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

**DRAFT LAW**  
**ON THE JUDICIAL SYSTEM AND**  
**THE STATUS OF JUDGES**  
**OF UKRAINE**

Non official translation conducted by Ukraine Rule of Law Project, January 2009

**Draft <sup>1</sup>**

## **The Law of Ukraine**

### **“On the Judicial System and the Status of Judges”**

This law determines the fundamentals of the functioning of the judiciary in Ukraine: the organization of judicial power and of administration of justice, the system of courts of general jurisdiction, the system of bodies responsible for a due level of judicial manpower, the system of and procedure for judiciary self-government, as well as the status of a professional judge, people’s assessor, and juror; regulates relationships pertaining to provision of judicial independence; establishes the procedure for judicial appointment (election), qualification attestation, discipline and removal; as well as establishes the general procedure for supporting the operation of courts and judges and regulates other matters related to the judicial system and the status of judges.

#### **Section I. Fundamentals of Organization of Judicial Power and Delievery of Justice**

##### **Article 1. Judicial Power**

1. Based on the principle of division of power, judicial power in Ukraine shall be exercised by courts solely on the grounds, within the limits, and according to the procedure specified by the Constitution and laws of Ukraine.
2. Judicial power shall be exercised by professional judges and, in cases specified by the law, by people’s assessors and jurors through administration of justice within the framework of relevant court procedures.
3. Legal proceedings shall be conducted by the Constitutional Court of Ukraine and courts of general jurisdiction.

##### **Article 2. Court Objectives**

1. In delivering justice on the basis of the rule of law, a court shall ensure everyone’s right to a fair trial and respect for other rights and freedoms guaranteed by the Constitution and laws of Ukraine,

##### **Article 3. The Court System of Ukraine**

1. The court system of Ukraine shall consist of courts of general jurisdiction and the Constitutional Court of Ukraine.
2. The courts of general jurisdiction shall form a unified system of courts; the Constitutional Court of Ukraine shall be the sole body of constitutional jurisdiction in Ukraine.
3. The court system shall ensure access to justice for every person according to the procedure established by the Constitution and laws of Ukraine.
4. The creation of extraordinary or special courts shall not be permitted.
5. The procedure for organization and operation of the Constitutional Court of Ukraine shall be established by the Constitution of Ukraine and the Law of Ukraine “On the Constitutional Court of Ukraine.”

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

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<sup>1</sup> **Draft of combined Laws for the second reading prepared and approved by Rada’s Judiciary Committee in June 2008 (considering 700 amendments)**

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

#### **Article 5. Delivery of Justice Exclusively by Courts**

1. Justice in Ukraine shall be delivered exclusively by courts. The delegation of court functions as well as appropriation of these functions by other bodies or officials shall not be permitted.
2. Persons who have illegally assumed court functions shall be liable under the law.
3. The people shall participate in the delivery of justice through people's assessors and jurors. The participation of people's assessors and jurors in the administration of justice shall be their civic duty.

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

1. Courts shall deliver justice autonomously. In the delivery of justice, courts shall be independent from any undue influence, pressure, or interference from any quarter whatsoever. Courts shall deliver justice on the basis of the Constitution and laws of Ukraine and in doing so shall be guided by the principle of rule of law.
2. Unless otherwise specified by the law, no petitions filed with a court by citizens, organizations, or officials in connection with court consideration of specific cases shall be considered if, in legal terms, the applicant is not a participant in the court proceedings.
3. Interference with the delivery of justice, influence upon a court or judges in any manner, contempt of court or judges, collection, storage, use and dissemination of information in verbal, written or another form with the aim of undermining their authority or affecting the impartiality of justice shall be prohibited and punishable in accordance with the law.
4. Under this law, judicial self-government shall be available to address issues of internal operation of courts.

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

1. Everyone shall enjoy a guaranteed protection of their rights, freedoms and legitimate interests by an independent and impartial court established by law.
2. Courts of first instance, courts of appeals, and courts of cassation shall operate in Ukraine to ensure fair, unbiased, and timely consideration of cases as well as the lawfulness of court decisions.
3. Everyone shall have the right to take part in the consideration of his/her case in a court of any instance in the manner prescribed by the procedural law.
4. Foreign residents, stateless persons, and foreign legal entities shall enjoy in Ukraine the right to court protection on equal terms with the citizens and legal entities of Ukraine.

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

1. Nobody can be denied the right to have his/her case heard in a court which has jurisdiction over the case under the procedural law.
2. A judge shall hear cases assigned to him/her according to the case assignment procedure established by the law. The assignment of cases among judges cannot be influenced by the wishes of a judge, parties in the court proceedings, judges holding administrative positions, or any other persons. Cases shall be assigned among judges through an automated random case assignment system constructed on the basis of the order of incoming cases, with due regard for judicial specialization and judges' caseload. It shall be prohibited to assign cases among judges in a different way. The chief judge of the court shall be personally responsible for ensuring that the procedure of case assignment among judges is observed in the courts.

3. A court panel to which a case was assigned in violation of the established case assignment procedure shall be found incompetent by a court of higher instance in the manner prescribed by the procedural law.

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

1. Justice in Ukraine shall be delivered on the basis of equality of all participants in legal proceedings before the law and the court without distinction of race, color, political, religious or other convictions, sex, ethnic or social origin, property status, domicile, linguistic or other characteristics.

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

1. Everyone shall be entitled to use legal assistance.

2. The Bar shall be available to provide legal assistance in Ukraine. In cases specified by the law, legal assistance may also be provided by other persons. The procedure for and terms of providing legal assistance shall be specified by the law. In cases, specified by the law, legal aid shall be granted .

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

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

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

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

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

#### **Article 12. Language of Legal Proceedings**

1. Legal proceedings in Ukraine shall be conducted in the state language.

2. Other languages may be used in legal proceedings in the cases and in the manner prescribed by the law.

3. Persons having no or insufficient command of the state language shall have the right to use in the course of the proceedings their native language or a language they know and to be assisted by an interpreter. In cases specified by the procedural law, this right shall be ensured by the state.

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

1. The final judgment in a case shall be passed in the name of Ukraine.

2. Court decisions which have come into legal force shall be binding on all bodies of state power, local self-government bodies, their officials and employees, natural persons and legal entities and associations thereof throughout the territory of Ukraine. Whether a court decision must be taken into account by (is prejudicial for) other courts shall be determined by the procedural law.

3. Foreign court decisions shall be enforceable in the territory of Ukraine under the conditions laid down by the law of Ukraine, pursuant to international treaties recognized as binding by the Verkhovna Rada of Ukraine.

4. Failure to comply with court decisions shall entail legal liability under the law.

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

Participants in court proceedings and other persons in the cases and in the manner prescribed by the procedural law, have the right to challenge court decisions in a court of appeals or a court of cassation.

#### **Article 15. Single-handed and Collegial Consideration of Cases**

1. In courts, cases shall be considered by a single professional judge or, if so prescribed by the procedural law, by a panel of professional judges, as well as with the participation of people's assessors or by a jury.

2. A judge considering a case single-handedly shall act as a court.

#### **Article 16. Symbols of the Judiciary**

1. The symbols of judicial power shall be the state symbols of Ukraine – the State Emblem of Ukraine and the State Flag of Ukraine.

2. A judge administering justice shall wear a judicial robe to which a judge's breast badge shall be attached. The standard robe and the standard chest badge shall be approved by the Council of Judges of Ukraine.

### **Section II. Courts of General Jurisdiction**

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

##### **Article 17. Types of Courts of General Jurisdiction**

1. The system of courts of general jurisdiction shall be based on the principles of territorial division, specialization, and instanceness.

2. The system of courts of general jurisdiction shall be composed of:

- 1) local courts;
- 2) courts of appeals;
- 3) high specialized courts;
- 4) the Supreme Court of Ukraine.

3. The unity of the system courts of general jurisdiction shall be ensured by the following:

the system of courts shall be laid down solely by the Constitution of Ukraine and the laws;

the unified status of judges shall be specified by the law;

in administering justice courts shall necessarily comply with the rules of legal proceedings specified by the law;

court decisions which have come into legal force shall be enforceable in the territory of Ukraine;

courts shall be funded solely from the State budget of Ukraine.

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

1. Courts of general jurisdiction shall specialize in civil, economic, administrative, and criminal cases.

2. In courts of general jurisdiction, the assembly of judges may introduce specialization of judges in particular categories of cases in the manner prescribed by this Law.

##### **Article 19. Procedure for Creating Courts**

1. Courts of general jurisdiction shall be created and abolished by the President of Ukraine on the basis of a motion by the Head of State Judicial Administration of Ukraine. The motion by the Head of the State Judicial Administration shall be supplemented with an opinion of the chief judge of the relevant high specialized court.
2. The location, territorial jurisdiction, and status of a court shall be determined with regard for the principles of territorial division, specialization, and instanceness.
3. The creation or abolishment of a court shall be motivated by an objective necessity for ensuring access to justice as a result of a change in the system of courts set forth by this Law or in the administrative and territorial division.
4. The number of judges/justices in a court shall be determined and may be changed by the President of Ukraine on the basis of a motion by the Head of State Judicial Administration of Ukraine, with due regard for the caseload of the court. The motion by the Head of the State Judicial Administration shall be supplemented with an opinion of the chief judge of the relevant high specialized court.

#### **Article 20. Procedure for Judges' Appointment to and Removal from Administrative Positions**

1. The administrative positions in a court are as follows: chief judge/justice of the court; deputy (first deputy) chief judge/justice of the court.
2. Judges/justices of local, appellate, and high specialized courts shall be appointed to/ removed from administrative positions for a three-year term from among the judges/justices of the respective court by the President of Ukraine on the basis of a motion by the High Council of Justice.

A motion by the High Council of Justice for the appointment of a judge/justice to an administrative position shall be submitted on the basis of recommendations which may be made by the assembly of judges/justices of the respective court, the Council of Judges of Ukraine, or the chief judge/justice of a relevant court of higher instance.

A motion by the High Council of Justice for the removal<sup>2</sup> of judges of local or appellate courts from administrative positions shall be submitted on the basis of a decision by the Disciplinary Commission of Judges of Ukraine stating that the judge in question has unduly exercised his/her administrative powers.

A motion by the High Council of Justice for the removal of justices of high specialized courts from administrative positions shall be submitted on the basis of a decision by the High Council of Justice stating that the justice in question has unduly exercised his/her administrative powers.

3. When deciding whether a judge/justice should be appointed to an administrative position, the High Council of Justice shall evaluate his/her performance, personal achievements, level of professional knowledge, honesty, work efficiency, administrative abilities, and moral qualities.

If two or more candidates have been nominated for an administrative position, the High Council of Justice shall select one of the recommended candidates on a competitive basis and include him/her in its motion.

4. The Chief Justice of the Supreme Court of Ukraine shall be elected by the Plenary Session of the Supreme Court of Ukraine on the basis of a motion by the President of Ukraine for a three-year term, accordingly, from among the justices of this court and be removed from office by the Plenary Session of the Supreme Court of Ukraine. The Deputy Chief Justice(s) of the Supreme Court of Ukraine shall be elected, accordingly, from among

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<sup>2</sup> pre-term?

the justices of this court and be removed from office by the Plenary Session of the Supreme Court of Ukraine.

5. No judge may hold the office of chief judge of the same local or appellate court for more than two consecutive terms. In a high specialized court and in the Supreme Court of Ukraine, a justice may not hold the office of Chief Justice of the Court for two consecutive terms.

6. The chief judge of a local court and his/her deputy, the chief judge of a court of appeals and his/her deputy, the chief justice of a high specialized court and his/her deputy may not be appointed or removed without a motion by the High Council of Justice.

If the chief judge of a local court or his/her deputy, the chief judge of a court of appeals or his/her deputy, the chief justice of a high specialized court or his/her deputy have not been appointed or removed by the President of Ukraine within 30 days from reception of a motion [to that effect] from the High Council of Justice, then the matter shall be given urgent consideration by the High Council of Justice.

7. A judge holding an administrative position in a court shall not be relieved from the responsibilities of a judge/justice of the respective court which are specified by this Law.

8. Removal of a judge/justice from an administrative position shall not terminate his/her tenure of judicial office. Removal of a judge/justice as well as expiry of the term for which he/she has been appointed (elected) shall terminate his/her powers associated with holding that administrative office.

## **Chapter 2. Local Courts**

### **Article 21. Types and Composition of Local Courts**

1. In the system of courts of general jurisdiction, there shall be local courts operating as courts of first instance for civil, economic, administrative, and criminal cases.

2. Local courts shall include:

1) precinct courts – district, city-district, city, and city-and-district courts;

2) circuit courts – circuit economic courts, circuit civil courts, circuit administrative courts, and circuit criminal courts, created in the circuits by Decree of the President of Ukraine in the manner prescribed by this Law.

3. The territorial jurisdiction of local courts shall be determined by the President of Ukraine at the time of their creation.

4. A local court shall be composed of no less than three local court judges from among whom the chief judge of the court shall be elected. If there are more than seven judges in a local court, a deputy chief judge shall be elected in that court; and if there are more than fifteen judges in a local court, more than one deputy may be elected therein.

5. In cases specified by the procedural law, judicial panels may be created in local courts. Panel members shall be elected by the assembly of judges for a six-month term upon the expiry of which they shall be replaced.

6. The name of a local court shall include the name of the settlement in which it is located.

### **Article 22. Authority of a Local Court**

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

2. Local district courts shall hear civil, administrative, criminal and other cases within their jurisdiction.

3. Circuit economic courts shall hear private law cases of an economic nature within their jurisdiction.

4. Circuit civil courts shall hear private law cases within their jurisdiction.
5. Circuit administrative courts shall hear private law cases of an administrative nature within their jurisdiction.
6. Circuit criminal courts shall hear criminal cases within their jurisdiction. In circuit criminal courts, trial juries shall be created to hear particular categories of cases.
7. Local courts shall present to the Supreme Court of Ukraine proposals regarding the need for introducing amendments to laws of Ukraine.

#### **Article 23. Judge of a Local Court**

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

#### **Article 24. Chief Judge of a Local Court**

1. The chief judge of a local court shall:
  - 1) administers /(runs)/ provide organizational management of the court's operation, represent the court as a body of state power in relations with other bodies of state power, local self-government bodies, citizens, institutions, and organizations;
  - 2) define the administrative duties and powers of the deputy (deputies) of the chief judge of the court;
  - 3) provide general management of court operation;
  - 4) hire and dismiss court staff, including the chief of the court staff; confer on them state employee ranks in the manner prescribed by the law; reward and discipline them;
  - 5) issue a relevant order on the basis of a certificate of appointment (election) to a judicial position or of removal of a judge;
  - 6) notify, within a ten-day term, the High Qualifications Commission of Judges of Ukraine of the availability of vacant or temporarily vacant judicial positions in the court;
  - 7) provide for the enforcement of decisions of the assembly of the local court's judges;
  - 8) supervise the keeping of court statistics and organize case law studies; focus on informational and analytical support for judges so as to improve the quality of justice;
  - 9) ensure compliance with the requirements regarding improvement of skills of the judges of the respective court;
  - 10) exercise the powers of a judge of the respective court;
  - 11) exercise other powers specified by the law.

The chief judge of a local court shall issue orders and instructions regarding matters within his/her administrative authority.

2. The chief judge of a local court shall have a deputy (deputies). The deputy chief judge(s) shall take part in organizing court operation pursuant to the distribution of administrative duties and powers as defined by the chief judge. In the absence of the chief judge, his/her administrative duties and powers shall be performed and exercised by the (a) deputy chief judge pursuant to the procedure established by the chief judge of the local court; and in the absence of the deputy chief judge, the administrative powers shall be exercised by the seniormost judge.

### **Chapter 3. Court of Appeals**

#### **Article 25. Types and Composition of the Courts of Appeals**

1. In the system of courts of general jurisdiction, there shall be courts of appeals operating as courts of appellate instance for civil, economic, administrative, and criminal cases.

2. Courts of appeals shall include administrative courts of appeals, economic courts of appeals, civil courts of appeals, and criminal courts of appeals, created in the appellate circuits by Decree of the President of Ukraine.

3. A court of appeals shall be composed of judges who, as a rule, have been elected to lifetime judicial positions, from among whom the chief judge and two deputy chief judges shall be appointed.

4. In a court of appeals, judicial chambers can be created to hear particular categories of cases in the established area of specialization within the respective court jurisdiction.

5. In a court of appeals, specialized judicial panels can be created to hear particular categories of cases within the respective court jurisdiction.

Panel members shall be elected by the assembly of judges for a six-month term upon the expiry of which they shall be replaced.

6. The name of a court of appeals shall include the name of the settlement in which it is located.

#### **Article 26. Authority of a Court of Appeals**

1. Courts of appeals shall:

1) hear appellate cases within the respective court jurisdiction according to the procedural law;

2) analyze court statistics;

3) study and generalize case law;

4) present to the Supreme Court of Ukraine proposals regarding the need for introducing amendments to laws of Ukraine;

5) exercise other powers prescribed by the law.

#### **Article 27. Judge of a Court of Appeals**

1. A judicial position in a court of appeals may be held by a citizen of Ukraine who has worked as a judge for at least five years.

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

#### **Article 28. Chief Judge of a Court of Appeals**

1. The chief judge of a court of appeals shall:

1) provide organizational management of the court's operation, represent the court as a body of state power in relations with other bodies of state power, local self-government bodies, citizens, institutions, and organizations;

2) define the administrative duties and powers of the deputies of the chief judge of the court;

3) supervise the efficiency of the activities of the court staff;

4) issue a relevant order on the basis of a certificate of appointment (election) to a judicial position or of removal of a judge;

5) hire and dismiss court staff, including the manager of the court staff; confer on them state employee ranks in the manner prescribed by the law; reward and discipline them;

6) notify, within a ten-day term, the High Qualifications Commission of Judges of Ukraine of the availability of vacant or temporarily vacant judicial positions in the court;

7) present the members of the judicial chambers for approval by the assembly of the judges of the respective court;

- 8) provide for the enforcement of decisions of the assembly of the appellate court's judges;
- 9) supervise the keeping and analysis of court statistics; organize case law studies and generalization; focus on informational and analytical support for judges so as to improve the quality of justice;
- 10) ensure compliance with the requirements regarding improvement of skills of the judges of the respective court;
- 11) exercise the powers of a judge of the respective court;
- 12) be empowered to present recommendations to the Higher Council of Justice regarding the appointment of judges of local courts to administrative positions and removal from such positions;
- 13) exercise other powers specified by the law.

The chief judge of a court of appeals shall issue orders and instructions regarding matters within his/her administrative authority.

2. The chief judge of a court of appeals shall have two deputies. The deputy chief judges shall take part in organizing court operation pursuant to the distribution of administrative duties and powers as defined by the chief judge. In the absence of the chief judge, his/her administrative duties and powers shall be performed and exercised by a deputy chief judge pursuant to the procedure established by the chief judge of the court of appeals; and in the absence of a deputy chief judge, the administrative powers shall be exercised by the seniormost judge.

#### **Article 29. Deputy Chief Judges of a Court of Appeals**

The deputy chief judges of a court of appeals shall take part in organizing court operation and provide organizational management of the operation of the structural units pursuant to the distribution of administrative duties and powers as defined by the chief judge.

### **Chapter 4. High Specialized Courts**

#### **Article 30. Types and Composition of High Courts**

1. In the system of courts of general jurisdiction, there shall be high specialized courts operating as courts of cassation instance for civil, economic, administrative, criminal and other cases. In exceptional cases prescribed by the procedural law, high courts may also act as courts of first or appellate instance.
2. The high specialized courts shall include the High Civil Court of Ukraine, the High Economic Court of Ukraine, the High Administrative Court of Ukraine, and the High Criminal Court of Ukraine.
3. A high specialized court shall be composed of judges (justices) elected to lifetime judicial positions, from among whom the chief justice, his/her first deputy, and two deputy chief justices shall be appointed.
4. In a high specialized court, judicial chambers shall be created to hear particular categories of cases in the established area of specialization within the respective court jurisdiction pursuant to this Law.
5. Within relevant judicial chambers, specialized judicial panels can be created to hear particular categories of cases in the specialization area of the respective judicial chamber.  
Panel members shall be elected by the assembly of justices for a six-month term upon the expiry of which they shall be replaced.
6. In a high specialized court, there shall be a presidium of the court to address organizational issues, composed of the chief justice of the court, his/her first deputy,

deputies, heads of chambers, as well as justices of this court elected to the presidium pursuant to this Law.

7. In a high specialized court, Plenary Sessions of the high specialized court shall be held to address general issues of operation of the respective specialized courts.

8 The high specialized courts shall be located in the city of Kyiv.

### **Article 31. Authority of a High Specialized Court**

1. A high specialized courts shall:

- 1) hear cases within the respective court jurisdiction in cassation proceedings;
- 2) hear cases within the respective court jurisdiction in exceptional cases prescribed by the procedural law;
- 3) analyze court statistics, study and generalize case law;
- 4) provide relevant courts of lower level with advisory clarifications concerning application of law to cases within the respective court jurisdiction to ensure uniform application of law by the courts;
- 5) present to the Supreme Court of Ukraine proposals regarding the need for introducing amendments to laws of Ukraine;
- 6) present to the Plenary Session of the Supreme Court of Ukraine proposals for submitting to the Constitutional Court of Ukraine a constitutional motion regarding recognition of laws and other legal acts of the Verkhovna Rada of Ukraine, acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea (or particular provisions thereof) as unconstitutional, as well as regarding the necessity for official interpretation of the Constitution and laws of Ukraine;
- 7) exercise other powers prescribed by the law.

### **Article 32. Judge of a High Specialized Court**

1. A judicial position in a high specialized court may be held by a citizen of Ukraine who has worked as a judge for at least seven years.

[2. ?] A judge of a high specialized court shall administer justice in the manner prescribed by the procedural law, as well as exercising other powers set forth by the law.

