

Procedure and Methodology for Qualification Evaluation of Judges

1. General Provisions

1.1 The Procedure and Methodology for Qualification Evaluation of Judges (hereinafter jointly referred to as “the Procedure”) were developed pursuant to the Law of Ukraine “On the Judiciary and Status of Judges” (hereinafter referred to as “the Law”), the Law of Ukraine “On Ensuring Right to a Fair Trial”, the 1998 European Charter on the Statute for Judges; and with due regard to Recommendation CM/Rec(2010)12 adopted by the Committee of Ministers of the Council of Europe on 17 November 2010 and entitled "Judges: independence, efficiency and responsibilities"; the 2010 Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia by OSCE "Judicial Administration, Selection and Accountability"; Opinion #17 (2014) on the Evaluation of Judges' Work, the Quality of Justice and Respect for Judicial Independence of the Consultative Council of European Judges; Joint Opinion of the Venice Commission and the Directorate of Human Rights of the Directorate General of Human Rights and Rule of Law of the Council of Europe on the Law of Ukraine "On the Judiciary and Status of Judges". They define legal and organisational principles of qualification evaluation of judges.

1.2. The High Qualifications Commission of Judges of Ukraine shall conduct the qualification evaluation of judges in accordance with Articles 83-86 of the Law, and the primary and repeat qualification evaluation - in accordance with paragraphs 6 and 7 of Section II "Final and Transitory Provisions" of the Law of Ukraine “On Ensuring Right to a Fair Trial”.

1.3. The qualification evaluation of judges shall be a procedure established by law for the Commission's ascertaining the judges' professional level and adequacy for the job.

1.4. The qualification evaluation shall aim to determine the professional level of a judge (judicial candidate) and their ability to render justice in a relevant court and a court of a relevant instance.

1.5. The qualification evaluation shall have the following objectives:

1.5.1. Checking the judge's ability to administer justice in a relevant instance court.

1.5.2. Confirming the judge's adequate professional level for being elected for life.

1.5.3. Verifying the judge's ability to render justice in the court where they serve, upon being subject to disciplinary measures.

1.5.4. Deciding on the feasibility of the judge's rendering justice in the relevant court.

1.5.5. Confirming the feasibility of the judge's rendering justice in the relevant court.

1.6. The qualification evaluation shall be governed by the principles of publicity, transparency, openness, unity of procedure and methodology, application of uniform criteria for judges' evaluation, judicial independence.

1.7. Grounds for conducting qualification evaluation shall be as follows:

1.7.1. A judge's personal application for qualification evaluation aiming to confirm

their ability to administer justice in a relevant instance court.

1.7.2. A personal application for qualification evaluation filed by a judicial candidate aspiring to be elected for life.

1.7.3. Decision by the High Qualifications Commission of Judges of Ukraine to conduct qualifications evaluation of a judge that has been subject to disciplinary measures as stipulated by Article 97 of the Law.

1.7.4. Decision by the High Qualifications Commission of Judges of Ukraine to conduct primary and repeat qualification evaluation as stipulated by paragraphs 6 and 7 of Section II "Final and Transitory Provisions" of the Law of Ukraine "On Ensuring Right to a Fair Trial". These provisions shall also apply to the judges that were elected or appointed to the High Council of Justice and the High Qualifications Commission of Judges of Ukraine and are not retired.

1.8. All information used in the course of qualification evaluation shall be obtained by the Commission in accordance with the law.

2. Qualification Evaluation Methodology

2.1. Criteria for the qualification evaluation of judges shall be as follows:

2.1.1. Professional competence.

2.1.2. Personal competence.

2.1.3. Social competence.

2.1.4. Openness to learning and improving professional qualifications.

2.1.5. Ability to administer justice in a relevant instance court.

2.1.6. Ethical eligibility (meeting ethics criteria).

2.1.7. Anticorruption eligibility (meeting the anticorruption law criteria).

2.2. Eligibility indicators shall be as follows:

2.2.1. Professional competence:

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

2.2.1.2. Ability to conduct trials (level of practical skills, analytical skills and capabilities, etc).

2.2.1.3. Capacity to write reasoned decisions (skills in applying relevant law; skills of legal reasoning; writing skills; capacity to take decisions based on the law, evidence and facts; analytical capabilities, etc).

2.2.2. Personal competence:

2.2.2.1. Ability to cope with the work load:

2.2.2.1.1. Number of decided cases.

2.2.2.1.2. Number of decisions reversed on appeal and reasons for their reversal.

2.2.2.1.3. Existence and number of decisions, reviewed by international tribunals and other international organizations to find Ukraine in violation of its obligations under international law, including those reversed by the Supreme Court of Ukraine following the establishment of such violation.

