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

**DRAFT LAW**

**ON AMENDING THE LAW  
ON THE JUDICIAL SYSTEM  
AND THE STATUS OF JUDGES**

**OF UKRAINE**

**Draft****LAW OF UKRAINE****On Amending the Law of Ukraine  
"On Judicial System and Status of Judges"  
and other legislature**

Verkhovna Rada of Ukraine decides:

I. Law of Ukraine "On Judicial System and Status of Judges" shall be amended as follows:

**"LAW OF UKRAINE  
On Judicial System and Status of Judges**

This Law establishes the legal grounds of judiciary power functioning in Ukraine which acts on the basis of the rule of law in accordance with European standards and ensures everyone's right to a fair trial.

**PART I. PRINCIPLES OF JUDICIAL POWER****Article 1. The judiciary power**

1. The judiciary power in Ukraine in accordance with the constitutional principle of state power division is exercised by an independent and impartial court established in accordance with law.

2. Court proceedings are exercised by courts of general jurisdiction and the Constitutional Court of Ukraine.

3. Judicial power is implemented by professional judges. In cases determined by law professional judges implement the judiciary power together with people's assessors and jurors.

**Article 2. Purpose and task of justice**

1. The task of justice is affirming the rule of law in society and ensuring for everyone the right to a fair trial by an independent and impartial court with a view for the protection of human rights and fundamental freedoms as values that determine the content and direction of the state's activities, and guaranteed by the Constitution and laws of Ukraine, as well as international treaties ratified by the Verkhovna Rada of Ukraine.

**Article 3. System of courts of Ukraine**

1. System of courts of Ukraine consists of courts of general jurisdiction and the court of constitutional jurisdiction.

2. The courts of general jurisdiction form a unified court system. The only authority of constitutional jurisdiction in Ukraine is the Constitutional Court of Ukraine.

3. The establishment of extraordinary and special courts is prohibited.

4. The order of organization and operation of the Constitutional Court of Ukraine is determined by the Constitution and Law of Ukraine "On the Constitutional Court of Ukraine."

5. Court as a judicial body has a seal with the State Emblem of Ukraine and its name.

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

1. Judicial system and the status of judges of Ukraine shall be determined by the Constitution of Ukraine, this Law and other laws of Ukraine.

#### **Article 5. Implementation of justice**

1. Justice in Ukraine is carried out exceptionally by courts. Delegation of functions of courts, as well as appropriation of these functions by other authorities or officials is not allowed.

2. Citizens of Ukraine participate in carrying out justice through people's assessors and jurors.

#### **Article 6. Independence of courts**

1. In carrying out justice courts are independent of any unlawful influence. Courts carry out justice in accordance with the Constitution and laws of Ukraine upholding the principle of the rule of law.

2. Interference in the administration of justice, illegal influence on a court or judges in any manner, contempt of court or judges is prohibited.

3. Judicial self-governing shall be in place for the purpose of strengthening the independence of judges and promoting the effective functioning of the judiciary power.

#### **Article 7. Right to a fair trial**

1. Everyone is guaranteed the protection of his/her rights, freedoms and interests of by an independent and impartial court established under law with upholding fair judicial procedure.

2. No one shall be deprived of his/her right to have a hearing of his/her case in court to jurisdiction and competence of which such case is referred by the procedure law.

3. Everyone has the right to participate in hearing of his/her case in the court of first instance, in court of appeal, cassation court and the Supreme Court of Ukraine in the manner stipulated by procedural law.

4. Foreign citizens, persons without citizenship and foreign legal entities in Ukraine have equal right to a fair trial with citizens and legal entities of Ukraine.

#### **Article 8. Sole and collective hearing of cases**

1. Cases in courts are heard by a single judge, a panel of judges, as well as with participation of people's assessors and jurors.

2. A single judge hearing the case acts as a court.

#### **Article 9. Automated distribution of court cases**

1. Distribution of court cases among judges, determining of a judge-rapporteur, the presiding judge, the formation of the panel of judges is performed through an automated system that is a part of an automated workflow of documents of court. In the same manner alternative judge is defined, the investigative judge and judge who considers the issue of challenging the investigative judge or the judge who heard trial alone.

2. Distribution of a court case among judges is performed by an automated system during its registration considering specialization of judges.

Automated distribution of court cases among judges in courts where there is no specialization or its usage is impossible shall be performed among all judges.

In the process of the automated distribution of cases following information is used and considered:

- 1) specialization of judges (if any);
- 2) the number of court cases that were directed to the judge;
- 3) the number of actual working time (in days);
- 5) coefficient taking into account the form of participation of a judge in the trial;
- 6) category of a court case and rate of its complexity according to classifier which is approved by the State Judicial Administration of Ukraine upon consent of the Council of Judges of Ukraine;
- 7) presence of judge's authorities to carry out justice at the time of distribution of court cases;
- 8) presence of circumstances that exclude or do not allow the repeated involvement of the judge (the composition of a court) in consideration of a court case according to legislation;
- 9) the percentage of cases to be considered by a judge in the case of reducing his workload pursuant to part six of this article.

The automated system also determines people's assessors and jurors from among persons who are included in the relevant lists for trial in cases stipulated by the procedure law. The results of automated distribution of a case shall be issued in a form of act to be added to the case file.

3. Court cases are distributed among judges who have procedural powers.

If the judge participated in the case and it excludes its new consideration by that judge in accordance with the procedure law, such judge is not involved in the automated distribution of this case.

4. Upon motivated decision of the head of a court staff that is attached to the case file pending court cases shall be transferred for the repeated automated distribution in case of:

- 1) the expiration of the term a judge was appointed for;
- 2) reaching by judge the age of 65;
- 3) removal of a judge from office or from administration of justice;
- 4) release of a judge's position;
- 5) being on a childcare leave until reaching the age of three;
- 6) satisfying a challenge (self-rejection) of a judge or of all the court if the case is reviewed by a panel of judges.
- 7) temporary incapacity of a judge, business travel, vacation which prevent the participation of a judge in cases that may result in violation of the terms of their hearing provided the relevant procedural law;

If the court heard the case collectively then repeated automated distribution is done to define a judge (judges) to replace a judge or judges who dropped out.

5. In the case of power failure in premises of court, failure of equipment or software or any other circumstances that prevent the operation of automated systems that lasts for more than one working day, distribution of cases is performed upon order of the head of a court staff in turns according to lists of judges considering their specialization.

6. Assembly of judges of an appropriate court has the right to reduce the workload of reviewing cases of judges who hold administrative positions in court or are members of the Council of Judges of Ukraine but not more than twenty per cent compared with a workload of other judges.

7. Shall not be distributed to a specific judge court cases filed:

- 1) two months before the termination of powers of a judge;
- 2) fourteen days, unless otherwise is established by the relevant assembly of judges of the court, before the vacation (if its duration is not less than fourteen days);
- 3) three business days prior to the vacation if its duration is less than fourteen days;
- 4) during a vacation of a judge;
- 5) one day before business trip (three working days before - if the duration of the trip is more than seven days) and during the days judge is on a business trip;
- 6) during the temporary incapacity of a judge;
- 7) during the business trip of a judge;
- 8) in other cases stipulated by law when a judge can not administer justice or to participate in a trial.

8. In case all judges are on business trips, vacations, their temporary incapacity and other stipulated by law cases when a judge can not administer justice or participate in a trial, automated distribution of cases is performed by an automated system on a working day next today when no longer relevant circumstances exist.

9. Editing, removal of a registration data on a particular court case is not allowed except for cases stipulated by this Article. All changes and removals of registration data shall be recorded by an automated system automatically.

10. While merging together court cases automated system shall automatically count the workload per judge (judges) considering such court cases.

11. In case of separation of court cases, the case singled out into separate proceedings shall be automatically distributed on a general basis.

#### **Article 10. Equality before the law and the court**

1. Justice in Ukraine is carried out on the principles of equality of all participants in a trial before the law and the court regardless of race, color, political, religious and other beliefs, sex, ethnic or social origin, property status, place of residence, linguistic or other characteristics.

#### **Article 11. Legal assistance in the implementation of the right to a fair trial**

1. Everyone has the right to legal assistance. In cases determined by law, this assistance is provided free of charge.

2. Everyone is free to choose the defender of his/her rights. The procedure and conditions for granting legal assistance are determined by law.

#### **Article 12. Transparency and openness of court proceedings**

1. No one shall be limited the right to receive in a court oral or written information of the outcome of his/her trial. Anyone who is not a party to the trial has the right to free access to the court decision in the manner prescribed by law.

2. Court hearings shall be open. Court hearings in a closed court session are allowed upon motivated decision of the court in cases prescribed by the procedure law.