### **Article 33. Chief Judge of a High Specialized Court**

1. The chief judge of a high specialized court shall:

- 1) provide organizational management of the court's operation, represent the court as a body of state power in relations with other bodies of state power, local self-government bodies, citizens, institutions and organizations, as well as with other states' bodies of power and international organizations;
- 2) define the administrative responsibilities of the deputy chief justice of the court;
- 3) supervise the efficiency of the operation of the court staff, confer on the staff members state employee ranks in the manner prescribed by the law; reward and discipline them;
- 4) issue a relevant order on the basis of a certificate of appointment (election) to a judicial position or of removal of a justice;
- 5) notify, within a ten-day term, the High Qualifications Commission of Judges of Ukraine of the availability of vacant or temporarily vacant judicial positions in the court;
- 6) submit, pursuant to this Law, proposals for creating relevant local and appellate courts, for altering the territorial jurisdiction thereof or the number of justices therein;

- 7) convene the Plenary Session of the high specialized court, present issues to be considered by it, and preside at its meetings;
- 8) inform the Plenary Session of the Supreme Court of Ukraine about the state of justice within the respective court jurisdiction and the practice of resolving particular categories of cases;
- 9) provide for the enforcement of decisions of the assembly of justices of the high specialized court;
- 10) organize the keeping and analysis of court statistics, case law studies and generalization; focus on informational and analytical support for justices so as to improve the quality of justice;
- 11) ensure compliance with the requirements regarding improvement of skills of the justices of the respective court;
- 12) exercise the powers of a justice of the respective court;
- 13) be empowered to present recommendations to the Higher Council of Justice regarding the appointment of judges of local or appellate courts to administrative positions and removal from such positions;
- 14) organize the operation of the presidium of the high specialized court, present issues to be considered by it, and preside at its meetings;
- 15) submit, according to the established procedure, proposals for the funding of expenditures related to the maintenance of the court and organizational support for its operation;
- 16) implement decisions of the assembly of justices of the specialized court and report the implementation results to the assembly of justices of this court;
- 17) exercise other powers specified by the law.

The chief justice of a high specialized court shall issue orders and instructions regarding matters within his/her administrative authority.

2. In the absence of the chief judge of a high specialized court, his/her administrative duties and powers shall be performed and exercised by the first deputy chief justice, deputy chief justice, pursuant to the procedure established by the chief justice of the high specialized court; and in the absence of a deputy chief justice, the administrative powers shall be exercised by the seniormost justice.

#### **Article 34. Deputy Chief Judge of a High Specialized Court**

1. The first deputy and deputy chief justices of a high specialized court shall exercise administrative powers as defined by the chief judge.

#### **Article 35. Judicial Chambers of a High Specialized Court**

1. The judicial chambers of a high specialized court shall:

- 1) hear cases falling within their area of specialization in the manner prescribed by the law;
- 2) analyze court statistics and study case law;
- 3) prepare draft resolutions of the Plenary Session of the high specialized court regarding issuance of clarifications for the purpose of uniform application of legal norms to cases within the respective court jurisdiction in the chamber's area of specialization;
- 4) exercise other powers prescribed by the law.

2. A judicial chamber of a high specialized court shall be created by order of the chief justice of the high specialized court issued on the basis of a decision of the Plenary Session of the high specialized court. The composition of a chamber of a high specialized court shall be

formed by the presidium of the high specialized court on the basis of a motion by the chief justice of the court in the manner prescribed by this Law. A judicial chamber of a high specialized court shall be chaired by the head of the judicial chamber who shall be elected in an open ballot by a majority of the member justices of the respective chamber.

### **Article 36. Presidium of a High Specialized Court**

1. The presidium of a high specialized court shall be composed of the chief justice of the high specialized court, his/her deputies, as well as justices whose number shall be determined by the Plenary Session of the high specialized court. Justices shall be elected to the Presidium by the general assembly of judges of this court in a secret ballot.

2. The presidium of a high specialized court shall:

1) address issues related to the organization of operation of the court, the judicial chambers, and the court staff;

2) approve, upon a motion by the chief justice of the high specialized court, the personal composition of each of the judicial chambers;

3) hear accounts from heads of judicial chambers about the operation of the judicial chambers;

4) give consideration to materials generalizing case law and analyzing court statistics and make relevant recommendations;

5) address issues related to organizational support of court operation and study proposals on how to improve it;

6) address issues related to the management of judicial resources and staff of the high specialized court and to improvement of their skills;

7) hear accounts from chief judges of appellate and local specialized courts about the organization of the operation of these courts and their proposals on how to improve it;

8) study proposals regarding the number of judges in the relevant specialized local and appellate courts;

9) provide methodological assistance to appellate and local courts so as to ensure that they correctly apply legislation;

10) exercise other powers specified by the law.

3. Meetings of the presidium of a high specialized court shall be held at least once every two months. Meetings of the presidium shall be competent if attended by at least two-thirds of its members. Resolutions of the presidium shall be adopted in an open or secret ballot by a majority of the members of the presidium present at the meeting and shall be signed by the chief justice of the court of his/her deputy who voted at the meeting.

### **Article 37. Plenary Session of a High Specialized Court**

1. The Plenary Session of a high specialized court, composed of all the judges of the high specialized court, shall address issues related to ensuring uniform court practice in dealing with cases within the respective specialized jurisdiction and other matters referred to its authority by this Law.

2. The Plenary Session of a high specialized court shall:

1) provide relevant courts of lower level with advisory clarifications to ensure uniform application of legal norms to cases within the respective court jurisdiction;

2) approve the composition of the scientific-consultative council under the high specialized court and its statute; approve the composition of the editorial board of the high specialized court's official periodical;

- 3) hear accounts about the state of justice within the respective court jurisdiction and the practice of resolving particular categories of cases;
- 4) decide on petitioning the Constitutional Court of Ukraine for official interpretation of the Constitution and laws of Ukraine;
- 5) decide on petitioning the Supreme Court of Ukraine regarding the need for introducing amendments to laws of Ukraine;
- 6) decide on creating judicial chambers of the high specialized court;
- 7) consider and resolve other matters referred to its authority by the law.

3. The Plenary Session of a high specialized court shall be convened by the chief justice of the high specialized court or the deputy chief justice of the high specialized court as needed or when requested by at least one fifth of all the judges of the high specialized court, but not less than once every three months. Participants in the Plenary Session shall be notified of its day and time at least ten days prior to the meeting. Materials regarding issues to be presented for consideration to the Plenary Session shall be sent out within the same term.

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

5. Invitations to a meeting of the Plenary Session may be extended to representatives of bodies of state power, scientific institutions, public organizations, mass media, etc.

6. The Plenary Session of a high specialized court shall pass resolutions on the issues it has considered. Resolutions of the Plenary Session of a high specialized court shall be adopted in an open ballot by a majority of the members of the Plenary Session. Resolutions of the Plenary Session of a high specialized court shall be signed by the chair of the meeting of the Plenary Session and by the secretary of the Plenary Session and be published in the official periodical of the high specialized court.

7. The operational procedure of the Plenary Session of a high specialized court shall be established by this Law and by the Regulations on the Plenary Session of the high specialized court which shall be adopted as required herein.

8. The secretary of the Plenary Session of a high specialized court shall organize the work of the secretariat of the Plenary Session, the preparation of the meetings of the Plenary Session, ensure the keeping of the minutes, and supervise the implementation of the resolutions passed by the Plenary Session of the specialized court.

#### **Article 38. Scientific-Consultative Council and Official Periodical of a High Specialized Court**

1. Under a specialized court, there shall be created a scientific-consultative council to work on issues related to developing a scientific rationale for clarification of legislation as well as to provide opinions on draft laws, other normative legal acts, and on other issues related to the necessity for scientific support for the operation of the high specialized court.

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

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

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

#### **Article 39. The Supreme Court of Ukraine, the Highest Judicial Body**

1. The Supreme Court of Ukraine shall be the highest judicial body in the system of courts of general jurisdiction. The Supreme Court of Ukraine shall administer justice and ensure uniform application of legislation by all courts of general jurisdiction.

2. The Supreme Court of Ukraine shall:

- 1) review general jurisdiction cases under exceptional circumstances in the manner prescribed by the law;
- 2) provide courts with clarifications to ensure uniform application of laws in adjudging cases;
- 3) provide opinion on whether or not the acts of which the President of Ukraine is accused contain elements of state treason or other crime; deliver, upon request of the Verkhovna Rada of Ukraine, a written motion stating that the President of Ukraine is incapable of exercising his/her powers for health reasons;
- 4) apply to the Constitutional Court of Ukraine if, while administering justice, courts of general jurisdiction come to question the constitutionality of laws or other legal acts as well as the official interpretation of the Constitution and laws of Ukraine;
- 5) keep and analyze court statistics, study and generalize case law;
- 6) resolve, within the limits of its powers, issues ensuing from international treaties of Ukraine; represent courts of general jurisdiction in relations with courts of foreign states;
- 7) exercise other powers specified by the law.

#### **Article 40. Composition of the Supreme Court of Ukraine**

1. The Supreme Court of Ukraine shall be composed of sixteen justices elected for a lifetime: four judges representing each specialized jurisdiction (civil, economic, administrative, criminal), who have worked as a judge for at least ten years. The Supreme Court of Ukraine shall be headed by the Chief Justice of the Supreme Court of Ukraine, who shall have a deputy (deputies).

2. Plenary Sessions of the Supreme Court shall be held to address issues specified by the Constitution of Ukraine and by this Law. The composition and operating procedures of the Plenary Session of the Supreme Court of Ukraine shall be determined on the basis of this Law.

3. Under the Supreme Court of Ukraine, there shall be created a scientific-consultative council whose status shall be specified by this Law.

4. The Supreme Court of Ukraine shall publish an official periodical and be empowered to cofound other periodicals.

6. The Supreme Court of Ukraine shall be located in the city of Kyiv.

#### **Article 41. Justice of the Supreme Court of Ukraine**

1. The position of a justice of the Supreme Court of Ukraine may be held by a citizen of Ukraine who has worked as a judge for at least ten years.

2. A justice of the Supreme Court of Ukraine shall:

- 1) conduct legal proceedings in accordance with the procedural law;
- 2) take part in consideration of matters put on the agenda of meetings of the Plenary Session of the Supreme Court of Ukraine;
- 3) analyze court practice; submit, according to the established procedure, proposals on ways to improve it and to refine legislation;
- 4) exercise other powers specified by the law.

#### **Article 42. Chief Justice of the Supreme Court of Ukraine**

1. The Chief Justice of the Supreme Court of Ukraine shall:

- 1) represent the court as a body of state power in relations with other bodies of state power, local self-government bodies, citizens, institutions and organizations, as well as with other states' bodies of power and international organizations;
- 2) organize the operation of the Supreme Court of Ukraine, define the administrative responsibilities of the Deputy Chief Justice (Deputy Chief Justices) of the Supreme Court of Ukraine;
- 3) convene the Plenary Session of the Supreme Court of Ukraine, present issues to be considered by it, and preside at its meetings;
- 4) issue a relevant order on the basis of a certificate of election to the position of justice of the Supreme Court or of removal of a justice;
- 5) notify, within a ten-day term, the High Qualifications Commission of Judges of Ukraine of the availability of vacant or temporarily vacant judicial positions in the court;
- 6) submit to the High Qualifications Commission of Judges of Ukraine motions for conducting appraisal of the qualification of the justices of the Supreme Court of Ukraine;
- 7) supervise the activities of the staff of the Supreme Court of Ukraine, confer on the staff members state employee ranks in the manner prescribed by the law; reward and discipline them;
- 8) inform the Plenary Session of the Supreme Court of Ukraine about the operation of the Supreme Court of Ukraine;
- 9) exercise other powers specified by the law.

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

2. In the absence of the Chief Justice of the Supreme Court of Ukraine, his/her administrative powers shall be exercised by the Deputy Chief Justice; and in the absence of the Deputy Chief Justice, the administrative powers shall be exercised by the seniormost justice.

#### **Article 43. Procedure for Electing the Chief Justice of the Supreme Court of Ukraine**

1. The Chief Justice of the Supreme Court of Ukraine shall be elected for a three-year term, accordingly, from among the justices of this court and be removed from office by the Plenary Session of the Supreme Court of Ukraine in a secret ballot. The Chief Justice of the Supreme Court of Ukraine shall be deemed elected if he/she receives a majority of the votes of all the members of the Plenary Session.

2. The Plenary Session of the Supreme Court of Ukraine shall be convened for the election of the Chief Justice of the Supreme Court of Ukraine not later than within a month from the day of termination of powers of the previous Chief Justice of the Supreme Court of Ukraine.

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

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

1. In relation to matters falling within his/her administrative authority pursuant to the established distribution of responsibilities, the Deputy Chief Justice (Deputy Chief Justices) of the Supreme Court of Ukraine shall issue commissions; and when acting for the Chief Justice of the Supreme Court of Ukraine, issue orders and instructions.

2. The number of Deputy Chief Justices of the Supreme Court of Ukraine shall be determined by the Plenary Session of the Supreme Court of Ukraine.

3. The Deputy Chief Justice (Deputy Chief Justices) of the Supreme Court of Ukraine shall be elected from among the Supreme Court justices for a three-year term and be removed from office by the Plenary Session of the Supreme Court of Ukraine. The decision on the election of the Deputy Chief Justice (Deputy Chief Justices) of the Supreme Court of Ukraine shall be passed in a secret ballot not later than within three months of the day of creation of the respective vacancy. The Deputy Chief Justice (Deputy Chief Justices) of the Supreme Court of Ukraine may be elected for a second term.

3. The Deputy Chief Justice (Deputy Chief Justices) of the Supreme Court of Ukraine may be removed from office before the end of his/her/their term in the manner provided in the Regulations of the Supreme Court of Ukraine.

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

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

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

1) elect and remove from office the Chief Justice of the Supreme Court of Ukraine and his/her Deputy (Deputies) in a secret ballot in the manner prescribed by this Law;

2) elect, from among the Supreme Court Justices upon a motion by the Chief Justice of the Supreme Court of Ukraine, and remove the Secretary of the Plenary Session of the Supreme Court of Ukraine;

3) provide courts with clarifications to ensure uniform application of legal norms to cases within the respective court jurisdiction; amend, supplement, or rescind previous clarifications;

4) decide on petitioning the Constitutional Court of Ukraine regarding issues of constitutionality of laws and other legal acts as well as requesting official interpretation of the Constitution and laws of Ukraine;

5) provide opinion on whether or not the acts of which the President of Ukraine is accused contain elements of state treason or other crime; deliver, upon request of the Verkhovna Rada of Ukraine, a written motion stating that the President of Ukraine is incapable of exercising his/her powers for health reasons;

6) based on analysis of court statistics and case-law generalizations, submit to subjects of legislative initiative proposals for amending laws of Ukraine, and also submit to bodies of state power and to local self-government bodies proposals for amending their normative legal acts;

7) adopt the Regulations on the Plenary Session of the Supreme Court of Ukraine;

8) exercise other powers specified by the law.

3. A meeting of the Plenary Session of the Supreme Court of Ukraine shall be competent if attended by at least two-thirds of its members.

The manner in which courts, when adjudicating cases, should take into account the legal positions presented in clarifications of the Plenary Session of the Supreme Court of Ukraine shall be established by the procedural law.

4) Invitations to a meeting of the Plenary Session may be extended to representatives of bodies of state power, scientific institutions, public organizations, mass media, etc.

5) The Plenary Session of the Supreme Court of Ukraine shall be convened by the Chief Justice of the Supreme Court of Ukraine or the Deputy Chief Justice of the Supreme Court of

Ukraine as needed or when requested by at least one fifth of all the judges of the high specialized court, but not less than once a month. Participants in a meeting of the Plenary Session shall be notified of its day and time as well as of the issues on its agenda at least ten days prior the meeting.

6. A meeting of the Plenary Session shall be chaired by the Chief Justice of the Supreme Court of Ukraine; and in case of his/her absence, by the Deputy Chief Justice of the Supreme Court of Ukraine, as required by the Regulations.

7. The operational procedure of the Plenary Session of the Supreme Court of Ukraine shall be established by this Law and by the Regulations on the Plenary Session of the Supreme Court of Ukraine which shall be adopted as required herein.

8. The Plenary Session of a high specialized court shall pass resolutions on the issues it has considered. Resolutions of the Plenary Session of the Supreme Court of Ukraine shall be signed by the chair of the meeting of the Plenary Session and by the secretary of the Plenary Session and be published in the official periodical of the Supreme Court of Ukraine.

9. The secretary of the Plenary Session of the Supreme Court of Ukraine shall organize the work of the secretariat of the Plenary Session, the preparation of the meetings of the Plenary Session, ensure the keeping of the minutes, and supervise the execution of the resolutions passed by the Plenary Session of the specialized court.

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

1. Under the Supreme Court of Ukraine, there shall be created a scientific-consultative council, to be composed of highly qualified legal specialists, for preliminary consideration of draft resolutions of the Plenary Session of the Supreme Court of Ukraine regarding clarification of legislation, providing opinions on draft laws and on other issues related to the operation of the Supreme Court of Ukraine whenever the preparation thereof requires scientific support.

2. The organizational structure and operating procedures of the scientific-consultative council shall be established by the regulations to be adopted by the Plenary Session of the Supreme Court of Ukraine.

3. The Supreme Court of Ukraine shall publish an official periodical presenting case law of the Supreme Court of Ukraine and of other courts of general jurisdiction, materials on organization of operation of courts of general jurisdiction and other materials.

### **Section III. Professional Judges, People's Assessors, and Jurors**

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

##### **Article 47. Judge, the Holder of Judicial Power**

1. The professional judge and the representatives of the people engaged in the administration of justice in cases prescribed by the law – people's assessors and jurors – shall be the holders of judicial power in Ukraine administering justice independently from legislative and executive powers.

##### **Article 48. Judicial Independence**

1. In their professional activities, judges shall be independent and subordinate only to the Constitution of Ukraine and laws of Ukraine. Pressuring judges, interfering with their professional activities, or influencing judges in any other way for the purpose of preventing judges from performing their professional duties or inducing judges to hand down an unjust decision or perpetrate other acts incompatible with the status of a judge shall be prohibited and punishable in accordance with the law.

2. A judge shall not be obliged to provide any explanations regarding the merits of cases under his/her consideration, except when required by the law.

3. A judge shall be entitled to report the existence of a threat to his/her independence to the Council of Judges of Ukraine, which shall be obliged to urgently verify and examine such a report in the manner prescribed by the law and take necessary action to eliminate the threat.

4. Independence of a judge shall be ensured by:

- 1) special procedures for his/her appointment, election, disciplining, and removal;
- 2) judicial immunity;
- 3) irremovability of the professional judge;
- 4) judicial procedure prescribed by the procedural law, secrecy of judicial decision-making;
- 5) establishment of a special procedure of assignment of cases among judges;
- 6) prohibition of illegal influence, pressure, or interference with the administration of justice by a judge and establishment of legal liability for such actions;
- 7) liability under the law for contempt of court or of a judge;
- 8) special procedure under the law for funding and providing organizational support for the operation of courts;
- 9) adequate material and social support for judges;
- 10) functioning of bodies of judicial self-government;
- 11) means available under the law for ensuring personal safety of a judge and members of his/her family and preservation of their properties, as well as other means of legal protection;
- 12) right of a judge to retire.

5. Bodies of state power, bodies of local self-government, their officials and employees, as well as natural persons and legal entities and associations thereof, foreigners, stateless persons, and foreign legal entities shall be obliged to respect judicial independence and not to infringe upon it.

6. When adopting new laws or amendments to current laws, the meaning and scope of guarantees of judicial independence already established by the law may not be narrowed.

#### **Article 49. Judicial Immunity**

1. Judges shall be immune. Immunity of a judge shall apply to his/her home, office, means of transportation and communication, correspondence, personal property and documents.

2. Without the consent of the Verkhovna Rada of Ukraine, no judge may be detained or arrested prior to indictment.

3. A judge detained on suspicion of committing an offense entailing criminal or administrative liability must be released immediately after establishing his/her identity. No judge may be forcefully taken to police or any institution or body except for court.

4. Criminal prosecution of a judge may be initiated only by the Prosecutor General of Ukraine or his/her deputy.

5. Intrusion into the home or other estate or office of a judge, into his/her personal or official vehicle, conduct of examination, search, or seizure therein, interception of his/her telephone conversations, personal search of a judge, as well as search and seizure of his/her correspondence, belongings, or documents shall only be permitted on the basis of a judicial decision.

6. The territorial jurisdiction of a case in which a professional judge is accused of committing a crime shall be determined by order of a justice of the Supreme Court of Ukraine. The case may not be heard by the court in which the accused holds or held a judicial position.

7. No judge shall be civilly liable to anyone for damages caused by his/her decision, action, or inaction related to administration of justice. Liability for court-induced damages shall be borne by the state.

#### **Article 50. Liability for Contempt of a Judge or of Court**

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

#### **Article 51. State Protection of a Judge and Members of His/Her Family**

1. Judges, members of their families, and their properties shall be under special protection of the state.

2. The security of a judge and members of his/her family and preservation of their properties shall be ensured pursuant to the Law of Ukraine "On State Protection of Employees of Courts and Law-enforcement Agencies."

#### **Article 52. Certificate of a Judge**

1. Professional judges as well as people's assessors and jurors shall have a certificate of an established form.

2. Standard certificates of judges, people's assessors, and jurors shall be approved by the Council of Judges of Ukraine.

3. Certificates of judges elected for a lifetime position shall be signed by the Chairperson of the Verkhovna Rada of Ukraine. Certificates of judges appointed by the President of Ukraine shall be signed by the President of Ukraine. Certificates of chief judges, their deputies, other persons holding administrative positions in courts shall be signed by the Chief Justice of the Supreme Court of Ukraine.

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

5. The certificates shall be distributed by the signatory or by another person commissioned by him/her.

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

#### **Article 53. Status of a Professional Judge**

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

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

#### **Article 54. Judicial Irremovability**

1. A judge holding a lifetime position shall be guaranteed to remain a judge until he/she reaches the age of sixty five.

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

#### **Article 55. Incompatibility Requirements**

1. Holding a judicial position shall be incompatible with a position in any other body of state power, body of local self-government or with a representative mandate.

2. No judge shall have the right to engage, in parallel with his/her work, in entrepreneurship, practice of law, or do any other paid work (except for teaching, scholarly, or creative

activities during off-court hours), or be a member of a governing body or supervisory council of a profit-seeking enterprise or organization.

3. No judge may be a member of a political party or trade union, openly sympathize with them, or take part in political actions, rallies, or strikes.