2.2.2.1.4. Number of revised (changed) court decisions and reasons for their revision.

- 2.2.2.2. Ability to organise one's work:
 - 2.2.2.2.1. Observing the timeframes for deciding cases.
 - 2.2.2.2.2. Average time of producing a well-reasoned decision, subject to provisions of paragraph 2.5.2.2.2. of this Procedure.
 - 2.2.2.2.3. Case load compared to that of other judges in a relevant court, region, given the court instance and the court/judge's specialisation.
 - 2.2.2.2.4. Number of complaints against the judge's actions.
 - 2.2.2.2.5. Number of disciplinary measures and their outcomes.
- 2.2.3. Social competences:
 - 2.2.3.1. Equanimity - data on the conformity of the judge's behaviour with the rules of judicial ethics; interview results, regular evaluation results reflected in the judicial dossier.
 - 2.2.3.2. Ability to cope with stress – data on the conformity of the judge's behaviour with the rules of judicial ethics; interview results, regular evaluation results reflected in the judicial dossier.
 - 2.2.3.3. Interpersonal communication skills – data on the conformity of the judge's behaviour with the rules of judicial ethics; interview results, regular evaluation results reflected in the judicial dossier.
- 2.2.4. Openness to learning and improving professional qualifications:
 - 2.2.4.1. Information on the results of the judge's training at the National School of Judges and professional development during their term in office.
- 2.2.5. Ability to administer justice in a relevant instance court:
 - 2.2.5.1. Ability to render justice in a court of relevant instance and specialisation, information on results of the judge's previous qualification evaluation reflected in the judicial dossier.
- 2.2.6. The judge's ethical eligibility:
 - 2.2.6.1. Data on conformity of the judge's behaviour with the rules of judicial ethics; honesty, fairness, impartiality, etc.
- 2.2.7. The judge's anticorruption eligibility:
 - 2.2.7.1. Data on consistency between assets and expenditures of the judge, their family members and related persons, and their declared incomes, including copies of relevant declarations submitted by the judge as required by the anticorruption law.
 - 2.2.7.2. Data on the judge's compliance with the anticorruption law requirements.
- 2.3. Methods of obtaining results:
 - 2.3.1. Examination.
 - 2.3.2. Review of the judicial dossier.
 - 2.3.3. Interview.
- 2.4. Methods of measuring indicators:
 - 2.4.1. Examination:
 - 2.4.1.1. Knowledge of law (anonymous written test).
 - 2.4.1.2. Ability to conduct trials (practical assignment).
 - 2.4.1.3. Capacity to write reasoned decisions (practical assignment).
 - 2.4.1.4. Ability to render justice in a court of relevant instance and specialisation

(practical assignment).

2.4.2. Review of the judicial dossier:

2.4.2.1. Number of decided cases.

2.4.2.2. Number of decisions reversed on appeal, and the judge's comments thereon.

2.4.2.3. Number of decisions, reviewed by international tribunals and other international organizations to find Ukraine in violation of its obligations under international law, including those reversed by the Supreme Court of Ukraine following the establishment of such violation.

2.4.2.4. Number of revised court decisions, the judge's comments thereon.

2.4.2.5. Observing the timeframes for deciding cases.

2.4.2.6. Average time of producing a well-reasoned decision.

2.4.2.7. Case load compared to that of other judges in a relevant court, region, given the court instance and the court/judge's specialisation.

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

2.4.2.9. Number of disciplinary proceedings.

2.4.2.10. Equanimity.

2.4.2.11. Ability to cope with stress.

2.4.2.12. Interpersonal communication skills.

2.4.2.13. Information on the results of the judge's training at the National School of Judges and professional development during their term in office.

2.4.3. Interview:

2.4.3.1. Reasons for reversal of the judge's decisions, and the judge's comments thereon.

2.4.3.2. Preconditions for the judge's making decisions reviewed by international tribunals and other international organizations to find Ukraine in violation of its obligations under international law, and the judge's comments on making them.

2.4.3.3. Reasons for revising the judge's decisions and the judge's comments thereon.

2.4.3.4. Outcomes of disciplinary proceedings against the judge.

2.4.3.5. Data on consistency between assets and expenditures of the judge, their family members and related persons, and their declared incomes, including copies of relevant declarations submitted by the judge as required by the anticorruption law.

2.4.3.6. Data on the judge's compliance with the anticorruption law requirements.

2.4.3.7. Data on conformity of the judge's behaviour with the rules of judicial ethics.

2.5. Assessment of the judge's professional level indicators:

2.5.1. Professional competence:

2.5.1.1. Knowledge of law – qualified, needs to improve qualifications, not qualified.

2.5.1.2. Ability to conduct trials – qualified, needs to improve qualifications, not qualified.

2.5.1.3. Capacity to write reasoned decisions – capable, needs to improve qualifications, not capable.

- 2.5.2. Personal competence:
 - 2.5.2.1. Ability to cope with the work load:
 - 2.5.2.1.1. Number of decided cases – large, average, small (with due regard to the reasons for obtaining such indicators).
 - 2.5.2.1.2. Number of decisions reversed on appeal and reasons for their reversal – smaller than the court average, on a par with the court average, larger than the court average.
 - 2.5.2.1.3. Existence and number of decisions, reviewed by international tribunals and other international organizations to find Ukraine in violation of its obligations under international law, including those reversed by the Supreme Court of Ukraine following the establishment of such violation – absence, presence (with due regard to the outcomes of review by higher-instance courts).
 - 2.5.2.1.4. Number of revised court decisions and reasons for their revision – smaller than the court average, on a par with the court average, larger than the court average.
 - 2.5.2.2. Ability to organise one's work:
 - 2.5.2.2.1. Observing the timeframes for deciding cases – observes, mostly observes, fails to observe, with the judge's comments regarding non-observance.
 - 2.5.2.2.2. Average time of producing a well-reasoned decision – shall be defined once the State Court Administration of Ukraine starts keeping record of this indicator – reasonable, mostly reasonable, unreasonable.
 - 2.5.2.2.3. Case load compared to that of other judges in a relevant court, region, given the court instance and the court/judge's specialisation – high, average, low.
 - 2.5.2.2.4. Number of complaints against the judge's actions – large, average, small (including complaints accepted for consideration/entertained).
 - 2.5.2.2.5. Number of disciplinary proceedings and their outcomes – large, average, low (with due regard to applied disciplinary measures and their types).
 - 2.5.3. Social competence:
 - 2.5.3.1. Equanimity shall be assessed on the basis of reviewing the judicial dossier and interview – well-balanced/equable, mostly well-balanced, unbalanced.
 - 2.5.3.2. Ability to cope with stress shall be assessed on the basis of reviewing the judicial dossier and interview – stress-resistant, mostly stress-resistant, non-resistant to stress.
 - 2.5.3.3. Interpersonal communication skills – sociable, mostly sociable, unsociable.
 - 2.5.4. Information on the results of the judge's training at the National School of Judges and professional development during their term in office – positive, mediocre, negative.
 - 2.5.5. Ability to render justice in a court of relevant instance and specialisation – able, mostly able, unable,
 - 2.5.6. Ethical eligibility:
 - 2.5.6.1. Data on conformity of the judge's behaviour with the rules of judicial ethics – conforms, mostly conforms, does not conform.
 - 2.5.7. Anticorruption eligibility:
 - 2.5.7.1. Data on consistency between assets and expenditures of the judge, their family members and related persons, and their declared incomes, including copies of relevant declarations submitted by the judge as required by the anticorruption law – consistent, mostly