3. Participants of the trial and other persons present during open court hearings may use portable audio hardware, make in the courtroom photography, filming, recording and broadcast the trial.

In cases stipulated by the procedure law the court may restrict the use of technical hardware of photography, filming, recording as well as broadcast of the trial.

4. During court hearings the course of a trial shall be recorded by technical hardware in accordance with the procedure stipulated by the law.

#### **Article 13. Language of trial and documents workflow in courts**

1. Trial and documents workflow in Ukraine are conducted in the state language.

2. A court shall ensure the equality of rights of persons in a trial upon a linguistic feature.

3. A court uses the state language in court proceedings. A court ensures the right of persons to use in trial native language or the language they speak upon procedure prescribed by law.

#### **Article 14. Binding court decisions**

1. A court decision which ends trial shall be adopted by the name of Ukraine.

2. Court decisions which came into force are binding for execution by all state authorities, local self-government authorities, their officials and officers, individuals and legal entities, public organizations on entire territory of Ukraine. Binding consideration (*praejudicio*) of court decisions for other courts is determined by the procedure law.

3. Failure to execute a court decision entails responsibility stipulated by law.

#### **Article 15. Right of appeal**

1. Trial participants and other persons have the right to appeal the court decision upon grounds and in the manner stipulated by the law.

#### **Article 16. Symbols of the judiciary power**

1. The symbols of the judiciary are the state symbols of Ukraine – Ukrainian State Emblem and State Flag of Ukraine.

2. The judge administers justice in the mantle and wearing the breastplate. Samples of mantle and breastplate shall be approved by the Council of Judges of Ukraine.

## **SECTION II. COURTS OF GENERAL JURISDICTION**

### **Chapter 1. Organizational grounds of system of courts of general jurisdiction**

#### **Article 17. System of courts of general jurisdiction**

1. The system of courts of general jurisdiction shall be based on the principles of territoriality and specialization.

2. The system of courts of general jurisdiction consists of:

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

3. The highest judicial body in the system of courts of general jurisdiction is the Supreme Court of Ukraine. The highest judicial bodies of specialized courts are respective high specialized courts.

#### **Article 18. Specialization of courts of general jurisdiction**

1. The courts of general jurisdiction specialize in administrative cases, civil cases, criminal cases and cases on administrative offenses.

2. In courts of general jurisdiction assembly of judges of the respective court may decide to establish specialization of judges in different categories of cases.

**Article 19. Procedure for the establishment of courts of general jurisdiction**

1. Courts of general jurisdiction are established, including through reorganization, by the President of Ukraine upon the submission of the State Judicial Administration of Ukraine on the basis of proposals from the Council of Judges of Ukraine.

2. Location, territorial jurisdiction of the court and its status shall be determined upon consideration of the principles of territoriality and specialization.

3. Reasons for the establishments of a court are the change to the system of courts defined by this Law, the need to improve access to justice or change in the administrative and territorial structure of a state.

4. The number of judges in a court of general jurisdiction shall be determined by the State Judicial Administration of Ukraine and agreed with the Council of Judges of Ukraine, taking into account the workload of the court and within the budget allocations, foreseen in the approved distribution of the State Budget of Ukraine for the maintenance of the salary of judges.

This Law determines the number of judges in the Supreme Court of Ukraine.

**Article 20. Procedure for electing judges to administrative positions and dismiss from such positions**

1. Administrative positions in a court are posts of a head of a court and deputy head of a court, secretary of plenum of a high specialized court, secretary of the Plenum of the Supreme Court of Ukraine.

2. The term of holding an administrative position is two years. Holding administrative position in a court does not relieve a judge from executing authorities of a judge of a respective court.

3. Head of the local court, his deputy, the head of the court of appeal, his deputy, the head of the high specialized court, his deputy shall be elected from among judges of such court and dismissed from position by the assembly of judges of a respective court by a secret ballot.

In high specialized court or appellate court a judge may not hold position of ahead of court twice in a row. The local court judge may not hold position of ahead of court more than twice in a row.

4. Head of the Supreme Court of Ukraine, Deputy Head of the Supreme Court of Ukraine, Secretary of the Supreme Court of Ukraine shall be elected to the position and dismissed by the Plenum of the Supreme Court of Ukraine. Secretary of the plenum of a high specialized court shall be elected to the position and dismissed by the plenum of respective high specialized court.

Such decisions shall be taken by a secret ballot.

5. A judge shall be dismissed from an administrative position in case of:

- 1) submission of an application for dismissal from an administrative position at will;
- 2) secondment to work at the Qualification Commission of Judges, the Council of Judges of Ukraine, the High Council of Justice, the National School of Judges of Ukraine;
- 3) submission by the High Council of Justice of a motion for the dismissal from a judge position.

Assembly of judges of respective court shall early dismiss a judge from an administrative position upon initiative of not less than one third of the judges of the respective court by decision taken through a secret ballot by not less than two-thirds of judges who work in the respective court.

The dismissal of a person from a judge position and the expiration of term for which the judge was elected to an administrative position in the court shall terminate his/her authorities of an administrative position.

Termination of powers of a judge at administrative positions, as well as dismissal of a judge from an administrative position alone does not discontinue his/her powers of a judge.

6. Announcement about holding the assembly of judges to address issues under this Article together with information about the date, time and place of the assembly, its agenda and rules shall be posted on the official web portal of the judiciary power no later than seven days prior to its gathering.

Announcement shall be posted by the State Judicial Administration of Ukraine on the day of receipt of a written notice signed by the head of a court or by not less than one third of all the judges of the respective court, and which contains the date, time of the assembly, its agenda. Assembly of judges of a respective court shall approve regulation to address issues under this Article.

Representatives of the media may be present during the voting, counting and announcement of election results, to record the transcript, take notes, to do audio and video recording, broadcast live course of assembly of judges, of voting, counting and announcement of results without obstructing the assembly holding.

## **Chapter 2. Local Courts**

### **Article 21. Types and composition of local courts**

1. Local courts are:

- 1) local general courts (district, regional or inter-regional in cities, city and inter-district courts);
- 2) the district courts in civil and criminal cases;
- 3) the district administrative courts.

2. A local court consists of local court judges, of whom head of the court is elected. A local court which consists of more than fifteen judges deputy head is elected as well.

### **Article 22. Powers of the local court**

1. A local court is the court of first instance.

2. Local general courts hear civil, criminal, administrative cases and cases on administrative offenses. In cases provided by law, district courts may also act as appellate courts.

3. The district courts for civil and criminal cases hear civil and criminal cases.

4. The district administrative courts hear administrative cases.

5. Jurisdiction of certain categories of cases to local courts, as well as the procedure for their hearing shall be determined by the procedure law.

### **Article 23. Judge of a local court**

1. A judge of a local court shall administer justice in accordance with the procedure stipulated by the law and exercise other powers stipulated by law.

### **Article 24. Head of the local court**

1. Head of a local court shall:

- 1) represent the court as a state authority in relations with other state authorities, local self-government, individuals and legal entities;



- 2) control the efficiency of the activity of the court staff;
- 3) notify the Council of Judges of Ukraine, as well as through the website of the court on the availability of vacant position of a judge within five days of the formation of such a vacant position;
- 4) ensure the implementation of decisions of the assembly of judges of the local court;
- 5) ensure compliance with the requirements for training of local court judges;
- 6) issue an order directing the judges of the court to the National School of Judges of Ukraine for training according to the schedule approved by the assembly of judges;
- 7) perform other duties stipulated by law.

2. Head of a local court issues orders on matters within his/her administrative powers.

3. In the absence of the head of a local court his duties are carried out by the deputy head of a court and in the case of absence of the deputy head of a court - judge of this court who has a longer length of service as a judge.

#### **Article 25. Deputy head of the local court**

1. Deputy head of a local court shall exercise administrative powers determined according to the distribution of administrative powers approved by an assembly of judges of respective court.

### **Chapter 3. Courts of Appeal**

#### **Article 26. Types and composition of courts of appeal**

1. Appellate courts work in the system of courts of general jurisdiction as courts of appellate instance in administrative cases, civil (including commercial) cases, criminal cases and cases on administrative offenses.

2. Courts of appeal in civil cases, criminal cases and cases on administrative offenses are appellate courts of oblasts, cities of Kyiv and Sevastopol, of the Autonomous Republic of Crimea.

3. Courts of appeal in administrative cases are appellate administrative courts which are established within the appellate districts in accordance with the decree of the President of Ukraine.

4. The appellate court consists of judges who meet the requirements of part two of the Article 62 of this Law and passed the relevant competition of which head and deputy head are elected.

