC opinion was cancelled and the corresponding consideration by the plenary meeting as well

Where the candidate withdrew his candidature (upon application) 8 6

HAVE NOT CONFIRMED THEIR CAPACITY TO ADMINISTER JUSTICE IN THE SUPREME COURT

26

25%

CANDIDATES

21

JUDGES

2

ADVOCATES

1

ACADEMICIANS

2

MIXED BACKGROUND

HAVE CONFIRMED THEIR CAPACITY TO ADMINISTER JUSTICE IN THE SUPREME COURT

76

75%

CANDIDATES

68

JUDGES

2

ADVOCATES

3

ACADEMICIANS

3

MIXED BACKGROUND

53 candidates have not confirmed their capacity to administer justice in the Supreme Court upon the criteria of professional ethics and integrity, thus stopping their participation to the selection. That is, 40 % of the PIC opinion

# Winners of the Selection to Become a Supreme Court Judge: General Portrait

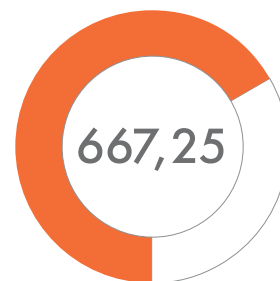


**120**  
WINNERS OF THE SELECTION

OUT OF THEM:

**54**

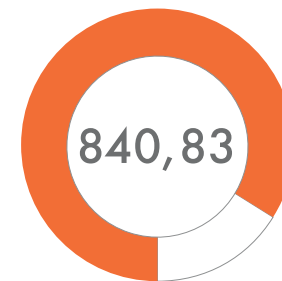
**66**



Minimum amount of points

MAXIMUM POSSIBLE  
AMOUNT OF POINTS

1000



Maximum amount of points

91



JUDGES

9



ADVOCATES

16



ACADEMICIANS

4



MIXED  
BACKGROUND

33



THE YOUNGEST CANDIDATE

36



THE OLDEST CANDIDATE

y.o

y.o



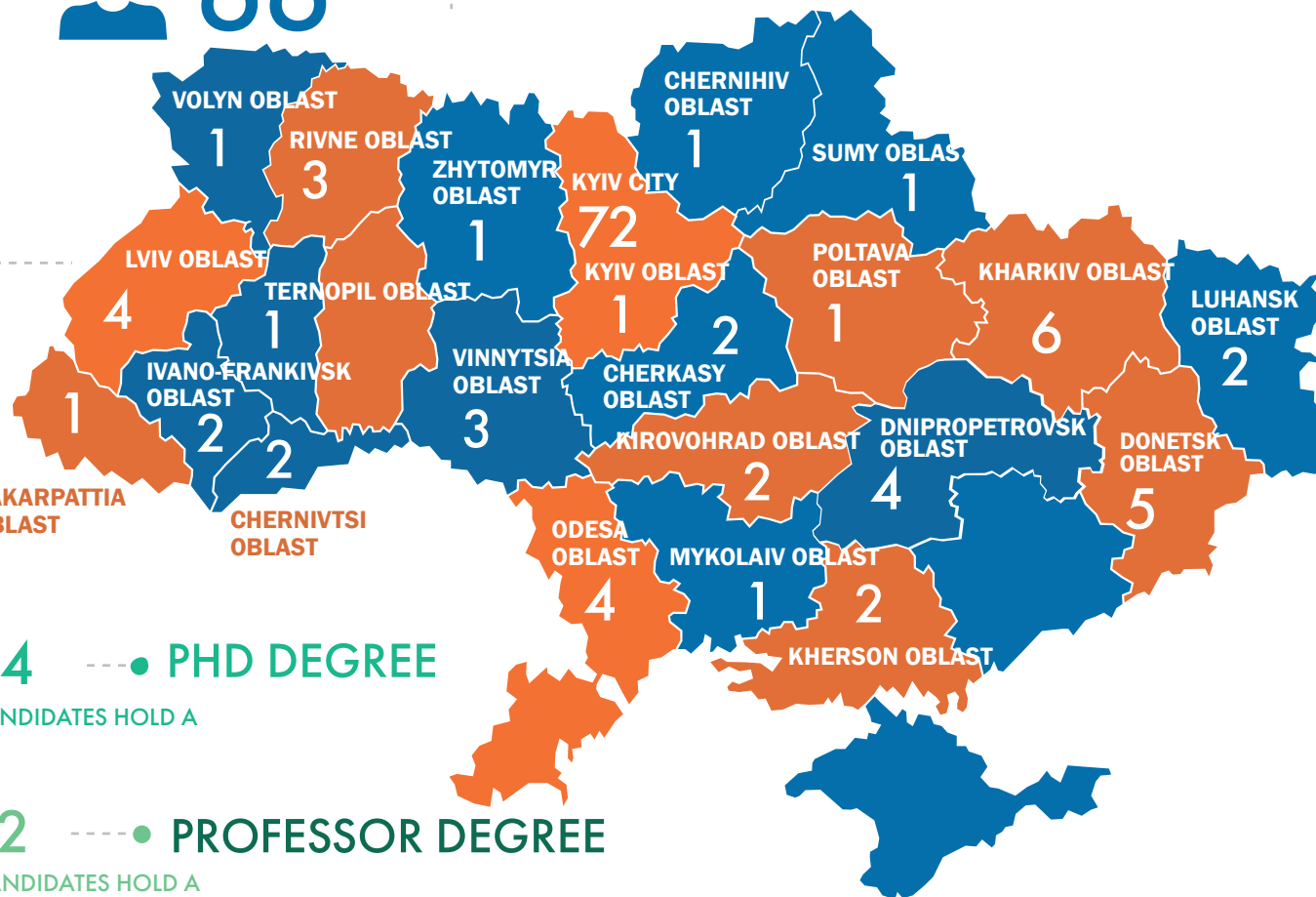
**34** --- ● PHD DEGREE

CANDIDATES HOLD A



**12** ---- ● PROFESSOR DEGREE

CANDIDATES HOLD A





# The Supreme Court renewal upon the selection

# 120

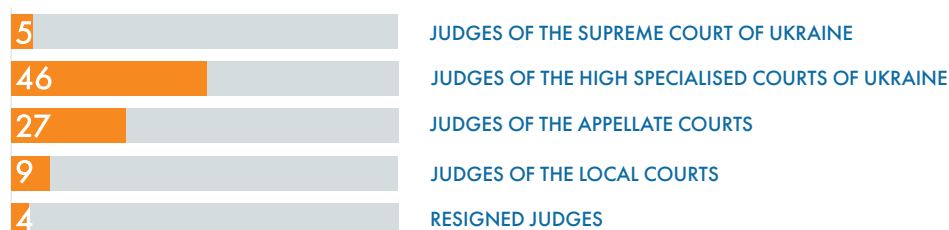
WINNERS OF THE COMPETITION



- 91 JUDGES
- 9 ADVOCATES
- 16 ACADEMICIANS
- 4 MIXED BACKGROUND