consistent, inconsistent.

2.5.7.2. Data on the judge's compliance with the anticorruption law requirements – complies, mostly complies, does not comply.

2.6. Assessment of criteria in the course of qualification evaluation:

2.6.1. A certain criterion shall be assessed negatively when most of its constituent indicators are assessed negatively.

2.6.2. The summative assessment of quantitative indicators shall take into account the judge's comments and documents provided to confirm relevant information.

2.7. The methodology of assessing judges' examination performance shall be described in the Regulation on Examination Procedure and Methodology of Assessing its Results in the Course of Qualification Evaluation of Judges. The Regulation shall be approved by the Commission upon consultations with the Council of Judges of Ukraine.

2.8. Test questions and moot court cases for the examination shall be systematically prepared by the National School of Judges of Ukraine based on the qualification evaluation criteria, jurisdiction and specialisation principles, Examination Syllabus.

2.9. The National School of Judges of Ukraine can contract judges, experts and scholars to write test questions and moot court cases.

2.10. The National School of Judges of Ukraine shall ensure that test questions and moot court cases for judges of relevant courts are reviewed by judges of higher instance courts, and subsequently submitted to the Commission.

2.11. The content, quantitative and qualitative performance indicators of the anonymous written test and practical assignment shall be defined by the Syllabus of Examination in the Course of Qualitative Evaluation of Judges (hereinafter referred to as the "Examination Syllabus"). The examination syllabi shall be developed by the National School of Judges of Ukraine, with due regard to the court instance and court/judges' specialisation, and approved by the Commission.

2.12. The National School of Judges of Ukraine, on instructions from the Qualifications Chamber, shall periodically revise and update the examination syllabi in order to ensure objective evaluation of judges.

2.13. The Examination Syllabus shall specify the following:

2.13.1.. Topics of test questions to check the level of knowledge of law.

2.13.2. Characteristics, type and number of moot court cases to be decided as a practical assignment to assess the ability to conduct trials.

2.13.3. Respective weights of test questions and practical assignments in a relevant examination.

3. Procedure for qualification evaluation

3.1. Every judge meeting the requirements set to the judicial position in a relevant

court shall be eligible for applying to participate in qualification evaluation of their ability to administer justice in a relevant instance court, within the announced competition to fill the judicial vacancy.

Candidates to be elected to judicial positions for life shall be eligible for applying to participate in qualification examination in the cases stipulated by Articles 76 and 77 of the Law.

3.2. Sample applications for qualification evaluations shall be approved by the High Qualifications Commission of Judges of Ukraine with a special decision to this effect, and subsequently posted on the Commission's official website.

3.3. Qualifications evaluation shall be conducted within two months upon receiving a judge's written application, except for the cases when a decision to conduct qualification evaluation was taken by the High Qualifications Commission of Judges of Ukraine following the application of disciplinary measures.

3.4. The Commission members, inspectors and staff (members of the Secretariat) shall be authorised to ensure the conducting of qualification evaluation, to perform administrative and organisational functions, to exercise general control, to settle extraordinary and conflict situations, to coordinate activities during the preparation and conducting of qualifications evaluation (hereinafter collectively referred to as the "authorised representatives"). The authorised representatives shall be entitled to enter the venues of qualification evaluation.

The list of authorised representatives shall be approved by the Head of the High Qualifications Commission of Judges of Ukraine who issues an order to this effect.

Sessions to discuss qualification evaluation shall be organised and held as specified in the Commission's Rules of Procedure.

3.5. A member of the Qualifications Chamber or, on their instruction, one of the Commission inspectors shall check the application admissibility for consideration and making a decision to conduct qualification evaluation. The checking shall be based on the judicial dossier obtained on demand for this purpose from the concerned unit of the Commission Secretariat.

3.6. Where the necessary information or documents confirming it are missing from the judicial dossier, the Qualifications Chamber member or, on their instruction, the Commission inspector can, at any stage of the qualification evaluation, initiate to demand and obtain the necessary information from courts, judges, the High Council of Justice, State Court Administration of Ukraine, judicial self-governance bodies, public authorities and local self-governments, their officials, companies, institutions and organisations of all forms of ownership and subordination, citizen associations and individuals. Failure to provide such information shall be punishable by law.