#### **Article 27. Powers of court of appeal**

1. A court of appeal shall:

- 1) hear cases of respective within their jurisdiction on appeal pursuant to procedure;
- 2) analyzes judicial statistics, studies and summarizes judicial practice, making the respective high specialized court proposals to improve judicial practice;
- 3) exercise other powers stipulated by law.

#### **Article 28. Judge of court of appeal**

1. Judge of the court of appeal shall administer justice in the manner specified by the procedure law and exercise other powers stipulated by law.

#### **Article 29. Head of the court of appeal**

1. The head of a court of appeal shall:

- 1) represent the court as a state authority in relations with other state authorities, local self-government, individuals and legal entities;

- 2) control the efficiency of the activity of the court staff;
- 3) notify the Council of Judges of Ukraine, as well as through the website of the court on the availability of vacant position of a judge within five days of the formation of such a vacant position;
- 4) ensure the implementation of decisions of the assembly of judges of the appellate court;
- 5) organize the study and summarizing of judicial practice;
- 6) ensure compliance with the requirements for the training of judges of the court;
- 7) issue an order directing the judges of the court to the National School of Judges of Ukraine for training according to the schedule approved by the assembly of judges;
- 8) perform other duties stipulated by law.

2. Head of an appellate court issues orders on matters within his/her administrative powers.

In the absence of the head of an appellate court his duties are carried out by the deputy head of a court and in the case of absence of the deputy head of a court - judge of this court who has a longer length of service as a judge.

#### **Article 30. Deputy head of the court of appeal**

1. Deputy head of the court of appeal shall exercise administrative powers determined according to the distribution of administrative powers approved by an assembly of judges of respective court.

### **Chapter 4. High specialized courts**

#### **Article 31. Types and composition of high specialized courts**

1. In the system of courts of general jurisdiction there are high specialized courts as courts of cassation instance which review administrative cases, civil cases, criminal cases.

2. High specialized courts are: the Supreme Administrative Court of Ukraine, the Supreme Court of Ukraine for Civil and Criminal Cases.

3 The high specialized court consists of judges who meet the requirements of Article 62 of this Law and passed the relevant competition of which head of the court and his deputy are elected.

4. In the high specialized court plenum is established to address issues identified in Article 36 of this Law. Composition and procedure of operation of the plenum of the high specialized court is defined by this Law.

5. Scientific and advisory board shall be established at the high specialized court.

#### **Article 32. Powers of the high specialized court**

1 High specialized court under its jurisdiction shall:

- 1) hear cases in cassation in accordance with legal procedure law;
- 2) decide on the proper jurisdiction of the case in cases stipulated by the procedure law;
- 3) analyze judicial statistics;
- 4) summarize judicial practice in order to ensure uniform application of the principles and rules of law in deciding cases within respective jurisdiction;
- 5) exercise other powers stipulated by law.

In addition, the Supreme Administrative Court of Ukraine in cases determined by procedure law and related to the urgent need to achieve legal certainty in legal disputes, hears cases as the court of first or appellate instance.

**Article 33. Judge of high specialized court**

1. Judge of a high specialized court shall administer justice in the manner specified by the procedure law and exercise other powers stipulated by law.

**Article 34. Head of the high specialized court**

1. Head of the high specialized court shall:

- 1) represent the court as a state authority in relations with other state authorities, local self-government, individuals and legal entities, as well as with other judicial authorities of foreign countries and international organizations;
- 2) control the efficiency of the activity of the court staff;
- 3) appoints the head of the court staff, the deputy head of a court staff and dismisses them from office upon consent of the assembly of judges, as well as applies to the head of the court staff, his deputy promotions or disciplinary penalties according to law;
- 4) notify the Council of Judges of Ukraine, as well as through the website of the court on the availability of vacant position of a judge within five days of the formation of such a vacant position;
- 5) submit under this Law proposals for establishing respective local and appellate courts, changing their territorial jurisdiction, as well as regarding the number of judges in them;
- 6) convene a session of the court's plenum; introduce for the consideration of the plenum a motion for appointment of secretary of the plenum; form the agenda of plenum's session and preside at its meetings;
- 7) inform the court's plenum about the state of justice in the appropriate court jurisdiction and practice of resolving certain categories of cases;
- 8) ensure the implementation of decisions of the assembly of judges of the court;
- 9) organize the study and summarizing of judicial practice;
- 10) ensure compliance with the requirements for the training of judges of the court;
- 11) issue an order directing the judges of the court to the National School of Judges of Ukraine for training according to the schedule approved by the assembly of judges;
- 12) perform other duties stipulated by law.

2. Head of a high specialized court issues orders on matters within his/her administrative powers.

3. In the absence of the head of a high specialized court his duties are carried out by the deputy head of a court and in the case of absence of the deputy head of a court - judge of this court who has a longer length of service as a judge.

**Article 35. Deputy head high specialized court**

1. Deputy head of a high specialized court shall exercise administrative powers determined according to the distribution of administrative powers approved by an assembly of judges of respective court.

**Article 36. Plenum of a high specialized court**

1. The plenum of a high specialized court consists of all judges of a high specialized court.

2. Plenum of a high specialized court shall:

- 1) appoint from among the judges of this court secretary of plenum of a high specialized court and dismiss him from his post;
- 2) summarize judicial practice in order to ensure uniform application of the principles and rules of law in deciding cases within respective court jurisdiction, organize and provide disclosure of the legal positions of the high specialized court with reference to judicial decisions where they were formulated;
- 3) decide to file a motion to the Constitutional Court of Ukraine regarding an official interpretation of the Constitution and laws of Ukraine;

- 4) decide to file a motion to the Supreme Court of Ukraine on submitting a constitutional appeal on the constitutionality of laws and other legal acts of the Verkhovna Rada of Ukraine, acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea;
- 5) approve rules of plenum of a high specialized court;
- 6) approve regulations on the scientific advisory council of the high specialized court and defines its personal composition;
- 7) review and resolve other issues ascribed to its competence.

3. Session of the plenum of a high specialized court is convened by the head of a high specialized court, if necessary, or upon request of at least one fifth of the judges of a high specialized court. Session of the plenum of a high specialized court shall be convened at least twice a year.

4. Session of the plenum of a high specialized court is competent if attended by at least two thirds of its composition.

5. Judges of the courts of relevant specialization, representatives of government, academia, NGOs, the media and others may be invited to a session of the plenum of a high specialized court.

6. Participants shall be notified no later than ten days prior to the plenum's session about the date and time of the plenum's session. Within this period they shall be provided with materials which are scheduled to review at the session.

7. Resolution of the plenum shall be adopted by the majority of votes of members of the plenum through an open ballot. Resolution of the plenum shall be signed by the presiding judge and secretary of the plenum. Resolutions of the plenum shall be published on the website of the high specialized court.

8. Secretary of the plenum of a high specialized court shall organize the work of the secretariat of the plenum, preparation of the plenum's sessions, ensures maintenance of protocol and controls the execution of resolutions adopted by the plenum.

#### **Article 37. Scientific and Advisory Council**

1. Scientific and advisory council shall be established at the high specialized court which shall ensure provision of scientific opinions on important issues of judicial practice.

2. The order of establishing and operation of the scientific and advisory council shall be determined by the regulations to be approved by the plenum of a high specialized court.

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

#### **Article 38. The Supreme Court of Ukraine - the highest judicial body in the system of courts of general jurisdiction**

1. The Supreme Court of Ukraine shall:

- 1) review the court decisions and decides other issues in the manner stipulated by the procedure law;
- 2) present an opinion on presence or absence in actions of which the President of Ukraine is accused elements of state treason or other crime;
- 3) submit at the request of the Verkhovna Rada of Ukraine a written motion stating that the President of Ukraine can not fulfill his/her powers for health reasons;
- 4) apply to the Constitutional Court of Ukraine on the constitutionality of laws and other legal acts, as well as the official interpretation of the Constitution and laws of Ukraine;
- 5) analyze judicial statistics;

- 6) summarize judicial practice in order to ensure uniform application of the principles and the rule of law by all courts of law in deciding court cases;
- 7) within its power resolve issues arising from international treaties of Ukraine;
- 8) exercise other powers stipulated by law.

2. The location of the Supreme Court of Ukraine is Kyiv city.

#### **Article 39. Composition of the Supreme Court of Ukraine**

1. The Supreme Court of Ukraine consists of forty-eight judges - sixteen judges from each specialized jurisdiction (civil, criminal, administrative) who meet the requirements of the part four of Article 62 of this Law and passed the relevant competition of which the Head of the Supreme Court of Ukraine and his deputy are elected.

2. Plenum of the Supreme Court of Ukraine is established at the Supreme Court of Ukraine to address issues defined by the Constitution of Ukraine and Article 44 of this Law.

3. To address issues of access to cases for review by the Supreme Court of Ukraine panel of judges of respective judicial jurisdiction are established.

