



Judicial reform in Ukraine: successes, challenges, and future priorities

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Introduction

Before the 2013–2014 Revolution of Dignity, the level of trust to Ukrainian courts was one of the lowest in the world (16%). OECD findings of 2014 suggest that Ukraine ranked the lowest in the degree of confidence in courts (12%) compared to other member states. The situation did not change much after the Revolution of Dignity. According to 2015 polls, less than 1% of the population trusts courts completely, whereas only 8% trust courts to some degree.

Despite numerous legislative changes, the courts remain one of the institutions that society trusts the least. According to a survey conducted at the end of 2023, merely 16% of respondents trust the judiciary,¹ and 22% trust the Supreme Court,² which is at the top of the judicial system. As per those surveyed, the main factors contributing to distrust in the judiciary are corruption among judges (63%), judges' impunity (47%), blue wall of silence in the judiciary (45%), and a lack of judges' integrity (42%). These figures indicate that judicial reform is far from complete. Ukraine still has many steps to take to achieve the rule of law and to fulfil EU's recommendations³ in the justice sector.

1 Ilko Kucheriv Democratic Initiatives Foundation, *Підсумки 2023 року: громадська думка українців [2023 summary: public opinion of Ukrainians]*, December 27, 2024, <https://dif.org.ua/article/pidsumki-2023-roku-gromadska-dumka-ukraintsv>.

2 DEJURE Foundation, *60% українців не довіряють Верховному Суду, а пріоритетом вважають кадрове оновлення судової системи – опитування [60% of Ukrainians do not trust the Supreme Court, and consider personnel renewal of the judicial system a priority – survey]*, January 18, 2024, <https://dejure.foundation/60-ukrayincziv-ne-doviryayut-verhovnomu-sudu-a-priorytetom-vvazhayut-kadrove-onovlennya-sudovoyi-systemy-opytuvannya/>.

3 DEJURE Foundation, *Judicial reform and legal education are at the centre of demands for Eurointegration*, August 8, 2023, <https://dejure.foundation/en/judicial-reform-and-legal-education-are/>.

Three key factors have influenced⁴ the current state of Ukraine's judiciary. First, Ukraine inherited its judiciary from the Soviet Union, where judges were never independent and acted under the direction of political authorities and the KGB, a Soviet security and intelligence agency. After gaining independence, the Ukrainian judiciary was not reformed, and judges with Soviet mentality retained their positions. Only the elites who influenced the judges changed. Second, the political authorities controlled the selection and promotion of judges, ensuring the latter's political loyalty and perpetuating the Soviet model. Third, oligarchs and politicians exploited the courts and judicial governance bodies for personal benefit and impunity. Additionally, judicial institutions were used by individuals related to Russia to protect their interests. Political dependence and corruption of judges reached its peak during Yanukovich's regime when the courts were used to suppress peaceful demonstrations⁵ (the 2013–2014 Revolution of Dignity). Those events underscored the urgent need for judicial reform, as it revealed the courts' political dependence and the public's lack of trust in the judiciary.

Initial efforts to reform the judiciary relied too heavily on unreformed institutions,⁶ particularly on judicial governance bodies (the High Qualification Commission of Judges (the HQCJ) and the High Council of Justice (HCJ)), which had no interest in self-cleansing and aimed to preserve the *status quo*. As a result, those reforms failed.

Recent reforms have learned the lessons of past failures to some extent and relied on selection commissions that verify the integrity of candidates for judicial governance bodies, as well as candidates for the High Anti-Corruption Court and the Constitutional Court. The most effective mechanism here was the commission composed solely of experts delegated by international donors (the Public Council of International Experts). Therefore, this mechanism should be carried on and utilised in the renewal of the Supreme Court.

This report covers the main legislative changes and trends in the judiciary from 2014 to September 2024. However, the primary focus is on developments since 2021, when the Verkhovna Rada passed two significant laws aimed at rebooting the HQCJ and the HCJ, which conduct the selection of judges and their disciplinary accountability. The reformed HCJ and HQCJ began their work in 2023. Therefore, this report analyses the trends and effectiveness of these bodies and discusses the need for reforms of the key courts: the Constitutional Court, the Supreme Court, and the High Administrative Court, whose establishment is still anticipated by the public and Ukraine's international partners.

The authors of this report recognise that achieving the rule of law in the country depends on many factors, including the effective separation of powers, sustainable and democratic mechanisms for government transition, strong institutions across all three branches of power, and a developed civil society. However, for the purposes of this study, we focus solely on the judiciary and related sectors (the Bar, legal education).

Structure of the judicial system of Ukraine

The judicial system of Ukraine consists⁷ of judicial self-governance bodies and courts of different levels.

4 *Elite Capture and Corruption of Security Sectors*, United States Institute of Peace, February 17, 2023, <https://www.usip.org/publications/2023/02/elite-capture-and-corruption-security-sectors>

5 *Хто такі судді Майдану? [Who are Maidan Judges]*, https://www.maidan-judges.info/who_are_they.

6 *Elite Capture and Corruption of Security Sectors*, United States Institute of Peace, February 17, 2023, *ibid*.

7 *Ukrainian Judiciary*, <https://dejure.foundation/en/ukrainian-judiciary/> (access hereinafter: August 4, 2024)

The High Council of Justice (HCJ) is the most important body of judicial governance responsible for the appointment, dismissal and disciplinary measures against judges. The role of the chairperson, who signs decrees on the appointment of judges, is rather ceremonial. The HCJ consists of twenty one members elected by the All-Ukrainian Congress of Judges (which appoints ten members), the parliament, the president, the Congress of Advocates of Ukraine, the Conference of Prosecutors, the Congress of Representatives of Law Schools and Research Institutions, which appoint two members each. The Chief Justice of the Supreme Court is an *ex officio* member of the HCJ.

The High Qualifications Commission of Judges (HQCJ) is responsible for the selection and qualification assessment of judges or candidates for the position of a judge. This body has sixteen members appointed by the HCJ on a competitive basis.

The Congress of Judges of Ukraine convenes every two years and consists of delegates from courts of all jurisdictions and instances. The main functions of the Congress of Judges are to analyse reports of the Council of Judges, the High Qualifications Commission of Judges and the State Judicial Administration. In addition, the Congress elects six judges of the Constitutional Court and ten members of the High Council of Justice, as well as members of the Council of Judges.

The Council of Judges of Ukraine (CJU) is the executive body of the Congress of Judges and consists of 30 judges elected by the Congress. The CJU convenes the Congress of Judges and ensures the implementation of its decisions. One of its main tasks is to develop and implement measures to ensure independence of judges. It also considers and decides on the legal and social protection of judges and their families. It makes proposals to national and local authorities on the operation of the courts. The Council of Judges also ensures compliance with the law on issues related to conflicts of interest of judges, members of the HQCJ and the State Judicial Administration, and takes decisions to eliminate such conflicts.

The State Judicial Administration (SJA) is a state body in the justice system that provides organisational and financial support to the judiciary and is subordinated to the HCJ. Among the key functions of the State Judicial Administration is ensuring proper conditions for the effective operation of courts, the High Qualifications Commission of Judges and judicial governance bodies. The SJA examines the issues of court performance, develops and submits proposals for its improvement, prepares a request for the annual budget for the functioning of justice, ensures implementation of the e-justice system and maintains the Unified State Register of Court Decisions.

The judicial system itself comprises the **Constitutional Court of Ukraine (CCU)**, which operates independently of the ordinary courts and deals with the constitutionality of laws and governmental acts. **The Supreme Court (SC)** is the highest court of general jurisdiction, which provides a case law analysis and, in certain cases, acts as an appellate court or court of cassation through its Grand Chamber and courts of cassation in criminal, civil, administrative and commercial cases. The judicial system also includes **specialised courts: The High Anti-Corruption Court (HACC)** and the **High Court on Intellectual Property (IP Court)**. The judicial system also includes **first instance courts and courts of appeal**, which conduct initial and appellate review of cases, respectively.

List of Acronyms

HCJ – High Council of Justice
HQJ – High Qualifications Commission of Judges
CJU – Council of Judges of Ukraine
SJA – State Judicial Administration
CCU – Constitutional Court of Ukraine
SC – Supreme Court of Ukraine
HACC – High Anti-Corruption Court
IP Court – High Court on Intellectual Property
PIC – Public Integrity Council
NABU – National Anti-Corruption Bureau of Ukraine
SAPO – Specialised Anti-Corruption Prosecutor’s Office
PCIE – Public Council of International Experts
DIS – Disciplinary Inspectors Service
AGE – Advisory Group of Experts
SSU – Security Service of Ukraine
HAC – High Administrative Court of Ukraine
DACK – Kyiv District Administrative Court
UNBA – Ukrainian National Bar Association
UBA – Ukrainian Bar Council
HQDBC – Higher Qualifications and Disciplinary Bar Commission of Ukraine
HSA – Higher School of Advocacy
MES – Ministry of Education and Science of Ukraine
HEI – Higher Education Institution
MIA – Ministry of Internal Affairs
USQE – Unified State Qualification Exam

Preconditions for the current judicial reform

Over the past decade, Ukraine has made significant progress in judicial reform, in particular towards increasing independence and accountability of the judiciary. The need for judicial reform was particularly acute during the 2013–2014 Revolution of Dignity, which pinpointed political dependence of courts⁸ and lack of public trust in the judiciary. From 2014 till 2016, the Ukrainian Parliament adopted the laws On Restoring Public Trust in the Judiciary and On Government Cleansing (Lustration Law), which aimed to reduce political influence on the judiciary by dismissing former chief justices and members of judicial governance bodies and appointing new ones.

Another law of 2015 On Ensuring the Right to a Fair Trial introduced a qualification assessment procedure for judges, including integrity checks. The next stage of the reform in 2016 included constitutional amendments and a new law On the Judiciary and the Status of Judges, which provided for the introduction of competitive selection to the Supreme Court, the establishment of the High Anti-Corruption Court and the formation of the Public Integrity Council (PIC) to strengthen the role of civil society in vetting judges. Unfortunately, despite these legislative changes their implementation has not yielded tangible results. The PIC published negative opinions on about 25% of newly appointed

⁸ *Хто такі судді Майдану?* [Who are Maidan Judges], https://www.maidan-judges.info/who_are_they.

judges of the Supreme Court.⁹ Regarding another 50 per cent of the appointed judges, the PIC provided information that may show lack of integrity on their part. The interim results of the qualification assessment of judges¹⁰ also demonstrated an inefficient vetting process – according to the results, only 0.5% of judges were dismissed.