4. Pursuant to a judge's application, he/she may be seconded to serve, retaining his/her primary employment salary, on the High Council of Justice, qualifications commissions of judges, the Disciplinary Commission of Judges of Ukraine, in the judicial inspectors' service, or in a specialized higher law school of fourth level of accreditation.

#### **Article 56. Rights and Responsibilities of a Judge**

1. A judge's rights related to administration of justice shall be determined by the Constitution of Ukraine, procedural and other laws of Ukraine.

2. A judge shall have the right to take part in judicial self-government to address matters of internal operation of courts in the manner pursuant to the law. Judges may form associations and participate therein so as to protect their rights and interests and to improve their professional skills.

3. A judge shall be obliged to improve his/her professional skills and, for that purpose, take appropriate training.

A judge first appointed to a judicial position shall be required to take two-week training annually. A judge holding a lifetime judicial position shall be required to take two-week training not less than once every three years.

A judge whose qualification rank has been downgraded or annulled shall be required to take two-week training.

4. A judge shall be obliged to:

1) hear and adjudicate cases in a timely, fair, and impartial manner in accordance with the law, observing the principles and rules of legal proceedings;

2) comply with the rules of judicial ethics;

3) show respect for participants in the legal proceedings;

4) abstain from actions which might call into question his/her independence and impartiality as well as from other actions discrediting him/her as the holder of judicial power;

5) abstain from disclosing information which constitutes a law-protected secret or secrecy of judges' deliberations or in-camera sessions;

6) comply with the incompatibility requirements;

7) submit to the State Judicial Administration annually, not later than April 1, a property status declaration, to be made public by posting on the official web portal of the judiciary.

The property status declaration must contain information on the income, securities, immovable and valuable movable property, bank deposits, financial obligations, and expenses (in the event of one-time expenses exceeding the amount of the monthly salary) of the judge, the members of his/her family and close relatives. The form of the declaration and the procedure for completing it shall be adopted by the Cabinet of Minister of Ukraine.

#### **Article 57. Judicial Oath of Office**

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

"In assuming my duties as a judge, I, (name and last name), do solemnly swear to administer justice in an objective, fair, and unbiased manner as required by the Constitution

and laws of Ukraine, guided by the principle of rule of law, to discharge my judicial duties honestly and conscientiously.”

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

### **Article 58. Judicial Ethics**

1. A judge shall be obliged to comply with the rules of judicial ethics, to be adopted by the Congress of Judges of Ukraine.

## **Chapter 3. People’s Assessors**

### **Article 59. Status of a People’s Assessor**

1. A people’s assessor shall be a citizen of Ukraine who in situations prescribed by the procedural law shall adjudicate cases, as a member of a court panel, together with a professional judge, providing direct participation of the people in the administration of justice as required by the Constitution of Ukraine.

2. When hearing and adjudicating cases, people’s assessors shall exercise judicial powers. People’s assessors shall have the responsibilities set forth in items 1–4, part four, Article 56 of this Law.

### **Article 60. List of People’s Assessors**

1. The list of people’s assessors shall include a number (to be specified by the chief judge) of citizens who permanently reside in the territory under the jurisdiction of the respective court, meet the requirements specified in Article 61 of this Law, and have given consent to be people’s assessors.

2. The list of people’s assessors shall be approved by a decision of the respective local council for a four-year term and be updated as necessary, but not less than once every two years.

3. The list of people’s assessors shall be published in the periodical media of the respective local council.

### **Article 61. Requirements for a People’s Assessor**

1. A people’s assessor must be a citizen of Ukraine who has reached the age of 25 and permanently resides in the territory under the jurisdiction of the respective court.

2. Citizens shall not be included in a list of people’s assessors if they:

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

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

3) are subjected to an inquiry, pre-trial investigation, or criminal proceedings, or have an outstanding or unquashed conviction;

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

5) have reached the age of 65;

6) have no command of the state language.

3. A person included in the list of people’s assessors shall be obliged to inform the court of circumstances precluding his/her participation in administration of justice.

**Article 62. Grounds and Procedure for Relieving of the Duty to Act as a People's Assessor**

1. A person who, pursuant to this Law, may not be included in the list of people's assessors but was included therein shall be relieved of the duty to act as a people's assessor by the chief judge of the respective court.
2. The following categories shall be relieved by the chief judge of the respective court of the duty to act as a people's assessor:
  - 1) persons who are on a pregnancy and maternity or child-care leave, or have children of pre-school or junior school age, or provide care to disabled children, other sick persons or elderly family members;
  - 2) heads and deputy heads of bodies of local self-government;
  - 3) persons refusing to administer justice on grounds of religious convictions;
  - 4) other persons, provided that the chief judge finds their reasons justifiable.
3. Persons mentioned in part two of this Article shall be relieved of the duty to act as a people's assessor upon their application, to be submitted before they begin to discharge that duty.
4. A people's assessor shall be disqualified (recused) in a pending case in the manner prescribed by the procedural law.

**Article 63. Status of a Juror**

1. A juror shall be shall be a citizen of Ukraine who in situations prescribed by the procedural law shall be engaged in administration of justice in a pending case, providing direct participation of the people in the administration of justice as required by the Constitution of Ukraine.
2. A juror shall be obliged to take part in the hearing of a pending case and adjudicate issues being considered by the jury in a fair and impartial manner. A juror shall also have the responsibilities set forth in items 1–4, part four, Article 56 of this Law.
3. A trial jury shall be created to hear, as a first instance, cases specified by the procedural law.

**Article 64. List of Jurors**

1. The list of jurors shall be compiled on the basis of the list of voters by a commission whose composition shall be approved by the Verkhovna Rada of the Autonomous Republic of Crimea, the oblast council, or the Kyiv or Sevastopol city council, as the case may be. The commission must include equal numbers of authorized representatives of the court, bodies of justice, and the respective local council.
2. The list of jurors shall include citizens permanently residing in the territory under the jurisdiction of the respective court and meeting the requirements specified in Article 65 of this Law.
3. The list of jurors shall be approved by a decision of the respective council for a four-year term and be updated as necessary, but not less than once every two years.
4. The list of jurors shall be published in printed media of the respective local council.

**Article 65. Requirements for Jurors**

1. A juror must be a citizen who has reached the age of 30.
2. Persons mentioned in part two of Article 61 of this Law may not serve as jurors.
3. The same person may not simultaneously be on a list of people's assessors and a list of jurors.

**Article 66. Grounds and Procedure for Relieving of the Duties of a Juror**

A person shall be relieved of the duty to act as a juror by the professional judge hearing the case, on grounds set forth in Article 60 of this Law as well as on other grounds and in the manner prescribed by the procedural law.

**Article 67. Engagement of People's Assessors and Jurors in the Discharge of Duties in a Court**

1. A court shall engage people's assessors in the administration of justice on a rotational basis, for a period not exceeding one month per year, except that this deadline must be extended to complete the hearing of a case which started with their participation.

2. A court shall engage jurors in the hearing of a specific pending case.

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

4. The employer shall be obliged to relieve the people's assessor or juror of work responsibilities for as long as he/she continues to perform his/her duties in court. Refusal to grant such relief shall be regarded as contempt of court.

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

6. The procedure for selecting jurors to hear a case, the procedure for swearing them in, and the content of the oath shall be prescribed by the procedural law.

**Article 68. Guarantees of the Rights of People's Assessors and Jurors**

1. People's assessors and jurors shall be paid compensation for the period of their service in the court in the amount of their average monthly salary or pension, but not below the subsistence minimum for an able-bodied person. They shall be entitled to compensation for travel expenses and apartment rental as well as to per diem expenses. The said payments shall be made by the territorial offices of the State Judicial Administration at the expense of the State Budget of Ukraine.

2. While performing duties in court, a people's assessor or juror may not be dismissed from his/her regular position or transferred to a different position without his/her consent.

3. Guaranties of judicial independence and immunity established by the law shall apply to people's assessors and jurors for as long as they perform duties related to administration of justice. Based on a justified request from a people's assessor or juror, measures providing for his/her security may continue when the performance of those duties is already over.

**Section IV. Procedure for Assuming the Office of a Professional Judge of a Court of General Jurisdiction****Chapter 1. General Provisions****Article 69. Requirements for Judicial Candidates**

1. To be eligible for recommendation for a judicial position, the candidate must be a citizen of Ukraine at least twenty five years of age who has higher legal education and a record of at least three years of service in the legal profession, has resided in Ukraine for at least ten years, and has command of the state language.

2. Citizens shall not be eligible for recommendation for a position of a professional judge if they:

- 1) were found by court to have limited legal capacity or legal incapacity;
- 2) are suffering from chronic mental or other diseases which prevent them from performing judicial duties;
- 3) are subjected to an inquiry, pre-trial investigation or criminal proceedings in a criminal case or have an outstanding or unquashed conviction.

3. Additional requirements for candidates for a judicial position in a higher-level court shall be specified by this Law.

4. For the purpose of this Article, it shall be deemed as follows:

1) higher legal education shall be taken to mean higher legal education of Master degree received in Ukraine, as well as higher legal education of relevant educational and qualification level received in foreign countries and recognized in Ukraine as prescribed by the legislation;

2) [length of] record of service in the legal profession shall be taken to mean a person's overall record of service in the legal profession – after receiving complete higher legal education – in positions requiring higher legal education attainment pursuant to qualification requirements;

3) residence in Ukraine for at least ten years shall be taken to mean a total period of residence in Ukraine of at least ten years, regardless of breaks therein.

#### **Article 70. Selection of Judicial Candidates**

1. Selection of candidates for a judicial position shall be made on a competitive basis, from among persons meeting the requirements set forth by the Constitution of Ukraine and Article 69 of this Law and having received training in judicial work, in accordance with testing results as required by this Law.

2. During the process of selection of candidates, they shall be equal in rights without distinction of race, color, political, religious or other convictions, sex, ethnic or social origin, property status, domicile, linguistic or other characteristics.

3. Anyone who meets the requirements established for a judicial candidate and has taken appropriate training at a specialized higher law school of fourth level of accreditation shall have the right to apply to the High Qualifications Commission of Judges of Ukraine for a recommendation for his/her appointment or election to a position of a professional judge.

4. A judge whose tenure of office has expired may be recommended, upon his/her application, for election to a lifetime judicial position in the absence of prohibiting circumstances as set forth by the law.

#### **Article 71. Training for Judicial Work**

1. Training for judicial work shall be delivered by a specialized higher law school of fourth level of accreditation. The period of such training shall be included in the record of service in the legal profession.

2. Admission to the specialized higher law school of fourth level of accreditation shall be on a competitive basis.

3. The admission competition shall be conducted on the basis of regulations on the procedure for admission to the specialized higher law school of fourth level of accreditation.

#### **Article 72. Announcement of Competition for a Judicial Position**

1. In order to conduct competition for judicial vacancies, the High Qualifications Commission of Judges of Ukraine shall publish an announcement in the newspapers *Holos Ukrainy* and *Uriadovyi Kurier* not later than two months before the competition.

2. The competition announcement shall specify:

1) the names of courts where judicial vacancies are available or are expected to become available, and the number of these vacancies;

2) the qualification requirements for a judicial candidate;

3) the list of documents specified in part one of Article 73 of this Law and the term for submission thereof;

4) the name, location and postal address of the High Qualifications Commission of Judges of Ukraine;

5) the terms of the competition;

6) the date, place and time of the competition.

### **Article 73. Submission of Documents to the High Qualifications Commission of Judges of Ukraine by the Applicant**

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

1) an application written by the candidate in his/her own handwriting;

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

3) a personal data sheet and curriculum vitae;

4) a copy of his/her certificate of higher legal education, of academic degree or academic rank;

5) extract from the work record book certifying record of service in the legal profession;

6) certificate of the applicant's health, issued by a medical institution;

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

9) other documents which might be indicative of the applicant's fitness for judicial work, if available.

2. Acceptance of documents shall be terminated two days before the competition. Applications coming in after the said deadline shall not be considered. A judge whose term of appointment is expiring must submit an application for recommending him/her for a judicial position not later than three months before the expiry of his/her tenure of judicial office.

3. Admittance to the testing shall be granted to persons specified in Articles 69 and 70 of this Law upon presentation of all the necessary documents. Refusal to admit an applicant to the testing shall be given in a well-grounded decision taken by the High Qualifications Commission of Judges of Ukraine.

### **Article 74. Testing for a Judicial Position**

1. Testing for a judicial position shall consist in the applicant's taking of a qualification examination and being interviewed. When determining the results of the testing, account shall be made of information certifying the applicant's ability to work as a judge.

2. Testing for judicial positions in local courts shall be conducted at least twice a year in the form of separate competitions for precinct courts and circuit courts of each specialized jurisdiction.

3. Testing for judicial positions in courts of appeals, high specialized courts and the Supreme Court of Ukraine shall be conducted in the form of competition separately for each position. Testing for the purpose of deciding whether a judge should be elected for a lifetime to the position he/she held until the expiry of the tenure of his/her appointment shall be conducted on a noncompetitive basis.

4. For the purposes of the testing, the High Qualifications Commission of Judges of Ukraine shall have the right to collect information about the candidate or entrust its collection to other state bodies. Organizations and citizens shall have the right to present to the High Qualifications Commission of Judges of Ukraine information they may have about the candidate.

#### **Article 75. Qualification Examination**

1. The qualification examination shall be an attestation [appraisal] of a person who has received due training at a specialized higher law school of fourth level of accreditation and expressed his/her willingness to be recommended for appointment (election) for a judicial position.

2. The qualification examination shall involve evaluation of the expertise and level of professional training of the judicial candidate, the degree of his/her fitness for administering justice in matters within the jurisdiction of the respective court, and his/her personal and moral qualities.

3. The qualification examination shall be conducted by the state examination commission to be created by the High Qualifications Commission of Judges of Ukraine.

4. The composition and operating procedures of the state examination commission under the High Qualifications Commission of Judges of Ukraine, as well as the procedure for taking the qualification examination shall be determined by the regulations to be approved by the High Qualifications Commission of Judges of Ukraine and the High Council of Justice after consultation with the Council of Judges of Ukraine.

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

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

7. A candidate's complaint regarding the outcome of the qualification examination shall be reviewed at a meeting of the High Qualifications Commission of Judges of Ukraine to which the complainant shall be invited. Based on the results of the review of the complaint, the High Qualifications Commission of Judges of Ukraine may cancel the results of the qualification examination in relation to that person and schedule an additional examination.

#### **Article 76. Additional Examination**

1. The additional examination shall consist in the taking of a qualification examination by a person challenging the outcome of his/her qualification examination determined by the state examination commission.

2. An additional examination may be scheduled by the High Qualifications Commission of Judges of Ukraine based on a judicial candidate's complaint challenging the outcome of the qualification examination.

3. The additional examination shall be taken before the High Qualifications Commission of Judges of Ukraine within a month from the day of the decision permitting the additional examination to be taken.

4. Any person failing to pass the additional examination may be admitted to competition for a judicial position not sooner than in two years.

**Article 77. Decision of the High Qualifications Commission of Judges of Ukraine regarding Recommendation of a Candidate to a Judicial Position**

1. A decision regarding recommendation of a judicial candidate shall be made at a meeting of the High Qualifications Commission of Judges of Ukraine.
2. The question of whether a candidate should be recommended for appointment (election) to a judicial position shall be decided by the High Qualifications Commission of Judges of Ukraine based on the results of his/her interview and qualification examination, review of the certificate of his/her health issued by a medical institution, the document certifying the reception of training at a specialized higher law school of fourth level of accreditation, and other information about the candidate revealing the level of his/her professional expertise and his/her personal and moral qualities.
3. Based on the results of the testing and consideration of other information on the candidates, the High Qualifications Commission of Judges of Ukraine may decide to recommend several candidates to the same judicial position.
4. A decision of the High Qualification Commission of Judges of Ukraine to refuse to recommend a judicial candidate may be appealed to the High Council of Justice within ten days of the day of this decision.

**Chapter 2. Appointment to a Judicial Position****Article 78. Procedure for Appointing to a Judicial Position**

1. The procedure for appointment to a judicial position shall be as follows:
  - 1) the High Qualifications Commission of Judges of Ukraine shall announce a competition for a judicial position (Article 72 of this Law);
  - 2) a candidate shall apply to the High Qualifications Commission of Judges of Ukraine for a recommendation to be appointed to a judicial position (Article 73 of this Law);
  - 3) the High Qualifications Commission of Judges of Ukraine shall conduct the competition, take a decision on recommending a candidate (candidates) for a judicial position, and forward this decision to the High Council of Justice (Articles 74-77, 78 of this Law);
  - 4) the High Council of Justice shall review the recommendation and take a decision about submitting a motion to the President of Ukraine for appointment of the candidate to a judicial position;
  - 5) the President of Ukraine shall take a decision about the candidate's appointment to the judicial position (Article 81 of this Law).

**Article 79. Consideration of Recommendation for Appointment to a Judicial Position by the High Qualifications Commission of Judges of Ukraine**

1. The High Qualifications Commission of Judges of Ukraine may take a decision on recommending a candidate (candidates) only to a vacant judicial position.
2. Persons who have passed the qualification examination but have temporarily not been recommended for a judicial position for want of vacancies shall have the right, for a period of two years, to take part in a competition for a vacancy, unless they withdraw their application during that period.

**Article 80. Consideration of whether to Submit to the President of Ukraine a Motion for Appointment of a Candidate to a Judicial Position**

The High Council of Justice may decide on submitting to the President of Ukraine a motion for appointment of a candidate to a judicial position on the basis of consideration of recommendation for a candidate (candidates) from the High Qualification Commission of Judges in the manner prescribed by the law.

### **Article 81. Appointment to a Judicial Position**

1. The President of Ukraine shall appoint to a judicial position:

- 1) a person not holding a judicial position in the past, for a five-year term;
- 2) a person previously holding a judicial position for less than five years, within the limits of the five-year term.

2. Appointment to a position of a professional judge shall be made by the President of Ukraine on the basis of a recommendation from the High Qualifications Commission of Judges of Ukraine upon a motion by the High Council of Justice.

A person appointed to a judicial position shall acquire the status of a judge immediately after taking the oath of office.

3. In the event of rejection of the motion by the High by Council of Justice, the President of Ukraine shall issue an order to that effect which must be well-grounded.

### **Article 82. Transfer of a Judge to Another Court within the Five-year Term of Appointment**

The transfer of a judge to another court within the five-year term of appointment shall be performed according to the judicial appointment procedure set forth by this Law.

## **Chapter 3. Election of a Judge**

### **Article 83. Procedure for Election to a Judicial Position**

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

1) the High Qualifications Commission of Judges of Ukraine shall announce a competition for a judicial position (Article 72 of this Law), except for the election to a judicial position of someone whose tenure of judicial office has expired;

2) a candidate shall apply to the High Qualifications Commission of Judges of Ukraine for a recommendation to be elected to a judicial position (Article 73 of this Law);

3) the High Qualifications Commission of Judges of Ukraine shall publish information on the preparation of materials for the election of the candidate to a judicial position in local printed media and in the official periodical of the Verkhovna Rada of Ukraine;

4) the High Qualifications Commission of Judges of Ukraine shall conduct the competition, take a decision on recommending the candidate for a judicial position, and forward this decision, along with a motion, to the High Council of Justice (Articles 74-77, 83-84 of this Law);

5) the committee of the Verkhovna Rada of Ukraine in charge of matters related to election and removal of judges elected for a lifetime (below, the Committee of the Verkhovna Rada of Ukraine) shall consider the motion for the election of the candidate to a lifetime judicial position, take a decision to recommend or not to recommend the candidate for a lifetime judicial position, and submit that decision for consideration to the Verkhovna Rada of Ukraine (Articles 85-87, 90 of this Law);

6) the Verkhovna Rada of Ukraine shall take a decision to elect or reject the candidate for a lifetime judicial position (Articles 86, 87 of this Law).

### **Article 84. Consideration by the High Qualifications Commission of Ukraine of whether to Elect the Candidate to a Lifetime Judicial Position**

1. The High Qualifications Commission of Judges of Ukraine shall consider issues related to the election of a candidate for a lifetime judicial position not later than two months before the expiry of his/her tenure of judicial office.

2. Based on the results of the qualification reexamination and of studying other materials, the High Qualifications Commission of Judges of Ukraine may decide to refuse to recommend the judicial candidate and forward this decision to the Verkhovna Rada of Ukraine.

3. A decision of the High Qualifications Commission of Judges of Ukraine concerning recommendation of a judge whose tenure of appointment is expiring shall be sent to the Verkhovna Rada of Ukraine not later than one month before the expiry of his/her tenure of judicial office.

A decision of the High Qualifications Commission of Ukraine to refuse to recommend a candidate for a lifetime judicial position may be appealed to the High Council of Justice in the manner prescribed by the Law of Ukraine "On the High Council of Justice."

#### **Article 85. Motion for the Election of a Candidate to a Lifetime Judicial Position and Documents to Be Appended thereto**

1. A motion by the High Qualifications Commission of Judges of Ukraine regarding the election of a candidate for a lifetime judicial position shall include the last name, name, and patronymic of the candidate and the name and location of the court to which the candidate may be elected.

2. The motion shall be appended with the personal file of the candidate for a lifetime judicial position, which must contain the following:

- 1) an application written by the candidate in his/her own handwriting;
- 2) the decision of the High Qualifications Commission of Judges of Ukraine to recommend the candidate for election to a lifetime judicial position, specifying whether the candidate has complied with the requirements set forth in Article 127 of the Constitution of Ukraine, or to refuse to recommend the candidate for the judicial position;
- 3) the minutes and materials of the qualification examination;
- 4) a copy of his/her passport of a citizen of Ukraine;
- 5) the candidate's personal data sheet and curriculum vitae;
- 6) a copy of his/her certificate of higher legal education, of academic degree or academic rank;
- 7) extract from the work record book;
- 8) certificate of the candidate's performances during the past five years, to be signed by the chief judge of the respective court and the head of the territorial office of the State Judicial Administration.

The certificate shall indicate the following: information on the number of cases heard, with breakdown by years and categories; number of reversed or altered judgments; grounds for reversal or alteration of judgments; number of initiated disciplinary proceedings and number of disciplinary actions taken;

- 9) document certifying the results of the training received at the specialized higher law school of fourth level of accreditation;
- 10) copies of decisions of authorized state bodies on appointment (election) of the judge to positions;
- 11) certificate of the applicant's health, issued by a medical institution;
- 12) other documents which might be indicative of the applicant's fitness for judicial work, if available.