4. To review cases the following chambers act:

- 1) judicial chamber on civil cases;
- 2) judicial chamber on criminal cases;
- 3) judicial chamber on administrative cases.

5. Scientific and Advisory Board is established at the Supreme Court of Ukraine.

#### **Article 40. A judge of the Supreme Court of Ukraine**

1. A judge of the Supreme Court of Ukraine shall:

- 1) participate in considering the issue of admission of a court case for consideration;
- 2) participate in the review of cases;
- 3) participate in the review of issues raised at sessions of the Supreme Court of Ukraine;
- 4) exercise other powers stipulated by law.

#### **Article 41. The Head of the Supreme Court of Ukraine**

1 The Head of the Supreme Court of Ukraine shall:

- 1) represent the Supreme Court of Ukraine as a state authority in relations with other state authorities, local self-government, individuals and legal entities, as well as with other judicial authorities of foreign countries and international organizations;
- 2) convene a session of the court's plenum; introduce for the consideration of the plenum a motion for appointment of secretary of the plenum; form the agenda of plenum's session and preside at its meetings;
- 3) notify the Council of Judges of Ukraine, as well as through the website of the court on the availability of vacant position at the court within ten days of the formation of such a vacant position;
- 4) control the efficiency of the activity of the court staff;
- 5) appoint the head of the court staff, the deputy head of a court staff and dismisses them from office upon consent of the assembly of judges of the Supreme Court of Ukraine, as well as applies to the head of the court staff, his deputy promotions or disciplinary penalties according to law;
- 6) inform the plenum of the Supreme Court of Ukraine about the activities of the Supreme Court of Ukraine;
- 7) send decisions of the Supreme Court of Ukraine that are obligatory for bodies with government authorities regarding the application of principles and rules of law in respective legal relationships to the head of the respective body with government authorities or respective higher body demanding to take measures for the practice of bodies with

government authorities to correspond with the decision of the Supreme Court of Ukraine and notifying the latter about criminal liability for the non-fulfillment of court decisions:

8) perform other duties stipulated by law.

2. Head of the Supreme Court of Ukraine issues orders on matters within his/her administrative powers.

3. In the absence of the head of the Supreme Court of Ukraine his duties are carried out by the deputy head of the Supreme Court of Ukraine and in the case of absence of the deputy head of a court - judge of this court who has a longer length of service as a judge.

#### **Article 42. Procedure of election of the Head of the Supreme Court of Ukraine**

1. Head of the Supreme Court of Ukraine is elected and dismissed from the position by the Plenum of the Supreme Court of Ukraine by secret ballot with a majority of votes of the total composition of the Plenum. The Head of the Supreme Court of Ukraine is elected to the position for a term of two years. A judge may not hold the position of the Head of the Supreme Court of Ukraine twice in a row.

2. Session of the Supreme Court of Ukraine on the issue of election of the Head of Supreme Court of Ukraine shall be convened not later than one month from the date of termination of powers of the previous Head of the Supreme Court of Ukraine.

3. The procedure of the election to the position of the Head of the Supreme Court of Ukraine and his dismissal from position is established by rules of the Supreme Court of Ukraine to be approved by the Plenum. Changing the regulations' procedure less than six months before the end of the term of the Head of the Supreme Court of Ukraine is not allowed.

#### **Article 43. The Deputy Head of the Supreme Court of Ukraine**

1. Deputy Head of the Supreme Court of Ukraine shall be elected to the position for a term of two years and dismissed by the Plenum of the Supreme Court of Ukraine through a secret ballot by a majority vote of the total composition of the Plenum.

2. Deputy Head of the Supreme Court of Ukraine may be early dismissed in the manner prescribed by the rules of the Supreme Court of Ukraine.

3. Deputy Head of the Supreme Court of Ukraine shall exercise administrative powers determined by the Plenum of the Supreme Court of Ukraine and informs the Plenum of the Supreme Court of Ukraine on his/her activities.

#### **Article 44. Plenum of the Supreme Court of Ukraine**

1. The Plenum of the Supreme Court of Ukraine is a collective body which powers are defined by the Constitution of Ukraine and this Law. The Plenum of the Supreme Court of Ukraine consists of all judges of the Supreme Court of Ukraine.

2. Plenum of the Supreme Court of Ukraine shall:

1) appoint from among the judges of this court and dismiss the Head of the Supreme Court of Ukraine and his/her deputy, secretary of the Plenum of the Supreme Court of Ukraine;

2) hear the information of the Head of the Supreme Court of Ukraine and his/her deputy;

3) summarize judicial practice in order to ensure uniform application of the principles and rules of law in deciding cases, organize and provide disclosure of the legal positions of the Supreme Court of Ukraine with reference to judicial decisions where they were formulated, address to the subjects of the legislative initiative with proposals on amending legislation in force;

4) decide to file a motion to the Constitutional Court of Ukraine regarding constitutionality of laws and other legal acts of the Verkhovna Rada of Ukraine, legal acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, acts of the Verkhovna Rada of the

Autonomous Republic of Crimea, as well as regarding official interpretation of the Constitution and laws of Ukraine;

5) submit to the Verkhovna Rada of Ukraine proposals and give an opinion in the cases specified in Article 110 and part six of Article 111 of the Constitution of Ukraine.

3. Session of the Plenum of the Supreme Court of Ukraine is competent if attended by at least two thirds of Plenum's composition.

4. Employees of the staff of the Supreme Court of Ukraine, representatives of government, academia, NGOs, the media may be invited to a session of the plenum of the Supreme Court of Ukraine.

5. Session of Plenum of the Supreme Court of Ukraine is convened upon necessity but at least once every three months. The session of the Plenum of the Supreme Court of Ukraine is convened by the Head of the Supreme Court of Ukraine who introduces for its consideration respective issues and presides at its session. In the absence of the Head of the Supreme Court of Ukraine sessions of the Plenum are convened and conducted by Deputy Head of the Supreme Court of Ukraine and in the absence of the Deputy Head of the Supreme Court of Ukraine - judge of this court who has a longer length of service as a judge. Plenum shall also be convened at the request of one third of the judges of the Supreme Court of Ukraine certified with their signatures.

6. The procedure of operation of the Supreme Court of Ukraine is established by this Law and adopted according to its Rules of Plenum of the Supreme Court of Ukraine to be approved by the Plenum of the Supreme Court of Ukraine.

7. Plenum of the Supreme Court of Ukraine adopts a decision in the form of resolution. Resolutions of the Supreme Court of Ukraine shall be signed by the presiding person and secretary of the Plenum. Resolution of the Plenum of the Supreme Court of Ukraine shall be made public through publication by the official publishing authority and posting on the website of the Supreme Court of Ukraine.

#### **Article 45. Scientific and Advisory Board**

1. Scientific and advisory council shall be established at the Supreme Court of Ukraine which shall ensure provision of scientific opinions on important issues of judicial practice.

2. The order of establishing and operation of the scientific and advisory council shall be determined by the regulations to be approved by the Plenum of the Supreme Court of Ukraine.

### **SECTION III. PROFESSIONAL JUDGES, PEOPLE'S ASSESSORS AND JURORS**

#### **Chapter 1. General provisions on status of judges**

##### **Article 46. Independence of a judge**

1. A judge in the administration of justice is independent from any unlawful influence, pressure or interference.

2. A judge administers justice on the basis of the Constitution and laws of Ukraine, guided by the rule of law principle.

3. In applying the principles and rules of law a judge considers decisions of the European Court of Human Rights, the Constitutional Court of Ukraine, the Supreme Court of Ukraine.

4. Interference in administering of justice by a judge entails liability stipulated by law.
5. A judge has the right not to give any explanations regarding the details of cases under his consideration except for cases when he/she shall give reasons in the court decision itself.
6. The independence of a judge is ensured by:
- 1) organization of the judiciary system on the basis of self-governing ;
  - 2) special procedure of his/her appointment, election, holding liable and dismissal;
  - 3) inviolability and immunity of a judge;
  - 4) changelessness of judges;
  - 5) the procedure of proceedings, defined the procedure law, secrecy of taking court decision;
  - 6) prohibition of interference in the administration of justice;
  - 7) liability for contempt of court or judge established by law;
  - 8) separate funding and organizational support of the courts' activities established by law;
  - 9) adequate material and social support for the judge;
  - 10) defined by the law means to ensure the personal safety of a judge, members of his/her family, property, and other means of their legal protection;
  - 11) the right of a judge to retire and lifetime allowance.
7. State authorities and local self-government and their officials and officers, as well as individuals and legal persons and their associations are obliged to respect the independence of judges and not to infringe upon it.
8. It is prohibited to diminish content and scope of guarantees of judicial independence determined by the Constitution of Ukraine in the course of adoption of new laws or amending existing laws.