However, the PIC's experience has become a good example of civil society involvement in the vetting of judges. The PIC, which consists of representatives of NGOs, journalists and representatives of the academic community, has proved that it can act professionally, effectively and independently. It is for this reason that the PIC is constantly attacked by judges and political authorities, who have no control over the council.

Independence and responsibility of judges

According to the Constitution of Ukraine and the Law of Ukraine on the Judiciary and the Status of Judges, judges are appointed for life. The parliament has no influence on the appointment and dismissal of judges, and the president performs a ceremonial function of appointment. Nevertheless, even after the relevant amendments to the constitution were introduced, the journalists reported¹¹ facts of improper political influence on judges. Even though the political authorities formally do not have any official instruments of influence, informal ways of influencing judges and putting pressure on them still remain, mainly due to the fact that judges themselves are open to such influence.

In addition to political influence, Ukrainian judges often follow the instructions of their influential colleagues. For example, in December 2018, during the selection of members of the High Council of Justice, judges of the Constitutional Court and members of the Council of Judges at the Congress of Judges, the participants of the meeting did not express their own will, but voted for the candidates agreed upon in advance.¹²

The current legislation retains a mechanism that allows for informal influence on judges by chief justices, who, despite the lack of formal authority, influence court decisions or elections to the bodies of judicial governance. It is confirmed by the stories¹³ of Larysa Holnyk¹⁴ and Serhiy Bondarenko.¹⁵ The proposed solution is to liquidate the position of chief justices (except for the chief justice of the Supreme Court) and transfer their duties to the heads of court secretariats. The relevant bill No. 8342 was registered in the parliament in January 2023.

9 *Establishment of the new Supreme Court: key lessons*, <https://dejure.foundation/en/establishment-of-the-new-supreme-court-key-lessons/>.

10 *Qualification Assessment of Judges: A Brief Overview of Interim Results* (as of April 1, 2019), https://pravo.org.ua/wp-content/uploads/2020/10/1554972804qualification_report_short_version_eng.pdf.

11 Сергій Андрушко, *Черга на Банкову (спецрепортаж)* [A Queue to Bankova Street (special report)], Radio Svoboda, January 19, 2017, <https://www.radiosvoboda.org/a/28243843.html>.

12 *Members of the HCJ do not meet the criteria of integrity and are appointed either for obvious political reasons or in violation of the law*, <https://vrpfails.dejure.foundation/en/members-of-the-hcj-do-not-meet-the-criteria-of-integrity>.

13 *Failures of the Council of Judges*, <https://provaly-rady-suddiv.webflow.io/failures-of-the-council-of-judges>.

14 Людмила Тягнирядно, *Суддя-викривач Лариса Гольник: «Я відчувала моральний тиск і від голови суду, і від колег»* [Whistleblower Judge Larysa Holnyk: "I felt moral pressure both from the Chief Judge and Colleagues"], lb.ua, September 20, 2016, https://rus.lb.ua/news/2016/09/20/345388_suddyavikrivach_larisa_golnik_ya.html.

15 Микола Мирний, *Ціна незалежності українського судді* [The Price of Independence of a Ukrainian Judge], zmina.info,

15 квітня 2015, https://zmina.info/articles/cina_nezalezhnosti_ukrajinskogo_suddiv/.

After the Revolution of Dignity (2013–2014), along with amendments to the constitution, Ukraine implemented the controversial standard of the Council of Europe¹⁶ that the majority of judges in bodies of judicial governance should be elected by judges. Thus, the powers to appoint and dismiss judges from the legislative and executive branches were transferred to the judicial corporation. However, granting independence to the unreformed judiciary that lacks integrity did not contribute to the independence of the courts and enhancement of public trust in the judiciary. This decision illustrated that granting autonomy to the system promotes the *status quo*. At the same time, granting self-governance to the system is not a good solution in case the system needs to be reformed. As a result, the implementation of the Council of Europe standard has become an example of a failed reform based on formal copying of solutions that work for completely different purposes, without taking into account the local Ukrainian context. The latter means that if judges are given autonomy for self-cleansing, it has the opposite effect resulting in the concentration of power in the hands of the judicial mafia and their political patrons. As a result, those individuals do not intend to cleanse the judiciary, rather to hold the power and to fake changes. Therefore, Ukrainian experience shows that cleansing the judiciary must be carried out by independent external experts. Implementation of the European standards in judicial governance without taking into account the local context in the past resulted in the extremely questionable consequences¹⁷ in other Central and Eastern European countries. Now the same mistake has been repeated by Ukraine. Corrupt elites in the judiciary utilised their influence to obstruct the reforms, delegate corrupt members to selection commissions, which play a crucial role in the reboot of the judicial governance bodies, and to appoint judges of questionable integrity rather than agents of change as members of the judicial governance bodies.

Along with the implementation of the Council of Europe standard on the independence of the judiciary, no instruments were introduced to ensure integrity and accountability of judges. Consequently, judges that lack integrity started using¹⁸ European standards and the bodies created on the basis of their implementation to protect themselves from any attempts to reform the judiciary. International partners subsequently recognised the problem. In 2020, the Venice Commission stressed¹⁹ that the HCJ members integrity issue was urgent and should be addressed without any delay. The International Monetary Fund and the EU included the reform of the judiciary in the list of reforms that Ukraine had to implement in order to receive financial assistance. At the same time, in January 2021, G7 ambassadors to Ukraine included the reform of judicial governance with the involvement of international experts in the list of priorities²⁰ for judicial and anti-corruption reforms.

The first attempt to reform the HCJ and the HQCJ was made in 2019, but the law that provided for the renewal of the composition of the judicial governance bodies with the participation of international experts was never implemented. In particular, the law empowered the unreformed HCJ to block the

16 *Judges: independence, efficiency and responsibilities Recommendation CM/Rec(2010)12 adopted by the Committee of Ministers of the Council of Europe on 17 November 2010 and explanatory memorandum*, Council of Europe Publishing, <https://rm.coe.int/cmrec-2010-12-on-independence-efficiency-responsibilites-of-judges/16809f007d#:~:text=33.-,Recommendation%20No.,the%20interests%20of%20the%20profession.>

17 Michal Bobek, David Kosař, *Global Solutions, Local Damages: A Critical Study in Judicial Councils in Central and Eastern Europe*, Cambridge University Press, 2019, <https://www.cambridge.org/core/journals/german-law-journal/article/global-solutions-local-damages-a-critical-study-in-judicial-councils-in-central-and-eastern-europe/CDEF5A8EA2FEA3FE4B843060F145A4B2>.

18 *Failures of the High Council of Justice*, <https://vrpfails.dejure.foundation/en/>.

19 *CDL-AD(2020)022-eUkraine – Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft amendments to the Law ‘on the Judiciary and the Status of Judges’ and certain Laws on the activities of the Supreme Court and Judicial Authorities (draft Law no. 3711), adopted by the Venice Commission at its 124th online Plenary Session (8–9 October 2020)*, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)022-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)022-e).

20 *Judicial and Anti-Corruption Reform Priorities*, <https://docs.google.com/document/u/0/d/e/2PACX-1vRKC1mbwXaFSBLHgrYGds7g4nIv8JYk4FvEWw0cSOgl1ATc08CRRvzc8mATq3-9YQ/pub?pli=1>.

renewal of the judicial governance bodies. The HCJ members were able to block²¹ the participation of international experts in this process and effectively stop the reform.

As Ukraine moves toward European integration, it must implement comprehensive reforms to ensure the judiciary's independence and accountability. However, EU legislation is very limited in this area. Therefore, EU member states enjoy significant autonomy in shaping their judicial systems. Moreover, the experience of Ukraine and other Central and Eastern European countries shows that simply replicating solutions from Western democracies, particularly in the area of judicial governance, can be detrimental.²² Therefore, Ukraine should create its own approach, drawing from both the lessons from previous failed reforms and the recent achievements. The only mechanism that has consistently proven highly effective is the selection commissions made up entirely of independent international experts.²³ Such commissions verify integrity in candidates for positions in judicial governance bodies and courts of the highest instance. Thus, this model should be continued, particularly in the selection of judges for the Supreme Court and the High Administrative Court. In contrast, hybrid commissions, where three members are delegated by the unreformed Ukrainian judiciary and three – by international donors, yield significantly worse results.²⁴ More details regarding the crucial role of international experts in the selection commissions are provided in sections 4, 5 and 9 of this report.

Establishment of the High Anti-Corruption Court as one of the greatest successes of judicial reform in Ukraine

The establishment of a separate, specialised High Anti-Corruption Court of Ukraine (HACC) was the next major step in the development of the anti-corruption infrastructure after the establishment of the National Anti-Corruption Bureau (NABU) and the Specialised Anti-Corruption Prosecutor's Office (SAPO). The creation of the HACC was primarily driven by the inability of the unreformed judicial system to effectively handle top corruption cases investigated by the newly created NABU and SAPO.

Despite the fact that the initiative to create the HACC was launched in 2015, the law establishing the court was adopted only in June 2018 after significant pressure from²⁵ the International Monetary Fund, other international partners and civil society. According to the law, selection of HACC judges²⁶ required creating the Public Council of International Experts (PCIE), a commission consisting of six international experts with impeccable reputation. PCIE members had the right to veto candidates failing to meet the integrity criteria. The PCIE veto could only be overridden by a joint vote with the High Qualification Commission of Judges.

Based on the results of the selection procedure, the PCIE compiled a list of candidates who met the integrity criteria, and the final decision on appointments to the HACC was made by the Ukrainian bodies

21 Галина Чижик, *Як дискредитована Вища рада правосуддя блокує судову реформу* [How the Discredited High Council of Justice Blocks the Judicial Reform], Українська правда, December 6, 2019, <https://www.pravda.com.ua/columns/2019/12/6/7234019/>.