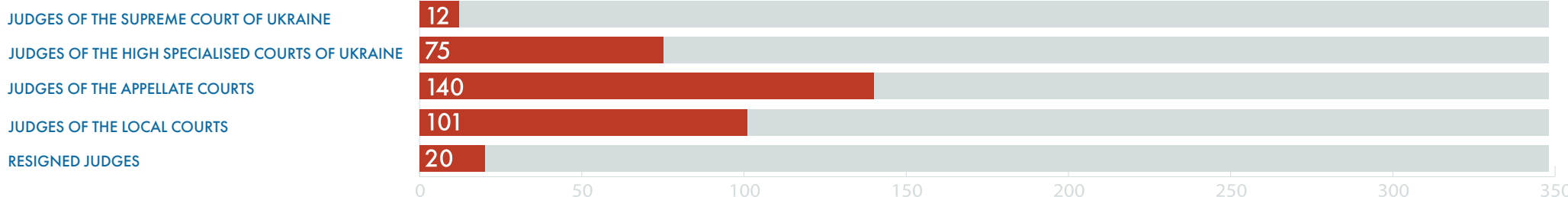
# 91

JUDGES GOT THROUGH THE SELECTION



# 348

JUDGES DID NOT GET THROUGH THE SELECTION



9 ADVOCATES GOT THROUGH THE SELECTION  
56 DID NOT



16 ACADEMICIANS GOT THROUGH THE COMPETITION  
60 DID NOT



4 CANDIDATES WITH MIXED BACKGROUND GOT THROUGH THE SELECTION  
41 DID NOT

# Winners of the Selection to Become a Supreme Court Judge



CASSATION  
CIVIL COURT

30



CASSATION  
COMMERCIAL COURT

30

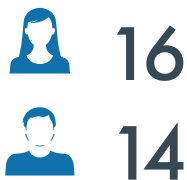


JUDGES ADVOCATES ACADEMICIANS MIXED BACKGROUND



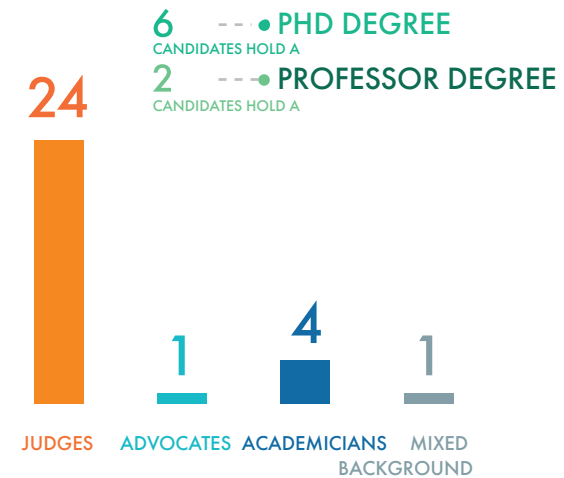
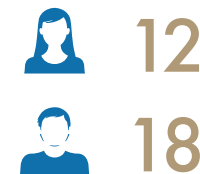
30