#### **Article 86. Verification by the Committee of the Verkhovna Rada of Ukraine of Citizens' Petitions and Other Materials regarding the Activities of a Candidate Seeking Election to a Lifetime Position**

1. The Committee of the Verkhovna Rada of Ukraine shall verify compliance of the candidate for a lifetime judicial position with the requirements set forth in Article 127 of the Constitution of Ukraine and Articles 69 and 93 of this Law, as well as examining the petitions received from citizens, public organizations, enterprises, institutions, bodies of state power, and bodies of local self-government (below, petitions) regarding the activities of the candidate.
2. If the review of the petitions requires additional examination, the Committee of the Verkhovna Rada of Ukraine shall take a decision to forward them to the Supreme Court of Ukraine, the respective high specialized court, the High Council of Justice, the State Judicial Administration of Ukraine, the Council of Judges of Ukraine, or the Disciplinary Commission of Judges of Ukraine.
3. The term for consideration of such petitions and for responding to the Committee of the Verkhovna Rada of Ukraine shall be calculated pursuant to the Law of Ukraine "On Citizens' Petitions."
4. The Committee of the Verkhovna Rada of Ukraine may conduct a direct inquiry into petitions if necessary, entrusting it to a member of the Committee (by his/her consent).
5. A candidate running for a lifetime judicial position shall have the right to be acquainted with the materials of the petitions related to his/her activities, the inquiries sent by the Committee of the Verkhovna Rada of Ukraine, and responses thereto.
6. The secretariat of the Committee of the Verkhovna Rada of Ukraine shall, within three days from the day of receiving the motion, distribute to the people's deputies of Ukraine, through the staff of the Verkhovna Rada of Ukraine, the lists of candidates proposed for election to lifetime judicial positions.
7. Invitations to the meeting of the Committee of the Verkhovna Rada of Ukraine shall be extended to authorized representatives of the Supreme Court of Ukraine, high specialized courts, the High Council of Justice, the High Qualifications Commission of Judges of Ukraine, the Disciplinary Commission of Judges of Ukraine, the State Judicial Administration of Ukraine, the Council of Judges of Ukraine, as well as to the candidate to a judicial position, whose presence shall be mandatory.
8. At the request of people's deputies of Ukraine, invitations to the meeting of the Committee of the Verkhovna Rada of Ukraine can be extended to representatives of bodies of state power, bodies of local self-government, as well as of the public.
9. Persons mentioned in part seven of this Article shall be notified of the day and time of the meeting in writing not later than three days before it is due to begin.

**Article 87. Consideration of a Motion for the Election of a Candidate to a Lifetime Position at a Meeting of the Committee of the Verkhovna Rada of Ukraine**

1. The Committee of the Verkhovna Rada of Ukraine shall consider the motion for the election of a candidate for a lifetime judicial position within one month from receiving it. When it is necessary to verify some facts because otherwise it is impossible to reach a decision, that deadline may be extended by the Committee, but not more than for two months, except when the verification extension period coincides with the intersessional period of work of the Verkhovna Rada of Ukraine.
2. The motion for the election of a candidate for a lifetime judicial position shall be reviewed at a meeting of the Committee of the Verkhovna Rada of Ukraine in a collective manner.
3. During the discussion, the members of the Committee of the Verkhovna Rada of Ukraine and the invited persons shall have the right to ask questions of the speaker and directly of the candidate.
4. After discussing the candidate's background and reviewing the submitted petitions regarding his/her activities, a decision of the Committee of the Verkhovna Rada of Ukraine to

recommend or not to recommend the candidate for election to a lifetime judicial position shall be announced in the presence of the candidate.

5. A decision of the Committee of the Verkhovna Rada of Ukraine not to recommend a candidate for election to a lifetime judicial position shall not preclude the consideration of this issue at a plenary meeting of the Verkhovna Rada of Ukraine.

#### **Article 88. Putting the Issue of Election to a Lifetime Judicial Position on the Agenda of the Verkhovna Rada of Ukraine**

1. When a relevant decision regarding the election of judges to lifetime positions has been taken, the Committee of the Verkhovna Rada of Ukraine shall submit proposals to put the issue of election of these judges on the agenda of the plenary meeting of the Verkhovna Rada of Ukraine.

2. At its plenary meetings, the Verkhovna Rada of Ukraine shall elect or reject to elect judges for lifetime positions.

#### **Article 89. Procedure for Discussing the Election of a Candidate to a Lifetime Judicial Position at a Plenary Meeting of the Verkhovna Rada of Ukraine**

1. The discussion of the election of a candidate to a lifetime judicial position at a plenary meeting of the Verkhovna Rada of Ukraine shall begin with a report by a speaker to be determined by the Committee of the Verkhovna Rada of Ukraine.

2. If critical remarks on a candidate for a lifetime judicial position were made during the discussion of the election of the candidate to a lifetime judicial position within the relevant Committee of the Verkhovna Rada, the speaker must inform the people's deputies of Ukraine thereof.

3. Each of the people's deputies of Ukraine shall have the right to ask questions of the speaker and directly of the candidate running for a lifetime judicial position and to express his/her opinion about the candidate.

4. If at the plenary meeting of the Verkhovna Rada any critical remarks are made on a candidate running for a lifetime position which necessitate additional verification, the candidate shall not be voted upon. The motion regarding him/her shall be considered for a second time by the Verkhovna Rada of Ukraine provided that the Committee has taken a decision pursuant to Article 84 of this Law.

5. Questions may also be asked of the authorized representative of the High Qualifications Commission of Judges of Ukraine.

#### **Article 90. Decision on Electing a Candidate to a Lifetime Judicial Position at a Plenary Meeting of the Verkhovna Rada of Ukraine**

1. The Verkhovna Rada of Ukraine may elect to a lifetime judicial position:

1) a person whose tenure of judicial office has expired;

2) a person who has previously held a judicial position for at least five years, but is not holding a judicial position at the time of consideration of the issue of his/her election.

2. The decision on electing a candidate for a lifetime judicial position shall be taken in an open fixed ballot by a majority of the constitutional composition of the Verkhovna Rada of Ukraine.

3. The decision on electing a candidate for a lifetime judicial position shall be formalized by a resolution of the Verkhovna Rada of Ukraine.

4. A person elected to a lifetime judicial position shall acquire the status of a professional judge of a court of the respective level.

5. If a candidate whose tenure of judicial office has expired fails to be elected to a lifetime position, the High Council of Justice shall submit to the President of Ukraine a motion for the removal of this candidate from the judicial position.

**Article 91. Renewed Recommendation of a Candidate for a Lifetime Judicial Position**

1. If a candidate was not elected for a lifetime judicial position at a plenary meeting of the Verkhovna Rada of Ukraine in connection with newly discovered circumstances reported in statements by people's deputies of Ukraine, the Committee of the Verkhovna Rada of Ukraine shall pass a decision to petition the High Council of Justice, the Disciplinary Commission of Judges of Ukraine, and the High Qualifications Commission of Judges of Ukraine for verification of these circumstances or shall entrust people's deputies of Ukraine sitting on the Committee with the task of submitting a motion for conducting such a verification, approve the timeframe for its conduct and, based on the results of the verification, take a decision on whether to submit the previously rejected candidate for consideration at a plenary meeting of the Verkhovna Rada of Ukraine.

2. The results of the conducted verification shall be reviewed at a meeting of the Committee of the Verkhovna Rada of Ukraine with due regard to the requirements set forth in Article 86 of this Law.

3. No candidate twice rejected by the Verkhovna Rada of Ukraine may again be recommended for election to a lifetime judicial position.

**Article 92. Transfer of a Judge Elected for a Lifetime Position to Another Court**

The transfer of a judge elected to a lifetime position to another court shall be performed according to the judicial appointment procedure set forth by this Law.

**Section V. Qualification Attestation of Professional Judges**

**Article 93. Objectives and Grounds for Qualification Attestation**

1. The qualification attestation shall consist in the evaluation of a judge's professional level and in the qualifications commission's decision to confer the respective qualification rank on the judge or to confirm his/her rank.

2. The grounds for scheduling a judge's qualification attestation shall be as follows:

- 1) expiry of the judge's tenure of respective qualification rank as set forth by the Law;
- 2) the judge's application for reinstatement of a qualification rank;
- 3) a decision, taken by a body authorized to conduct disciplinary proceedings, to schedule a qualification attestation to confirm the judge's qualification rank.

**Article 94. Qualification Ranks of Judges**

1. There shall be established six qualification ranks of judges.

2. Qualification ranks – highest, first, second, third, fourth, and fifth – shall be conferred as follows:

- 1) upon judges of local courts: fifth, fourth, third, and second qualification ranks;
- 2) upon judges of courts of appeals: third, second, and first qualification ranks;
- 3) upon justices of high specialized courts: second, first, and highest qualification ranks;
- 4) upon justices of the Supreme Court of Ukraine: highest qualification rank.

3. To be eligible for a judicial position in a court of appeals, a judge must have the fourth qualification rank as a minimum; for the position of justice of a high specialized court, the third qualification rank as a minimum; and for the position of a justice of the Supreme Court of Ukraine, the first qualification rank as a minimum.

**Article 95. Term of a Judge's Tenure of Qualification Rank**

1. A judge first appointed to a precinct or circuit court shall undergo a qualification attestation a year from the day of the appointment and may be awarded the fifth qualification rank.
2. The lengths of a judge's tenure of a qualification rank making him/her eligible for the next qualification rank shall be as follows: tenure of the fifth rank, two years; of the fourth and third ranks, three years; of the second rank, five years. Upon expiry of that term, a judge must undergo a qualification attestation to confirm the qualification rank previously conferred upon him/her or to be awarded the next qualification rank. Should a judge evade the qualification attestation, he/she shall be deprived of his/her qualification rank by a decision of the respective qualifications commission.
3. The terms of a judge's tenure of the first and highest qualification ranks shall not be limited.
4. A judge removed from his/her position shall retain the qualification rank conferred upon him/her. A judge shall be deprived of his/her qualification rank if removed on grounds set forth in items 5 and 6 of part five, Article 126 of the Constitution of Ukraine.

**Article 96. Procedure for Conducting the Qualification Attestation**

1. A qualification attestation shall be conducted in the form of a written test and interview. As part of the qualification attestation, account shall be taken of the results of the judge's training at the specialized higher law school of fourth level of accreditation.
2. The next qualification attestation of a judge shall be conducted within one month from the day of expiry of the tenure of his/her current qualification rank, so as to confirm the judge's qualification rank or confer the next qualification rank upon him/her.
3. An early qualification attestation of a judge shall be conducted within two months from the day the judge applies for reinstatement of his/her qualification rank or from the day a decision to schedule a qualification attestation to confirm the judge's qualification rank is taken by a body authorized to conduct disciplinary proceedings.
4. The purpose of the qualification test shall be to verify the expertise of a professional judge and to identify the judge's level of qualification preparedness, ability to raise his/her professional level and administer justice, in particular in higher-level courts.
5. The qualification interview shall be conducted orally, focusing on the actual administration of justice by the judge and on his/her discharge of the official duties.
6. A qualification interview with a judge seeking to be awarded a qualification rank entitling him/her to hold a position in a higher-level court shall focus on identifying whether his/her expertise in the fields of legislation, case law, and legal analytics is sufficient for the judge to be able to adequately discharge responsibilities in a higher-level court.
7. The methods for evaluating a judge with a view to conferring each of the qualification ranks shall be approved by the High Qualifications Commission of Judges of Ukraine and by the Council of Judges of Ukraine.

**Article 97. Decision by a Qualifications Commission regarding the Conferment of a Qualification Rank**

1. Depending on the level of professional expertise, length of service record, and experience of work of the judge under attestation, the qualifications commission of judges shall take a decision to:
  - 1) confer a relevant judicial rank upon the judge;
  - 2) let the judge retain the qualification rank previously conferred upon him/her;
  - 3) postpone the attestation (in case the judge's level of professional expertise is insufficient) for a period of not more than six months;

4) deprive the judge of his/her qualification rank and send him/her to a specialized higher law school of fourth level of accreditation.

**Article 98. Appealing a Decision of the Qualifications Commission of Judges on Qualification Attestation**

1. A judge disagreeing with the decision of the territorial qualifications commission of judges regarding his/her attestation may appeal that decision to the High Qualifications Commission of Judges of Ukraine within fifteen days from the day of receiving a copy of the decision.

2. The complaint shall be filed through the territorial qualifications commission of judges which passed the decision. Upon receiving the complaint, the territorial qualifications commission of judges which passed that decision shall send it, along with the case file, not later than within three days to the High Qualifications Commission of Judges of Ukraine.

3. A complaint regarding a decision on qualification attestation shall be reviewed by the High Qualifications Commission of Judges of Ukraine within a month from the day of filing of the complaint and the attestation materials. The complainant may be summoned to the Commission's meeting scheduled to review the complaint.

4. The High Qualifications Commission of Judges of Ukraine shall have the right to:

- 1) dismiss the complaint;
- 2) alter the decision and confer a relevant qualification rank upon the judge;
- 3) let the judge retain the qualification rank previously conferred upon him/her.

5. The decision of the High Qualifications Commission of Judges of Ukraine shall be sent within ten days to the complainant and to the chief judge of the court in which the judge serves.

6. A decision of the High Qualifications Commission of Judges of Ukraine on qualification attestation may be appealed to the High Council of Justice in the manner prescribed by the Law of Ukraine "On the High Council of Justice."

**Section VI. Ensuring the Appropriate Qualification Level of a Professional Judge**

**Article 99. Status of Qualifications Commissions of Judges**

1. The qualifications commissions shall be tasked with ensuring the formation of a professional judiciary capable of administering justice in a competent, conscientious, and unbiased manner, which shall be achieved by selecting and recommending nominees for positions of professional judges and determining the level of vocational preparedness of professional judges; as well as with addressing issues related to providing opinions on removal of judges in cases set forth by the law.

**Article 100. Types of Qualifications Commissions of Judges**

1. In the judicial system of Ukraine there shall be:

- 1) territorial qualifications commissions of judges;
- 2) the High Qualifications Commission of Judges of Ukraine.

2. The territorial qualifications commissions of judges shall operate in the oblasts, the city of Kyiv, and the Autonomous Republic of Crimea.

3. The High Qualifications Commission of Judges of Ukraine shall be located in the city of Kyiv.

**Article 101. Composition of Qualifications Commissions of Judges**

1. The territorial qualifications commissions of judges shall be composed of seven members having higher legal education and a record of service in the legal profession of at least 5 years. A territorial qualifications commission of judges shall include:

1) four judges to be appointed from each court jurisdiction by the respective conference of judges of local and appellate courts;

2) one person to be appointed by the Minister of Justice of Ukraine;

3) one person to be appointed from among lawyers by the Congress of Lawyers of Ukraine;

4) one person to be appointed by the Council of Higher Law Schools and Scientific Institutions of Ukraine.

2. The High Qualifications Commission of Judges of Ukraine shall be composed of fifteen members having higher legal education and a record of service in the legal profession of at least 5 years:

1) eight judges to be appointed by the Congress of Judges of Ukraine (two judges from each court jurisdiction);

2) two persons to be appointed by the Verkhovna Rada of Ukraine;

3) two persons to be appointed by the President of Ukraine;

4) one person to be appointed by the Minister of Justice of Ukraine;

5) one person to be appointed from among lawyers by the Congress of Lawyers of Ukraine;

6) one person who shall be appointed by the Council of Higher Law Schools and Scientific Institutions of Ukraine.

3. People's Deputies of Ukraine and members of the Cabinet of Ministers of Ukraine may not be members of a qualifications commission of judges.

4. The term of appointment of a member of a qualifications commission of judges shall be three years. The same person may not serve as a member of a qualifications commission of judges for two consecutive terms.

5. The members of the High Qualifications Commission of Judges of Ukraine shall, during the term of their appointment, be seconded to the High Qualifications Commission of Judges of Ukraine and may not discharge any professional duties associated with their primary employment.

#### **Article 102. Procedure for the Formation of Qualifications Commissions of Judges**

1. The judicial members of the territorial qualifications commissions of judges shall be appointed in a secret or open ballot by the conferences of judges of the respective courts, whereas the members of the High Qualifications Commission of Judges of Ukraine shall be appointed in an open or secret ballot by the Congress of Judges of Ukraine. Should a judicial member of a qualifications commission of judges drop out, the Council of Judges of Ukraine shall appoint another person from among judges until a new member is appointed by the Congress of Judges of Ukraine.

2. Chief judges of courts, their deputies, heads of judicial chambers, members of the High Council of Justice and of the Disciplinary Commission of Judges of Ukraine may not be appointed to territorial qualifications commission of judges or to the High Qualifications Commission of Judges of Ukraine.

3. The respective council specified in item 3, part 1, Article 101 of this Law shall decide on the appointment of a member of a territorial qualifications commission of judges as prescribed by its regulations.

4. The territorial office of the State Judicial Administration of Ukraine shall appoint a member of the territorial qualifications commission of judges by order of the head thereof.

5. The President of Ukraine shall appoint members of the High Qualifications Commission of Judges of Ukraine by his/her decree.

6. The Verkhovna Rada of Ukraine shall appoint members of the High Qualifications Commission of Judges of Ukraine by its resolution.

7. The Commissioner of the Verkhovna Rada of Ukraine for Human Rights shall appoint a member of the High Qualifications Commission of Judges of Ukraine by an ordinance.

8. The Minister of Justice of Ukraine shall appoint members of the High Qualifications Commission of Judges of Ukraine by his/her order.

9. The Congress of Lawyers of Ukraine shall appoint a member of the High Qualifications Commission of Judges of Ukraine in the manner prescribed by the Law of Ukraine "On the High Council of Justice" for the election of a member of the High Council of Justice.

10. The Council of Higher Law Schools and Scientific Institutions of Ukraine shall appoint a member of the High Qualifications Commission of Judges of Ukraine and a member of a territorial qualifications commission of judges by its resolution.

11. A territorial qualifications commission of judges shall be deemed competent if at least five members of the commission have been appointed, whereas the High Qualifications Commission of Judges of Ukraine shall be deemed competent if at least eleven members of the Commission have been appointed.

### **Article 103. Powers of a Territorial Qualifications Commission of Judges**

1. A territorial qualifications commission of judges shall:

- 1) conduct the qualification attestation of judges and confer qualification ranks upon them (not higher than the third rank);
- 2) make public information on initiating the election of judges for lifetime positions;
- 3) terminate the retirement of judges of local courts;
- 4) exercise other powers specified by the law.

2. The operating procedures of a territorial qualifications commission of judges shall be determined by the regulations thereof, to be adopted by a majority of the members of the commission as required by the Standard Rules of Procedure of a territorial qualifications commission of judges, to be approved by the Council of Judges of Ukraine.

3. For the exercise of its powers, a territorial qualifications commission of judges shall have the right to demand and receive necessary information from chief judges of courts, heads of enterprises, institutions or organizations irrespective of forms of ownership, as well as from citizens and associations thereof.

### **Article 104. Powers of the High Qualifications Commission of Judges of Ukraine**

1. The High Qualifications Commission of Judges of Ukraine shall:

- 1) verify judicial candidates' compliance with the requirements set forth by the law, take decisions regarding recommendation of a judicial candidate for appointment or election to a lifetime position (in particular to a higher-level court), or provide an opinion on the removal of a judge;
- 2) conduct qualification attestation of judges and confer qualification ranks upon them (starting from the second rank);
- 3) review complaints against decisions of territorial qualifications commissions of judges;
- 4) make public announcements of competitions for judicial vacancies;
- 5) exercise other powers specified by the law.

2. Based on the results of consideration of a complaint, the High Qualifications Commission of Judges of Ukraine shall have the right to uphold the decision of a territorial qualifications commission of judges, alter the decision, or reverse it.

3. The operating procedures of the High Qualifications Commission of Judges of Ukraine shall be determined by its regulations, to be approved by a majority of all the members of the High Qualifications Commission of Judges of Ukraine.

4. For the exercise of its powers, the High Qualifications Commission of Judges of Ukraine shall have the right to demand and receive necessary information from chief judges of courts, heads of enterprises, institutions or organizations irrespective of forms of ownership, as well as from citizens and associations thereof.

#### **Article 105. Organization of Work of a Qualifications Commission of Judges**

1. A qualifications commission of judges shall elect from among its members, in an open or secret ballot, the head of the commission, his/her deputy, and secretary of the commission. The candidate receiving a majority of the votes of all the members of the commission shall be deemed to have been elected.

2. The head of a qualifications commission of judges shall organize the work of the commission, assign responsibilities among the members of the commission, convene meetings of the commission, preside over them, and be in charge of organizing the commission's paper flow management. In the absence of the head of the qualifications commission, his/her duties shall be performed by the deputy head of the commission; and in the absence of the deputy, by the secretary of the commission. The head of the qualifications commission of judges shall determine the date, time and place of the commission's meeting, the list of items to be put on the agenda of the meeting, and send a relevant notification to the members of the commission as well as to the interested persons not later than ten days before the meeting.

3. A qualifications commission of judges shall hold its meetings regularly, but not later than within a month after the commission receives a relevant application or motion, unless otherwise specified by the law.

4. A meeting of a qualifications commission of judges shall be open and public, unless otherwise decided by the commission.

5. A meeting of a qualifications commission of judges shall be deemed competent if attended by at least two-thirds of its members.

6. A meeting of a qualifications commission of judges shall be chaired by the head of the commission or, in his/her absence, by the deputy head or secretary of the commission. Invitations to attend the meeting may be extended to persons whose presence shall be deemed necessary by the commission.

#### **Article 106. Rights of a Member of a Qualifications Commission of Judges**

1. A member of a qualifications commission of judges shall have the right to:

1) be acquainted with materials submitted for the commission's consideration, take part in their examination and verification;

2) present his/her reasons and arguments, as well as submit other documents concerning the issues under consideration;

3) submit proposals regarding a draft resolution of the commission on any issues whatsoever and vote for or against any particular decision;

4) express in written form his/her dissenting opinion on any decision of the qualifications commission.