22 Michal Bobek, David Kosař, *Global Solutions, Local Damages: A Critical Study in Judicial Councils in Central and Eastern Europe*, Cambridge University Press, 2019, *ibid*.

23 DEJURE Foundation, *Formation of the High Anti-Corruption Court: how 38 judges were selected among 343 candidates*, August 11, 2020, <https://dejure.foundation/en/formation-of-the-hac-how-38-judges-were-selected-among-343-candidates/>.

24 DEJURE Foundation, *Judicial reform on the brink of disaster: the Ethics Council admits candidates of low integrity to the High Council of Justice, blocks decent ones and does not explain its decisions*, June 24, 2024, <https://dejure.foundation/en/y769m49521-judicial-reform-on-the-brink-of-disaster/>.

25 Olena Halushka, Daria Kaleniuk, Tetiana Shevchuk, *MEMO: Ukraine's anti-corruption theory of change*, Anticorruption Action Center, https://drive.google.com/file/d/1K28H6xX_UHMPYsFnp8frFnqXzIjYRYGI/view.

26 DEJURE Foundation, *Formation of the High Anti-Corruption Court: how 38 judges were selected among 343 candidates*, August 11, 2020, <https://dejure.foundation/en/formation-of-the-hac-how-38-judges-were-selected-among-343-candidates/>.

of judicial governance. At the same time, international donors funded the work of the PCIE's secretariat and members, and helped develop the regulation and other internal documents. The HACC selection procedure was exemplary: no judge whose integrity was questioned was appointed to the court. Therefore, the procedure involving the PCIE should be replicated in the selection of judges to other courts and judicial governance bodies.

The HACC started its work in September 2019, with several dozens of officials having already been convicted, including prosecutors, judges, as well as heads of state-owned enterprises and officials of various levels. As of September, 2023 HACC has delivered 138 judgements.²⁷ The HACC Appeals Chamber reviewed fifty five of them, confirming twenty eight. Twenty three cases resulted in acquittals. A total of 157 people were convicted of corruption offences.

Given the quantitative increase in court cases, the HCJ increased the number of HACC judges from thirty nine to sixty three. In December 2023, Ukraine made a commitment to the IMF to appoint new judges by August 2024 following a transparent competition that officially began on the 1st of March.

Twelve candidates were recommended for the PCIE by the international organisations, of whom the HCJ selected six at the end of April 2024.²⁸ Civil society expects the PCIE to maintain its previous high standards of work. The competition to the HACC will also be a serious test for the new HCJ, demonstrating the quality of its work.

Reform of judicial governance bodies: High Council of Justice and High Qualifications Commission of Judges

Volodymyr Zelenskyy's victory in the 2019 presidential election marked a new stage of judicial reform. One of President Zelenskyy's first steps was submitting to the parliament a bill on judicial reform aimed at restarting judicial governance bodies with the participation of international experts. Although the law was quickly passed, the High Council of Justice managed to block the reform.

The next attempt to reform the HCJ and the HCQJ took place in 2021, when the Verkhovna Rada passed two laws that took into account the mistakes of previous failed reforms. This time the HCJ was deprived of the opportunity to block the reform. The new laws provided for the creation of two commissions that were supposed to verify the integrity of the current members and select candidates for the HCJ and the HCQJ – the Ethics Council and the Selection Commission. Both commissions were established on a similar model – each of them consisted of six members, half of whom were judges or former judges delegated by the Ukrainian judiciary and the other half were independent international experts delegated by the international donors. According to the law, the international experts were entitled to make the final decision in the event of a tie.

The HCJ reform²⁹ consisted of two stages: first, the Ethics Council had to verify the integrity of the current HCJ members, and then start interviewing candidates for the HCJ. At the beginning of 2022, most

²⁷ *Будівля нова, але ґрунт ненадійний: які системні проблеми впливають на роботу ВАКС [The Building Is New, But The Foundation Is Unreliable: The Systemic Problems That Affect the Work of HACC]*, Українська правда, September 5, 2023, <https://www.pravda.com.ua/columns/2023/09/5/7418480/>.

²⁸ *Комісія обрала членів Громадської ради міжнародних експертів [The Commission Has Elected the Members of the Public Council of International Experts]*, <https://vkksu.gov.ua/page/sklad-grme>.

²⁹ DEJURE Foundation, *High Council of Justice 2.0: reboot (analysis of competitive selection for vacant positions and evaluation of the current members)*, October 10, 2023, <https://dejure.foundation/en/high-council-of-justice-2-0-reboot-analysis-of-competitive-selection-for-vacant-positions-and-evaluation-of-the-current-members/>.

of the existing HJC members resigned, as they realised that the results of the Ethics Council integrity review would not be in their favour. This significantly accelerated the renewal of the body.

The implementation of the HCJ and HQCJ reforms was suspended due to Russia's full-scale invasion of Ukraine, but the Ethics Council resumed its work in May 2022. A significant impetus for further implementation of the HCJ and HQCJ reforms was granting Ukraine the EU candidate status. The European Commission identified seven priorities for Ukraine, the fulfilment of which would open the door to accession negotiations. The second item on the European Commission's list of priorities is the continuation of the HCJ and HQCJ reforms.

Despite the importance of adhering to the principles of openness and transparency during the HCJ reform, the Ethics Council decided to make the interviews with the candidates non-public by stopping their broadcast, and did not provide sufficient reasoning in its decisions on the recommended candidates. Thus, the public could not determine whether the recommended candidates were able to disprove doubts regarding their lack of integrity. At the same time, the Ethics Council ruled that integrity requirements were met by Inna Plakhtiy, Oksana Blazhivska and Vitaliy Salikhov, three members of the old unreformed HCJ who violated asset declaration rules, punished whistleblower judges and refused to bring unethical judges to justice. At the same time, the Ethics Council stated that a well-known whistleblower judge, Larysa Holnyk, the judge of the Oktiabrskyi District Court of Poltava, failed to meet the integrity standards. In response, leading CSOs made a statement that by doing so, the Ethics Council puts at risk the credibility of the reform results, as the decisions of the Ethics Council are not public and lack justification.³⁰

In its turn, the Selection Commission conducted a transparent competition³¹ to the HQCJ, actively engaging with the public and effectively vetting candidates.

As a result of the selection process to the HCJ and the HQCJ, most blatantly corrupt candidates were not recommended for appointment. However, according to the law, the final decision on the appointment of HCJ members is not made by commissions composed of international experts, but by Ukrainian authorities, including the judiciary itself. As expected, the judges did not appoint agents of change and progressive members to the judicial governance bodies. In January 2023, the Congress of Judges appointed eight new HCJ members.³² Candidates with impeccable reputation known for their anti-corruption activities were not appointed to the HCJ. One of the newly appointed HCJ members, Serhiy Burlakov, has discrepancies in his asset declarations and has repeatedly visited Russia after the annexation of Crimea and Russia's occupation of a part of Ukrainian territory. Moreover, the public has expressed concerns about the integrity of the new HCJ members appointed by the Congress of Judges. At present, HCJ members Burlakov and Salikhov often delay considerations³³ of disciplinary

30 Oleg Sukhov, *Watchdogs say Ukraine's judicial reform on brink of catastrophe*, Kyiv Independent, June 24, 2022, <https://kyivindependent.com/watchdogs-say-ukraines-judicial-reform-on-brink-of-catastrophe/>.

31 DEJURE Foundation, *4 years, 2 laws, 16 members: how the new composition of the High Qualification Commission of Judges of Ukraine was selected*, August 10, 2023, <https://dejure.foundation/en/4-years-2-laws-16-members-how-the-new-composition-of-the-high-qualification-commission-of-judges-of-ukraine-was-selected/>.

32 DEJURE Foundation, *Results of the XIX Congress of Judges: the operational HCJ and questions for its new members*, <https://dejure.foundation/en/jh8ui4ms31-results-of-the-xix-congress-of-judges-th/>.

33 DEJURE Foundation, *DEJURE Foundation filed a complaint against Serhiy Burlakov, a member of the HCJ. He is delaying the consideration of the disciplinary case against Vsevolod Knyazev*, April 11, 2024, <https://dejure.foundation/en/dejure-foundation-filed-a-complaint-against-serhiy-burlakov-a-member-of-the-hcj-he-is-delaying-the-consideration-of-the-disciplinary-case-against-vsevolod-knyazev/>.

complaints and cover up³⁴ the actions of judges who lack integrity. For its part, the new HCJ did not appoint to the HQCJ the most progressive candidates from the list recommended by the Selection Commission.

The judicial governance bodies have been almost completely renewed and have already achieved some success, but these bodies still do not fulfil the expectations of the public regarding the cleansing of the judiciary.

The HCJ has achieved increased transparency, successfully formed the full composition of the HQCJ, and generalised disciplinary practices. However, it has failed in several areas, including providing justification for dismissals of disciplinary cases, prioritising complaints against judges as well handling high-profile and priority cases in a timely manner. Additionally, the HCJ has granted honourable resignations to judges of low integrity, made inconsistent decisions on disciplinary actions, and imposed lenient disciplinary sanctions. It has also failed to hold judges accountable, denied the public's right to criticise judges, and did not adequately assess candidates' compliance with judicial requirements.

Despite some achievements, such as setting up low integrity indicators together with the Public Integrity Council (PIC) and recommending the dismissal of a few judges of low integrity, the HQCJ features several areas of concern. Those include inconsistent adherence to agreed indicators of judges' low integrity, as well as various practices and decision rationale among its panels. Furthermore, society lacks public access to judges' dossiers, which reduces the efficacy of oversight, while the PIC is provided with limited remote access to full judges' dossiers. The HQCJ Secretariat remains unreformed, with questionable integrity and competence, causing delays. Other problematic areas include the absence of an analytical centre for gathering information on judges and disorganisation due to the continued absence of the HQCJ head.