3.7. The application shall be returned without consideration if:

3.7.1. The judge fails to meet the requirements set by the Law to serving in a relevant instance court.

- 3.7.2. The candidate to be elected to a judicial position for life:
- 3.7.2.1. Earlier applied to the High Qualifications Commission of Judges of Ukraine for being elected to a judicial position for life.
 - 3.7.2.2. Retired from a judicial position more than three years earlier.
 - 3.7.2.3. Had been elected to a judicial position for life before, but retired more than three years earlier.
- 3.7.3. The judge (judicial candidate) sent to the Qualifications Chamber a request for their application to be left unconsidered, or failed to turn up for qualification evaluation, conducted on their application, without a valid reason.

3.8. In response to the application that meets the necessary requirements, the responsible Qualifications Chamber member shall prepare for the qualification evaluation procedure.

3.9. Following the decision on the application admissibility, the Qualifications Chamber member, where necessary, shall send to the concerned unit of the Commission Secretariat the judicial dossier for its updating, detailing, adding the data specified by them, and preparing for the qualification evaluation. This shall be done within three days upon the Commission's receiving the relevant application.

- 3.10. The qualification evaluation shall include the following stages:
- 3.10.1.. Judges' (candidates') sitting an examination.
 - 3.10.2. Reviewing the judicial dossiers and conducting interviews.
 - 3.10.2.1. A decision on recommending a retired Constitutional Court justice to be elected justice of the Supreme Court of Ukraine for life shall be made on the basis of an interview and the judicial dossier review, without the above examination.

3.11.. The qualification evaluation process shall be recorded with the use of video (examination) and audio (interview) recording equipment.

In order to create proper conditions for judges and judicial candidates during the examination and interview, as well as to ensure openness and transparency of the qualification evaluation, the Commission can provide for live video broadcasting of the evaluation process on its venue in real time, with due regard to the norms of paragraph 3.24. of this Procedure.

3.12. The High Qualifications Commission of Judges of Ukraine, no later than ten days before the qualification evaluation date, shall notify the judge (judicial candidate) of the date, venue and time of the evaluation.

3.13. The judge (judicial candidate) shall be notified with a letter inviting them to take part in the qualification evaluation (hereinafter referred to as the "invitation letter"). The invitation letter shall be sent to the judge by registered mail to their place of work. The invitation letter to the judicial candidate shall be sent by registered mail to the place of their permanent residence indicated in their application for the qualification evaluation. Information on the scheduled qualification evaluation and a copy of the invitation letter shall also be posted on the official website of the High Qualifications Commission of Judges of

Ukraine.

3.14. The invitation letter shall be sent pursuant to the decision of the High Qualifications Commission of Judges of Ukraine to conduct the qualification evaluation.

3.15. Examination:

3.15.1. Examination shall have the form of an anonymous written test and written practical assignment to be completed by the judge (judicial candidate).

Specifics of the primary qualification evaluation shall be described in Section 5 of this Procedure.

Within a period of five years, a judge can take a repeat examination but no earlier than three years after the previous examination.

3.15.2. The judge (candidate) shall register for the examination at its venue.

3.15.3. In the case of qualification evaluation as part of the competition to fill a judicial vacancy, participating judges start doing the written anonymous test and practical assignment simultaneously.

3.15.4. A judge (candidate) that is late for the examination can be allowed, by the Qualifications Chamber Head, to sit the examination within the time left.

3.15.5. Test questions and practical assignments for judges (candidates) shall be prepared in view of the jurisdiction and specialisation of the court, where they aspire to administer justice or confirm their qualifications level.

The examination can be conducted with due regard to the judge's specialisation determined by the judges' meeting in the relevant court.

3.15.6. The examination procedure and methodology of assessing the answers in the course of qualification evaluation of judges shall be established by a regulation approved by the Commission upon consultations with the Council of Judges of Ukraine.

3.16. Review of judicial dossier:

3.16.1. Review of judicial dossier shall take the form of the Qualifications Chamber member's systematising, analysing, collecting, detailing, clarifying and adding the data in order to measure preliminary indicators of the qualification evaluation criteria.

3.16.2. The judicial dossier shall be reviewed over the period of the judge's service from 1 January 2012, and where relevant information is available – over the whole period of the judge's service.

3.16.3. Concerned unit of the Commission Secretariat shall take measures to fill in the judicial dossier with required information, and where necessary the Commission inspector, on instructions from the Qualifications Chamber member, shall enter additional information into the judicial dossier.

3.16.4. The judicial dossier shall be reviewed by the Qualifications Chamber member based on current and reliable data.

3.16.5. The judge shall be entitled to peruse the materials of their judicial dossier no later than ten working days before the interview, except for the cases when a decision to conduct qualification evaluation was taken by the High Qualifications Commission of Judges of Ukraine following the application of disciplinary measures, photocopy the materials, provide duly attested copies of documents that supplement, disprove or clarify information

contained in the judicial dossier.

The judge shall have the right to provide their explanations and comments, including in the written form. The judge shall provide written comments no later than five working days upon reading the judicial dossier materials. The judge shall provide oral explanations during the interview.

3.16.6. Upon reviewing the judicial dossier, the Qualifications Chamber member shall, no later than five days before the Qualifications Chamber session, compile a report to be presented during the interview.

3.16.7. The report made by the Qualifications Chamber member upon reviewing the judicial dossier shall reflect the evaluated person's merits, achievements, qualifications and diligence, their skills and efficiency, the judge's quantitative and qualitative performance indicators; in particular, it shall contain the following data (given their availability and pertinence to the qualification evaluation of judges):

3.16.7.1. Merits and career achievements:

3.16.7.1.1. Number of opinions and content of decisions adopted in respect of the judge by the High Qualifications Commission of Judges of Ukraine, High Council of Justice, President of Ukraine, Verkhovna Rada of Ukraine.