#### **Article 47. Immunity of a judges**

1. A judge is immune. A judge may not be detained or arrested without the consent of the Verkhovna Rada of Ukraine before the court conviction.
2. A judge detained on suspicion of having committed an act for which criminal or administrative liability immediately released as soon as his person is identified. A judge may not be compulsory brought to any institution or authority other than a court.
3. A judge shall be notified about the suspicion of having committed a criminal offense only by the Prosecutor General of Ukraine or his deputy.
4. Removal of a judge from the position due to bringing him/her to criminal liability shall be performed by the Disciplinary Commission of Judges on the basis of a reasoned request of the Prosecutor General of Ukraine.
5. Operative and search or investigative measures in respect of a judge, where the court's consent is required, shall be carried out on the basis of a court's decision taken by the motion of the Prosecutor General of Ukraine or its deputy head.
6. Criminal proceedings against judge charged in committing a criminal offense may not be carried out by the court where the defendant holds or held the position of a judge. If according to the general rules of jurisdiction criminal proceedings regarding judge shall be carried out by the court where the defendant holds or held the position of a judge, criminal proceedings shall be carried out by a court the most geographically close to the court in which the defendant holds or held the position of a judge, other administrative unit (the Autonomous Republic of Crimea, oblast, cities of Kyiv or Sevastopol).



7. For damages caused by the court, the state is responsible on the grounds and in the manner stipulated by law.

**Article 48. Responsibility for contempt of court or judge**

1. Demonstration of contempt of court or judge by persons who are parties to process or are present in trial shall be punished in accordance with the law.

**Article 49. The identification document of a judge**

1. Judges, retired judges, people's assessors and jurors have identification documents, examples of which are approved by the Council of Judges of Ukraine.

2. ID of a judge, retired judge is signed by the Head of the Council of Judges of Ukraine.

3. IDs of people's assessors, jurors are signed by the Head of the court in which people's assessor, juror administers justice.

4. The ID is presented by a person who signed it or on behalf of him/her another person.

**Chapter 2. Professional Judge**

**Article 50. Status of a judge**

1. Citizen of Ukraine acquires the status of a judge after appointment as a judge upon the moment of taking the oath.

2. The judges in Ukraine have the same status regardless of court's place in the system of courts of general jurisdiction or an administrative position held by a judge in court.

**Article 51. Changelessness of a judge**

1. A judge who holds a position permanently is guaranteed his position until he reaches the age of sixty five, except for judge's dismissal or resignation of a judge position under this Law.

2. Judge without his consent may not be transferred to another court.

**Article 52. Requirements for part-time activities**

1. Being a judge is incompatible with holding positions in any other state authority, local self-government and with representative mandate.

2. A judge has no right to combine his/her activities with business or lawyer's practice, any other paid work (except for teaching, research and creative activity) as well as be the member of the governing, executive or supervisory body of the entity or organization that seeks profit.

3. If the judge owns property share in a business entity, then he shall manage this property through the proxy.

4. The judge may not belong to a political party or trade union, show preference for them, to participate in political campaigns, rallies, strikes.

5. While in office, a judge may not be a candidate for elective office in the state authorities (except for judiciary power) and local self-government, as well as participate in the election campaign.

6. The judge shall comply with the requirements concerning part-time activities as defined by the law on the prevention of corruption.

**Article 53. Rights and obligations of a judge**

1. Rights of a judge associated with the administration of justice are established by the Constitution of Ukraine, procedure and other laws.

2. A judge has the right to take part in judicial self-government.

Judges may form public organizations and participate in them to protect their rights and interests, enhance their professional skills.

A judge may be a member of national and international associations with a view to protecting the interests of judges, strengthening the authority of the judiciary power in society and development of the legal profession.

The judge has the right to participate in international bodies and organizations, as well as being a member of the working groups, commissions established to make recommendations.

3. A judge shall improve his/her professional level and for that purpose shall undergo relevant training.

4. Judge upon his statement may be seconded to work in the High Council of Justice, Qualification Commission of Judges, the National School of Judges of Ukraine, on internship in bodies of the Council of Europe, the European Union, international judicial authorities.

5. The judge shall relentlessly follow the oath of a judge.

6. A judge shall:

- 1) promptly, fairly and impartially hear cases, make reasoned court decisions;
- 2) comply with the rules of judicial ethics;
- 3) show respect for parties of a trial;
- 4) not disclose information that is a secret protected by law, including the secret of a jury room and of closed trial;
- 5) comply with the requirements concerning part-time work;
- 6) comply with the law on the prevention of corruption;
- 7) report in writing about each case of unlawful influence on a judge within five days after he/she became aware of such case the Council of Judges of Ukraine and the Prosecutor General's Office of Ukraine which are obliged to examine immediately the report with participation of the judge and take the necessary steps to eliminate the threat;
- 8) comply with the requirements of the part nine of the Article 133 of this Law.

7. A judge appointed as a judge for the first time participates in an annual training at the National School of Judges of Ukraine. A judge who holds a position of a judge permanently enhances skills in the National School of Judges of Ukraine not less than once every three years.

8. The judge who was appointed to an administrative position in a court shall participate in respective training at the National School of Judges of Ukraine.

9. A judge may not be awarded state awards, as well as any other awards, certificates, diplomas before his/her dismissal from the position. A judge can only be awarded state awards for demonstrated personal courage and heroism in circumstances involving a risk to life.

10. A judge *ex officio* has access to state secret to the extent necessary for the administration of justice. A judge who holds an administrative position, has access to state secret as to the extent necessary to implement the relevant administrative powers.

**Article 54. Oath of judges**

1. Person who is first appointed to a position of a judge assumes powers of a judge after taking the oath of a judge as follows:

*"I, (name and last name), entering the position of a judge, solemnly swear to honestly and faithfully perform the duties of a judge, to be virtuous, fair, independent and impartial, to administer justice to strengthen the rule of law, not to commit acts that are incompatible with the title of a judge and belittle the authority of a justice. "*

2. The judge is sworn in at a solemn ceremony in the premises of the Council of Judges of Ukraine within fifteen days from the day of appointment to a position of a judge.

The State Judicial Administration of Ukraine organizes the ceremony of administration of oath by judges.

The text of the oath signed by the judge shall be passed by the State Judicial Administration of Ukraine to the court where the judge holds position.

**Article 55. Judicial Ethics**

1. Issue of judicial ethics is determined by the Code of Judicial Ethics, approved by the Congress of Judges of Ukraine.

2. Commission on Judicial Ethics is established for drafting the Code of Judicial Ethics, amendments thereto, advising judges, retired judges, Commission on preliminary examination of complaints (applications) on bringing judges to disciplinary action, the Disciplinary Commission of Judges of the High Council of Justice to address the problematic issues of judicial ethics and provide recommendations for ethical behavior, prevention and settlement of conflict of interest in the activities of judges, prevent obtaining illicit advantage or prohibited by law gifts, handling them.

Commission on judicial ethics is established and its regulations are approved by the Council of Judges of Ukraine. Ethics Commission operates on a voluntary basis. Its work is secured by the Council of Judges of Ukraine staff.

**Article 56. Monitoring lifestyle of a judge**

1. In order to establish relevance of a judge's level of life to his/her and his/her family property and the income received by them, monitoring of a lifestyle of a judge is conducted in accordance with to law .

**Chapter 3. People's assessors and jurors****Article 57. Status of a people's assessors and juror**

1. People's assessor is a citizen of Ukraine who in cases stipulated by the procedure law and upon his/her consent resolves cases as a part of a court along with a professional judge, providing in accordance with the Constitution of Ukraine participation of people in administering of justice.

People's assessors during the hearing and resolution of cases enjoy the powers of the a judge.

2. A juror is a citizen of Ukraine who in the cases stipulated by the procedure law is involved in the administration of justice, ensuring in accordance with the Constitution of Ukraine participation of people in administering of justice.

3. People's assessor, the juror may be a citizen of Ukraine who has reached the age of thirty and is resident in the territory under the jurisdiction of respective court. People's assessor shall be a person who has higher education.

4. People's assessors and jurors carry out the duties specified in paragraphs 1 - 4 of part four of Article 53 of this Law.

**Article 58. Lists of people's assessors and jurors**

1. List of people's assessors at the request of the head of the respective local court is formed by commission which composition is approved by the relevant local council. The commission includes authorized representatives of the court, representatives of the respective regional office of the State Judicial Administration of Ukraine, human rights organizations and the relevant council.

List of people's assessors is approved by the relevant local council and revised as necessary but not less than once every two years.