The composition of the newly reformed bodies features higher integrity. However, the model of selection commissions consisting of three Ukrainian judges and three international experts with a casting vote has shown worse results than the PCIE model consisting of six international experts. Therefore, in the future, the PCIE or a commission formed on a similar model should be involved in the process of the selection of judges.

Qualification assessment

The qualification assessment of judges was introduced in 2015 and was subsequently enshrined in the constitution with the amendments made in 2016. Its main purpose was to assess the professionalism and integrity of judges. Those who could not explain the origin of their funds failed the assessment and therefore could be dismissed. Despite good legislation, the qualification assessment has proved to be extremely ineffective.³⁵ In 2015–2019, out of all the judges who underwent qualification assessment, only 6% were recommended for dismissal, with only about 0.5% having been effectively dismissed. Although the interviews were broadcast online, the HQCJ often made decisions with a conflict of interest. The decisions themselves were not transparent, allowing unethical judges to easily pass the assessment.

34 DEJURE Foundation, *Just because he can: the HCJ did not bring to responsibility judge Kovhanych, who doubled the speed limit, threatened and ran over a policeman's foot and fled the scene*, April 17, 2024, <https://dejure.foundation/en/just-because-he-can-the-hcj-did-not-bring-to-responsibility-judge-kovhanych-who-doubled-the-speed-limit-threatened-and-ran-over-a-policemans-foot-and-fled-the-scene/>.

35 *Qualification Assessment of Judges: A Brief Overview of Interim Results (as of April 1, 2019)*, https://pravo.org.ua/wp-content/uploads/2020/10/1554972804qualification_report_short_version_eng.pdf.

The reformed HQCJ resumed qualification assessment at the end of 2023, adopting criteria³⁶ for assessing the integrity of judges jointly with the Public Integrity Council. As of September 2024, the HQCJ assessed 138 judges and only twenty seven of them (19.6%) were recommended for dismissal. After that, the HCJ has to make a final decision on whether to support the HQCJ's recommendations to dismiss judges or to keep them in office.

Unfortunately, the tendency of the HQCJ to override the PIC's negative opinions has recently intensified. The HQCJ overturned the majority of the PIC's negative opinions, while only 38% of the PIC's conclusions regarding low-integrity judges were upheld by the commission.

Disciplinary proceedings against judges

Disciplinary proceedings have often been used by judicial corporation³⁷ and HCJ members who lack integrity³⁸ to put pressure on independent and ethical judges. Unfortunately, while the HCJ was not performing its disciplinary function, many judges were able to avoid responsibility due to the expiration of the term. Over 17,000 disciplinary complaints have been submitted since the HCJ failed to perform its disciplinary function.

The HCJ's disciplinary function was reinstated in November 2023, and since then, the following trends have been observed:

- Clearing the backlog by returning complaints and refusing to open disciplinary cases. Approximately 6,000 complaints were processed in this manner.
- Delay of high-profile cases. Significant cases, such as those involving judges caught taking bribes – specifically the case of judge Kniazev (ex-president of the Supreme Court) – were being unjustifiably delayed. Kniazev was eventually dismissed, however, not for taking the bribe, but for renting an apartment at a reduced price. As a result, the HCJ has to close the bribery case. Such actions by the HCJ are deliberately intended to give Kniazev better chances of being reinstated as a judge if he appeals to the SC or the European Court of Human Rights. It will be much easier for him to challenge his dismissal in this case than if he had been dismissed for bribery.
- Insufficient disciplinary actions. Only sixty one judges have been disciplined in the first six months, which accounts for less than 1% of cases.
- Appeal rights denial. The HCJ continues to deny complainants the right to appeal disciplinary decisions, a practice that requires legislative change. This right is often granted only to judges, leaving complainants at a disadvantage.

Since the reinstatement of the HCJ's disciplinary function, and as of July 2024, the HCJ has held seventy seven judges accountable, with twenty two of them being dismissed. Almost half of the dismissed judges collaborated with Russian authorities or received Russian passports. The perception of impunity among the judges remains unresolved.

36 DEJURE Foudantion, *The HQCJ and the PIC agreed on joint indicators of low integrity of judges*, November 9, 2023, <https://dejure.foundation/en/the-hqcj-and-the-pic-agreed-on-joint-indicators-of-low-integrity-of-judges/>.

37 Anti-Corruption Center, *How the DACK allegedly influenced the HCJ decisions. A brief description of new evidence brought by NABU*, September 15, 2020, <https://antac.org.ua/en/news/how-the-dack-allegedly-influenced-the-hcj-decisions-a-brief-description-of-new-evidence-brought-by-nabu/>.

38 *Failures of the High Council of Justice*, <https://vrpfails.dejure.foundation/en/>

Service of Disciplinary Inspectors (SDI)

In 2020, in a memorandum with the IMF, Ukraine committed to establish a separate service within the HCJ responsible for assessing and reviewing disciplinary complaints against judges. Given the fact that, according to the law, the selection procedure for the SDI could be announced only by the reformed HCJ, the creation of the SDI was significantly delayed until the renewed HCJ resumed its work and its disciplinary function in 2023.

At the end of 2023, the selection commission was formed³⁹ to select the management and members of the SDI. It consists of three HCJ members and three international experts. Recently, the commission selected twenty four disciplinary inspectors and deputy head of the SDI who have to be appointed by the HCJ. The selection of the SDI head is ongoing. Thus, the SDI will become operational in a few months and new rules of disciplinary procedures regarding judges will come into force.

Selection of judges to the first and second instance courts

Over the past five years, the judicial system of Ukraine has faced a significant staff shortage, with more than 2,000 vacancies currently open. This is primarily due to the four-year-long absence of the plenipotentiary HQCJ (from 2019 to 2023). In May 2024, the HQCJ announced the results of the competition to fill 560 vacant judicial positions in first instance courts, with 390 candidates⁴⁰ recommended for the judicial appointment. Moreover, 1,700 candidates applied⁴¹ for 550 vacant positions in appellate courts.

In 2023, the Verkhovna Rada improved the judicial selection procedure by simplifying and accelerating it. In particular, the new legislation simplified the selection process to the first instance courts by cancelling unnecessary stages, reducing the training time for judges and saving state resources. Integrity checks of the candidates are now also part of the selection procedure.

The problem of the Council of Judges

The law suggests the Council of Judges (CoJ) 'acts in the interests of all the judges' with very few real functions. After the reform of the judicial governance bodies, there is little justification for the existence of the CoJ as it does not actually exercise powers that could not be transferred to other actors in the judicial system. In practice, the CoJ became an instrument that lobbies the interests of questionable judges and their political and oligarchic patrons. Furthermore, the Council of Judges is known for covering corrupt judges and pressuring whistleblower judges. The CoJ also actively opposed the reform of Ukraine's judiciary, sabotaging the laws aimed at its cleansing and delegating corrupt judges as members to judicial selection commissions.

In January 2023, a bill on the liquidation of the CoJ was registered in the Ukrainian parliament. NGOs promoting the rule of law reforms in Ukraine supported this initiative. However, progress on this issue has stalled. According to the bill, the CoJ's powers to organise the Congress of Judges could be

39 DEJURE Foundation, *The HCJ formed a commission for the selection of disciplinary inspectors*, December 12, 2023, <https://dejure.foundation/en/the-hcj-formed-a-commission-for-the-selection-of-disciplinary-inspectors/>

40 Інформація про результати проведення Комісією співбесід з кандидатами на посаду судді у межах конкурсу на зайняття 560 вакантних посад суддів у місцевих судах, оголошеного 14.09.2023 [Information on the results of the Commission's interviews with candidates for the position judges within the framework of the competition to fill 560 vacant positions of judges in local courts, announced on 14.09.2023], https://www.vkksu.gov.ua/sites/default/files/field/file/dopovidna_-_dodatok_2.pdf.

41 Результати допуску до конкурсу в апеляційні суди станом на 08 березня 2024 року [Results of admission to the competition in appeal courts as of March 8, 2024], <https://www.vkksu.gov.ua/news/rezultaty-dopusku-do-konkursu-v-apelyaciyini-sudy-stanom-na-08-berезnya-2024-roku>.

transferred to the HCJ. This step aligns with the recommendations of the Venice Commission, which has consistently advised simplifying the system of judicial governance in Ukraine.

Reform of the Constitutional Court

In 2020, the CCU liquidated⁴² much of the anti-corruption infrastructure, having cancelled criminal liability for declaring false information and taking a decision to close the register of electronic asset declarations. In response, the Venice Commission recommended⁴³ depoliticising the judicial selection process; however, the CCU reform has not moved forward since 2020.

Granting the EU candidate status to Ukraine in June 2022 has stressed the need for CCU reform and prioritising it on the list of conditions for starting accession negotiations. Reforming the selection of CCU judges was the first of the seven priorities⁴⁴ identified for Ukraine by the European Commission. The EU and the Venice Commission emphasised the importance of depoliticising the selection process of the CCU judges. However, despite this external pressure, substantial progress has been hampered by internal politics and the inconsistent position⁴⁵ of international partners.

For many years, the Venice Commission had a reputation in Ukraine as a body with high-quality and independent legal expertise on constitutionalism and reforms in the sphere of the rule of law. It contributed to a number of progressive reforms, including the successful creation of the High Anti-Corruption Court. However, the situation took an unexpected turn in December 2022. Initially the Venice Commission advocated for a depoliticised selection process of CCU judges, proposing establishment of an independent commission comprising international experts and civil society representatives. Yet subsequent recommendations of the Venice Commission often contradicted⁴⁶ the previous conclusions, containing factual errors⁴⁷ and false assumptions.⁴⁸ For example, the commission recommended⁴⁹ a selection model that only increased its politicisation, providing for an equal number of Ukrainian representatives and international experts without a majority (casting) vote in the selection commission – the Advisory Group of Experts (AGE), whose conclusions were not binding.

42 КСУ оприлюднив рішення про скасування електронного декларування [CCU published the decision to cancel electronic declaration], lb.ua, October 28, 2020, https://lb.ua/news/2020/10/28/469280_ksu_oprilyudniv_rishennya_pro.html.