#### **Article 107. Disqualification of a Member of a Qualifications Commission of Judges**

1. A member of a qualifications commission of judges may not take part in the consideration and adjudication of an issue and shall be disqualified (recused) if circumstances are established which might call into question his/her impartiality. In the presence of such

circumstances, the commission's member must recuse himself/herself. For the same reasons, disqualification of a commission's member may be requested by persons involved in the issue under consideration or by the persons who presented the issue for consideration.

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

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

#### **Article 108. Decision of a Qualifications Commission of Judges**

1. A decision of a qualifications commission of judges shall be taken by a majority of the commission's members, unless otherwise specified by this Law. The voting shall be held in the absence of the person concerned as well as of the invited persons.

2. When an issue under consideration concerns a judge who is a member of the commission, he/she may not take part in the deliberations and voting thereon.

3. A decision of a qualifications commission of judges shall be stated in writing. The decision shall indicate the date and place of the decision, the commission's members present, the issues under consideration, and the reasons for the decision taken. The decision shall be signed by the chair of the meeting and by the commission's members present thereat.

4. When there is a dissenting opinion, the latter shall be presented in writing by the respective member of the commission and appended to the case file, which fact shall be announced at the meeting by its chair; yet the contents of the opinion shall not be disclosed at the meeting.

5. Within seven days, a copy of the decision of a qualifications commission of judges shall be sent to the petitioner concerned as well as to the person who was the subject of the review.

#### **Article 109. Support for the Operation of Qualifications Commissions of Judges**

1. Organizational support for the operation of the qualifications commissions of judges shall be provided by the State Judicial Administration of Ukraine.

In order to provide organizational support for the operation of the qualifications commissions of judges, the State Judicial Administration of Ukraine shall establish secretariats of the commissions in question. The secretariat of the High Qualifications Commission of Judges of Ukraine shall be created as part of the State Judicial Administration of Ukraine; the secretariats of territorial qualifications commissions of judges, as part of the respective territorial offices of the State Judicial Administration of Ukraine.

2. The High Qualifications Commission of Judges of Ukraine shall be a legal entity, have a seal bearing the State Emblem of Ukraine and its name, and maintain an independent balance sheet and accounts in bodies of the State Treasury of Ukraine.

3. The members of the High Qualifications Commission of Judges of Ukraine shall be paid remunerations prescribed by the legislation, as the case may be, for judges, members of the staff of the President of Ukraine, the staff of the Verkhovna Rada of Ukraine, the secretariat of the Commissioner of the Verkhovna Rada of Ukraine for Human Rights, and the Ministry of Justice of Ukraine. In such a case, the compensation shall be paid on the basis of the pay rates to which these persons are entitled as employees of the bodies from which they were seconded.

Retired judges and lawyers sitting on the High Qualifications Commission of Judges of Ukraine shall be paid remunerations in the amount of the average salary of the other members of the commission.

The remunerations shall be paid from the State Budget of Ukraine.

## **Section VII. Disciplinary Liability of a Professional Judge**

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

#### **Article 110. Grounds for Disciplinary Action against a Professional Judge**

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

- 1) violation of norms of procedural law while administering justice or incompetent resolution of a case;
- 2) creation of non-law-based obstacles to a person's access to justice;
- 3) intentional delay of consideration of an application, complaint, or case;
- 4) obvious display of bias or disrespect towards any of the participants in the proceeding;
- 5) perpetration of an immoral act;
- 6) systematic or gross violation of rules of judicial ethics;
- 7) abuse of office for personal benefits unprovided for by the status of a judge;
- 8) evasion from mandatory training at a specialized higher law school of fourth level of accreditation;
- 9) out-of-court disclosure of confidential information about a particular person which the judge learned in connection with consideration of a case;
- 10) disclosure of a secret which the judge learned during an in-camera session;
- 11) receiving gifts from participants in the proceeding or people associated therewith;
- 12) non-submission or untimely submission of a property status declaration required to be made public, inclusion of false information in the declaration, or concealment of income, property, or other information subject to disclosure.

2. Reversal or alteration of a court decision shall not be a ground for disciplinary action against the professional judge who took part in passing it, unless the decision involved intentional violation of legal norms or manifestly incompetent application thereof.

#### **Article 111. Disciplinary Proceedings against a Judge**

1. Disciplinary proceedings are a procedure for consideration, by a body specified by the law, of an application containing information on violation by a judge of requirements regarding his/her status or official responsibilities, or on violation of the judicial oath of office.

2. Anyone who is aware of such facts shall have the right to file a complaint (petition) regarding the conduct of a judge which may be a ground for disciplinary action against the judge.

3. Abuse of the right to apply to the body authorized to conduct disciplinary proceedings, in particular initiation of the issue of disciplinary action against a judge without sufficient grounds and use of this right as a means to pressure a judge in connection with his/her administering of justice shall not be permitted.

4. A disciplinary case against a judge may not be initiated on the basis of an application or report containing no evidence of elements of a disciplinary offence or on the basis of anonymous applications or reports.

#### **Article 112. Bodies Conducting Disciplinary Proceedings**

Disciplinary proceedings shall be conducted by:

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

**Article 113. Procedure for Disciplinary Proceedings in Respect of a Judge**

1. Disciplinary proceedings shall involve verification of information on the presence of grounds for taking disciplinary action against a judge, opening of a disciplinary case, and passing of a decision by a body conducting disciplinary proceedings.
2. Verification of information on the presence of grounds for taking disciplinary action against a judge of a local or appellate court shall be performed within one month by a judicial inspector acting on the basis of a written assignment from a three-member panel of the Disciplinary Commission of Judges of Ukraine. If no such grounds can be seen in the application or report, the panel shall not give consideration to the application or report, except when at least one of the members of the panel board has concluded otherwise.
3. At the stage of verification, the judicial inspector shall have the right to study case file materials, make copies thereof, interrogate judges and other persons who are aware of the circumstances of the action containing elements of a disciplinary offence, and demand necessary information from the State Judicial Administration and from the staffs of local and appellate courts.
4. Based on the results of the verification, the judicial inspector shall send the materials, along with his/her motivated opinion, to the Disciplinary Commission of Judges of Ukraine.
5. The question of whether a disciplinary case should be opened shall be decided by a three-member panel of the Disciplinary Commission of Judges of Ukraine.
6. A disciplinary case shall be considered at a meeting of the Disciplinary Commission of Judges of Ukraine, to which shall be invited the judicial inspector who conducted the verification, the person whose application was the basis for initiating the case, the judge against whom the case was initiated, and other interested persons if necessary. Neither the failure of any invited persons to attend without a good excuse nor their failure to report such an excuse shall prevent the consideration of the case.
7. The consideration of a disciplinary case shall be conducted on the basis of adversariness. At its meeting the Disciplinary Commission of Judges of Ukraine shall hear a report by the judicial inspector who conducted the verification about the verification results, an explanation from the judge who is the subject of the case and/or from his/her representative, as well as reports by other interested persons.
8. A judge subjected to disciplinary action shall be entitled to have a representative of his/her own, question witnesses and other participants in the proceeding, express objections, file motions, and seek disqualification.
9. To decide whether a disciplinary case should be opened, as well as to consider a disciplinary case, the Disciplinary Commission of Judges of Ukraine shall have the right to demand necessary documents related to issues under consideration.
10. The High Council of Justice shall conduct disciplinary proceedings in respect of justices of the Supreme Court of Ukraine and justices of the high specialized courts in the manner specified by the Law of Ukraine "On the High Council of Justice."
11. The process of consideration of the case and the announcement of the results shall be recorded by technical means.

**Article 114. Decision in a Disciplinary Case against a Judge**

1. The Disciplinary Commission of Judges of Ukraine shall deliberate on the results of its consideration of a disciplinary case against a judge in the absence of the judicial inspector, the judge who is the subject of the case, and the invited persons. The decision in a disciplinary case shall be taken by a majority of the votes of all of its members.

2. When deciding on a disciplinary sanction against a judge, account shall be taken of the nature of the offence, its consequences, the personality of the judge, the extent of his/her guilt, and the circumstances impacting the choice of a disciplinary sanction.

3. Once the Disciplinary Commission of Judges of Ukraine rules that there are no grounds for disciplining a judge, the Commission shall terminate the disciplinary proceedings and notify the interested persons thereof.

4. A disciplinary sanction may be applied upon a judge not later than six months after the disclosure of the offence, not counting the time of the judge's temporary incapacity to work or vacationing as well as the time of verification of information on the presence of grounds for initiating disciplinary action against the judge.

If a judge subjected to disciplinary action delays appearing before the Disciplinary Commission of Judges of Ukraine, the expiry of the six-month deadline for disciplining a judge shall be suspended.

5. Based on the results of a disciplinary proceeding, the Disciplinary Commission of Judges of Ukraine may decide to schedule an early qualification attestation for confirming the qualification rank or to send a recommendation to the High Council of Justice for submitting a motion for the removal of the judge if there are grounds for doing so.

6. A decision of the Disciplinary Commission of Judges of Ukraine shall be stated in writing. A decision in a disciplinary case must specify:

- 1) the name of the body authorized to conduct the disciplinary proceedings;
- 2) the last name, name, patronymic, and position of the judge subjected to disciplinary action;
- 3) the circumstances of the case established by the body, with reference to evidence;
- 4) the reasons for the decision handed down by the body;
- 5) the essence of the decision based on the consideration, with indication of the type of disciplinary sanction, if one is imposed;
- 6) the procedure and deadline for appealing the decision.

The decision shall be signed by the chair of the meeting and by the commission's members present thereat and be announced at the meeting.

7. When there is a dissenting opinion, the latter shall be presented in writing by the respective member of the Disciplinary Commission of Judges of Ukraine and appended to the case file, which fact shall be announced at the meeting by its chair. The contents of the opinion shall not be disclosed at the meeting.

8. A copy of the decision of the Disciplinary Commission of Judges of Ukraine shall be issued to the court inspector whose report provided the basis for resolving the case and to the judge subjected to the disciplinary action; and if they are not present at the announcement of the decision, it shall be sent to them within seven days by post.

#### **Article 115. Types of the Disciplinary Sanctions**

1. The following disciplinary sanctions shall be imposed on professional judges:

- 1) censure;
- 2) downgrading of qualification rank;

- 3) deprivation of qualification rank.
2. For any disciplinary offence, only one disciplinary sanction may be imposed.
3. In view of the gravity of the offence, the Disciplinary Commission of Judges of Ukraine may decide to publish information on the imposition of a disciplinary sanction on a judge in the official periodical of the Supreme Court of Ukraine and to post it on the official web portal of the judiciary of Ukraine.

#### **Article 116. Appealing a Decision in a Disciplinary Case against a Judge**

1. A judge of a local or appellate court may appeal a decision of the Disciplinary Commission of Judges of Ukraine on disciplining him/her to the High Council of Justice not later than one month from the next day after the service of a copy of the decision on him/her. The complaint shall be filed through the Disciplinary Commission of Judges of Ukraine.
2. Upon receiving the complaint, the Disciplinary Commission of Judges of Ukraine shall send it, along with the case file, not later than within three days to the High Council of Justice.
3. The complaints shall be reviewed by the High Council of Justice pursuant to the Law of Ukraine "On the High Council of Justice."
4. A decision in a disciplinary case against a judge may be appealed to a court.
5. Filing a complaint regarding a decision to discipline a judge shall stay the imposition of the sanction.

### **Chapter 2. The Disciplinary Commission of Judges of Ukraine**

#### **Article 117. Status of the Disciplinary Commission of Judges of Ukraine**

1. The Disciplinary Commission of Judges of Ukraine shall be a standing body within the judicial system of Ukraine empowered with conducting disciplinary proceeding against judges of local and appellate courts.

#### **Article 118. Composition of the Disciplinary Commission of Judges of Ukraine**

1. The Disciplinary Commission of Judges of Ukraine shall be composed of fifteen members having higher legal education and a record of service in the legal profession of at least 5 years while having no outstanding conviction or conviction which was not quashed in the manner prescribed by the law. The Commission shall include:
  - 1) eight judges, including retired ones, under 70 years of age, to be appointed by the Congress of Judges of Ukraine, but not less than two from each specialized jurisdiction;
  - 2) two persons to be appointed by the President of Ukraine;
  - 3) two persons to be appointed by the Verkhovna Rada of Ukraine;
  - 4) one person to be appointed by the Minister of Justice of Ukraine;
  - 5) one person to be appointed from among lawyers by the Congress of Lawyers of Ukraine;
  - 6) one person to be appointed by the Council of Higher Law Schools and Scientific Institutions of Ukraine.
2. People's Deputies of Ukraine and members of the Cabinet of Ministers of Ukraine may not be members of the Disciplinary Commission of Judges of Ukraine.
3. The term of appointment of a member of the Disciplinary Commission of Judges of Ukraine shall be three years from the day of appointment.
4. The Members of the Disciplinary Commission of Judges of Ukraine shall, during the term of their appointment, be seconded to the Disciplinary Commission of Judges of Ukraine and may not discharge any professional duties associated with their primary employment.

5. Three-member panels shall be created within the Disciplinary Commission of Judges of Ukraine. The composition of the panels shall be determined by a decision of the Disciplinary Commission of Judges of Ukraine.

#### **Article 119. Procedure for the Formation of the Disciplinary Commission of Judges of Ukraine**

1. The judicial members of the Disciplinary Commission of Judges of Ukraine shall be appointed in an open or secret ballot by the Congress of Judges of Ukraine. Should a judicial member of the Disciplinary Commission of Judges of Ukraine drop out, the Council of Judges of Ukraine shall appoint another person from among judges until a new member is appointed by the Congress of Judges of Ukraine.

2. The President of Ukraine shall appoint members of the Disciplinary Commission of Judges of Ukraine by his/her decree.

3. The Verkhovna Rada of Ukraine shall appoint members of the Disciplinary Commission of Judges of Ukraine by its resolution.

4. The Minister of Justice of Ukraine shall appoint members of the Disciplinary Commission of Judges of Ukraine by his/her order.

5. Chief judges of courts, their deputies, heads of judicial chambers, members of the Council of Judges of Ukraine, the High Council of Justice, or the High Qualifications Commission of Judges of Ukraine, and also persons under disciplinary sanctions may not be appointed to the Disciplinary Commission of Judges of Ukraine.

6. The Congress of Lawyers of Ukraine shall appoint a member of the Disciplinary Commission of Judges of Ukraine in the manner prescribed by the Law of Ukraine "On the High Council of Justice" for the election of a member of the High Council of Justice.

7. The Council of Higher Law Schools and Scientific Institutions of Ukraine shall appoint a member of the Disciplinary Commission of Judges of Ukraine by its resolution.

8. The Disciplinary Commission of Judges of Ukraine shall be deemed competent if at least eleven members of the Commission have been appointed.

#### **Article 120. Powers of the Disciplinary Commission of Judges of Ukraine**

1. The Disciplinary Commission of Judges of Ukraine shall:

1) consider petitions for disciplinary sanctions against judges of local and appellate courts of Ukraine;

2) where due grounds exist, initiate disciplinary cases and conduct disciplinary proceedings against judges of local and appellate courts of Ukraine;

3) adjudicate disciplinary cases and, where due grounds exist, impose disciplinary sanctions on judges of local and appellate courts of Ukraine;

4) exercise other powers specified by the law.

2. For the exercise of its powers, the Disciplinary Commission of Judges of Ukraine shall have the right to demand and receive necessary information from judges, the State Judicial Administration of Ukraine, bodies of judicial self-government and other judicial bodies, natural persons, as well as enterprises, institutions or organizations irrespective of forms of ownership.

#### **Article 121. Organization of Work of the Disciplinary Commission of Judges of Ukraine**

1. The Disciplinary Commission of Judges of Ukraine shall elect from among its members, in an open or secret ballot, the head of the Commission, his/her deputy, and secretary of the

Commission. The candidate receiving a majority of the votes of all the members of the Commission shall be deemed to have been elected.

2. The head of the Disciplinary Commission of Judges of Ukraine shall organize the work of the Commission, assign responsibilities among the members of the Commission, convene meetings of the Commission, preside over them, and be in charge of organizing the Commission's paper flow management.

3. In the absence of the head of the Disciplinary Commission of Judges of Ukraine, his/her duties shall be performed by the deputy head of the Commission; and in the absence of the deputy, by the secretary of the Commission.

4. The operating procedures of the Disciplinary Commission of Judges of Ukraine shall be determined by its regulations, to be approved by a majority of all the members of the Disciplinary Commission of Judges of Ukraine.

#### **Article 122. Meetings of the Disciplinary Commission of Judges of Ukraine**

1. Meetings of the Disciplinary Commission of Judges of Ukraine shall be open and public.

2. Meetings of the Disciplinary Commission of Judges of Ukraine shall be prepared by the head of the Commission or, on his/her instructions, by the deputy head or secretary of the Commission. The head of the Disciplinary Commission of Judges of Ukraine shall determine the date, time and place of the Commission's meeting, the list of items to be put on the agenda of the meeting, and send a relevant notification to the person whose case is to be heard as well as to the subjects of the petition not later than ten days before the meeting.

3. A meeting of the Disciplinary Commission of Judges of Ukraine shall be deemed competent if attended by at least two-thirds of its members.

4. A meeting of the Disciplinary Commission of Judges of Ukraine shall be chaired by the head of the commission or, in his/her absence, by the deputy head or secretary of the commission. Invitations to attend the meeting may be extended to persons whose presence shall be deemed necessary by the commission.

#### **Article 123. Rights of a Member of the Disciplinary Commission of Judges of Ukraine**

1. A member of the Disciplinary Commission of Judges of Ukraine shall have the right to:

1) be acquainted with materials submitted for the commission's consideration and take part in their examination;

2) present his/her reasons and arguments concerning the issues under consideration;

3) submit proposals regarding draft resolutions of the Commission on any issues whatsoever and vote for or against any particular decision;

4) express in written form his/her dissenting opinion on any decision of the Disciplinary Commission of Judges of Ukraine.

#### **Article 124. Disqualification of a Member of the Disciplinary Commission of Judges of Ukraine**

1. A member of the Disciplinary Commission of Judges of Ukraine may not take part in the consideration and adjudication of an issue and shall be disqualified (recused) if circumstances exist which might call into question his/her impartiality. In the presence of such circumstances, the Commission's member must recuse himself/herself. For the same reasons, disqualification of a member of the Commission may be requested by persons involved in the issue under consideration or persons having presented the issue for consideration.

2. A request for disqualification, in the form of a written application addressed to the Commission, must be well-grounded. The chair of the meeting shall be obliged to acquaint with the application the Commission's member whose disqualification is sought.

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

#### **Article 125. Decision of the Disciplinary Commission of Judges of Ukraine**

1. A decision of the Disciplinary Commission of Judges of Ukraine shall be taken by a majority of all of its members. The voting shall be held in the absence of the judicial inspector, the judge subjected to the disciplinary action, and the invited persons.

2. When an issue under consideration concerns a judge who is a member the Disciplinary Commission of Judges of Ukraine, he/she may not take part in the deliberations and voting thereon.

#### **Article 126. Judicial Inspectors' Service**

1. The Disciplinary Commission of Judges of Ukraine shall maintain a judicial inspectors' service whose task shall be to investigate grounds for initiating disciplinary action against judges of local and appellate courts.

2. When considering relevant petitions, the judicial inspectors shall verify, on the basis of a written assignment from a three-member panel of the Disciplinary Commission of Judges of Ukraine, information on the presence of grounds for initiating disciplinary action against a judge of a local or appellate court. The said petitions shall be assigned among the judicial inspectors on a rotational basis, with due regard for the judicial inspectors' workload.

3. The number of judicial inspectors shall be determined by the Congress of Judges of Ukraine, based on an average ratio of one judicial inspector per 200 judges of local and appellate courts.

4. Judicial inspectors shall be appointed by the High Council of Justice on the basis of motions from the Council of Judges of Ukraine, Office of the Prosecutor General of Ukraine, and the Congress of Lawyers of Ukraine from among retired judges, prosecutors, or lawyers who have worked as judges, prosecutors, or lawyers for at least ten years, are under 70 years of age, and have an impeccable reputation, as well as representatives of the Council of Higher Law Schools and Scientific Institutions of Ukraine. A person under a disciplinary sanction may not be a judicial inspector.

5. The tenure of appointment of judicial inspectors shall be three years; they may not serve for two consecutive terms.

6. Judicial inspectors shall, during their term in office, be seconded to the Disciplinary Commission of Judges of Ukraine and may not discharge any professional duties associated with their primary employment.

7. Judicial inspectors shall conduct in-court verifications on the basis of a decision of the Disciplinary Commission of Judges of Ukraine. Based on the verification results, if grounds specified by the law are found to be present, a judicial inspector shall initiate a disciplinary proceeding.

#### **Article 127. Support for the Operation of the Disciplinary Commission of Judges of Ukraine and the Judicial Inspectors' Service**

1. In order to provide organizational support for the operation of the Disciplinary Commission of Judges of Ukraine and of the judicial inspectors' service, there shall be created the secretariat of the Disciplinary Commission of Judges of Ukraine.

2. The Disciplinary Commission of Judges of Ukraine shall be a legal entity, have a seal bearing the State Emblem of Ukraine and its name, and maintain an independent balance sheet and accounts in bodies of the State Treasury of Ukraine.

3. The members of the Disciplinary Commission of Judges of Ukraine and the judicial inspectors shall be paid remunerations prescribed by the legislation, as the case may be, for

judges, members of the staff of the President of Ukraine, the staff of the Verkhovna Rada of Ukraine, the Ministry of Justice of Ukraine, and prosecutors. In such a case, the compensation shall be paid on the basis of the pay rates to which these persons are entitled as employees of the bodies from which they were seconded.

Retired judges and lawyers sitting on the Disciplinary Commission of Judges of Ukraine or working as court inspectors shall be paid remunerations in the amount of the average salary of the other members of the Disciplinary Commission of Judges of Ukraine.

The remunerations shall be paid from the State Budget of Ukraine.

## **Section VIII. Removal of a Professional Judge of a Court of General Jurisdiction; Termination and Suspension of the Powers of a Judge**

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

#### **Article 128. General Conditions for Removal of a Judge**

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

#### **Article 129. Removal of a Judge due to Expiry of Term of Appointment**

1. The High Council of Justice shall submit a motion to the President of Ukraine for the removal of a judge from office due to expiry of the term of his/her appointment if:

- 1) the judge has filed an application for retirement on this ground;
- 2) the judge has failed to be elected to a lifetime position upon expiry of the term of his/her appointment;
- 3) according to a report by the High Qualifications Commission of Judges of Ukraine, the judge has failed, for no good reason, to file in a timely manner an application for election to a lifetime position.