2. The list of people's assessors include all citizens permanently residing in the territory under the jurisdiction of the respective court, who meet the requirements of Article 57 of this Law, the fourth part of this article and agreed or wish to become people's assessors.

3. Jury lists include citizens permanently residing in the territory under the jurisdiction of the relevant court and who meet the requirements of Article 57 of this Law and the fourth part of this article. List of the jury at the request of the head of a local court is formed by a respective territorial authority of the central executive authority that implements the state policy in the field of registration of individuals. List of jurors is updated annually no later than March 1.

4. People's assessor or a juror can not be citizens who are:

- 1) recognized by the court as incapable or partially capable;
- 2) have a chronic mental or other illnesses that prevents them from performing the duties of people's assessor or juror;
- 3) have not withdrawn or canceled conviction;
- 4) people deputies of Ukraine, members of the Cabinet of Ministers of Ukraine, judges, prosecutors, police officers and other law enforcement agencies employees, military personnel, employees of court staff and other civil servants, lawyers, notaries,
- 5) reached sixty-five years;
- 6) do not speak the state language.

Person included in the list of people's assessors may not be involved in the proceedings as a juror.

5. After the formation of the list of people's assessors and jurors such lists are transferred to the respective court in electronic form. The information contained in these lists may not be used for purposes not related to the selection of people's assessors and jurors.

**Article 59. Involvement of people's assessors and jurors to perform duties in court**

1. The court involves people's assessors and jurors in the administration of justice in separate cases not more than once a year, except when necessary to complete the trial which was started with their participation. Selection of citizens to be invited to participate in the administration of justice as people's assessors and jurors shall be done by using an automated system.

2. A written invitation to participate in the administration of justice is sent by a court to a people's assessor or a juror no later than seven days before the beginning of a trial. Invitation contains information about rights and responsibilities of people's assessor or juror,

requirements for them, as well as grounds for dismissal from duty. Along with the invitation a written notice is sent to the employer about involvement of employee as a people's assessor or juror.

3. The employer shall free people's assessor, juror from work at the time of executing him/her the duties of the administration of justice. Refusal to free employer from work is deemed as a contempt of court.

4. People's assessor, juror shall be obliged to appear in court upon invitation to participate in the trial. Failure to come to the court without reasonable excuse is deemed as a contempt of court.

5. The procedure of selection of a jury for the trial, the order of taking the oath by them and its content are determined by the procedure law.

#### **Article 60. Grounds and procedure for dismissal from duty assessors and jurors**

1. Under the circumstances specified in part four of Article 58 of this Law the court shall dismiss the person that has been included in the list of people's assessors or list of jurors from duties of an assessor or a juror.

2. The Court shall also dismiss from performing of duties of people's assessor or juror:

- 1) a person who is on leave due to pregnancy and childbirth, on maternity leave, as well as a person who has children of preschool or primary school age or cares about disabled children or elderly family members;
- 2) the head or deputy head of the local self-government authority;
- 3) a person who because of his religious beliefs feels impossible to participate in the administration of justice;
- 4) another person if the head of a court finds reasons to which a person refers as good ones.

3. A person referred to in the part two of this article shall be dismissed from duties of a people's assessor or a juror upon his/her statement filed prior to the execution of his/her duties.

4. Dismissal from duties of a people's assessor or a juror because of a challenge (self-removal) in a particular case shall be performed in order stipulated by the procedure law.

#### **Article 61. Guarantees the rights of people's assessors and jurors**

1. Compensation shall be paid to people's assessors, jurors for the performance of their duties in the court in the manner prescribed by the Cabinet of Ministers of Ukraine. They are reimbursed for travel and lodging and also they are paid per diems. These payments are made by regional branches of the State Judicial Administration of Ukraine from the State Budget of Ukraine.

2. While exercising their duties in court people's assessors and jurors retain at the place of their work all the guarantees and privileges provided by law. Time of exercising duties of the people's assessor or juror in court shall be counted in all types of employment record. Dismissal people's assessor or juror from work or transfer to another job without his consent during the execution of the duties in the court is not allowed.

3. People's assessors and jurors are subjects to the guarantees of independence and immunity of judges established by law during the performance of their duties of the administration of justice. Upon justified request of a people's assessor, a juror safety measures may be taken regarding him/her even after the discharge of his/her duties.

## **SECTION IV. ORDER OF TAKING POSITION OF A JUDGE OF COURT OF GENERAL JURISDICTION**

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

#### **Article 62. Requirements for candidate for a position of a judge**

1. For a position of a judge may be recommended a citizen of Ukraine, who is at least twenty-five years, who has a higher legal education and experience in the legal area not less than three years, has resided in Ukraine for at least ten years and possesses state language.

2. For a position of a judge of the appellate court may be recommended a citizen of Ukraine who was elected to a permanent position of a judge and has respective qualification.

3. For a position of a judge of a high specialized court may be recommended a citizen of Ukraine who has experience as a judge of a local court not less than ten years or as a judge of the appellate court at least five years and has respective qualifications.

4. For a position of a judge of the Supreme Court of Ukraine may be recommended a citizen of Ukraine who has experience as a judge of the appellate court or the high specialized court at least seven years and has respective qualifications.

5. May not be recommended for the post of a judge citizens who:

- 1) are recognized by the court as incapable or partially capable;
- 2) have chronic mental or other illnesses that prevent them from performing duties of a judge;
- 3) have not withdrawn or canceled conviction.

6. For the purposes of this article:

- 1) higher legal education - higher legal education received in Ukraine with the educational level of master, as well as higher legal education with the appropriate educational level received in foreign countries and recognized in Ukraine as stipulated by law;
- 2) work experience in the legal area—work experience of a person in his/her specialty after obtaining her higher legal education with the educational level of master.

7. Persons who are restricted from occupying positions of judges according to the Law of Ukraine On Government Lustration may not be recommended for positions of judges.

#### **Article 63. Selection of candidates for the position of a judge**

1. Selection of candidates for the position of a judge shall be performed out of the number of individuals who meet the requirements established by the Constitution of Ukraine and Article 62 of this Law. The selection of candidates for the position of a judge is performed according to results of passing special training and taking the qualifying examination in accordance with this Law.

2. In the process of selection of candidates for the position of a judge equality of rights regardless of race, color, political, religious and other beliefs, sex, ethnic or social origin, property status, place of residence or other characteristics shall be ensured.

3. Anyone who meets the requirements established for candidates for the position of a judge may apply to the Qualification Commission of Judges with an application to participate in the selection of candidates for the position of a judge.

## **Chapter 2. Appointment to a position of a judge**

### **Article 64. Procedure for the first appointment for the position of a judge**

1. First appointment to the position of a judge is performed in the manner stipulated by this Law and includes the following steps:

- 1) Posting on the official web portal of the judiciary announcement about the selection of candidates for the position of a judge considering expected number of vacancies of judges and publication of the announcement in the determined by it print media. The announcement contains the statement of requirements to be met by candidates for candidates for the position of a judge, the deadline for submission of documents to the Qualification Commission of Judges and their list;
- 2) submission by persons who wish to become judge of the respective application and documents specified by this Law; performing on the basis of these documents check that the persons meet requirements established for candidate for the position of a judge;
- 3) taking by persons who meet the established requirements for a candidate for the position of a judge the qualifying examination in the manner approved by the Council of Judges of Ukraine;
- 4) publication on the website of the judiciary the list of candidates who have passed the qualifying examination, conducting interview with them;
- 5) organization of special inspection regarding the candidates upon their written consent in the manner stipulated by this Law and the law on prevention of corruption;
- 6) undergoing by candidates of a special training;
- 7) taking by candidates of the qualifying examination;
- 8) determining ratings of the candidates for the position of a judge based on results of a special training and qualifying examination, their admission to the staffing reserve of judges, publication of this reserve on the official web portal of the judiciary;
- 9) announcement on the official web portal of the Council of Judges of Ukraine competition for filling these positions among the candidates who are in reserve in case of opening of new vacancies of judges;
- 10) the competition for filling vacancies of judges based on rating of candidates;
- 11) submission by the Judicial Qualifications Commission recommendation to the High Council of Justice on the appointment of a candidate;
- 12) considering at a meeting of the High Council of Justice the issue of compliance with the procedure laid down in paragraphs 1 - 11 of part one of this Article and submission of proposals to the President of Ukraine on the appointment of a candidate to a position of a judge;
- 13) appointment for a position of a judge and determination of the court where the judge will hold the position.