43 *Ukraine: Urgent opinion on the reform of the Constitutional Court Issued pursuant to Article 14a of the Venice Commission's Rules of Procedure on 9 December 2021 Endorsed by the Venice Commission on 11 December 2020 at its 125th online Plenary Session*, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2020\)039-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2020)039-e).

44 Sergiy Sydorenko, *Ukraine's Actions to Start EU Accession Negotiations: Detailed Plan and Analysis*, European Pravda, August 22, 2022, <https://www.eurointegration.com.ua/eng/articles/2022/08/22/7145358/>.

45 Mykhailo Zhernakov, Stepan Berko, Halyna Chyzhyk, *Ukrainian Players Aim to Control Constitutional Court, Forcing Europe to Greenlight It*, European Pravda, April 24, 2023, <https://www.eurointegration.com.ua/eng/articles/2023/04/24/7160397/>.

46 Сергій Сидоренко, *Шлях до ЄС. Що має зробити Україна, щоби почати переговори про членство* [The way to the EU. What should Ukraine do to start negotiations on the membership], European Pravda, January 22, 2022, <https://www.eurointegration.com.ua/articles/2022/08/22/7145358/>.

47 Halyna Chyzhyk, Mykhailo Zhernakov, *Ukraine's constitutional court reform on brink of catastrophe – and Venice Commission is to blame*, December 15, 2022, <https://www.euractiv.com/section/europe-s-east/opinion/ukraines-constitutional-court-reform-on-brink-of-catastrophe-and-the-venice-commission-is-to-blame/>.

48 DEJURE Foundation, *What is wrong with the opinion of the Venice Commission on draft law No. 7662 regarding the competitive procedure for the selection of judges to the Constitutional Court of Ukraine*, December 7, 2022, <https://dejure.foundation/10n4h3fv11-scho-ne-tak-u-visnovku-venetsisko-koms-d/>.

49 Mykhailo Zhernakov, Stepan Berko, Halyna Chyzhyk, *The EU must stop the catastrophe in Ukraine created by the decision of the Venice Commission*, European Pravda, December 8, 2022, <https://www.eurointegration.com.ua/eng/articles/2022/12/8/7152120/>.

From December 2022 to January 2023, the Venice Commission changed⁵⁰ its recommendations on the Constitutional Court reform back and forth three times. In the end, the commission stated that although the AGE model of three Ukrainian representatives and three international experts would increase the politicisation of the selection process to the Constitutional Court of Ukraine, this recommendation remains valid in view of the unique situation in the country.

The European Union issued several public statements⁵¹ emphasising its expectations about amendments to the law on the Constitutional Court reform according to the Venice Commission recommendations. However, under the pressure from the Ukrainian political authorities the EU dropped its demands. As a result of the EU's concessions a six-member model, lobbied by the Ukrainian government, was adopted in August 2023, introducing a less effective competitive process for the selection of Constitutional Court judges. Overall, the position of the European community was not as firm as it should and could have been, given the unique leverage created by the EU integration process (in 2022, a record 91% of Ukrainians wanted to join the EU⁵²).

The authors of this report assumed that the EU, having learned from the negative experiences of other candidate countries, would impose strict requirements on Ukraine. Furthermore, progress in accession talks would be unlikely without substantial reforms on Ukraine's part. However, the EU has signalled a willingness to compromise on its principles.

According to the law, the AGE consists of three representatives of the Ukrainian political and judicial authorities (delegated by the parliament, the president and the Council of Judges) and three experts (delegated by international organisations). After vetting by the experts by the Advisory Group, the candidates to the position of the Constitutional Court judges are appointed by the president, parliament and the Congress of Judges according to quotas in line with the law.

Nevertheless, at present, the results of the election to the Constitutional Court⁵³ can be assessed quite positively, as no obviously questionable or politically biased candidates were recommended for appointment. The competitions for the remaining seven vacancies are ongoing. However, the effectiveness of these appointments will ultimately be assessed based on the newly elected judges' voting.

Renewal of the Supreme Court

The Supreme Court is the highest court in the Ukrainian judicial system and is the final instance in civil, commercial, administrative and criminal cases.

In 2016, a new Supreme Court (SC) was established through constitutional amendments and the adoption of the new Law of Ukraine on the Judiciary and the Status of Judges. In fact, the SC replaced the previous Supreme Court of Ukraine and merged the High Administrative Court of Ukraine, the

50 Halyna Chyzhyk, Mykhailo Zhernakov, *Ukraine's constitutional court reform on brink of catastrophe – and Venice Commission is to blame*, euractiv.com, December 15, 2022, euractiv.com, <https://www.euractiv.com/section/europe-s-east/opinion/ukraines-constitutional-court-reform-on-brink-of-catastrophe-and-the-venice-commission-is-to-blame/>.

51 DEJURE Foundation, *EU spokesperson: amendments to the law on the reform of the CCU are necessary*, January 24, 2023, <https://dejure.foundation/en/e3bhaki371-eu-spokesperson-amendments-to-the-law-on/>.

52 *Record number of Ukrainians support joining EU, backing for NATO membership falls – poll*, Reuters, April 5, 2022, <https://www.reuters.com/world/europe/record-number-ukrainians-support-joining-eu-backing-nato-membership-falls-poll-2022-04-05/>.

53 DEJURE FOUNDATION, *The Congress of Judges has elected a new judge to the Constitutional Court – Alla Oliylyk, a judge of the Civil Court of Cassation within the Supreme Court*, September 23, 2024, <https://dejure.foundation/en/the-congress-of-judges-has-elected-a-new-judge-to-the-constitutional-court-alla-oliylyk-a-judge-of-the-civil-court-of-cassation-within-the-supreme-court/>.

High Commercial Court of Ukraine and the High Specialised Court of Ukraine for Civil and Criminal Cases. For the first time, the judicial selection process was open to all candidates, allowing lawyers and scholars with no previous judicial experience to participate. Candidates had to undergo integrity checks conducted by the PIC. However, despite high expectations from the creation of the new Supreme Court, the reform proved to be ineffective.

Civil society organisations highlighted serious flaws in the judicial selection process,⁵⁴ emphasising the lack of transparency and manipulation by the HCJ. Moreover, both the HCJ and the HCJ automatically ignored the conclusions and information from the PIC, which indicated that some candidates were corrupt. Finally, approximately 25% of the judges appointed to the SC had previously received negative opinions from the PIC, while the PIC provided information about approximately 50% of the newly appointed judges that could indicate their lack of integrity. Despite these facts, the government and international partners, who had already invested significant resources in the process, did not attach much importance to public concerns and instead hailed the reform as a success.

In 2022, after Russia's full-scale invasion, Radio Liberty journalists working on the Schemes project reported⁵⁵ that Bohdan Lvov, deputy chief justice of the Supreme Court and head of the Commercial Court of Cassation within the Supreme Court, had Russian citizenship. Later, the Security Service of Ukraine (SSU) confirmed this fact. Almost immediately the president of the Supreme Court ordered Bohdan Lvov to be removed from the composition of the Supreme Court. Following the appellate court's refusal to reinstate Lvov as a judge, the Supreme Court will rule on the case.

Apart from the case of Judge Lvov, other judges have also been reported⁵⁶ to have Russian passports. Thus, Lvov's case revealed a larger problem – lack of proper vetting of judicial candidates before appointment. As of April 2024, this problem remains unresolved.

In May 2023, the Supreme Court faced another scandal. This time it was a corruption case. The National Anti-Corruption Bureau and the Specialised Anti-Corruption Prosecutor's Office detained the chief justice of the court, Vsevolod Knyazev, on charges of accepting a USD 2.7 million bribe.⁵⁷ Following Knyazev's suspension from office, three quarters of the Supreme Court judges voted to elect Stanislav Kravchenko, a judge of questionable integrity, as the new chief justice of the Supreme Court.

In 2017, the Public Integrity Council stated⁵⁸ that he did not meet the integrity criteria. In particular, according to the PIC data, he submitted false information in his asset declarations and participated in a decision that violated the Convention for the Protection of Human Rights and Fundamental Freedoms, as was later found by the European Court of Human Rights. Election of Stanislav Kravchenko

54 DEJURE Foundation, *Establishment of the new Supreme Court: key lessons*, January 29, 2018, <https://dejure.foundation/en/establishment-of-the-new-supreme-court-key-lessons/>.

55 Наталія Седлецька, Георгій Шабаяев, *Український суддя із російським паспортом [Ukrainian Judge with the Russian Passport]*, Radio Svoboda, September 15, 2022, <https://www.radiosvoboda.org/a/skhemy-lvov-pasport-rf/32035330.html>.

56 Тетяна Чижик, *Українські судді з російським паспортом: чи стане громадянство країни-агресора на заваді роботі суддею [Ukrainian judges with Russian passports: will the citizenship of the aggressor country become an obstacle to work as a judge]*, Ukrainian Pravda, October 3, 2023, <https://www.pravda.com.ua/columns/2023/10/3/7422449/>.

57 Олена Богданьок, Нікіта Галка, Каріна Бугайченко, *Найбільше викриття НАБУ і САП: що відомо про затримання голови Верховного Суду Князева [The biggest exposure of NABU and SAP: what is known about the detention of the Head of the Supreme Court Knyazev]*, Суспільне, May 16, 2023, <https://suspilne.media/477601-golovu-verhovnogo-sudu-knazeva-zatrimali/>.

58 *ВИСНОВОК про невідповідність кандидата на посаду судді Верховного Суду Кравченка Станіслава Івановича критеріям доброчесності та професійної етики [CONCLUSION on non-compliance of the candidate for the position of the Supreme Court Judge Stanislav Ivanovich Kravchenko with the criteria of integrity and professional ethics]*, April 14, 2017, https://grd.gov.ua/wp-content/uploads/2020/06/kravchenko_vysn.pdf.

has made it even more urgent to correct the mistakes of the previous failed reform and renew the Supreme Court. Furthermore, in December 2023 and January 2024, the Supreme Court elected three judges of low integrity to the Grand Chamber specifically to disrupt the qualification assessment.