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

3. A judge shall be removed from office by a decree of the President of Ukraine upon expiry of the term of the judge's appointment.

4. If a judge has not been removed from office, he/she shall not be entitled to exercise his/her powers of administration of justice from the next day after the expiry of the term of his/her appointment.

#### **Article 130. Removal of a Judge on Grounds of Age**

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

2. The State Judicial Administration of Ukraine shall, not later than one month before the day specified in part one of this Article, notify the High Council of Justice of the presence of a ground for the removal of the judge concerned.

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

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

#### **Article 131. Removal of a Judge for Health Reasons**

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

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

#### **Article 132. Removal of a Judge for Violating Incompatibility Requirements**

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

#### **Article 133. Removal of a Judge for Violating the Oath of Office**

1. A judge may be removed from office in connection with violating the oath of office in case of committing offences specified in part 1, Article 110 of this Law which were of a systematic nature or entailed grave consequences.

2. Facts suggestive of violation of the oath of office by a professional judge may be established by the Disciplinary Commission of Judges of Ukraine or by the High Council of Judges of Ukraine on the basis of the results of a disciplinary proceeding against this judge.

3. A judge shall be removed from office for violating the oath of office upon a motion by the High Council of Justice after it has reviewed the matter at its meeting as required by the Law of Ukraine "On the High Council of Justice."

#### **Article 134. Removal of a Judge due to Entry into Legal Force of a Judgment of Conviction against the Judge**

1. A court which has handed down a judgment of conviction against a judge shall immediately report this fact to the State Judicial Administration of Ukraine.

2. Once a judgment of conviction against a judge has entered into legal force, the State Judicial Administration of Ukraine shall report this to the High Council of Justice, which shall submit a motion for the removal of the judge.

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

#### **Article 135. Removal of a Judge in Case of Termination of the Judge's Citizenship**

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

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

#### **Article 136. Removal of a Judge Who Was Found Missing or Dead**

1. A court which pronounced a judge missing or dead shall immediately report this fact to the State Judicial Administration of Ukraine. In case such a decision enters into legal force, the State Judicial Administration of Ukraine shall report this fact to the High Council of Justice, which shall submit a motion for the removal of the judge from office.

2. If a person found missing or dead reappears before the decision to remove him/her from office is passed by the body which appointed or elected him/her, the State Judicial Administration of Ukraine shall report this fact to the High Council of Justice. In such a case the High Council of Justice shall withdraw the motion. If a person [found missing or dead]

reappears after the passing of a decision to remove him/her from office, he/she shall have the right to assume a judicial office pursuant to the standard procedure.

**Article 137. Removal of a Judge due to Retirement or Voluntary Resignation**

1. A judge whose record of judicial service is not less than twenty years, as determined pursuant to Article 163 of this Law, shall have the right to request retirement. A judge shall likewise have the right to request resignation if the state of his/her health, as certified by a medical opinion issued by a medical commission formed by a specially authorized central executive body in charge of public health issues, prevents him/her from performing judicial duties.

2. A judge shall have the right at any time of his/her tenure of office to submit a request for voluntary resignation, regardless of the reason, to the High Council of Justice for submission of a relevant motion.

3. A judge shall continue to perform his/her duties until a decision is passed to remove him/her (but not more than for six months after the filing of the request), unless the state of his/her health prevents him/her from performing judicial duties.

**Article 138. Requirements regarding a Motion for Removal of a Judge**

1. A motion by the High Council of Justice for the removal of a judge shall indicate:

- 1) the date of submission of the motion;
- 2) the full name and date of birth of the judge;
- 3) information on the judge's tenure of office and the name of the court;
- 4) the ground for submitting the motion for the removal, as set forth in part five, Article 126 of the Constitution of Ukraine;
- 5) the factual circumstances (in case the motion is submitted on the grounds set forth in items 4-6 of part five, Article 126 of the Constitution of Ukraine).

2. A motion by the High Council of Justice for the removal of a judge shall be appended with the judge's personal file containing the materials certifying the grounds for the removal.

**Chapter 2. Consideration by the Verkhovna Rada of Ukraine of a Motion for the Removal of a Judge Elected for a Lifetime Position**

**Article 139. Preliminary Consideration by the Committee of the Verkhovna Rada of Ukraine of a Motion for the Removal of a Judge Elected for a Lifetime Position**

1. A motion for the removal of a judge elected to a lifetime position shall be given preliminary consideration by the Committee of the Verkhovna Rada of Ukraine within one month from the day of its reception. This term may be extended by the Committee of the Verkhovna Rada of Ukraine to verify circumstances essential to decision-making, but for not more than one month.

2. The secretariat of the Committee of the Verkhovna Rada of Ukraine shall, within three days from the day of receiving the motion, distribute to the people's deputies of Ukraine, through the staff of the Verkhovna Rada of Ukraine, the lists of judges proposed for removal from office.

3. The Committee of the Verkhovna Rada of Ukraine shall examine the citizens' petitions or other reports regarding the activities of the judge which were received by the Committee of the Verkhovna Rada of Ukraine.

4. The Committee of the Verkhovna Rada of Ukraine may send requests for additional verification to the Supreme Court of Ukraine, the High Council of Justice, the Disciplinary Commission of Judges of Ukraine, the respective high specialized court, the State Judicial Administration of Ukraine, and the Council of Judges of Ukraine.

5. The relevant bodies shall report the verification results to the Committee of the Verkhovna Rada of Ukraine within the term specified by the Committee, but not later than within 15 days from the time they receive the verification request.

6. A judge elected to a lifetime position who is subjected to a removal proceeding shall be notified of the date and time of the [relevant] meeting of the Committee of the Verkhovna Rada of Ukraine.

**Article 140. Procedure for Consideration by the Committee of the Verkhovna Rada of Ukraine of the Removal of a Judge Elected for a Lifetime Position**

1. A meeting of the Committee of the Verkhovna Rada of Ukraine which is to consider the removal of a judge elected to a lifetime position may be attended by people's deputies of Ukraine, representatives of the Supreme Court of Ukraine, the high specialized court, the High Council of Justice, the State Judicial Administration of Ukraine, as well as representatives of bodies of state power, bodies of local self-government, and the public.

2. A judge elected to a lifetime position who is the subject of a motion seeking his/her removal from office shall be required to take part in the meeting of the Committee of the Verkhovna Rada of Ukraine, except for cases specified in items 2, 3, 6-9 of part five, Article 126 of the Constitution of Ukraine.

3. If a judge who is the subject of a motion for removal from office fails to appear for a second time without good reason, while the Committee of the Verkhovna Rada of Ukraine has established the fact that the judge did receive the notification of the time and place of the meeting, the judge's case shall be heard without his/her attendance. The Committee of the Verkhovna Rada of Ukraine shall assess the validity of the reason for the absence. The same procedure shall apply in the cases of judges who refused in writing to attend the meeting of the Committee of the Verkhovna Rada of Ukraine or who were reported in a written message to have refused to attend the meeting of this Committee.

4. At a meeting of the Committee of the Verkhovna Rada of Ukraine, consideration of a motion for the removal of a judge shall begin with a report by the chair.

5. Members of the Committee of the Verkhovna Rada of Ukraine and other people's deputies of Ukraine shall have the right to ask questions of the judge about the verification materials as well as in connection with the facts claimed in the citizen's petitions.

6. The judge shall have the right to be acquainted with the materials, certificates, and the opinion of the Committee of the Verkhovna Rada of Ukraine relating to his/her removal.

**Article 141. Invitation of Persons for Consideration of the Removal of a Judge Elected to a Lifetime Position**

1. Invitations to the plenary meeting of the Verkhovna Rada of Ukraine which is to consider the removal of a judge elected to a lifetime position shall be extended to the Chief Justice of the Supreme Court of Ukraine, the chief justice of the relevant high specialized court, the head of the High Council of Justice, and the Head of the State Judicial Administration of Ukraine.

2. A judge shall be required to attend the plenary meeting of the Verkhovna Rada of Ukraine which is to consider his/her removal on grounds specified in items 1, 4, and 5 of part five, Article 126 of the Constitution of Ukraine. His/her failure to attend the meeting shall not prevent the case from being heard.

**Article 142. Procedure for Consideration by the Verkhovna Rada of Ukraine of the Removal of a Judge Elected for a Lifetime Position**

1. The Committee of the Verkhovna Rada of Ukraine shall submit to the plenary meeting of the Verkhovna Rada of Ukraine a proposal recommending that the lifetime elected judge be removed or not be removed from office.

2. Each candidate for removal from a lifetime judicial position shall be individually presented at the plenary meeting of the Verkhovna Rada of Ukraine by a representative of the Committee of the Verkhovna Rada of Ukraine.
3. If a judge disagrees with the motion for his/her removal, his/her explanations shall necessarily be heard.
4. People's deputies of Ukraine shall be entitled to ask questions of the judge about his/her activities.
5. If, during the consideration of the matter at a plenary meeting of the Verkhovna Rada of Ukraine, there arises a necessity to verify citizens' petitions regarding the judge's activities or to demand additional information, the Verkhovna Rada of Ukraine shall entrust the relevant Committee of the Verkhovna Rada of Ukraine with the verification.

**Article 143. Issuance by the Verkhovna Rada of Ukraine of a Decision to Remove a Judge Elected to a Lifetime Position**

1. In case of existence of grounds provided for in part five, Article 126 of the Constitution of Ukraine, the Verkhovna Rada of Ukraine shall take the decision to remove the judge in question.
2. The decision shall be taken in a non-fixed open ballot by a majority of the constitutional composition of the Verkhovna Rada of Ukraine.
3. The decision to remove a judge shall be formalized by a resolution of the Verkhovna Rada of Ukraine.

**Chapter 3. Termination and Suspension of the Powers of a Judge**

**Article 144. Termination of the Powers of a Judge**

1. The powers of judge shall be terminated in the event of his/her death.
2. The existence of [such] a ground for terminating the powers of a judge shall be reported by the chief judge of the court in which the judge served to the State Judicial Administration of Ukraine and to the body which elected or appointed the judge. The report shall be appended with documents certifying the existence of a ground for terminating the powers of the judge.

**Article 145. Suspension of the Powers of a Judge**

1. The powers of a judge may be suspended by the Council of Judges of Ukraine at the request of:
  - 1) the Prosecutor General of Ukraine or his/her deputy, in connection with criminal prosecution of the judge;
  - 2) the High Council of Justice, in connection with its consideration of a case regarding violation of the incompatibility requirements by the judge;
  - 3) an election commission or the judge himself/herself, in the event of his/her registration as a candidate for a position whose holder is vested with a representative mandate.

The powers of a judge shall be suspended by the Council of Judges of Ukraine if the judge is elected as a member of the High Council of Justice, a member of the Central Election Commission of Ukraine, a member of the Disciplinary Commission of Judges of Ukraine, or a judicial inspector.

2. A decision by the Council of Judges of Ukraine to suspend the powers of a judge shall be sent to the chief judge of the respective court, who shall immediately notify the judge of the suspension of his/her powers.

3. From the moment a judge is notified of the suspension of his/her powers, he/she shall not be entitled to conduct any proceedings, send official documents, or demand materials; his/her salary shall be retained.

4. The suspension of a judge's powers shall entail simultaneous suspension of the powers vested in him/her as the holder of an administrative position in the court.

5. A judge whose powers have been suspended shall retain all guaranties of judicial independence.

6. The powers of a judge shall be restored in case of:

1) entry into legal force of a judgment of acquittal for the judge or dismissal of a criminal case;

2) dismissal of a case involving charges of violation of the incompatibility requirements by the judge;

3) deregistration of the judge as a candidate for deputyship by the election commission, announcement of the results of an election according to which the judge has failed to obtain a representative mandate, or the judge's renouncement of the representative mandate before being sworn in.

The powers of a judge shall be restored by the Council of Judges of Ukraine in the event of expiry of the judge's powers in positions specified in paragraph two [*of item three*] of part one of this Article.

## **Section IX. Judicial Self-government**

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

#### **Article 146. Objectives of the Bodies of Judicial Self-government**

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

2. Judicial self-government shall be one of the most important guarantees of the autonomy of courts and of the independence of judges. The activities of the bodies of judicial self-government shall serve to facilitate the creation of adequate organizational and other conditions essential for normal operation of courts and judges, to assert the independence of the court, to ensure the protection of judges against interference in judicial activities, as well as to raise the level of staff management quality within the court system.

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

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

1) ensuring the organizational unity of the operation of judicial bodies;

2) strengthening the independence of courts, protecting them against interference in their operation;

3) participation in determining the requirements associated with staffing, financial, logistical and other support for courts and supervision of compliance with the established standards of such support;

4) appointment of judges to administrative positions, appointment of justices of the Constitutional Court of Ukraine and judges to the High Council of Justice, appointment of judges to the qualifications commissions of judges and to the Disciplinary Commission of Judges of Ukraine;

5) stimulating judges;

6) supervising the organization of the operation of courts and other entities within the judicial system.

#### **Article 147. Organizational Forms of Judicial Self-government**

1. The organizational forms of judicial self-government shall include meetings of judges, conferences of judges, the Congress of Judges of Ukraine, councils of judges and executive bodies thereof.

2. Judicial self-government in Ukraine shall be realized through:

1) meetings of judges of a local court, a court of appeals, a high specialized court, the Supreme Court of Ukraine;

2) conferences of judges of local and appellate courts in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol;

3) the Congress of Judges of Ukraine;

4) councils of judges of respective courts;

5) the Council of Judges of Ukraine.

3. Pursuant to the Constitution of Ukraine, the procedure for realization of judicial self-government shall be determined by this Law, other laws, as well as by regulations and statutes approved by bodies of judicial self-government in accordance with this Law.

### **Chapter 2. Meetings of Judges and Conferences of Judges**

#### **Article 148. A Meeting of Judges**

1. Meetings of judges shall be understood to mean gatherings of judges of a particular court at which issues of internal operation of the courts are discussed and a collective decision on the issues under discussion is taken.

2. Meetings of judges shall be convened by the chief judge of the respective court on his/her initiative as well as at the request of at least one-third of all the judges of this court.

3. Meetings of judges of local and appellate courts shall be convened as necessary, but not less than once every six months.

4. A meeting of judges shall be competent if attended by at least two-thirds of all the judges of the court. Invitations to a meeting of judges may be extended to the court's staff and other persons. Only the judges of the court shall be eligible to vote.

5. A meeting of judges shall:

1) discuss issues related to internal operation of the court and its staff and take binding decisions on these issues;

2) hear reports from judges holding administrative positions, from the manager of the court staff, and provide recommendations regarding judges' appointment to administrative positions;

3) approve the procedure for the creation of panels of judges for consideration of cases and selection of the chair of the hearing and the procedure for the substitution of absent judges;

4) approve the procedure for the granting of vacations to judges and the vacation schedule;

5) exercise other powers specified by the law.

Meetings of judges of local and appellate courts shall elect delegates to relevant conferences of judges.

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

7. Meetings of judges may discuss issues related to the practice of application of legislation, work out relevant proposals on ways to improve that practice and legislation, and submit these proposals for consideration to conferences of judges and to the Congress of Judges of Ukraine.

8. Meetings of judges may form a council of the judges of the respective court and delegate certain of their powers to the council.

9. There shall be kept minutes of the meetings of judges.

#### **Article 149. Meetings of Justices of the Supreme Court and Meetings of Justices of a High Specialized Court; Powers of the Meetings**

1. Meetings of justices of the Supreme Court and meetings of justices of a high specialized court shall be convened by the chief justice of the court or at the request of at least one-third of all the judges of the court.

2. Meetings of justices of the Supreme Court of Ukraine shall be convened as necessary, but at least once a year. Meetings of justices of a high specialized court shall be convened as necessary, but at least once every three months.

3. Meetings of justices of the Supreme Court of Ukraine and meetings of justices of a high specialized court shall be competent if attended by more than half of all the justices of the court. Invitations to a meeting of justices may be extended to the court's staff and other persons. Only the justices of the court shall be eligible to vote.

4. Meetings of justices shall discuss issues related to internal operation of the court or to the performance of individual justices or court staff members and shall take decisions which shall be binding on the justices of the court. The meetings shall hear reports from justices holding administrative positions in the court and from heads of the structural divisions of the court staff.

5. Meetings of justices of the Supreme Court of Ukraine and meetings of justices of a high specialized court shall:

- 1) submit proposals for consideration by the Congress of Judges of Ukraine;
- 2) elect delegates to the Congress of Judges of Ukraine;
- 3) appoint and dismiss the manager of the court staff and his/her deputies;
- 4) adopt regulations on the court staff, approve staff size and structure.

6. Meetings of justices of the Supreme Court of Ukraine and meetings of justices of a high specialized court may submit proposals on resolving issues related to court operation to bodies of state power and bodies of local self-government which must review these proposals and respond to them on their merits.

#### **Article 150. Implementation of Decisions of Meetings of Judges**

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

#### **Article 151. Conferences of Judges**

1. A conference of judges shall be understood to mean a gathering of representatives of courts (delegates) at which they discuss the issues of operation of these courts and take a collective decision on the issues under consideration.

2. A conference of judges shall:

- 1) discuss and resolve issues related to the funding of and organizational support for the operation of the respective courts;

- 2) hear reports from the executive bodies of the conference and accounts from the respective departments of the State Judicial Administration;
  - 3) hear reports from members of respective territorial qualifications commission of judges regarding their work on the commission;
  - 4) determine the quantitative composition of the council of judges and elect its members (judges holding administrative positions may not be elected to the council of judges);
  - 5) elect the members of the respective territorial qualifications commission of judges;
  - 6) work out proposals for consideration by the Congress of Judges of Ukraine;
  - 7) submit proposals regarding resolution of issues related to the operation of the respective courts to bodies of state power and bodies of local self-government;
  - 8) elect delegates to the Congress of Judges of Ukraine;
  - 9) discuss other issues assigned to the competence of bodies of judicial self-government.
3. Decisions taken by a conference of judges shall be binding on the respective council of judges and on judges of the respective courts.
4. A conference of judges shall elect from among its delegates, in an open or secret ballot, a council of judges which shall be the executive body of the conference of judges.

#### **Article 152. Procedure for Convening Conferences of Judges**

1. A conference of judges shall be convened at least once a year by a decision of the respective council of judges. A conference of judges may be also convened at the request of at least one-third of the delegates attending the previous conference of judges. Should the council of judges fail to comply with the said request, the initiators of the convocation of the conference (at least one-third of the delegates of the previous conference) shall set up an organizing bureau for the convocation of the conference of judges which shall have the powers of a council of judges regarding the convocation of the conference.
2. The judges of the respective courts shall be notified of the date and time of the conference and of the issues on its agenda not later than fifteen days before the beginning of the conference.

#### **Article 153. Procedure for Holding a Conference of Judges**

1. A conference of judges shall be competent if attended by at least two-thirds of all the delegates of the respective courts. A conference may also be attended by judges who are not delegates to the conference.
2. Conference delegates shall be elected by meetings of judges in a secret or open ballot on a competitive basis, with free nomination of candidates.
3. A conference of judges shall be inaugurated by the head of the respective council of judges; in the event of the conference being convened on a basis other than a decision of the council of judges, it shall be inaugurated by the authorized representative of the organizing bureau for the convocation of the conference of judges.
4. A conference of judges shall elect from among its delegates, in an open ballot, a presidium, whose number of members shall be determined by a decision of the conference, and other working bodies of the conference. The presidium shall direct the work of the conference of judges.
5. A conference of judges shall approve the agenda of the conference and determine the regulations for its work.
6. A conference of judges may be attended by representatives of bodies of state power, bodies of local self-government, educational and scientific institutions, law-enforcement bodies, and public organizations.

7. The decisions of a conference of judges shall be taken by a majority of votes of the conference delegates in an open or secret ballot.

8. Other issues related to the procedure for holding a conference of judges shall be governed by the regulations of the respective conference of judges.

#### **Article 154. Councils of Judges**

1. During the period between conferences of judges, the functions of judicial self-government shall be performed by the respective council of judges.

Judges holding administrative positions or sitting on (a) qualifications or disciplinary commission(s) may not be members of a council of judges.

2. A council of judges shall elect from among its members the chair, deputy chair, and secretary of the council of judges.

3. During the period between conferences of judges, the council of judges shall provide for supervision of the implementation of the decisions taken by the conference as well as decide on the convocation of the conference of judges. The powers and operating procedures of the council of judges shall be determined by this Law as well as by the statute of the council of judges, to be approved by the conference of judges.

4. A council of judges shall:

1) supervise the operation of the respective territorial office of the State Judicial Administration of Ukraine and hear, at least once a year, a report by the head of the territorial office of the State Judicial Administration of Ukraine on its support for the operation of courts of general jurisdiction;

2) consider issues related to legal protection of judges, social protection and welfare support for judges and members of their families, and take decisions to this effect;

3) submit to the High Council of Justice recommendations regarding candidates for positions of chief judges and deputy chief judges of the respective courts;

4) submit proposals on ways to resolve issues related to the operation of the respective courts to bodies of state power and bodies of local self-government;

5) take other decisions on issues assigned to its competence.

5. Decisions taken by a council of judges shall be binding on the judges holding administrative positions in the respective courts. A decision of a council of judges may be canceled by the Congress of Judges of Ukraine or by the conference of judges and stopped by a decision of the Council of Judges of Ukraine.

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

#### **Article 155. The Congress of Judges of Ukraine**

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

2. The Congress of Judges of Ukraine shall:

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

2) hear accounts from the High Council of Justice, the Disciplinary Commission of Judges of Ukraine, the High Qualifications Commission of Judges of Ukraine, and the Head of the State Judicial Administration of Ukraine about their operation and be at liberty to pass a non-confidence motion against the Head of the State Judicial Administration of Ukraine;

3) appoint and dismiss justices of the Constitutional Court of Ukraine in accordance with the Constitution of Ukraine and the law;

- 4) appoint members of the High Council of Justice and decide on termination of their powers in accordance with the Constitution of Ukraine and laws of Ukraine;
  - 5) elect members of the High Qualifications Commission of Judges of Ukraine and the Disciplinary Commission of Judges of Ukraine;
  - 6) submit proposals regarding resolution of court operation issues to bodies of state power and officials thereof;
  - 7) elect the Council of Judges of Ukraine;
  - 8) consider other issues of judicial self-government.
3. Decisions taken by the Congress of Judges of Ukraine shall be binding on all bodies of judicial self-government and all professional judges.

