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.
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
## 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

  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
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

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

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

Formation of a rating and determining the winners
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 interviews 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 registered applications
846 submitted documents
625 admitted to the qualification assessment
613 wrote anonymous testing
520 wrote practical assignment
382 made in to the final stage
320 took part into rating list
120 winners of the competition

1 20
1 436
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
The new Supreme Court will consist of new people. 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 candidates represent a diverse selection in terms of geography and gender. 120 candidates HQCJ selected to be included in the winners rating.

- **JUDGES**: 91 candidates
- **ATTORNEYS-AT-LAW**: 9 candidates
- **LEGAL ACADEMICIANS**: 16 candidates
- **LAWYERS WITH MIXED BACKGROUND**: 4 candidates

<table>
<thead>
<tr>
<th></th>
<th>PHD IN LAW</th>
<th>DOCTOR IN LAW</th>
</tr>
</thead>
<tbody>
<tr>
<td>Men</td>
<td>33</td>
<td>12</td>
</tr>
<tr>
<td>Women</td>
<td>36</td>
<td>24</td>
</tr>
</tbody>
</table>

The youngest candidate is 33 years old, and the oldest candidate is 62 years old. 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 did not have any examination on professional competence.

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

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

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

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

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 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 have sat through 4 psychological tests and a general skills test: HCS Integrity Check, BFQ-2, MMPI-2, MBTI and General skills test.

Interviews with the candidates are held publicly, broadcasted live online.

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 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

1436 candidates to the Supreme Court
November, 9-25

- Judges: 45%
- Advocates: 24%
- Academicians: 15%
- Mixed background: 16%
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 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

- 199 CASSATION CIVIL COURT: 30 VACANCIES
- 130 CASSATION COMMERCIAL COURT: 30 VACANCIES
- 119 CASSATION ADMINISTRATIVE COURT: 30 VACANCIES
- 177 CASSATION CRIMINAL COURT: 30 VACANCIES

175 CANDIDATES HOLD A PHD DEGREE

38 CANDIDATES HOLD A PROFESSOR DEGREE

* AFTER THE SPECIAL BACKGROUND CHECK

www.vksu.gov.ua
613 candidates (out of 625) attended the anonymous written test. Out of them, 521 successfully sat through the test.
521 candidates were admitted to the second examination – practical exercise.

- **Judges**: 68.3%
- **Advocates**: 12.7%
- **Academicians**: 10.7%
- **Mixed background**: 8.3%
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% academics, 7% mixed background.

Supreme Court:
- 112 cassation civil court vacancies.
- 88 cassation commercial court vacancies.
- 74 cassation administrative court vacancies.
- 108 cassation criminal court vacancies.

Out of them:
- 143 advocates.
- 239 academics/mixed background.

Candidates hold a:
- 106 candidates hold a PHD degree.
- 19 candidates hold a PROFESSOR degree.

The youngest candidate is 32 years old.

The oldest candidate is 62 years old.

UPON RESULTS OF THE FIRST STAGE OF QUALIFICATION ASSESSMENT – ANONYMOUS WRITTEN TEST AND PRACTICAL EXERCISE.
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 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 hold 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.

Interviews with candidates are hold by the HQCJ members:

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. The candidate has his final word
7. PIC members read their own opinion or information (if available). The candidate gives an explanation regarding this opinion. Members of the Commission makes questions to the PIC member. The PIC member and the candidate can ask each other questions.

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

250

Integrity

Professional ethics

500 (in total upon two stages)

Competences

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

- Administrative Cassation Court: 8541 views
- Commercial Cassation Court: 4965 views
- Civil Cassation Court: 5801 views
- Criminal Cassation Court: 7353 views
### Duration of interviews with candidates to the Supreme Court

Duration: From April 21 to May 22

<table>
<thead>
<tr>
<th>Court</th>
<th>Number of persons</th>
<th>Total Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Cassation Court</td>
<td>93</td>
<td>91 hours 44 minutes</td>
</tr>
<tr>
<td>Administrative Cassation Court</td>
<td>74</td>
<td>93 hours 50 minutes</td>
</tr>
<tr>
<td>Commercial Cassation Court</td>
<td>72</td>
<td>101 hours 26 minutes</td>
</tr>
<tr>
<td>Criminal Cassation Court</td>
<td>94</td>
<td>117 hours 58 minutes</td>
</tr>
</tbody>
</table>