Civil society organisations and a number of judges have developed proposals⁵⁹ on reforming the Supreme Court that involve a two-step process. It should commence with an integrity check of the current judges of the Supreme Court, followed by the selection of new judges with the involvement of international experts and the public.

The verification of current Supreme Court judges will require the HQCJ to analyse the declarations of judges' integrity, covering their family ties, the conformity of the lifestyle of the judge and their family members with the declared income, etc. In case of doubts or inconsistencies based on the results of the verification, the judge may be subject to disciplinary action, which may result in their dismissal.

The next stage involves implementation of a new procedure for selecting the judges of the Supreme Court with the involvement of the public and the PCIE or a similarly modelled commission. This approach will ensure that only individuals with the highest integrity are appointed to fill forty vacant judicial positions and that the errors made while establishing the Supreme Court in 2017 are avoided.

Despite the European Commission's endorsement of this approach to renewing the Supreme Court in its 2023 Ukraine report, the progress here is stalled. Moreover, recent developments indicate that the Supreme Court is increasingly becoming an active force in reversing significant reforms. Specifically, the Supreme Court has already issued two detrimental rulings that disrupt the qualification assessment process:

- Ignoring the PIC's negative opinion on the judge undergoing qualification assessment under the previous HQCJ. This undermines the qualification process, effectively helping approximately 180 judges of low integrity avoid being dismissed.
- The Grand Chamber of the Supreme Court ultimately overturning the HCJ's decision. This established a precedent that allows the Supreme Court to delve into the content and motives behind the decisions of the HCJ and HQCJ and alter their rulings.

According to NGOs promoting rule-of-law reforms, recent decisions by the Supreme Court are not the last to undermine the reform efforts. If the Supreme Court and its composition are not renewed, it is expected that judicial and other crucial reforms will be obstructed by the unreformed Supreme Court, which serves as the final instance in their consideration. Therefore, urgent renewal of the Supreme Court according to the above-mentioned two-step approach should be prioritised.

Establishment of the High Administrative Court

The issue of creating the High Administrative Court (HAC) became relevant after the liquidation of the District Administrative Court of Kyiv (DACK) in December 2022. Before its dissolution, DACK was one of the symbols of judicial corruption in Ukraine, with the chief justice of the court Pavlo Vovk and his colleagues involved in high-profile corruption scandals and investigations.⁶⁰ One of the reasons

59 *Why Supreme Court renewal should be a priority*, <https://drive.google.com/file/d/14zdx6cjuTPYMYs2du5YVkcZGLBAG74Y3/view>.

60 Михайло Жернаков, Юлія Решітько, *Під дудку Кремля: антиукраїнські рішення ОАК [Dancing to the Kremlin's pipe: anti-Ukrainian decisions of the KDAC]*, zn.ua, January 27, 2022, <https://zn.ua/ukr/LAW/pid-dudku-kremlja-antiukrajinski-rishennja-oask.html>.

why the DACK became a symbol of corruption was the unnaturally inflated jurisdiction of the court. In addition to consideration of administrative cases against local authorities, the jurisdiction of the court also included administrative cases against state authorities located in Kyiv.

The DACK management was appointed during the term of the fugitive president Viktor Yanukovich in 2010, and it was the DACK judges (according to the Russian scenario) who were supposed to legitimise⁶¹ Yanukovich's return to the position of the president in the event of capturing Kyiv by Russian occupation forces in March 2022.

Public organisations have created an online database⁶² informing on the most outrageous court decisions. In 2019, NABU launched an investigation into the large-scale corruption crimes⁶³ DACK judges have been accused of, in particular, the creation of a criminal organisation, bribery, unlawful adjudication and interference in the activities of the HQCJ. This case is currently being considered by the High Anti-Corruption Court.

In February 2021, President Zelenskyy submitted an urgent bill to transfer some of the DACK powers to the Administrative Court of Cassation within the Supreme Court, but the parliament did not consider this bill for a year and a half. Ultimately, the court was not liquidated until December 2022, three days after the imposition of personal US sanctions on the head of the DACK Pavlo Vovk.

After the DACK liquidation it was necessary to create two new courts that would divide its jurisdiction: the ordinary Kyiv City District Administrative Court to hear cases concerning local authorities, and the High Administrative Court (HAC) to hear administrative cases at the national level. Given the jurisdiction of the HAC, it is crucial to ensure integrity of its judges and prevent the resurgence of corruption in the new court.

In December 2023, Ukraine signed a memorandum with the IMF, making a commitment⁶⁴ to create a new administrative court where administrative cases against state bodies (for example, the NBU, NABU, NACP) would be heard by judges who passed a competitive selection procedure with the involvement of international experts, following the model of selection to the High Anti-Corruption Court. In addition, creating a new administrative court is included in the Ukraine Facility⁶⁵ programme of the EU and the list of priorities⁶⁶ of the G7 Ambassadors' Support Group for Ukraine for 2024. The participation of the PCIE in the process of selecting candidates to the HAC is critically important for the formation of an ethical composition of the court.

61 рф збиралась «легітимізувати» Януковича в Україні через суди – Данілов [Russia was going to "legitimize" Yanukovich in Ukraine through the courts – Danilov], УКРІНФОРМ, May 27, 2022, <https://www.ukrinform.ua/rubric-politics/3493255-rf-zbiralis-legalno-povernuti-anukovica-cerez-ukrainski-sudi-danilov.html>.

62 *The Sins of District Administrative Court of Kyiv*, <https://antac.org.ua/en/special-projects/oaskfails/>.

63 Соня Лукашова, «Вовчий суд» у голосах. Хто засвітився на плічках НАБУ з Окружного адмінсуду [«Wolf Court» out loud. Who appeared on NABU tapes from the District Administrative Court], Ukrainian Pravda, August 1, 2019, <https://www.pravda.com.ua/articles/2019/08/1/7222537/>.

64 *Ukraine: 2023 Article IV Consultation, Second Review Under the Extended Arrangement Under the Extended Fund Facility, and Requests for Modification of Performance Criteria and a Waiver of Nonobservance of Performance Criterion-Press Release; Staff Report; and Statement by the Executive Director for Ukraine*, IMF, December 11, 2023, <https://www.imf.org/en/Publications/CR/Issues/2023/12/11/Ukraine-2023-Article-IV-Consultation-Second-Review-Under-the-Extended-Arrangement-Under-the-542297>.

65 *Plan of Implementation. Ukrainian Facility*, <https://www.ukrainefacility.me.gov.ua/en/>

66 *G7 Ambassadors' support group for Ukraine: priorities for 2024*, https://ambkiev.esteri.it/wp-content/uploads/2024/01/ENG_G7SG-PRIORITIES-2024_PRESS.pdf.

Inclusion of international experts in the process of selecting judges and members of judicial self-governing bodies

In recent years, Ukraine has adopted the valuable practice of involving independent international experts in the selection processes for judicial governance bodies and individual courts. Notably, the PCIE has proven particularly effective in conducting a commendable selection process for the HACC. Furthermore, despite the mixed results of hybrid commissions, which included three Ukrainian judges or political appointees on one side and three international experts on the other, this model is still far superior to the exclusively Ukrainian commissions that previously handled the selections.

However, the participation of international experts in these selection commissions is, unfortunately, subject to sunset clauses, which limit their tenure, as in the examples provided below:

- **Public Council of International Experts**

PCIE's tenure expires in November 2024. Recently, the Verkhovna Rada adopted a bill at the first reading, extending the PCIE's tenure by one year, which is still insufficient to complete the selection process of the HACC judges.

- **Ethics Council**

The international experts will be replaced by members appointed by the Ukrainian bodies in November 2027.

Unfortunately, the Ethics Council demonstrated noticeably lower performance during the selection for the HCJ compared to the PCIE.

- **Selection Commission**

The international experts will be replaced by members appointed by the Ukrainian bodies in June 2025.

The Council of Prosecutors, the Council of Attorneys, and the National Academy of Legal Sciences of Ukraine will nominate members instead of international organisations after the expiry of the international experts' tenure in the Ethics Council and the Selection Commission.

- **Advisory Group of Experts**

The AGE's international experts' tenure ends in August 2029.

Considering that the involvement of international experts has only recently started yielding results, this practice should continue. However, at present, the participation of international experts in some commissions is gradually coming to an end.

This raises the risk of candidates being put forward by Ukrainian bodies that have not undergone reforms. These bodies lack public trust and have serious integrity issues. For example, the leadership of the Bar Council has connections with Russia, while the Council of Judges delegated judges with serious integrity reservations to the Ethics Council and the AGE.

To mitigate risks, it is recommended that the duration of the participation of international experts be determined not by a fixed number of years but by the milestone of achieving sufficient development of the rule of law and the cleansing of the judiciary.

It is also important to consider that limiting the involvement of international experts to a specific number of years always encourages political and judicial authorities to delay crucial reform steps until the international experts' involvement expires. The only sustainable solution in this case is to determine the duration of international experts' involvement until the judiciary is qualitatively reformed. For instance, Ukraine's accession to the EU (or closing the negotiations on chapters 23–24 of the *acquis*) could serve as sufficient confirmation of the success of the reform and the development of the rule of law in Ukraine, making international involvement unnecessary.

In the interim, Ukrainian experts with impeccable reputation and extensive experience in evaluating the integrity of Ukrainian judges could be nominated under the international quota.

Conclusions

Due to the extremely low level of public trust in the judicial system, which is primarily caused by the lack of judicial integrity, the reform should be focused on performing integrity checks of judges. From 2010 to 2016, Ukraine implemented the Council of Europe standard which provided for the election and vetting of judges predominantly by their colleagues. This standard left the judicial system largely unreformed and unchecked. Later, the same European standards were used to thwart attempts at reformation. Although the renewed bodies of judicial governance are significantly more virtuous than their predecessors, the effectiveness of these bodies in renewing the system is still questioned.

International experts' participation in the selection of judges in Ukraine has demonstrated good results, especially in cases where the selection commissions do not include Ukrainian judges of questionable integrity. Although the legislation provides for the participation of international experts in selections to courts and judicial governance bodies, their participation is limited in time. After the international experts' tenure in these commissions expires, their place must be taken by representatives from the unreformed judicial bodies, which will negate the effectiveness of the selection. Instead of setting time limits on the participation of international experts, it would be more reasonable to extend their involvement until the moment of Ukraine's accession to the EU or until the judicial system is cleaned up enough to gain public trust.