### **Article 65. Submission by a candidate for a position of a judge documents to the Qualification Commission of Judges**

1. To participate in the selection of candidates for a position of a judge a person shall submit:

- 1) a written application for participation in the selection of candidates for a position of a judge;
- 2) a copy of the passport of the citizen of Ukraine;
- 3) questionnaire of a candidate that contains information about him;
- 4) copies of diplomas, scientific degree, academic rank;
- 5) copy of labor record;
- 6) medical conclusion on the state of health of the candidate (list of health facilities providing such conclusion and form of such conclusion shall be approved by the Council of Judges of Ukraine in agreement with the authorized central authority of executive power on issues of the health care);

- 7) a written consent to the collection, storage and use of information about the candidate to assess his readiness to work as a judge and holding in regard to him/her a special inspection;
- 8) a declaration of a person authorized to perform state or self-government functions in the order prescribed by law on the prevention of corruption;
- 9) a copy of the military card (for servicemen or military obliged);
- 10) a statement as provided by the Article 6 of the Law of Ukraine On Government Lustration.

The form and content of the application to participate in the selection of candidates for a position of a judge, questionnaires of candidate shall be approved by the Council of Judges of Ukraine and posted on the official web portal of the judiciary.

It is prohibited to request from a candidate documents not covered by this part.

2. Acceptance of documents is completed on the day specified in the announcement as the deadline for their submission.

3. Persons who have submitted all the necessary documents and meet the requirements established for candidate for a position of a judge are admitted to selection of candidates for a position of a judge. In case of refusal of admission Qualification Commission takes a reasoned decision.

#### **Article 66. Qualification Examination**

1. Qualification examination is done to check the level of general theoretical knowledge in law area, command of the state language and analytical skills of candidates and consists of anonymous testing.

2. Qualification Commission of Judges informs candidates admitted to the qualifying examination the date, time and place of its holding not later than one week prior to that date.

3. Immediately after the qualifying examination Qualifications Commission of Judges in the presence of candidates for a position of a judge ensures review of tests and determines a passing score, which shall not be less than 75 percent of the maximum possible score considering expected number of vacant positions.

4. The results of the qualifying examination shall be published on website of the judiciary not later than the day following the examination.

5. As a result of the qualifying examination Qualification Commission of Judges shall decide on the admission of persons who have successfully passed the examination to the next stage of selection and publish the decision on the official web portal of the judiciary.

6. Qualification Commission of Judges shall ensure transparency of a qualifying examination. Representatives of the media may attend each stage of it and be present during review of tests.

7. Qualification Commission of Judges conducts with candidates who have passed the qualifying examination interview to verify knowledge of the language of justice and the absence of physical barriers to the proper administration of justice. As a result of interview Qualification Commission of Judges may adopt a reasoned decision of non-admission of a candidate to the next stage of the procedure for the appointment to a position of a judge.

#### **Article 67. Special inspection of candidates**

1. Qualification Commission of Judges organizes special inspection in the manner prescribed by the law on the prevention of corruption and with regard to the details of this law for



candidates for a position of a judge who have passed the qualifying examination and passed the interview.

2. For the purpose of conducting a special inspection not later than the next business day after the admission of candidates to the next stage of selection Qualification Commission of Judges shall send to the competent authorities inquiries about the respective information about such people. These requests shall be signed by the head or deputy head of the Qualification Commission of Judges.

Based on the information received Qualification Commission of Judges prepares a certificate on results of a special inspection.

3. Individuals and legal persons, public associations may submit to the Qualification Commission of Judges information on the integrity of candidates for a position of a judge within one month from the date of official publication of the list of candidates who have passed the qualifying examination.

4. After receiving information that may indicate non-integrity of a candidate for a position of a judge, Qualification Commission of Judges reviews it at its meeting inviting such candidate. Candidate for a position of a judge has the right to get familiar with this information, provide relevant explanations to refute and deny it. As a result of reviewing the Qualification Commission of Judges may adopt a reasoned decision of non-admission of a candidate to undergo a special training.

5. Considering results of passing the special examination taken by candidates, Qualification Commission of Judges shall decide on the admission of candidates for a position of a judge to the special training.

#### **Article 68. Special preparation of a candidate for a position of a judge**

1. Special preparation of a candidate for a position of a judge includes theoretical and practical training of judges at the National School of Judges of Ukraine. Practical training involves an internship, including at the courts, the prosecution authorities, pre-trial investigation authorities and institutions of the penitentiary service, state executive service, at advocacy.

2. Program, curriculum and procedures for undergoing the special training of a candidates for a position of a judge are approved by the Council of Judges of Ukraine upon the proposal of the National School of Judges of Ukraine. Programs of internship at prosecution authorities, pre-trial investigation bodies, institutions of the penitentiary service, state executive service and advocacy shall be agreed with the respective authorities.

3. Special training lasts for one year.

While undergoing the special training the candidate shall retain the main place of work, a stipend is paid of at least half of the base salary of a judge.

The term of undergoing a special training at the National School of Judges of Ukraine shall be counted into work experience in the area of law.

4. As a result of training in court candidates make a report and submit it to the Commission consisting from judges of the respective court where they were trained. The Commission consists of at least three judges of that court. Commission upon consideration of the report approves the assessment based on the criteria set out in the procedure for the special training of candidates for a position of a judge.

5. As a result of the special training candidates receive appropriate document of the approved form which contains score for each subject and for results of an internship in court. National School of Judges of Ukraine shall send materials regarding candidates who have undergone the special inspection to the Qualifications Commission of Judges so that candidates can take the qualifying examination. The special training is fulfilled when a candidate fulfilled program of such training.

6. In case of violation by a candidate for a position of a judge of order of the special training that led to his expulsion or in case a candidate stopped training on his/her own initiative, he must reimburse the money spent on his/her preparation.

7. If a candidate for a position of a judge within three years after admission to the reserve staffing to fill the vacant position of a judge did not submit an application for participation in the competition to occupy the vacant position of a judge, he is obliged to reimburse the costs of his special training.

#### **Article 69. Qualification examination**

1. The qualification examination is attestation of a person who has undergone the special training and intends to be recommended for appointment as a judge.

2. The qualification examination is testing the appropriate level of professional training of the candidate obtained as a result of the special training, of the technical skills, personal qualities of the candidate and his ability to administer justice.

3. Qualification examination consists of a written anonymous test and of implementation of practical tasks.

4. Qualification Commission of Judges shall ensure transparency of the qualifying examination. The media, professional organizations of lawyers and human rights organizations may attend its each stage and be present during the evaluation of results.

5. The course of the qualifying examination is fixed by technical means of video and audio recording and broadcasted via the official web-portal of the judiciary.

6. Regulation on the procedure for taking the qualifying examination and evaluation methodology shall be approved by the Council of Judges of Ukraine upon the proposal of the National School of Judges of Ukraine.

7. The results of the qualifying examination are valid for three years.

8. A person who failed the qualifying examination may be admitted to the repeated taking of this examination again not earlier than in one year. A person who failed the qualifying examination for a second time may be admitted to the next examination no earlier than in two years.

9. Qualification Commission of Judges defines rating of candidates for a position of a judge according to the points scored by candidates based on the results of special training at the National School of Judges and qualifying examination and admits candidates to reserve staffing to fill position of a judge. Rating shall also separately indicate points in tasks that test the candidate's ability to be a judge in different types of jurisdiction.

10. The information about results of the qualifying examination and the place of a candidate in rating is publicly available and shall be published on the official web portal of the judiciary.

**Article 70. Conducting competition to fill the vacant position of a judge**

1. In order to conduct a competition to fill the vacant position of a judge, Qualification Commission of Judges posts the respective information on the website of the judiciary not later than one month before the competition.

2. The competition announcement shall contain the name of the courts where there are vacant positions of a judge, the number of such positions, conditions of competition, date, time and venue of the competition.

3. Candidates for a position of a judge who are in staffing reserve and judges who wish to participate in the contest to fill the vacant positions within the prescribed period shall submit to the Qualification Commission of Judges their written applications.

Information about the application by each candidate to fill vacant positions of a judge and his rating shall be posted not later than the next working day on the official web portal of the judiciary.

4. Qualification Commission of Judges conducts a contest for filling the vacant positions of a judge based on the ratings of candidates. In the case of identical place in rating advantage is given to the candidate who received more points in tasks that test his ability to be a judge of respective jurisdiction and in case with the same number of points - a candidate with longer experience in the area of law.

5. As a result of competitive selection, Qualification Commission of Judges shall send to the High Council of Justice, according to the number of vacancies, recommendations on the appointment of candidates as judges.

6. Pursuant to the recommendation of the Qualifications Commission of Judges, the High Council of Judges, upon results of verification of compliance with the procedure laid down in paragraphs 1 - 12 of part one of Article 64 of this Law, shall submit a proposal to the President of Ukraine on the appointment of a candidate for a position of a judge.