3.16.7.1.2. Results of the judge's participation in competitions to fill judicial vacancies.

3.16.7.1.3. Results of the judge's special training for judicial candidates at the National School of Judges.

3.16.7.1.4. Holding of administrative positions by the judge.

3.16.7.1.5. The judge's election to judicial self-governance bodies, the High Qualifications Commission of Judges of Ukraine, High Council of Justice.

3.16.7.2. Qualifications:

3.16.7.2.1. Higher education (university degree).

3.16.7.2.2. Academic degree.

3.16.7.2.3. Academic rank/status.

3.16.7.2.4. Results of the judge's previous qualification evaluation (including the primary and repeat ones) during their term in office.

3.16.7.2.5. Teaching at the National School of Judges.

3.16.7.3. Diligence:

3.16.7.3.1. Information on the results of the judge's training at the National School of Judges and professional development during their term in office.

3.16.7.3.2. Results of the judge's regular evaluation during their term in office.

3.16.7.4. Skills: examination results as part of the relevant qualification evaluation procedure.

3.16.7.5. Efficiency:

3.16.7.5.1. Number of decided cases.

3.16.7.5.2. Number of reversed decisions.

3.16.7.5.3. Number of decisions, reviewed by international tribunals and other international organizations to find Ukraine in violation of its obligations under international law, including those reversed by the Supreme Court of Ukraine following the establishment of such violation.

- 3.16.7.5.4. Number of revised court decisions.
- 3.16.7.5.5. Observing the timeframes for deciding cases.
- 3.16.7.5.6. Average time of producing a well-reasoned decision.
- 3.16.7.5.7. Case load compared to that of other judges in a relevant court, region, given the court instance and the court/judge's specialisation.
- 3.16.7.5.8. Number of complaints against actions of the judge (candidate during their service in the judicial position) that were subject to enquiry.
- 3.16.7.5.9. Number of disciplinary proceedings.
- 3.16.7.6. Data on the judge's (candidate's) ethical eligibility.
- 3.16.7.7. Data on the judge's (candidate's) anticorruption eligibility:
 - 3.16.7.7.1. Consistency between assets and expenditures of the judge, their family members and related persons, and their declared incomes, including copies of relevant declarations submitted by the judge as required by the anticorruption law.
 - 3.16.7.7.2. Data on the judge's compliance with the anticorruption law requirements.

3.17. Interview:

3.17.1. Interview shall take the form of discussing the results of the judicial dossier review, and shall have the following stages:

3.17.1.1. Presentation of the report on the judicial dossier review by the concerned Qualification Chamber member.

3.17.1.2. Allowing the judge (candidate) to supplement, clarify, specify or disprove the report findings.

3.17.1.3. Successive discussion with the judge (candidate) of presented indicators in respective criteria, for final ascertaining of the judge's professional level.

During the discussion, the Qualifications Chamber member shall report on each indicator separately, with giving the judge an opportunity to provide comment or explanation.

3.17.2. Data on the judge's (candidate's) meeting ethical and anticorruption criteria shall be discussed during the interview without fail.

During the interview, the evaluated judge (candidate) shall be entitled to provide explanations on issues relating to the examination, information and documents contained in their judicial dossier, as well as provide comments, documents and information regarding various sections of their judicial dossier.

3.17.3. The Qualifications Chamber members shall be entitled to ask the judge questions about reported indicators.

3.17.4. The judge (judicial candidate) shall be entitled to refrain from providing comments or explanations on their performance indicators.

In this case, the data available in the judicial dossier shall not be changed during the interview when final indicators of qualification evaluation criteria are established.

3.17.5. Representatives of a judicial self-governance body can take part in discussing the judge's (judicial candidate's) qualification evaluation during the interview.

3.17.6. A break can be announced during the interview when there is a valid reason for doing so.

3.18. At any stage of the qualification evaluation, the judge (candidate) shall be entitled

to submit to the Qualifications Chamber duly attested copies of documents that supplement, disprove or clarify information contained in the judicial dossier.

3.19. The Qualifications Chamber shall hold an open session to consider the qualification evaluation of the judge (candidate) and invite, no later than twenty days before the interview, the evaluated judge (candidate) to attend it, except for the cases when qualification evaluation is conducted following the application of disciplinary measures.

3.20. Participation of the Qualifications Chamber members in the session dedicated to the qualification evaluation shall be mandatory. A member of the Qualifications Chamber may be excused from participating in the qualification evaluation only in the case of short-term disability, duly documented vacation or business trip, as well as of their substantiated recusal by the evaluated judge (candidate) or self-recusal.

3.21. A member of the Qualifications Chamber cannot participate in the case consideration and decision-making, and shall be subject to (self-)recusal when:

3.21.1. There is an obvious conflict of interests regarding a judge (judicial candidate) undergoing qualification evaluation.

3.21.2. Other circumstances likely to affect the Qualifications Chamber member's objectivity or impartiality have transpired.

All matters relating to recusal or self-recusal of the Qualifications Chamber members shall be resolved in accordance with Article 107 of the Law.

3.22. The judge's (candidate's) participation in the qualification evaluation shall be mandatory.

3.22.1. The judge's nonappearance for qualification evaluation within the competition to fill a judicial vacancy announced by the High Qualifications Commission of Judges of Ukraine shall not preclude holding such a competition.

3.22.2. The judge's failure to turn up for the qualification evaluation ensuing from disciplinary measures applied to them according to par. 3, Part 3, Article 83 of the Law of Ukraine "On the Judiciary and Status of Judges", without a valid reason, can lead to a decision on disconfirmation of their ability to administer justice in a relevant court.