The EU and other international partners wield an effective tool for promoting the implementation of reforms in Ukraine – the conditionalities tied to international aid. The EU should establish firm conditions or requirements that Ukraine must fulfil in order to advance on the EU integration path. Owing to the clear and firm position of international partners, Ukraine has already managed to implement positive changes in its judicial system. However, indecisiveness and inconsistency of international partners in setting conditions and requirements harms Ukraine, reducing the quality of reforms. After all, this inconsistency can also harm the EU itself if Ukraine does not implement important reforms before joining.

Reform of the Bar

The Law on the Bar and Practice of Law provides for the mandatory membership of every lawyer in the Ukrainian National Bar Association (UNBA). The process of creating the UNBA was quite controversial, since two founding congresses were held in Kyiv at the same time, with each of them announcing the establishment of the UNBA and electing its leadership. The above-mentioned infamous DACK later recognised only one of the two congresses, which elected Lidia Izovitova as the head of the Ukrainian

Bar Council (UBA) and the UNBA. At the same time, international experts expressed doubts⁶⁷ about the legitimacy of the established bodies of the Bar due to violation of democratic principles and the rights of lawyers to participate in self-government.

Until November 2012, anyone in Ukraine could represent a person in court, but as a result of changes to the legislation, only lawyers retained the right to act as defence counsels in criminal cases. Subsequently, amendments to the constitution were approved in 2016 stating that only lawyers can represent other persons in court with some exceptions. This 'monopoly' of lawyers on representation has greatly increased the demand for lawyer's status among legal practitioners. Demonstrably, the number of lawyers increased⁶⁸ from almost 33,000 in December 2015 to 69,000 in June 2024.

Among the main problems of the Bar and the primary tasks for its reform are the ties⁶⁹ of the UNBA leadership with Russia, corruption,⁷⁰ using disciplinary proceedings to put pressure on lawyers, low-quality training courses and non-transparency in the use of financial resources. Therefore, an important aspect of reforming the Bar is to create conditions for the existence of several associations of lawyers that could compete for membership, providing high-quality services (in particular, training courses) and actively protecting the professional rights and interests of lawyers.

One of the above-mentioned problems are the ties of the UNBA leadership with Russia and pro-Russian forces. Lidia Izovitova, the head of the Bar Association, is known for her connections with people close to Vladimir Putin. During the war, she also maintains active contacts with Russian lawyers who support Russian invasion of Ukraine. In addition, the UNBA never condemned the armed aggression of Russia and the activities of the lawyers collaborating with the Russians.

Lidia Izovitova's mandate as the head of the UNBA and UBC ended⁷¹ back in November 2022, but she blocks the election of a new leadership, using the war as an excuse not to convene the Congress of Lawyers. Under her leadership, the UBC made decisions that exceeded the limits of its authority or that violated⁷² the Law on the Bar, as well as the rights and duties of the lawyers' practice. In order to ensure democracy within the Bar community, it is necessary to legislate a mandatory rotation of the leadership and convening the Congress of Lawyers on set dates. That is why the reform of the Bar should start with the convening of the Congress of Lawyers and election of the new leadership of the UNBA and the UBC.

67 Artem Donets, Ilya Kostin, Mykhailo Zhernakov, *The fish stinks first from the head: What is wrong with the Ukrainian Bar and how to fix it*, Дзеркало тижня, June 12, 2024, <https://dejure.foundation/en/the-fish-stinks-first-from-the-head-what-is-wrong-with-the-ukrainian-bar-and-how-to-fix-it/>.

68 *Звіт Національної Асоціації Адвокатів України за 2019 рік [Report of the National Bar Association of Ukraine for 2019]*, https://unba.org.ua/assets/uploads/news/zvity/NEW_ANNUAL_REPORT_2019_05.pdf.

69 Ірина Федорів, *Кремлівський спрут адвокатури і блокада законодавства для ТОТ [The Kremlin's Bar Kraken and Blockade of Legislation for TOT]*, Голка, January 22, 2024, <https://holka.org.ua/kremlivskiy-sprut-v-advokaturi-hto-blokuye-robotu-nad-zakonodavstvom-dlya-tot>.

70 *A \$200,000 bribe as a signal for overhauling the legal profession*, June 6, 2024, <https://dejure.foundation/en/a-200000-bribe-as-a-signal-for-overhauling-the-legal-profession/>.

71 Kuzyshyn Yaroslav, *Professional Development Worth Millions: How Izovitova and Gvozdiy Profit from the Attorneys' School*, August 8, 2024, <https://dejure.foundation/en/professional-development-worth-millions-how-izovitova-and-gvozdiy-profit-from-the-attorneys-school/>.

72 Agency for Legislative Initiatives, *The Bar if Ukraine: The Lessons Learned from The Early Years of Self-Governance*, Kyiv 2018, https://drive.google.com/file/d/15r_votmGJRiamhCKpyuWoug_sYFTnRoZ/view.

Corruption is another serious problem within the system of the Ukrainian Bar – the lawyers are often involved in corrupt practices in order to influence⁷³ court decisions. Self-government bodies of the Bar often cover up such activities. In a survey conducted in 2018, 47% of the interviewed lawyers noted that they knew cases of corruption offers from those wishing to take the Bar exam, and almost 38% knew about corruption offers⁷⁴ from the organisers of this exam. In order to reduce corruption risks during the admission to the profession, it is crucially important to introduce a unified qualification exam taken upon graduation from law school. The unified qualification exam should be transparent to ensure professionalism and integrity of future lawyers.

The UNBA leadership uses disciplinary procedures to put pressure⁷⁵ on independent lawyers, while ignoring the actions of corrupt lawyers and collaborators.⁷⁶ The Higher Qualifications and Disciplinary Bar Commission of Ukraine (HQDBC) does not fulfil its main task – the unification of disciplinary practice, which remains heterogeneous and chaotic. It undermines the reputation and professionalism of the Bar. Disciplinary regulation features numerous shortcomings: lack of clarity regarding the grounds for prosecution, an undefined number of complainants, lack of requirements for complaints, problems with the recusal of members of disciplinary bodies, lack of transparency in the consideration of cases and publication of decisions, etc. In its 2023 Report on Ukraine,⁷⁷ the European Commission indicates the need for significant changes in disciplinary procedures and to reboot the HQDBC with the participation of the public and international experts, as well as further discussion on creating a single centralised disciplinary body for lawyers, similar to the one operating for judges and prosecutors.

Continuous professional development of lawyers is a key international principle, which is also provided for by the legislation of Ukraine.⁷⁸ The law allows lawyers to freely choose⁷⁹ the place of study, but the UBC actually limited this choice by establishing a monopoly of the Higher School of Advocacy (HSA) at the UNBA as the only operator that does not require accreditation to conduct such training. Other educational institutions face strict requirements that complicate the accreditation process, including a large annual fee of about USD 9,000 and an excessive list of documents for accreditation. Lawyers also emphasise an outdated curriculum⁸⁰ and low quality of teaching at the Higher School of Advocacy.⁸¹ The solution to the problem could be abolishing the HSA monopoly and providing a level playing field for all educational establishments of the Bar.

73 William D. Meyer, *Surviving the Assault: The Ukrainian Legal System After a Year of War*, 2023 ILAC Rule of Law Report, https://ilacnet.org/wp-content/uploads/2023/05/ILAC_Ukraine_Law-Report-2023.pdf.

74 Agency for Legislative Initiatives, *The Bar if Ukraine: The Lessons Learned from The Early Years of Self-Governance*, *ibid*.

75 Заява АПУ щодо використання дисциплінарного провадження як способу тиску на адвокатів [UBA's statement regarding the use of disciplinary proceedings as a way to put pressure on lawyers], Асоціація правників України, January 29, 2024, <https://uba.ua/ukr/news/apu-zaklika-naau-peregijanuti-pdkhd-do-disciplnarnogo-provazhennja-jak-sposobu-tisku-na-advokatv>.

76 Kuzyshyn Yaroslav, *Inaction Towards Collaborators and the Hunt for Independent Attorneys: In Whose Interests Do the Bar Bodies Act?*, August 8, 2024, <https://dejure.foundation/en/inaction-towards-collaborators-and-the-hunt-for-independent-attorneys-in-whose-interests-do-the-bar-bodies-act/>.

77 *Ukraine Report 2023*, DG NEAR, November 9, 2023, https://neighbourhood-enlargement.ec.europa.eu/ukraine-report-2023_en.

78 *Основні положення про роль адвокатів* [Basic provisions on the role of lawyers], https://zakon.rada.gov.ua/laws/show/995_835#Text.

79 Kuzyshyn Yaroslav, *Professional Development Worth Millions: How Izovitova and Gvozdiy Profit from the Attorneys' School*, August 8, 2024, *ibid*.

80 Алексей Кравченко, *Когда баллы за****и: Адвокаты vs Высшая школа адвокатуры* [Sick and tired of the f****g points: Lawyers vs. High School of Advocacy], Business Consulting Academy, September 23, 2019, <https://www.bca.education/kogda-bally-zai-advokatv-vs-vyshshaya-shkola-advokatury/>.

81 Оля Веретільник, *Артем Донець vs Монолітна адвокатура – 2:0* [Artem Donets vs Monolithic Bar – 2:0], September 5, 2023, <https://www.deadlawyers.org/artem-donecz-vs-monolitna-advokatura-20/>.

In its 2023 Report on Ukraine,⁸² the European Commission indicates the need to improve the management of the Bar resources, in particular, the need to make it more transparent and accountable. The European Commission also emphasises that the qualification and disciplinary procedures of lawyers should be improved in legislation and in practice.

Self-governance bodies of the Bar often establish contributions and payments that are not stipulated by the legislation. According to several court decisions, the fee set by the UBC for challenging the lawyer's actions is unreasonably high. In addition, the financial statements⁸³ for 2022 and 2023 have not yet been published, while the statements for previous years lack sufficient detailing and approval by an independent auditor. Therefore, it is important to set requirements for the transparency of the budget process and proper reporting by the self-governing bodies of the Bar at the legislative level, which must be verified by an independent auditor.