Total: 11 days / 404 hours 58 minutes
Interviews with Supreme Court candidates

382
CANDIDATES WERE
ADMITTED TO INTERVIEWS

381
CANDIDATES ATTENDED
INTERVIEWS

279
NON-JUDGES, OUT OF WHOM

40
JUDGES

37
ADVOCATES

25
ACADEMICIANS

Mixed
BACKGROUND

*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

113
/30%

128
/33%

140
/37%

Cassation Courts

CANDIDATES WHO SAT THROUGH INTERVIEWS

ADMINISTRATIVE COURT

COMMERCIAL COURT

CRIMINAL COURT

CIVIL COURT

Decisions of the HQCJ per type

A break was taken

239
63%

CANDIDATES

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

115
30%

CANDIDATES

Ability to administer justice is not confirmed

27
7%

CANDIDATES

* UPON THE RESULTS OF THE INTERVIEWS HELD FROM APRIL 21 TO MAY 26

WWW.VKKSU.GOV.UA
Results of HQCJ plenary sessions*

** 140 negative opinions are filed to the HQCJ

** 126 negative opinions were considered by the HQCJ

102 CANDIDATES

Decision adopted by a plenary meeting of the HQCJ

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

116 CANDIDATES

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

Where the candidate withdrew his candidature (upon application)

26 76

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

HAVE CONFIRMED THEIR CAPACITY TO ADMINISTER JUSTICE IN THE SUPREME COURT

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

26 76

CANDIDATES JUDGES

ADVOCATES ACADEMICS MIXED BACKGROUND

21 2 1 2

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

26 76

CANDIDATES JUDGES

ADVOCATES ACADEMICS MIXED BACKGROUND

21 2 1 2

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

** AFTER THE INTERVIEWS, THE PIC CHANGED INFORMATION ON ONE OF THE CANDIDATES TO AN OPINION
Winners of the Selection to Become a Supreme Court Judge: General Portrait

- **120** winners of the selection
- **54** women
- **66** men

**MINIMUM AMOUNT OF POINTS:** 667.25
**MAXIMUM AMOUNT OF POINTS:** 840.83

**JUDGES:** 91
**ADVOCATES:** 9
**ACADEMICIANS:** 16
**MIXED BACKGROUND:** 4

**THE YOUNGEST CANDIDATE:** 33 y.o.
**THE OLDEST CANDIDATE:** 58 y.o.

**PHD DEGREE:** 34 candidates hold a
**PROFESSOR DEGREE:** 12 candidates hold a
The Supreme Court renewal upon the selection

120
WINNERS OF THE COMPETITION

91
JUDGES
9
ADVOCATES
16
ACADEMICIANS
4
MIXED BACKGROUND

5
JUDGES OF THE SUPREME COURT OF UKRAINE
46
JUDGES OF THE HIGH SPECIALISED COURTS OF UKRAINE
27
JUDGES OF THE APPELLATE COURTS
9
JUDGES OF THE LOCAL COURTS
4
RESIGNED JUDGES

348
JUDGES DID NOT GET THROUGH THE SELECTION

JUDGES OF THE SUPREME COURT OF UKRAINE
JUDGES OF THE HIGH SPECIALISED COURTS OF UKRAINE
JUDGES OF THE APPELLATE COURTS
JUDGES OF THE LOCAL COURTS
RESIGNED JUDGES

9
ADVOCATES
56
DID NOT

16
ACADEMICIANS
DID NOT

4
CANDIDATES WITH MIXED BACKGROUND
DID NOT

* THE “NON-JUDGES” SHARE IN THE SUPREME COURT OF PORTUGAL IS OF 10%
Winners of the Selection to Become a Supreme Court Judge

CASSATION
- ADMINISTRATIVE COURT
- COMMERCIAL COURT
- CIVIL COURT
- CRIMINAL COURT

JUDGES
- MIXED BACKGROUND
- ACADEMICIANS
- ADVOCATES
- PHD DEGREE
- PROFESSOR DEGREE

CANDIDATES HOLD A PHD DEGREE
- 11
- 16
- 11
- 19

CANDIDATES HOLD A PROFESSOR DEGREE
- 2
- 14
- 2
- 19

JUDGES
- 25
- 30
- 30
- 30

WWW.VKSU.GOV.UA
Winners of the Selection to Become a Supreme Court Judge

KYIV CITY

120 IN TOTAL

72

CIVIL CASSATION COURT

ADMINISTRATIVE CASSATION COURT

COMMERCIAL CASSATION COURT

CRIMINAL CASSATION COURT
Key Figures on the Selection to the Supreme Court

Applications on intention filed: 1436
Persons, who filed documents for the selection: 846
Persons, admitted to the selection: 653
Candidates, admitted to the qualification assessment: 625
Candidates, who sat through the anonymous test: 613
Candidates, who sat through the practical exam: 520
Candidates, who sat through the moral, psychological qualities test and general abilities test: 381
Candidates, who became part of the Supreme Court judges’ ranking: 320
Winning candidates: 120

- 25.11.2016
- 10.02.2017
- 16.02.2017
- 21.02.2017
- 10.04.2017
- 18.07.2017
- 27.07.2017

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.