CASSATION  
ADMINISTRATIVE COURT



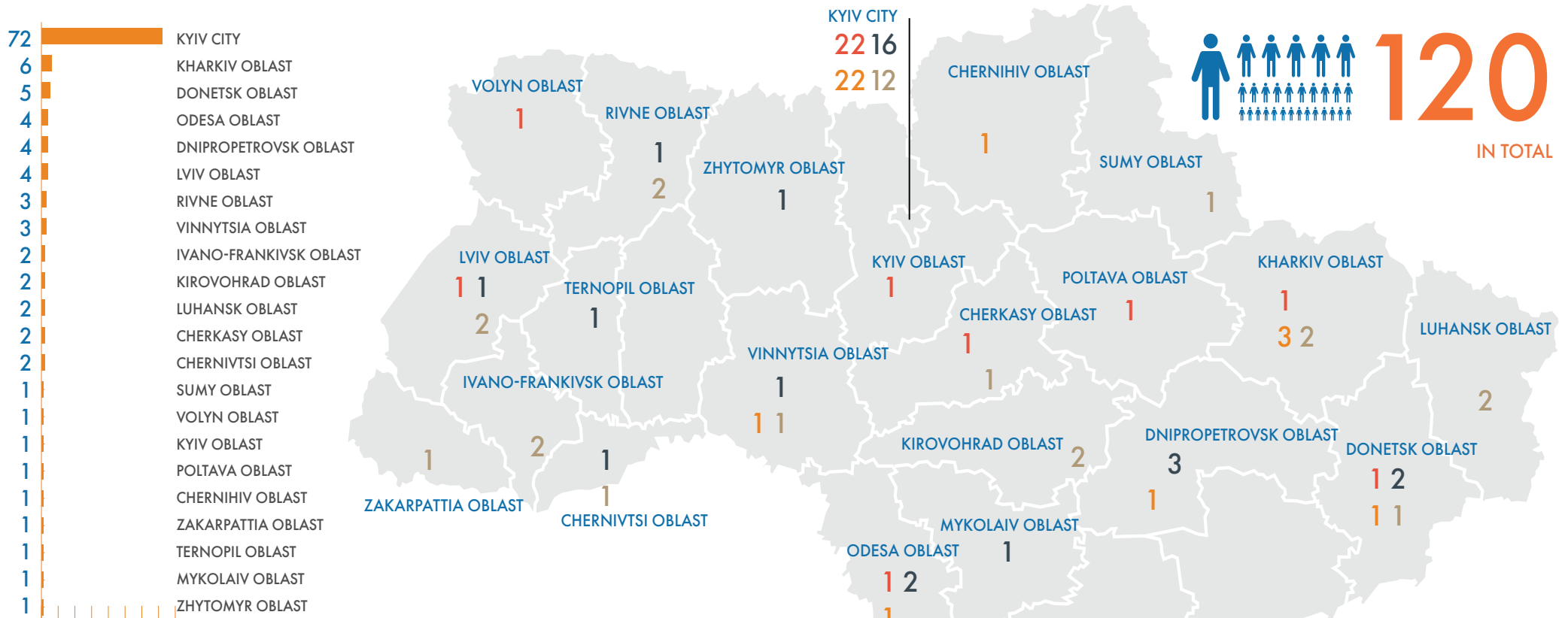
30

CASSATION  
CRIMINAL COURT



JUDGES ADVOCATES ACADEMICIANS MIXED BACKGROUND

# Winners of the Selection to Become a Supreme Court Judge



CIVIL  
CASSATION COURT



ADMINISTRATIVE  
CASSATION COURT

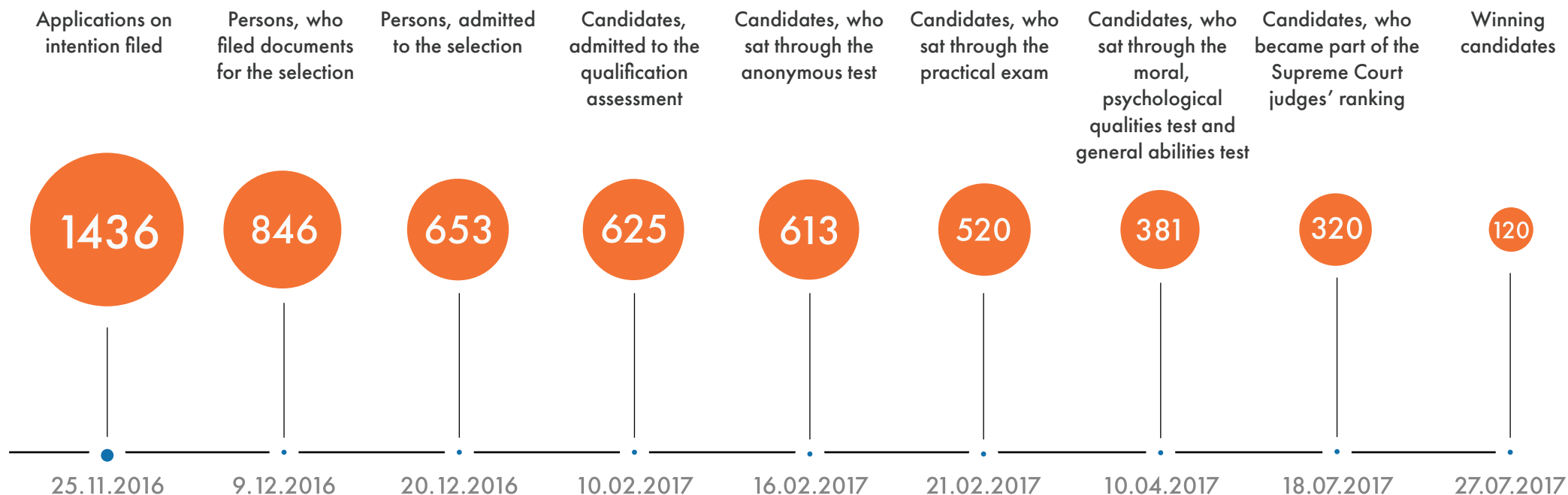


COMMERCIAL  
CASSATION COURT



CRIMINAL  
CASSATION COURT

# Key Figures on the Selection to the Supreme Court



53

candidates have not confirmed their ability to administer justice in the Supreme Court

126

opinions of the Public Integrity Council were considered by the High Qualification Commission of Judges during interviews and plenary meetings

# Publicity of the competition



All dossiers of candidates **were published** on the website of the Commission



**25 representatives from 7 international organisations** were observing the process of evaluation of candidates



Tests and interviews of candidates were **broadcasted on-line** through the YouTube channel



The results of all stages of the competition are **published on the website** of the Commission



**5 briefings** for the media and the public, about **10 meetings** with regional media



More than **50 meetings** with representatives of international organizations



More than **20 interviews** with printed and electronic media, of these, 2 are in foreign media



**Dozens of comments** for television and radio