3.22.3. Valid reasons for the judge's nonappearance for qualification evaluation or some of its stages shall include: short-term disability or other duly documented circumstances (that are beyond the judge's control and prevent them from participating in the qualification evaluation).

3.22.4.. The judge's vacation shall be deemed a valid reason for their nonparticipation in the qualification evaluation, provided it is duly formalised prior to the publication of the Commission's decision to conduct qualification evaluation.

3.22.5. The judge's business trip shall be deemed a valid reason for their nonparticipation in the qualification evaluation, provided it is duly formalised and/or commenced prior to the publication of the Commission's decision to conduct qualification evaluation.

3.22.6. If the judge is on a business trip, vacation or parental leave, and the period of their business trip, vacation or leave exceeds or coincides in duration with the overall period of the qualification evaluation as established by the High Qualifications Commission of

Judges of Ukraine, the judge shall be entitled to participate in the qualification evaluation within the established period.

3.22.7. Where the period of the judge's business trip, vacation or child-care and parental leave exceeds or coincides in duration with the overall period of the qualification evaluation as established by the High Qualifications Commission of Judges of Ukraine, the judge shall, within five working days upon their turning up to work, apply in writing to the High Qualifications Commission of Judges of Ukraine for setting a term for their qualification evaluation.

3.23. A candidate who was released from a judicial position due to the expiration of their term in office and who had earlier applied to the Commission for confirming their professional level in order to be elected to a judicial position for life shall not be entitled to a repeat qualification evaluation.

The judge cannot apply to the High Qualifications Commission of Judges of Ukraine for qualification evaluation earlier than one year after the Commission made a decision regarding the results of their latest qualification evaluation, irrespective of the decision made.

3.24. Any interested parties (stakeholders) can be present as observers during the anonymous written test, practical assignment, assessment of their results and the interview.

3.24.1. An interested party shall, no later than ten days before the date of a relevant evaluation stage, notify the Commission in writing about their intention to observe the evaluation and submit documents certifying their interest in the objective qualification evaluation of a certain judge, with their contact information for negotiating the observation procedure with the Commission.

3.24.2. The mass media shall not be considered interested parties (stakeholders) in the process of qualification evaluation, and shall have to be accredited in the order established by the Commission.

3.24.3. In the event of receiving the above notification, and in order to give such interested parties an opportunity to observe the evaluation, the Commission shall take measures to agree with the interested parties upon the observation procedure. The interested parties' presence shall not interfere with the Commission's work of conducting the examination and with the judge's writing the test and practical assignment, in line with the principle of judicial independence and respect to the judiciary.

3.24.4. If the observers fail to follow the observation procedure agreed with the Commission, an inspector or head of the concerned unit of the Commission Secretariat, in the presence of a Commission member, shall record this fact immediately in a relevant act and deny the non-compliant observer access to the examination on that occasion and in future.

3.24.5. Members of the High Qualifications Commission of Judges of Ukraine, inspectors and staff (members of the Secretariat) shall be authorised to ensure the organisational preparation for the examination, to perform administrative and organisational functions, to exercise general control of the examination procedure, to settle extraordinary and conflict situations, to coordinate activities during the preparation and conducting of the examination and interview (hereinafter collectively referred to as the "authorised representatives"). The authorised representatives shall be entitled to enter the venues of examination in the course of qualification evaluation.

3.24.6. The list of authorised representatives shall be approved by the Head of the High Qualifications Commission of Judges of Ukraine who issues an order to this effect.

3.24.7. The terms and conditions of the interested parties' presence at the qualification evaluation venue shall be set by the High Qualifications Commission of Judges of Ukraine.

3.25. Based on the qualification evaluation results, the Qualifications Chamber shall prepare a reasoned conclusion on confirming or disconfirming the judge's qualifications.

The reasoned conclusion shall be prepared in the absence of the concerned person or other persons other than the Commission members.

The reasoned conclusion shall be drafted by the Qualifications Chamber member who prepared the report on the judicial dossier review.

4. Decisions regarding qualification evaluation results

4.1. Guided by the reasoned conclusion drawn upon the consideration of the qualification evaluation process and outcomes, the Qualifications Chamber shall make a decision on:

4.1.1. Confirming or disconfirming the judge's ability to administer justice in a relevant court.

4.1.2. Giving or denying recommendation for the judge to be elected to a judicial position for life.

4.2. The Qualifications Chamber decision on confirming the judge's ability to administer justice in a relevant court or giving recommendation for the judge to be elected to a judicial position for life shall allow the judge (candidate) to proceed with their participation in the procedures envisioned by the Law.

4.3. The Qualifications Chamber's decision to disconfirm the judge's ability to render justice in a relevant court shall be give grounds for denying the judge participation in the competition to fill a judicial vacancy.

4.4. Where the candidate to be elected to a judicial position for life fails to get their requisite qualifications confirmed the Commission shall take a decision to deny them pertinent recommendation.

4.5. The Qualifications Chamber's decision to confirm the judge's ability to render justice in a relevant court following the application of disciplinary measures to them in the order established by par. 4, Part 1, Article 97 of the Law, shall lead to expungement of the disciplinary measure in the order established by the Law.

4.6. The Qualifications Chamber's decision to disconfirm the judge's ability to render justice in a relevant court following the application of disciplinary measures to them in the order established by par. 4, Part 1, Article 97 of the Law, shall lead to non-expungement of the disciplinary measure.

4.7. The Qualifications Chamber's decisions shall be taken by the majority of its

statutory membership, inclusive of members of the other chamber when they are co-opted for the qualification evaluation purposes.