#### **Article 156. Procedure for Convening the Congress of Judges of Ukraine**

1. A Regular Congress of Judges of Ukraine shall be convened by the Council of Judges of Ukraine once in every three years. An Extraordinary Congress of Judges of Ukraine may also be convened at the request of at least one-third of [all] the conferences of judges or at the request of a meeting of the justices of the Supreme Court of Ukraine.
2. The Council of Judges of Ukraine shall be empowered to decide on convocation of a Regular or Extraordinary Congress, approve a preliminary list of issues to be considered by the Congress, and determine the date and place of holding the Congress and judges' electoral quotients.
3. Invitations to the Congress of Judges of Ukraine may be extended to the President of Ukraine, people's deputies of Ukraine, the Commissioner of the Verkhovna Rada of Ukraine for Human Rights, members of the High Council of Justice, representatives of the Cabinet of Ministers and other bodies of state power, representatives of scientific and educational establishments and institutions and public organizations, and other persons.
4. Should the Council of Judges of Ukraine fail to convene the Congress of Judges at the request of conferences or meetings of judges as required by part one of this Article, the initiators of the convocation of an Extraordinary Congress shall set up an organizing committee for the convocation of the Congress of Judges of Ukraine which shall have the powers of the Council of Judges of Ukraine regarding the convocation of the Congress. In such a case the organizing committee shall immediately publish information on its creation in official printed media and fix a date for the Extraordinary Congress of Judges, which shall be not earlier than two months from the day of the creation of the organizing committee.
5. The judges of all courts shall be notified of the date of the Congress of Judges of Ukraine and of the issues on its agenda not later than 30 days before the beginning of the Congress.

#### **Article 157. Election of Delegates to the Congress of Judges of Ukraine**

1. Delegates to the Congress of Judges of Ukraine shall be elected by the conferences of judges; delegates from high specialized courts and the Supreme Court of Ukraine, by meetings of justices, in accordance with the electoral quotients determined by the Council of Judges of Ukraine. A meeting of justices of the Constitutional Court of Ukraine shall elect three delegates to the Congress from among the justices of this court.
2. Delegates to the Congress of Judges of Ukraine shall be elected in an open or secret ballot, on a competitive basis, with free nomination of candidates for election.

#### **Article 158. Procedure for Holding the Congress of Judges of Ukraine**

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

2. A Congress of Judges of Ukraine shall be inaugurated by the head of the Council of Judges of Ukraine; and in his/her absence, by the deputy head or secretary of the Council of Judges of Ukraine.

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

4. The Congress shall discuss and approve its agenda and the regulations for its work, elect a credentials commission, a secretariat and other working bodies of the Congress.

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

6. The decisions of the Congress of Judges of Ukraine shall be taken by a majority of votes of the delegates in an open or secret ballot. The issues specified in Items 3-5 of part two, Article 155 of this Law shall be settled by secret ballot.

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

### **Article 159. The Council of Judges of Ukraine**

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

2. The Council of Judges of Ukraine, to be composed of thirty-three members, shall be elected by the Congress of Judges of Ukraine.

Proposals on nomination of candidates to the Council of Judges of Ukraine may be submitted by the delegations from conferences or meetings of judges, as well as by individual delegates to the Congress on the basis of the following quotas:

1) one representative from the Constitutional Court of Ukraine;

2) four representatives of the Supreme Court of Ukraine;

3) two representatives from each high specialized court;

4) two representatives from each of the following: economic court of appeals, civil court of appeals, criminal court of appeals, and administrative court of appeals;

5) two representatives from each of the following: circuit economic court, circuit civil court, circuit criminal court, and circuit administrative court;

6) four representatives from precinct courts.

Judges holding administrative positions may not be members of the Council of Judges of Ukraine.

The Council of Judges of Ukraine shall be competent if at least 25 of its members have been elected. If formed without complying with the requirements of this part [of the Article], the Council of Judges of Ukraine shall be incompetent.

3. At a meeting of the Council of Judges of Ukraine, its members shall elect from among its members the head of the Council of Judges of Ukraine, the deputy head, and the secretary, as well as the presidium of the Council of Judges of Ukraine. The composition and number of the members of the presidium shall be determined by the Council of Judges of Ukraine pursuant to the statute of the Council of Judges of Ukraine.

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

5. The Council of Judges of Ukraine shall:

- 1) develop and provide for the implementation of measures to ensure judicial independence and improvement of organizational support for the operation of courts;
- 2) consider issues related to legal protection of judges, social protection and welfare support for judges and members of their families, and take decisions to this effect;
- 3) supervise organization of the operation of courts and of the State Judicial Administration of Ukraine, hear accounts from chief judges and officials of the State Judicial Administration of Ukraine about their activities;
- 4) review judges' complaints against chief judges, their deputies, heads of judicial chambers or other officials, as well as other reports from judges about threats to their independence, and take appropriate actions based on the results of the consideration, notify competent bodies of the grounds for criminal, disciplinary, or other liability, make public statements on behalf of the judiciary about facts of violation of judicial independence, send relevant reports to international organizations, etc;
- 5) approve normative caseloads for judges in courts of all levels;
- 6) hear reports on the work of members of the High Qualifications Commission of Judges of Ukraine and of the Disciplinary Commission of Judges of Ukraine who were appointed by the Congress of Judges of Ukraine (or by the Council of Judges of Ukraine);
- 7) submit proposals regarding resolution of court operation issues to bodies of state power and bodies of local self-government;
- 8) be entitled to suspend decisions taken by councils of judges which contravene the Constitution and laws of Ukraine or are at odds with decisions of the Congress of Judges of Ukraine;
- 9) take other decisions on issues assigned to its competence.

6. Decisions taken by the Council of Judges of Ukraine shall be binding on all bodies of judicial self-government as well as on judges holding administrative positions in courts. A decision of the Council of Judges of Ukraine may be canceled by the Congress of Judges of Ukraine.

#### **Article 160. Support of the Operation of Bodies of Judicial Self-government**

1. Support for the work of the Congress of Judges of Ukraine and for the operation of the Council of Judges of Ukraine, conferences of judges, and councils of judges shall be provided by the State Judicial Administration and its territorial offices at the expense of the state budget of Ukraine as required by Section X of this Law.

#### **Section X. Support for a Professional Judge**

##### **Article 161. Judicial Remuneration**

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

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

- 1) length of service record;
- 2) qualification rank;
- 3) holding an administrative position in a court.

3. The official salary of a judge of a precinct court shall be fixed at 15 times the minimum salary established by the law.

The official salaries of other judges shall be fixed at the following rates:

- 1) judge of a circuit court, 1.1 times the official salary of a precinct court judge;
- 2) judge of a court of appeals, 1.2 times the official salary of a precinct court judge;
- 3) justice of a high specialized court, 1.4 times the official salary of a precinct court judge;
- 4) justice of the Supreme Court of Ukraine, 1.55 times the official salary of a precinct court judge.

4. Judges shall be paid a monthly bonus for qualification rank at the following rates: for the fifth qualification rank, 50 percent; fourth qualification rank, 60 percent; third qualification rank, 70 percent; second qualification rank, 80 percent, first qualification rank, 90 percent; highest qualification rank, 100 percent of the fixed official salary.

5. Judges shall be paid a monthly bonus for length of service at the following rates: for a service length of more than one year, 10 percent; more than two years, 12 percent; more than 3 years, 15 percent, more than 5 years, 20 percent; more than 10 years, 30 percent; more than 15 years, 40 percent; more than 20 years, 50 percent; more than 25 years, 75 percent; more than 30 years, 80 percent; more than 35 years, 85 percent of the fixed official salary.

6. Judges holding administrative positions in courts shall be granted a monthly bonus payment at the following rates: deputy chief judge/justice of a court, head of a judicial chamber, secretary of the Plenary Session of the Supreme Court of Ukraine, 3 percent; chief judge/justice, 5 percent of the fixed official salary of a judge of the respective court.

7. A judge who has the right to retire but continues to hold a judicial position shall be entitled to a bonus payment at the rate of 30 percent of the lifetime allowance to which he/she would be entitled upon retirement. This bonus payment shall not be taken into account when calculating the judge's retirement allowance.

#### **Article 162. Vacation**

1. Judges shall be granted an annual paid vacation of thirty five calendar days; in such a case, they shall be paid, in addition to the judicial reward, a healthcare allowance amounting to one fixed official salary. Judges whose length of service record is more than 5 years shall be granted an additional paid vacation of five calendar days; more than 10 years, ten calendar days; more than 15 years, fifteen calendar days.

#### **Article 163. Calculation of a Judge's Length of Service**

1. The length of a judge's term of service shall include:

1) work in positions of judges in courts of Ukraine, state arbitrators, arbitrators of departmental arbitration courts of Ukraine;

2) a judge's work on a permanent basis as a member of the High Council of Justice, the Disciplinary Commission of Judges of Ukraine, the High Qualifications Commission of Judges of Ukraine, or as a judicial inspector;

3) work in positions of judges and arbitrators in courts and in the state and departmental arbitration courts of the former USSR and the republics which were previously part of the USSR; period of work in positions directly related to guidance and supervision of the operation of courts in the Supreme Court of Ukraine, in oblast courts, Kyiv and Sevastopol city courts, the Ministry of Justice of Ukraine and local bodies within its jurisdiction, or of the activities of arbitrators in the State Arbitration of Ukraine or the High Arbitration Court of Ukraine, provided that all of the said persons must have at least a 10-year length of service in a judicial position.

#### **Article 164. Provision of a Judge with Housing**

1. A judge who has no accommodation for permanent residence shall be entitled to receive a loan for the construction or purchase of a housing unit for a period of 20 years which shall be

paid back from the State Budget of Ukraine. Such a loan may be allowed to a judge only once.

2. Expenses related to construction and purchase of housing shall be specified as separate items in the State Budget of Ukraine for judges of the Constitutional Court of Ukraine, judges of the Supreme Court of Ukraine, and judges of other courts of general jurisdiction.

3. Loans for the construction or purchase of housing for judges shall be requested by the executive staff of the Constitutional Court of Ukraine, the Supreme Court of Ukraine, high specialized courts, and the State Judicial Administration of Ukraine. The requester shall select on a competitive basis, pursuant to the legislation, an authorized bank for extending loans to judges,

4. Services pertaining to expert evaluation of the cost of housing and other services related to conclusion of relevant agreements, payment of the first installment, and repayment of the loan and interest thereon shall be paid for from the State Budget of Ukraine.

5. The amount of the first installment and loan to be paid from the State Budget of Ukraine shall be calculated on the basis of the normative dwelling area as well as of the results of the expert evaluation of the cost of housing.

The normative dwelling area for the judge and his/her family members who are specified in the judge's personal file shall be determined on the basis of norms for the overall and living area established by the law.

The cost of one square meter of housing constructed (purchased) for a judge to be paid from the State Budget of Ukraine may not exceed the average cost of housing in the respective region.

6. The total amount of the first installment, loan, and interest thereon may be higher than the amount determined in accordance with part five of this Article. The extra amount shall be paid by the judge under the terms of an agreement to be concluded between him/her and the authorized bank.

7. The amount of the first installment, loan, and interest thereon repayable from the State Budget of Ukraine shall be specified in an agreement between the requester, the authorized bank, and the judge.

8. In case a person is removed from his/her judicial position, the obligation to repay the outstanding portion of the loan shall be transferred to that person (except for the cases of removal of a justice of the Constitutional Court of Ukraine or removal of a judge on the basis of his/her application for retirement).

9. If a person was removed from his/her judicial position on grounds specified in items 1, 4-6 of part five, Article 126 of the Constitution of Ukraine, or if a person held a judicial position for less than five years, he/she shall be obliged to reimburse the state for the expenses associated with the expert evaluation of the cost of housing and other services related to conclusion of relevant agreements as well as with the payment of the first installment.

#### **Article 165. Provision for a Judge's Needs Relating to Professional Activity**

1. A judge shall be provided free of charge with a judicial robe and a judge's breast badge in accordance with the procedure established by the Cabinet of Minister of Ukraine.

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

3. For purposes of health improvement and disease prevention, a judge shall be provided with an annual allowance amounting to one fixed official salary plus bonus payments established by this Law. A judge shall retain this right after his/her resignation or retirement.

#### **Article 166. Social Insurance of Judges**

1. The life and health of judges shall be subject to obligatory personal risk insurance, to be covered by the State Budget of Ukraine, the insurance amount being equal to the judge's total salary for ten years in his/her latest position.

### **Section XI. Status of a Retired Professional Judge**

#### **Article 167. Judge's Retirement Benefit**

1. Upon retirement, a judge shall be paid a nontaxable retirement benefit in the amount of his/her average monthly salary, to be calculated on the basis of payments for the last 12 calendar months or for the last 2 months, as opted by the judge, times each full year of work in a judicial position, but not less than a six-month salary.

In the event of death of a sitting judge who had the right to retire but did not exercise it, the retirement benefit shall be paid to his/her dependent family members.

#### **Article 168. Pension or Lifetime Allowance of a Retired Judge**

1. A judge who continues to work upon retirement shall be paid the full amount of his/her pension or lifetime allowance irrespective of [the amount of] the salary he/she receives upon resignation or retirement.

2. A retired judge shall be paid, at his/her choice, either a pension on terms provided by Article 37 of the Law of Ukraine "On Public Service" or a nontaxable monthly lifetime allowance amounting to 80 percent of the remuneration of an active judge holding a comparable position. For each full year of work in excess of 20 years in a judicial position, the rate of the monthly lifetime allowance shall be increased by two percent of the salary, provided that it does not exceed 90 percent of a judge's salary, there being no upper limit to the amount of the monthly lifetime allowance.

3. To retired judges, the monthly lifetime allowance shall be paid in the court of his/her last employment or, as opted by the judge, in the court in his/her residential area.

#### **Article 169. Termination of a Judge's Retirement**

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

- 1) reelection to a judicial position;
- 2) commission of acts discrediting him/her as a judge;
- 3) entry into legal force of a judgment of conviction against the judge;
- 4) termination of his/her citizenship of Ukraine.

2. In the case specified in item 3 of part one of this Article, a judge's termination of retirement shall simultaneously entail the loss of the guarantees of judicial immunity.

3. Except for reelection to a judicial position, termination of retirement shall be a ground for stopping payment to the judge of the lifetime allowance which was granted in connection with retirement. Under such conditions, a pension shall be granted on the same basis as to anyone else.

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

### **Section XII. Organizational Support for the Operation of Courts**

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

#### **Article 170. Particularities of Support for the Functioning of the Judiciary**

1. Pursuant to the Constitution of Ukraine, the funding and adequate conditions for the functioning of courts and activities of judges shall be provided by the state.

2. Support for the functioning of the judiciary shall consist in the following:

- 1) establishment of a separate item in the State Budget of Ukraine for expenditures to fund courts at a level high enough to ensure full and independent administration of justice in accordance with the law;
- 2) legislative guarantees for full and timely funding of courts;
- 3) guarantees for a sufficient level of social protection of judges.

#### **Article 171. System of Providing for the Functioning of the Judiciary**

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

2. Organizational support for the operation of courts shall lie with the State Judicial Administration of Ukraine, which shall be created and shall operate pursuant to the requirements of this Law. In accordance with this law, organizational support for the operation of courts shall consist in measures of a financial, logistical, staffing, informational, managerial, and technical nature aimed at creating adequate conditions for full and independent administration of justice.

3. Judicial bodies and other bodies of state power shall take part in organizational support for the operation of courts in the cases and in the manner prescribed by this and other laws.

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

#### **Article 172. Principles of Funding of Courts**

1. All courts in Ukraine shall be funded from the State Budget of Ukraine.

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

1) the executive staffs of the Supreme Court of Ukraine, the Constitutional Court of Ukraine, the high specialized courts – as regards the financing of the operation of these judicial institutions;

2) the State Judicial Administration of Ukraine – as regards the financing of the operation of all other courts of general jurisdiction, as well as the operation of the qualifications commissions of judges, the Disciplinary Commission of Judges of Ukraine, bodies of judicial self-government, the State Judicial Administration of Ukraine and its territorial offices, and the specialized higher law school of fourth level of accreditation.

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

- 1) precinct courts;
- 2) circuit courts of respective jurisdictions;
- 3) courts of appeals of respective jurisdictions;
- 4) each high specialized court;
- 5) the Supreme Court of Ukraine;
- 6) the Constitutional Court of Ukraine.

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

4. The State Judicial Administration of Ukraine shall work out and approve, after consultation with the Council of Judges of Ukraine, a unified set of norms for the funding of courts of general jurisdiction. The norms shall be made known to each court and shall necessarily be

revised at least once every year. The cost estimate of expenses for the maintenance of each court shall be approved on the basis of the said norms.

5. The responsibility for the funding of the operation of each court in accordance with the approved norms shall be borne by the State Judicial Administration of Ukraine. Supervision of compliance with the requirements of this Law in terms of the funding of courts shall be exercised by the Council of Judges of Ukraine, as well as by bodies of state power specified by the law.

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

#### **Article 173. Procedure for the Funding of Courts**

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

2. Expenditures for the maintenance of courts shall, not later than the 10<sup>th</sup> day of each month, be transferred by the bodies of the State Treasury of Ukraine to the accounts of the Supreme Court of Ukraine, the Constitutional Court of Ukraine, the high specialized courts and to the accounts of the State Judicial Administration of Ukraine and its territorial offices for the funding of bodies and institutions specified in item 2 of part two article 174 of this Law.

3. Should the State Budget of Ukraine for a current fiscal year fail to be adopted, the courts shall be funded in the manner prescribed by the Budget Code of Ukraine.

#### **Article 174. Logistical Support for Courts**

1. Local, appellate, high specialized courts and the Supreme Court of Ukraine shall be legal entities, have a seal bearing the State Emblem of Ukraine and the entity's name, and maintain an independent balance sheet and accounts in bodies of the State Treasury of Ukraine.

2. Logistical support for local and appellate courts shall be entrusted to the territorial offices of the State Judicial Administration of Ukraine within the limits of the cost estimate for the maintenance of the respective court.

3. Courts and other judicial institutions having the status of a legal entity shall provide for their current needs either independently or on the basis of individual requests through the State Judicial Administration of Ukraine and its territorial offices. Expenditures for overhauls, reconstruction, and construction of new premises for courts, as well as other capital expenditures shall be made through the State Judicial Administration of Ukraine and its territorial offices.

#### **Article 175. Material and Welfare Support and Social Protection of Judges and Judicial System Employees**

1. The rate of salary of a judge must be sufficient to provide for the judge's financial independence, shall be determined by this Law, and may not be reduced.

2. The rates of salaries of court staff and employees of the State Judicial Administration of Ukraine and its territorial offices and their welfare support and social protection level shall be determined by the law on public service and other normative and legal acts, and may not be lower than the levels enjoyed by the respective categories of public servants on the staff of the legislative and executive branches.

3. The rates of salaries of the relevant employees of a specialized higher law school of fourth level of accreditation, their welfare support and social protection level may not be lower than

the levels enjoyed by the respective categories of public servants on the staff of the State Judicial Administration of Ukraine; moreover, the rates of salaries of scientific and pedagogical employees may not be lower than that of a circuit judge.

3. The territorial offices of the State Judicial Administration of Ukraine, the staffs of the Supreme Court of Ukraine, the Constitutional Court of Ukraine, and the high specialized courts shall bear the cost of burial and perpetuation of the memory of judges, including retired judges.

#### **Article 176. Hospitality Expenses of Courts**

1. The cost estimates of the Supreme Court of Ukraine, the Constitutional Court of Ukraine, and the high specialized courts shall provide for hospitality expenses.

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

#### **Article 177. Status of the State Judicial Administration of Ukraine**

1. The State Judicial Administration of Ukraine shall be an executive body with a special status which shall provide organizational support for the operation of courts of general jurisdiction (except for the Supreme Court of Ukraine and the high specialized courts), as well as for other bodies and institutions of the court system in accordance with this Law. The State Judicial Administration of Ukraine shall be subordinated to the Council of Judges of Ukraine.

2. The territorial offices of the State Judicial Administration of Ukraine shall be set up in the Autonomous Republic of Crimea, the oblasts, and the cities of Kyiv and Sevastopol.

3. The officials of the State Judicial Administration of Ukraine, of its territorial offices, and of court staffs shall be public servants.

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

6. The Regulations on the State Judicial Administration of Ukraine shall be approved by the Cabinet of Ministers of Ukraine.

#### **Article 178. Powers of the State Judicial Administration of Ukraine**

1. The State Judicial Administration of Ukraine shall:

1) ensure adequate conditions for the operation of courts of general jurisdiction, qualifications commissions of judges, the Disciplinary Commission of Judges of Ukraine, and bodies of judicial self-government;

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

3) study court staff related issues, make forecasts of the required number of specialists, and request the training of relevant specialists;

4) technically ensure the keeping of statistics and personal records of the judiciary;

5) ensure necessary conditions for raising the professional level of judges and court staff; create a system of professional development;

6) organize the internship of students of higher education institutions in courts and develop appropriate curricula;

7) organize the keeping of court statistics, case management, and archiving; supervise the state of case management in courts of general jurisdiction;

8) prepare materials for forming proposals for court budgets and take measures so that courts are funded in accordance with this Law;

- 9) perform the functions of the main distributor of funds of the State Budget of Ukraine in cases specified by this Law;
- 10) ensure material and social support for judges, including retired judges, and court staff employees;
- 11) ensure medical support and health resort treatment for judges and court staff employees, take measures to provide them with adequate housing;
- 12) ensure the security of courts and judges in cooperation with bodies of judicial self-government, courts, and other law-enforcement bodies;
- 13) organize and fund the construction and repair of courthouses and court premises, provide them with technical facilities;
- 14) organize computerization of courts for purposes of administration of justice, case management, and informational and normative support for the operation of courts; provide courts with necessary technical means for recording court proceedings;
- 15) provide for the keeping of a Unified State Register of Court Decisions;
- 16) provide for the funding of court expenditures which are required by the law to be covered by the State Budget of Ukraine;
- 17) maintain contacts with relevant bodies and institutions, including those of other countries, with the aim of improving organizational support for courts;
- 18) develop and provide for the introduction of a Unified Information System for Automated Case Assignment;
- 19) organize the operation of the service of court officers;
- 20) assist the Council of Judges of Ukraine in determining caseload norms for judges in courts of all levels and in working out proposals on the number of judges in respective courts;
- 21) exercise other powers specified by the law.