Conclusions

The main problems of the Bar in Ukraine are related to the illegitimacy of its leadership, its ties with Russia, corruption, and abuse of disciplinary procedures to put pressure on lawyers. The Bar reform should include changes in both legislation and practice. First of all, it is important to enshrine in the law a detailed procedure and deadlines for changing the leadership of the Bar, introduce a unified transparent exam for lawyers, as well as rectify deficiencies in disciplinary procedures.

Legal education reform

For a long time, Ukraine has been trying to overcome corruption in the judicial system. Still, lack of integrity among judges and lawyers remains a common phenomenon. One of the reasons is law schools, where the current system of education often promotes corruption and lack of academic integrity, lowering the threshold for entering the profession. Despite the large number of law school graduates, Ukraine faces a significant shortage of qualified and ethical candidates to fill more than two thousand vacant judicial positions. Given that the reform of legal education is a long-term process, it is necessary to start as soon as possible. Its importance was also emphasised by the European Commission and G7 ambassadors.⁸⁴ In particular, in its report,⁸⁵ the European Commission recommended creating a clear institutional distinction between legal education and training law enforcement officers, raising standards for law school licensing, modernising curricula (with an emphasis on ethics, practical training and teaching EU law) and implementing the Unified State Qualification Examination.

In Ukraine, lawyers are trained⁸⁶ by traditional universities under the Ministry of Education and Science of Ukraine (MES), as well as higher education institutions under the Ministry of Internal Affairs (MIA). The latter often focus on training military discipline and strict subordination, rather than the development of critical thinking, protection of human rights and the rule of law. The result is a wide disparity in the teaching of lawyers. Therefore, the recommendation of the EU and the G7 ambassadors

⁸² *Ukraine Report 2023*, DG NEAR, November 8, 2023, https://neighbourhood-enlargement.ec.europa.eu/ukraine-report-2023_en.

⁸³ *Зейму НААУ*, [UNBA reports], <https://unba.org.ua/shorichni-zviti-naau>.

⁸⁴ *G7 Ambassadors' support group for Ukraine: priorities for 2024*, https://ambkiev.esteri.it/wp-content/uploads/2024/01/ENG_G7SG-PRIORITIES-2024_PRESS.pdf.

⁸⁵ *Ukraine Report 2023*, DG NEAR, November 8, 2023, https://neighbourhood-enlargement.ec.europa.eu/ukraine-report-2023_en.

⁸⁶ *Legal Education Reform Map*, <https://karta-reformy-pravnychoyi-osvity.webflow.io/en>.

to separate the education of lawyers and law enforcement officers is justified and important. Lawyers should be trained exclusively by universities under the Ministry of Education and Science, while law enforcement officers – by the educational institutions subordinate to the respective agencies.

At the same time, a significant part of state funding (60%) goes directly to higher education institutions under the Ministry of Internal Affairs, although they teach only about 20% of law students. This distribution of funds deprives traditional universities of sufficient resources to provide quality legal education.

Another problem is the excessive number of law schools, with about 300 of them training nearly 100,000 students. Many of these schools lack university status, functioning more as 'educational businesses' that sell diplomas for money. The lawyers are also trained by environmental, veterinary, agricultural and other universities. The number of law students is the largest among all specialties in the country. This reduces the quality of education and introduces poorly educated graduates to the market. A key step in the reform should be reducing the number of such law schools and increasing licensing requirements.

An important step in reforming legal education in Ukraine was the introduction of the Unified State Qualification Exam (USQE) at the end of 2023. USQE is a final exam in various areas of law that law school graduates must pass to receive a Master's degree. It bears some resemblance to the American 'bar examination' and is intended to ensure that only those graduates with the right knowledge receive a diploma. For USQE to really fulfil the role of an effective 'barrier', it should be further improved. Key measures include raising the threshold score for passing the exam, preparing high-quality exam materials, as well as setting clear and transparent assessment criteria. These changes will improve the level of professional training and screen out those candidates who do not meet the high standards of knowledge and skills of a lawyer.

Equally important is the updating of curricula. Many law schools use outdated⁸⁷ methodology and programmes, without taking into account modern needs of the labour market, the need to study EU legislation and the cultivation of academic integrity. Almost 80% of employers point out⁸⁸ a low level of knowledge and skills in graduate lawyers. Therefore, the updating of curricula should focus on the acquisition of practical skills by students, development of analytical thinking, possibility of selecting courses, studying EU legislation, ethics, as well as on the combat against plagiarism.

Conclusions

Legal education in Ukraine requires deep and urgent changes. These reforms are critical to ensuring a sufficient number of qualified and ethical judges, lawyers and prosecutors in the future. The main areas of reforms should include a clear separation of education between lawyers and law enforcement officers, raising the requirements for admission to law schools and improving the Unified State Qualification Exam. In addition, it is necessary to strengthen licensing requirements for law schools

87 League of Students of the Association of Lawyers of Ukraine, *Реформа юридичної освіти [Legal education Reform]*, <https://drive.google.com/file/d/1te4AVteq6SNTr5l63qzV4WEowMEZnWxv/view>.

88 *Звіт за результатами аналітичного дослідження «Знання та навички випускників юридичних факультетів та закладів вищої освіти через призму відповідності потребам ринку праці» [Report on the results of the analytical study "Knowledge and skills of graduates of law faculties and institutions of higher education through the prism of compliance with the needs of the labor market"]*, Ministry of Justice, 2018, https://drive.google.com/file/d/1GyR0eCiaqxXzQ4SV5qJ6N_fbFsw6XC-oi/view.

and modernise their curricula in accordance with modern market needs and academic integrity requirements.

Overall assessment of the reform

Judicial reform in Ukraine is progressing in the right direction. Since Ukraine received EU candidate status, this reform has seen some of the most notable progress since Ukraine's independence.

The establishment of the High Anti-Corruption Court is a notable success, primarily attributed to the participation of international experts in candidate selection. The model of a competition commission composed exclusively of international experts has proven more effective than mixed commissions that include both international experts and Ukrainian judges or political appointees. Involving an un-reformed judiciary, with low public trust, should be minimised, as it only impedes progress and seeks to preserve the *status quo*.

The reform of the High Council of Justice and the High Qualifications Commission of Judges has led to a much higher level of integrity in these bodies than before. However, ongoing monitoring by the public and international partners is essential, as a reform of this scale cannot yield the desired outcomes in a short time.

Ukrainian authorities often argue that substantial participation of international experts in judicial selection threatens national sovereignty. However, this claim is countered by the fact that international experts do not make final decisions on judicial appointments. Their role is limited to vetting candidates and recommending them for appointment by Ukrainian authorities. The real threat to sovereignty is not international experts, but non-transparent selection processes that foster corruption, as shown by the failed reform of the Supreme Court. Furthermore, international organisations can appoint both international and Ukrainian experts with extensive experience in assessing judicial integrity in Ukraine to the selection commissions, fully addressing the concerns about sovereignty.

As the involvement of international experts is temporary, it is crucial for the sustainability and effectiveness of judicial reform to define their role not by a specific timeframe, but by the achievement of significant milestones, such as Ukraine's accession to the EU. This would affirm the establishment of the rule of law and public trust in the judiciary, thereby removing the need for ongoing international oversight.

Current priorities involve renewing the Supreme Court and establishing the High Administrative Court. A critical requirement for these initiatives is the inclusion of international experts, primarily from the Public Council of International Experts, along with Ukrainian experts and civil society representatives in the selection process. Without this, the Supreme Court's renewal could again prove ineffective, and judges with questionable integrity could be appointed to the High Administrative Court.

Finally, establishing the rule of law requires a comprehensive overhaul not only of the judiciary but also of law enforcement agencies and the legal profession. The reform of the bar should include replacing pro-Russian leadership, implementing a single transparent qualification exam for lawyers, and regulating disciplinary procedures.

Possible scenarios

In a positive scenario, judicial reform in Ukraine will be successfully implemented with international support and active civil society participation. To this end, Western partners should employ conditionalities. This will enhance the transparency and efficiency of judge selection and integrity verification. This approach will also prevent the need for repeated reforms, as seen with the Supreme Court. As a result, judicial independence will be strengthened, and public confidence will rise, advancing Ukraine's rule of law and EU membership aspirations.

However, a negative scenario poses the risk of political interference and sabotage of reforms by the 'judicial corporation', which could significantly hinder progress. This would result in inefficient judicial management bodies, ineffective new courts, and entrenched corrupt practices. Such a scenario could delay Ukraine's EU accession, thus jeopardising its recovery.

Another risk is that the EU and Western partners may lack clarity and resolve in their demands, offering Ukraine 'concessions' on reforms and accepting pseudo-reforms as genuine progress. This would mean a lost opportunity, potentially adding another EU member struggling with rule of law issues.

Time horizons

Amid Russia's existential war against Ukraine, predicting the outcomes and progress of judicial reform is challenging. However, in the short term (1–2 years), Ukraine will likely see the initial results of the reform. Judicial qualification assessments and the selection of judges for first and second-instance courts will continue. A law establishing the Supreme Administrative Court will be adopted, initiating the selection of judicial candidates. Initial steps will also be taken to renew the Supreme Court as well as to reform legal education and the legal profession, contingent on conditionalities from international partners and the political will of Ukrainian authorities.

In the medium term (3–5 years), the High Administrative Court is expected to become operational, and the renewal of the Supreme Court should be completed. Effective functioning of the new High Council of Justice and High Qualifications Commission of Judges

will gradually boost public confidence in the judiciary. With the launch of legal education reform, education quality is expected to improve, the number of universities offering substandard programmes should decrease, and the level of the Unified State Qualification Exam will likely rise.

In the long term (5–10 years), Ukraine has the potential to establish the rule of law and develop an effective, independent judiciary that commands public trust and aligns with European standards. Achieving this will require the active involvement of civil society and steadfast support from Ukraine's Western partners.

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