4.8. The voting shall be held in the absence of the concerned judge or other persons other than the Commission members.

4.9. The Qualifications Chamber decision shall be announced right after it is taken at an open session in the evaluated person's presence, in the order established by the Commission's Rules of Procedure.

4.10. The Qualifications Chamber session can be attended by any interested parties, as well as representatives of the mass media.

4.11. When taking a decision on the Commission's behalf, the Qualifications Chamber shall indicate the names of its members who considered the matters relating to the qualification evaluation.

4.12. The Qualifications Chamber decision shall be issued in writing, and contain data on the date and place of making it, names of the Chamber members and the judge undergoing qualification evaluation, reasoning for the decision. The decision shall be signed by the Chamber Chair and members that took part in the decision-making.

4.13. If a Commission member who took part in considering the matters relating to the qualification evaluation holds a dissenting opinion, it shall be documented in writing, filed to the judicial dossier and reported by the Chair at the session.

4.14. If two or more Commission members who took part in considering the matters relating to the qualification evaluation and decision-making by the Qualifications Chamber hold a dissenting opinion, the Commission Head shall have the right to raise this issue at a joint session of the Commission's chambers, at which the final decision regarding the judge's qualification evaluation shall be made in the order established by the Commission's Rules of Procedure.

4.15. The Qualifications Chamber decision can be appealed to court in the order established by law.

4.16. The decision regarding the qualification evaluation that took legal effect shall be filed in the judicial dossier.

5. Specifics of primary and repeat qualification evaluation

5.1. Primary qualification evaluation of judges shall be carried out in order to make a decision on their ability to render justice in a relevant court.

5.2. The objective of the primary qualification evaluation shall be to ascertain the judge's ability to administer justice in a relevant court.

5.3. The primary qualification evaluation of justices of the Supreme Court of Ukraine, high specialised courts, and of judges of appellate courts shall be conducted jointly by the Commission's Qualifications and Disciplinary Chambers that form panels of three members (hereinafter referred to as the "Panel") based on mixed representation of both Commission Chambers.

The Panels shall be formed by a pertinent decision of the High Qualifications Commission of Judges of Ukraine specifying the Panel membership, Chairs and proceedings.

5.4. The primary and repeat qualification evaluation of local court judges who took judicial oath prior to the enactment of the Law and who administer justice shall be conducted by the Qualifications Chamber pursuant to its decision thereon.

5.5. The decision to conduct the primary and repeat qualification evaluation shall specify, in particular, the timeframes, schedule, venue(s) and time of the qualification evaluation.

The decision shall be published on the official website of the High Qualifications Commission of Judges of Ukraine within two working days of the date of making it.

The judge's participation in the primary and repeat qualification evaluation shall be mandatory.

A notification of the primary qualification evaluation shall be sent via electronic communications to the court, the judges of which should be evaluated, no later than 20 days before the evaluation date.

5.6. Stages in the primary qualification evaluation shall be as follows:

5.6.1. Examination:

5.6.1.1. Anonymous written test as part of the examination within the primary qualification evaluation shall take the form of a written presentment by the judge of certain provisions from jurisprudence of the Supreme Court of Ukraine and case law of the European Court of Human Rights, as selected by the Commission with due regard to the court instance and court/judge's specialisation.

5.6.1.2. The practical assignment within the primary qualification evaluation shall take the form of the judge's deciding a moot court case, prepared by the Panel or Qualifications Chamber members with due regard to the court instance and court/judge's specialisation.

5.6.1.3. The judicial dossier review and interview within the primary qualification evaluation shall be guided by the provisions of Section 2 and paragraphs 3.16.-3.18. of this Procedure.

5.7. Based on the primary qualification evaluation results, the Panel or Qualifications Chamber shall make a reasoned decision regarding the judge's ability to render justice in a relevant court.

5.8. If, based on the primary qualification evaluation results, the judge's ability to administer justice in a relevant court has not been confirmed, a decision shall be made to

suspend the judge from administering justice in their court and refer them to the National School of Judges of Ukraine for mandatory retraining and subsequent repeat qualification evaluation to confirm the judge's ability to administer justice in a relevant court.

5.9. Prior to and at any stage of the primary qualification evaluation the concerned judge shall be entitled to apply for retirement or voluntary resignation according to Article 120 of the Law of Ukraine "On the Judiciary and Status of Judges". In this case, the judge's qualification evaluation shall be discontinued.

5.10. The decision on disconfirmation of the judge's ability to administer justice in a relevant court made on the basis of the primary qualification evaluation results shall contain the following information: period of the judge's suspension from administering justice; duration of their retraining at the National School of Judges of Ukraine, with due regard to the instance and specialisation of the court where the judge serves; requirements to the retraining report to be compiled by the National School of Judges of Ukraine; timeframes for the repeat qualification evaluation.

Upon the judge's complying with the decision to refer them for retraining, the National School of Judges of Ukraine, within three days of the retraining completion, shall submit to the High Qualifications Commission of Judges of Ukraine a report on the judge's retraining results. Within five days of receiving the report from the National School of Judges of Ukraine, the Qualifications Chamber shall take a decision on the judge's repeat qualification evaluation, notifying them thereof as stipulated in paragraphs 3.12.–3.14. of this Procedure.

5.11. The repeat qualification evaluation of justices of the Supreme Court of Ukraine, high specialised courts, and of judges of appellate and local courts shall be conducted by the Qualifications Chamber.

5.12. Decisions regarding the primary and repeat qualification evaluation shall be made by the Qualifications Chamber of Panel on behalf of the High Qualifications Commission of Judges of Ukraine.