2. The State Judicial Administration of Ukraine shall exercise its powers in accordance with the Constitution of Ukraine, this and other laws, acts of the President of Ukraine, the Cabinet of Ministers of Ukraine, other normative legal acts, the Regulations on the State Judicial Administration of Ukraine, and decisions of the Congress of Judges of Ukraine and the Council of Judges of Ukraine.

#### **Article 179. Head of the State Judicial Administration of Ukraine**

1. The State Judicial Administration of Ukraine shall be chaired by the Head of the State Judicial Administration of Ukraine.
2. The Head of the State Judicial Administration of Ukraine shall be appointed and removed from office by the Cabinet of Ministers of Ukraine upon a motion submitted by the Prime Minister of Ukraine on the basis of a recommendation from the Council of Judges of Ukraine.
3. The Head of the State Judicial Administration of Ukraine shall have no right to combine his/her official service with other work except for teaching, scholarly, or creative activities during off-office hour, or be a member of a governing body or supervisory council of a profit-seeking economic organization.
4. The Head of the State Judicial Administration of Ukraine shall:
  - 1) direct the operation of the State Judicial Administration of Ukraine, be personally responsible for the performance of the tasks assigned thereto;
  - 2) organize the operation of the State Judicial Administration of Ukraine;

- 3) appoint, on the basis of a competition to be conducted in accordance with the legislation on public service, and dismiss employees of the State Judicial Administration of Ukraine as well as heads of the territorial offices of the State Judicial Administration of Ukraine and their deputies after consultation with the respective council of judges;
- 4) approve regulations on structural units of the State Judicial Administration of Ukraine and determine job descriptions for the employees of the State Judicial Administration of Ukraine;
- 5) establish official salary rates for employees of the State Judicial Administration of Ukraine and its territorial offices, confer on them state employee ranks in the manner prescribed by the law, reward and discipline them in accordance with the legislation;
- 6) inform the Council of Judges of Ukraine of the activities of the State Judicial Administration of Ukraine;
- 7) take part in the preparation of proposals for the draft State Budget of Ukraine regarding the funding of the judiciary;
- 8) exercise other powers prescribed by the law.

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

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

#### **Article 180. Territorial Offices of the State Judicial Administration of Ukraine**

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

2. A territorial office of the State Judicial Administration of Ukraine shall be chaired by a chief, to be appointed and removed by the Head of the State Judicial Administration of Ukraine on the basis of a recommendation from the respective council of judges.

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

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

5. The territorial offices of the State Judicial Administration of Ukraine shall operate on the basis of the Regulations on the State Judicial Administration of Ukraine.

### **Chapter 3. Other Judicial System Related Issues**

#### **Article 181. Court Staff**

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

2. The manager of the court staff shall be personally responsible for providing adequate organizational support for the court, the judges, and the court proceedings.

The activities of the manager of the court staff shall be supervised by the chief judge of the respective court.

3. The manager of the staff of a local court and his/her deputy shall be appointed, on the basis of a competition to be conducted in accordance with the legislation on public service,

and dismissed by the chief judge of the respective local court; the manager of the staff of a court of appeals, by the head of the respective court of appeals.

The manager of the staff of the Supreme Court of Ukraine, the manager of the staff of a high specialized court, and their deputies shall be appointed, on the basis of a competition to be conducted in accordance with the legislation on public service, and dismissed by a meeting of justices of the respective court.

4. The chief judge (except for chief justices of the Supreme Court of Ukraine and of the high specialized courts) shall have the right to submit motions for rewarding or disciplining the manager of the court staff or his/her deputy, as well as motions for their removal.

5. Court staff employees shall be selected on a competitive basis.

Staff employees of precinct courts shall be appointed by the head of the respective territorial office of the State Judicial Administration of Ukraine upon a motion by the manager of the staff of the respective court.

6. The legal status of employees working on the staff of a court shall be determined by the Law of Ukraine "On Public Service." In terms of the conditions of salaries, material welfare, medical, health resort, and transportation support, court staff members shall be equated with the respective categories of staff of the highest, central, or local executive bodies.

7. The structure and size of the staff of local courts shall be approved by the respective territorial office of the State Judicial Administration of Ukraine upon a motion by the chief judge of the respective local court; of the staff of courts of appeals, by the State Judicial Administration of Ukraine upon a motion by the chief judge of the respective court of appeals, within the limits of expenditures allocated for the maintenance of the respective court.

The regulations on the staff of local and appellate courts shall be approved by the chief judges of these courts.

8. The structure and size of the staff of the Supreme Court of Ukraine and of the staff of a high specialized court shall be approved by a meeting of justices of the respective court, within the limits of expenditures allocated for the maintenance of the court.

The regulations on the staff of the Supreme Court of Ukraine and on the staff of a high specialized court shall be approved by the chief justice of the court.

9. Within the staff of the courts of general jurisdiction, there may be created offices, departments and other structural units which shall perform their functions on the basis of the regulations on the respective unit, to be approved by the manager of the staff of the respective court after consultation with the chief judge of the court.

10. The court staff shall also include assistants to judges/justices, scientific consultants, and court officers. An assistant to a judge of a local court shall be a Ukrainian citizen of full age who has command of the state language and is a student of a higher law school (faculty of law) or has higher legal education. An assistant to a judge of a court of appeals shall be a Ukrainian citizen of full age who has command of the state language and higher legal education. An assistant to a justice of a high specialized court or of the Supreme Court shall be a Ukrainian citizen of full age who has command of the state language, higher legal education, and a length of service record in the legal profession of at least three years.

An assistant to a judge must not have a criminal record or be found by a court to have limited legal capacity or legal incapacity.

11. Assistants and scientific consultants to judges shall be appointed and removed upon a motion by or after consultation with the respective judges. Assistants and scientific consultants to judges shall be appointed for as long as the respective judge holds his/her office.

### **Article 182. Court Libraries**

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

2. The regulations on court libraries shall be approved by the Chief Justice of the Supreme Court of Ukraine.

### **Article 183. Service of Court Officers**

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

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

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

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

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

### **Article 184. Ensuring Security and Maintaining Public Order in Courts**

1. The responsibilities for maintaining order, stopping manifestations of contempt of court, as well as ensuring the security of court premises, performing functions related to state protection of judges and court employees and safeguarding the participants in the proceedings shall lie with the court militia.

2. The powers of the court militia and the procedure for their operation shall be determined by the law.

### **Section XIII. Final and Transitional Provisions**

1. This law shall come into force as of the day of its official publication.

2. Until laws and other normative legal acts are adjusted in accordance with this Law, they shall be applied in such content that will not contravene this Law.

3. Circuit civil and circuit criminal courts shall begin their operation when no less than three judges have been appointed (elected) to them, but not later than January 1, 2009. Announcements on the beginning of operation of each circuit criminal court shall be published by the State Judicial Administration of Ukraine in relevant official local periodicals. Prior to the beginning of the operation of circuit civil courts, cases falling within their jurisdiction shall be adjudicated in the first instance by the respective courts of appeals.

Civil cases appointed for consideration by relevant courts of first instance prior to the beginning of the operation of the respective circuit civil court shall be heard and adjudicated by these courts.

Criminal cases appointed for consideration by relevant courts of appeals acting as courts of first instance prior to the beginning of the operation of the respective circuit criminal court shall be heard and adjudicated by these courts.

After the beginning of the operation of a circuit civil court, civil cases received by the respective courts of first instance and falling within the jurisdiction of the circuit civil court

shall be transferred by these courts to the circuit civil court, except for cases already appointed for consideration.

After the beginning of the operation of a circuit criminal court, criminal cases received by the respective courts of appeals for consideration in the first instance and falling within the jurisdiction of the circuit criminal court shall be transferred by these courts to the circuit criminal court, except for cases already appointed for consideration.

4. Criminal courts of appeals and civil courts of appeals shall begin their operation when no less than seven judges have been appointed (elected) to them, but not later than January 1, 2009. Announcements on the beginning of operation of each criminal court of appeals and civil court of appeals shall be published by the State Judicial Administration of Ukraine in relevant official local periodicals. Prior to the beginning of the operation of criminal courts of appeals and civil courts of appeals, cases falling within their jurisdiction shall be adjudicated by general courts of appeals.

5. The High Civil Court of Ukraine and the High Criminal Court of Ukraine shall be established by October 1, 2008, and shall start operating as of January 1, 2009. Prior to the beginning of the operation of these courts, their powers shall be exercised by relevant judicial chambers of the Supreme Court of Ukraine.

6. Cassation complaints (petitions) regarding decisions of general courts in criminal and civil cases filed prior to December 1, 2008, and appointed (accepted) for cassation review by the Supreme Court of Ukraine shall be considered by the Supreme Court of Ukraine.

Cassations complaints (petitions) regarding decisions of general courts in criminal and civil cases filed after December 1, 2008 shall be transferred for review, respectively, to the High Civil Court of Ukraine and the High Criminal Court of Ukraine.

7. Chief judges, their deputies, and heads of judicial chambers appointed before the entry into force of this Law shall exercise the powers set forth by this Law until the expiry of their tenure of appointment, provided that their positions are preserved under this Law, except for chief judges of courts and their deputies who were appointed during the period after the passing of the decision by the Constitutional Court of Ukraine in the case arising from the constitutional motion by the High Council of Justice requesting an official interpretation of the provision of part five of Article 20 of the Law of Ukraine "On the Judicial System of Ukraine" of 16.05.2007 and prior to the entry into force of this Law.

Chief judges and their deputies appointed by the Council of Judges of Ukraine during the period after the passing of the decision by the Constitutional Court of Ukraine in the case arising from the constitutional motion by the High Council of Justice requesting an official interpretation of the provision of part five of Article 20 of the Law of Ukraine "On the Judicial System of Ukraine" of 16.05.2007 and prior to the entry into force of this Law shall require a new appointment, to be made in the manner prescribed by this Law, provided that their positions are preserved under this Law.

First deputy chief justices of high specialized courts appointed prior to the entry into force of this Law shall exercise the powers of deputy chief justice of a high specialized court set forth by this Law until the expiry of their tenure of appointment.

8. The requirements regarding the qualification rank and the length of service necessary to be eligible for assuming a judicial position in a circuit, appellate, or high specialized court, or in the Supreme Court of Ukraine shall not apply to judges holding these positions at the moment of entry into force of this Law.

9. Justices of the Supreme Court of Ukraine shall exercise their powers until removed from office pursuant to part five, Article 126 of the Constitution of Ukraine. After the justices have been removed, their vacancies shall not be filled and shall be disestablished, until 16 positions of justices remain, as required by this Law.

Justices of the Supreme Court of Ukraine transferred during one year from the day of the entry into force of this Law to a high specialized court or to some other court of general jurisdiction shall be equated in status, including in terms of financial, social, and welfare support, with the judges of the Supreme Court of Ukraine.

10. Territorial qualifications commissions of judges shall begin their operation on April 1, 2009. The operation of the current qualifications commissions of judges shall be terminated once the operation of the territorial qualifications commissions of judges has begun.

11. The High Qualifications Commission of Judges of Ukraine shall be created in accordance with the requirements of this Law and shall begin its operation not later than April 1, 2008.

12. The Disciplinary Commission of Judges of Ukraine and the service of court officers shall be created in accordance with this Law and shall begin their operation as of April 1, 2009.

13. Disciplinary cases pending prior to April 1, 2009, before qualifications commissions of judges created prior to the entry into force of this Law shall be transferred for consideration and adjudication to the Disciplinary Commission of Judges of Ukraine. The running of the terms for taking disciplinary action against the judges shall be suspended until the case has been accepted by the Disciplinary Commission of Judges of Ukraine.

14. After the entry into force of this Law, military courts of garrisons, military regional courts of appeals, and the Court of Appeals of the Navy of Ukraine shall continue to operate, respectively, as local and appellate courts, and shall consider criminal cases falling within their jurisdiction as set forth by the Criminal Procedural Code of Ukraine, until they are disestablished in the manner prescribed by the law, but not beyond January 1, 2009.

15. Judges of military courts of garrisons, military regional courts of appeals, and the Court of Appeals of the Navy of Ukraine shall be transferred, with their consent, to another court and be demobilized, or shall be removed from judicial office in due course and be sent to the Armed Forces of Ukraine or other military formations for further active service.

Justices of the Military Collegium of the Supreme Court of Ukraine shall be transferred, with their consent, to judicial chambers of the Supreme Court of Ukraine or of the high specialized courts in the manner prescribed by this Law, and be demobilized, or shall be removed from judicial office in due course and be sent to the Armed Forces of Ukraine or other military formations for further active service.

16. Until the legislation on administrative offences has been reformed, cases regarding administrative offenses which fall within the jurisdiction of the relevant courts shall be heard and adjudicated by these courts in the manner prescribed by the Code of Ukraine on Administrative Offenses.

17. It shall be established that the judges of military courts of garrisons, military regional courts of appeals, the Court of Appeals of the Navy of Ukraine, and the Military Collegium of the Supreme Court of Ukraine:

in case of demobilization and transfer to other courts or to the judicial chambers of the Supreme Court of Ukraine, shall be paid one time, at their choice, either the demobilization allowance provided for by Article 15 of the Law of Ukraine "On the Social and Legal Protection of Servicepersons and their Family Members" or, upon subsequent retirement from the judicial office, the benefit provided for by this Law;

in case of being sent to the Armed Forces of Ukraine or other military formations for further active service, shall be paid one time, at their choice, either the benefit upon retirement from the judicial office provided for by this Law or, upon subsequent demobilization, the allowance provided for by Article 15 of the Law of Ukraine "On the Social and Legal Protection of Servicepersons and their Family Members";

in case of demobilization and simultaneous retirement from the judicial office, shall be paid, at their choice, either the demobilization allowance provided for by Article 15 of the Law of Ukraine "On the Social and Legal Protection of Servicepersons and their Family Members" or the benefit upon retirement from the judicial office provided for by this Law.

It shall be established that a person reelected to a judicial position may be paid a benefit upon retirement only if that person has previously received neither the allowance provided for by the Law of Ukraine "On the Social and Legal Protection of Servicepersons and their Family Members" nor the retirement benefit provided for by this Law.

18. The service record of judges appointed or elected prior to the entry into force of this Law shall include other service which may be included in the special service record in accordance with the law.

19. For judges appointed or elected prior to the entry into force of this Law, the record of service entitling a judge to retire and receive a monthly lifetime allowance shall include, in addition to work in positions specified in Article 79 of this Law, the period of work in positions directly related to guidance and supervision of the operation of courts in the Ministry of Justice of Ukraine and local bodies within its jurisdiction as well as in positions of investigators and prosecutors, provided that all of the said persons must have at least a 10-year length of service in a judicial position.

20. If a judge elected or appointed prior to the entry into force of this Law is entitled under this Law to a lower rate of allowance than before, he/she shall be paid a compensation amounting to the difference between the allowance he/she received for the last month prior to the entry into force of this Law (not counting one-time bonuses and health improvement allowances) and the allowance set forth by this Law.

21. Part four of Article 23 of this Law regarding the requirement that a candidate for a judicial position must have an educational and qualification level of at least a Master's degree shall not apply to persons who received higher legal education prior to the entry into force of this Law, obtaining the educational and qualification level of specialist.

22. Provisions of this Law regarding qualification attestation and judicial discipline shall come into force as of April 1, 2009. Upon the entry into force of this Law, the qualification ranks shall be awarded pursuant to this Law.

23. The training of judicial candidates and judicial skill improvement practice shall begin not later than January 1, 2009.

24. The requirements of this Law regarding the selection of candidates for positions of professional judges from among persons who have received training at a specialized higher law school of fourth level of accreditation shall come into force as of January 1, 2009. (=Final and Transitional Provisions, item 8).

25. The following amendments shall be made to the Budget Code of Ukraine (*Vidomosti Verkhovnoi Rady Ukrainy*, No. 37-38, p. 189):

1) in Article 34:

in part two, after the words "in the process of preparation of budget requests" add the words "'except for cases provided for by part three of this Article"; and

add the following item:

"3. Instructions for the preparation of budget requests by the Constitutional Court of Ukraine, the Supreme Court of Ukraine, the high specialized courts, and the State Judicial Administration of Ukraine may not introduce the restrictions specified in part two of this Article";

2) in Article 36:

add after part one a new part as follows:

“2. Should the Ministry of Finance of Ukraine find the budget requests of the Constitutional Court of Ukraine, the Supreme Court of Ukraine, a high specialized court, or the State Judicial Administration of Ukraine unreasonable or impossible to grant, the Ministry shall include these requests in the proposed draft State Budget of Ukraine and submit for consideration to the Cabinet of Ministers of Ukraine, along with the draft Law of Ukraine “On the State Budget of Ukraine,” a motivated opinion with an indication of the reasons preventing these requests from being granted and proposals aimed at bridging the differences.”

In this connection, parts two and three shall become respectively parts three and four;

3) part one of Article 38 shall be appended with the following paragraph:

“Should the Cabinet of Ministers of Ukraine find the budget requests of the Constitutional Court of Ukraine, the Supreme Court of Ukraine, a high specialized court, or the State Judicial Administration of Ukraine unreasonable or impossible to grant, it shall likewise submit to the Verkhovna Rada of Ukraine an opinion to that effect with an indication of the reasons preventing these requests from being granted and proposals aimed at bridging the differences”;

4) part 1 of Article 41 shall be reworded as follows:

“1. The first reading of a draft law on the State Budget of Ukraine shall begin with a report by the Head of the Budget Committee of the Verkhovna Rada of Ukraine on the Opinion and Proposals on the Draft Law on the State Budget of Ukraine. This issue shall be discussed by representatives of the committees of the Verkhovna Rada and of the deputies’ factions, people’s deputies of Ukraine, representatives of the Cabinet of Ministers of Ukraine, of the Accounting Chamber; and in respect of the funding of courts and other bodies and institutions of the judicial system, by representatives of the Council of Judges of Ukraine, the Constitutional Court of Ukraine, the Supreme Court of Ukraine, the high specialized courts, and the State Judicial Administration of Ukraine.”

26. Amendments shall be made to the following laws of Ukraine:

1) in Article 8 of the Law of Ukraine "On Remuneration of Labor" (*Vidomosti Verkhovnoi Rady Ukrainy*, 1995, No. 17, p. 121; 1997, No. 11, p. 89):

a) in part two, the words “except for the case specified by” shall be substituted for by the words “except for the cases specified by part three of this Article and”;

b) add part three as follows:

“The terms of remuneration of labor of judges shall be determined by the law.”

2) Article 29 of Law of Ukraine "On the Constitutional Court of Ukraine" (*Vidomosti Verkhovnoi Rady Ukrainy*, 1996, No. 49, p. 272) shall be reworded as follows:

“Article 29. Material, Social, and Welfare Support for Judges of the Constitutional Court of Ukraine

The remuneration of a justice of the Constitutional Court of Ukraine shall be equal to that of a justice of the Supreme Court of Ukraine, with provision for monthly bonus payments for the highest qualification rank and for a record of service of more than 25 years.

A justice of the Constitutional Court of Ukraine shall be paid a nontaxable retirement benefit in the amount of his/her average monthly salary, to be calculated on the basis of payments for the last 12 calendar months or for the last 2 months, as opted by the judge, times each full year of work in a judicial position, but not less than his/her annual salary. In the event of

death of a justice of the Constitutional Court of Ukraine who had the right to retire but did not exercise it, the retirement benefit shall be paid to his/her dependent family members.

The record of service of a justice of the Constitutional Court entitling him/her to retire and receive a retirement benefit shall also include the period of other practical, scientific, pedagogical work in the [legal] profession and the period of public service, regardless of compliance with the requirement to have a ten-year record of judicial service.

Should the powers of a justice of the Constitutional Court of Ukraine who did not have the right to retire be terminated pursuant to items 1 and 3 of part one, Article 23 of this Law, he/she shall be entitled to continue to receive until old-age retirement 80 percent of the remuneration and other types of material support enjoyed by the justices of the Constitutional Court of Ukraine.

Other types of material and welfare support, social protection, and health services for justices of the Constitutional Court of Ukraine, including retired justices, as well as housing, vacations, rewards, and guaranties for them shall be provided pursuant to this Law and other legislative acts.

27. Declare the Law of Ukraine "On the Procedure for the Election and Removal of a Professional Judge by the Verkhovna Rada of Ukraine" (*Vidomosti Verkhovnoi Rady Ukrainy*, 2004, No. 25, p. 354) null and void.

28. After the publication of this Law, the Cabinet of Ministers of Ukraine shall:

provide for appropriate funding of specialized higher law schools of fourth level of accreditation starting from January 1, 2009;

prepare and submit for consideration to the Verkhovna Rada of Ukraine proposals on adjusting legislative acts in accordance with this Law;

adjust its normative legal acts in accordance with this Law;

provide, within the limits of its powers, for the revision and cancellation of normative legal acts contravening this Law;

ensure that ministries and other central executive bodies adjust their normative legal acts in accordance with this Law;

take measures to adjust the monthly lifetime allowance of judges who retired after 1992 in accordance with the rate of salary established for judges by this Law;

make amendments to the Law "On the State Budget of Ukraine" in terms of allocation of funds for the introduction of the Unified Information System for Automated Case Assignment among Judges in accordance with this Law and for the full-scale introduction of the procedure for case assignment as required by this Law;

within a month from the entry into force of this Law, adjust its normative legal acts in accordance with this Law and provide for a revision of departmental normative acts;

before January 1, 2009, provide the State Judicial Administration of Ukraine, the territorial offices of the State Judicial Administration, and courts with logistical resources needed for the introduction and functioning of the Unified Information System for Automated Case Assignment among Judges in accordance with this Law.