5.13. If, based on the primary qualification evaluation results, the judge's ability to administer justice in a relevant court has not been confirmed due to: the judge's failure to abide by the decision on qualification evaluation without valid reasons specified in paragraph 3.22.3. of this Procedure; the judge's failure to provide a statement, written explanations or documents in support of valid reasons for their non-compliance with the above decision or the establishing by the Panel or Qualifications Chamber, upon appropriate consideration of this matter, that there are no valid reasons for non-compliance with the above decision; the judge's failure to meet the requirements of this Procedure, – the Panel or Qualifications Chamber shall make a decision to disconfirm the judge's ability to administer justice in a relevant court, to suspend the judge from administering justice in their court and to refer them to the National School of Judges of Ukraine for mandatory retraining and subsequent repeat qualification evaluation to confirm the judge's ability to administer justice in a relevant court.

5.14. If, based on the repeat qualification evaluation results, the judge's ability to

administer justice in a relevant court has not been confirmed due to: the judge's failure to abide by the decision on qualification evaluation without valid reasons specified in paragraph 3.22.3. of this Procedure; the judge's failure to provide a statement, written explanations or documents in support of valid reasons for their non-compliance with the above decision or the establishing by the Panel or Qualifications Chamber, upon appropriate consideration of this matter, that there are no valid reasons for non-compliance with the above decision; the judge's failure to meet the requirements of this Procedure, – the Panel or Qualifications Chamber shall make a decision to disconfirm the judge's ability to administer justice in a relevant court, and conclude to recommend that the High Council of Justice consider dismissing the judge from office for the breach of oath.

5.15. The repeat qualification evaluation of judges shall be carried out as described in this Procedure in order to confirm the judges' ability to render justice in a relevant court according to the rules set in Section 3 of this Procedure.

5.16. Based on the repeat qualification evaluation results, the Qualifications Chamber shall make a reasoned decision on conforming or disconfirming the judge's ability to render justice in a relevant court.

If, based on the repeat qualification evaluation results, the judge's ability to administer justice in a relevant court has not been confirmed, a decision shall be made for the High Qualifications Commission of Judges of Ukraine to draw a conclusion to recommend that the High Council of Justice consider dismissing the judge from office for the breach of oath.

The decision on concluding by the High Qualifications Commission of Judges of Ukraine to recommend that the High Council of Justice consider dismissing the judge from office for the breach of oath in cases specified by part three, paragraph 6, Section II "Final and Transitory Provisions" of the Law of Ukraine "On Ensuring Right to a Fair Trial" shall be made jointly by both chambers of the High Qualifications Commission of Judges of Ukraine.

6. Specifics of qualification evaluation ensuing from disciplinary measures

6.1. The qualification evaluation of a judge ensuing from the application of disciplinary measures (hereinafter in this Section referred to as "the qualification evaluation") shall be conducted in the event of applying a disciplinary measure to the judge as stipulated in par. 4, Part 1, Article 97 of the Law (hereinafter referred to as the "disciplinary measure").

6.2. The objective of qualification evaluation shall be to ascertain the judge's ability to administer justice in the court where they serve, upon their undergoing a professional development course at the National School of Judges of Ukraine as designated by the body that conducted disciplinary proceedings against the judge.

6.3. The qualification evaluation shall be carried out pursuant to the decision of the body that conducted disciplinary proceedings against the judge to apply a disciplinary measure to them.

The judge's participation in the qualification evaluation shall be mandatory.

6.4. The bodies conducting disciplinary proceedings against judges shall be the High

Council of Justice and the High Qualifications Commission of Judges of Ukraine.

6.5. A decision to carry out the qualification evaluation shall be made by the Qualifications Chamber of the High Qualifications Commission of Judges of Ukraine.

6.6. The decision made according to paragraphs 6.3., 6.4. of this Procedures shall contain information on the following: period of the judge's suspension from administering justice; duration, topics and learning objectives of the professional development course at the National School of Judges of Ukraine, with due regard to the court/judge's specialisation and instance of the court where the judges serves; requirements to the information to be submitted by the National School of Judges of Ukraine on the outcomes of the professional development course; timeframes for qualification evaluation.

A copy of the decision to apply disciplinary measures shall be sent to the court where the judge serves and to the Qualifications Chamber.

6.7. Upon the judge's complying with the decision to refer them to the professional development course, the National School of Judges of Ukraine, within three days of the course (retraining) completion, shall submit to the High Qualifications Commission of Judges of Ukraine a report on the judge's professional development results. Within five days of receiving the report from the National School of Judges of Ukraine, the Qualifications Chamber shall take a decision on the judge's qualification evaluation, notifying them thereof.

6.8. The decision to carry out the judge's qualification evaluation shall specify, in particular, the timeframes, schedule, venue and time of conducting the qualification evaluation.

The decision shall be posted on the official website of the High Qualifications Commission of Judges of Ukraine within two working days of making it.

6.9. The qualification evaluation of the judge shall be organised and conducted according to the rules established by Section 3 of this Procedure.

6.10. Based on the judge's qualification evaluation results, the Qualifications Chamber shall prepare a reasoned conclusion guiding one of the following decisions:

- 1) The Qualifications Chamber decision to confirm the judge's ability to administer justice in a relevant court;
- 2) Decision of the High Qualifications Commission of Judges of Ukraine to deny confirmation of the judge's ability to administer justice in a relevant court.

6.11. The Qualifications Chamber decision on the qualification evaluation results shall be duly documented within five working days of making it.

A copy of the decision shall be provided to the concerned judge, upon their written request, within five working days of the request registration with the High Qualifications Commission of Judges of Ukraine.

6.12. A copy of the Qualifications Chamber decision shall be filed in the judicial

dossier.