In case of establishing violations of the procedure that led to or may have lead to wrong results of selection, the High Council of Justice shall adopt a reasoned decision to reject submitting a proposal on the appointment of the candidate (candidates) for the position of a judge, as well as determine actions of the Qualifications Commission of Judges necessary to overcome the results of such violations.

**Article 71. First appointment to the judicial post and designating the court, where the judge is to serve his first judicial post**

1. The President of Ukraine appoints the judge based on a recommendation of the High Council of Justice within fifteen days from the receipt of the recommendation.

2. The Council of Judges of Ukraine based on a recommendation of the Qualification Commission of Judges, according to the candidate's application submitted to the competition designates the court for the judge take up the salaried position of the judge in within fifteen days from the appointment to the judicial position.

**Article 72. Transfer of a judge within a five-year term**

1. Within a five year term the judge can be transferred to the judicial position in another local court on his written request to the Qualification Commission of Judges.

2. The judge is transferred to the judicial post in other court on the outcome of competition to fill the judicial opening under Article 70 hereof.

3. When applying to fill a judicial opening in another court of the same instance, the judge may use the results of his previous qualification examination or take a qualification examination hereunder (however no sooner than three years after the previous qualification examination).

4. The Council of Justice of Ukraine transfers the judge within a five-year term on recommendation of the Qualification Commission of Judges.

### **Chapter 3. Consideration of appointment to a lifetime judicial position**

#### **Article 73. Procedure of receiving a lifetime judicial appointment**

1. This Law and the Law of Ukraine On the Regulations of the Verkhovna Rada of Ukraine shall determine the appointment procedure to the lifetime judicial position .

2. The judge, whose tenure has expired shall apply to the Qualification Commission of Judges to be elected by the Verkhovna Rada of Ukraine to a lifetime position, unless there are statutory grounds for dismissal of the judge from office.

3. The following procedure is followed for a judge to receive a lifetime appointment:

1) the candidate submits a written application to the Qualification Commission of Judges to be recommended to a lifetime judicial position;

2) the Qualification Commission of Judges reviews the information about the candidate, any disciplinary sanctions or legal liability;

3) the Qualification Commission of Judges decides whether or not to recommend the candidate to a lifetime position and if rules positively, sends a recommendation to the Verkhovna Rada of Ukraine;

4) Based on the recommendation of the Qualification Commission of Judges the Verkhovna Rada of Ukraine rules on the lifetime judicial appointment in line with the statutory requirements.

#### **Article 74. Application procedure for a lifetime judicial appointment to the Qualification Commission of Judges**

1. The candidate seeking a lifetime judicial appointment should apply no later than three months before the judicial tenure's end to the Qualification Commission of Judges with an application to recommend him to a lifetime judicial position.

2. The Qualification Commission of Judges shall receive recommendation applications to a lifetime judicial position in cases below:

1) a candidate has been removed from office due to tenure end and has not previously applied to the Qualification Commission of Judges to recommend him to a lifetime judicial position;

2) a candidate had previously secured to a lifetime judicial position, but resigned of his own accord.

3. If a candidate applies to the Qualification Commission of Judges to be recommended to a lifetime judicial position three years following his leave of judicial office, the Qualification Commission of Judges may recommend this judicial candidate to a lifetime judicial position after his completion of the qualification examination hereunder.

4. To be elected to a lifetime judicial position the candidate shall submit:

1) a written application letter;

2) copy of Ukrainian citizen passport

3) application form for a lifetime judicial position containing background information;

4) a copy of the labour record book;

5) a medical certificate on his state of health issued by a health care institution (the list of health care institutions certified to issue medical certificates and the form are approved by the Council of Judges of Ukraine on approval of the central executive health care institution);

- 6) a declaration of a person authorized to perform state or self-government functions in the order stipulated by the Law on Preventing Corruption;
- 7) a written consent to collection, storage and use of personal information for the assessment of his suitability to a lifetime judicial position;
- 8) a statement as provided by the Article 6 of the Law of Ukraine On Government Lustration.

5. The Qualification Commission of Judges approves and places on the official website of the judiciary the requirements as to the form and content of the recommendation letter to a lifetime judicial position, as well as the form and content of the application form of candidate's to a lifetime judicial position.

6. Candidates can not be required to submit any documents, not listed herein, except when necessary to provide information related to actions taken in judges' judicial capacity.

**Article 75. The Qualification Commission of Judges review procedure of the candidate's application to a lifetime judicial position**

1. The Qualification Commission of Judges can review the application to a lifetime judicial position at any time, but no later than two months before the expiry of the judicial tenure.

2. The Qualification Commission of Judges monitors a judge's lifestyle in accordance with the law and reviews whether the candidate to a lifetime judicial position complies with the requirements set forth in Articles 52 – 53, 62 hereof.

3. The candidate applying to a lifetime judicial position is entitled to review the information about his conduct, requests filed by the Qualification Commission of Judges and answers received, as well as to express his opinion thereof at the meeting of the Qualification Commission of Judges.

**Article 76. The decision whether to recommend a candidate to a lifetime judicial position**

1. The decision whether to recommend the candidate to the lifetime judicial position is taken under the procedure established by the the Qualification Commission of Judges and is announced immediately. The reasons not to recommend a candidate to a lifetime position include discrepancy between the living standard of a judge and property owned by him and his family and his income established as a result of monitoring his living standards, as well as failure to comply with Articles 52-53 and 62 hereof.

**Article 77. Submission to elect a candidate to a lifetime judicial position**

1. The Qualification Commission of Judges submits its decision to recommend a candidate to a lifetime judicial position to the Verkhovna Rada of Ukraine no later than a month following the expiry of candidate's judicial tenure.

**Article 78. The Verkhovna Rada of Ukraine considers the issue of electing a candidate to a lifetime judicial position**

1. The Law of Ukraine On the Regulations of the Verkhovna Rada of Ukraine stipulates the procedure of considering and enacting a decision to elect a candidate to a lifetime judicial position.

2. The motion to elect a candidate to a lifetime judicial position is heard at a plenary session of the Verkhovna Rada of Ukraine without resolutions of the Verkhovna Rada of Ukraine committees or any other reviews.

3. Hearing the motion to elect a candidate to a lifetime judicial position at the plenary session of the Verkhovna Rada of Ukraine starts with the report of the Chairman of the Qualification

Commission of Judges or a member of the Qualification Commission of Judges acting on his behalf.

4. The decision to elect a candidate to a lifetime judicial position is taken by the constitutional majority of the Verkhovna Rada of Ukraine and enacted by a resolution of the Verkhovna Rada of Ukraine.

5. The candidate elected to a lifetime judicial position acquires his status on the day the Verkhovna Rada of Ukraine enacts the resolution. The person shall remain on his salaried judicial position in the court, where he worked prior to being elected to a lifetime judicial position.

If a candidate is elected to a lifetime judicial position after being removed from his post, the Qualification Commission of Judges with the judge's approval designates a court for him to take up a position of the same level as before, considering availability of judicial openings.

#### **Article 79. Transferring a judge with lifetime tenure to another court**

1. The Judicial Council of Ukraine transfers a judge with lifetime tenure from one court to another on submission of the Qualification Commission of Judges.

2. The judge with lifetime tenure is transferred from one court to another court of the same instance under Article 72 herein.

3. The judge with lifetime tenure is transferred from one court to a higher instance court based on the results of a competition.

The Qualification Commission of Judges shall place the relevant information about a vacant position of a higher instance court judge on the official web-portal of the judiciary no later than one month before the competition.

The announcement shall include names of courts with judicial vacancies, number of vacancies, competition conditions, deadlines for submitting documents, date, time and place of the competition.

The judges willing to compete for the vacant judicial positions shall submit the following to the Qualification Commission of Judges: documents specified part 4 of Article 74 herein, a cover letter and any information to testify of his merits (information on continuing professional development at the National School of Judges, judge's teaching or scientific record, participation in judicial self-governance or other social contributions, etc.)

During the competition the Qualification Commission of Judges shall organize monitoring of the judge's lifestyle, question the judges of the courts where the judges are sitting about personal qualities of the candidate, his rapport with colleagues; bring in third persons as court visitors to independently assess judge's conduct in the courtroom; study disciplinary practice of the candidate, reviews other data to testify to the judge's temperament and his suitability for higher instance court position.

4. Decision to recommend or not to recommend a judge for transfer shall be taken in the order established by the regulations of the Qualification Commission of Judges during its meeting. The decision shall contain reasons why the Qualification Commission of Judges gave preference to one candidate and dismissed another one.

5. On his request a judge is transferred to a lower instance court of the same specialization by the Council of Judges of Ukraine without a competition and without being considered by the Qualification Commission of Judges.

## **Section V. ASSURING THE PROPER QUALIFICATION LEVEL OF JUDGES**

### **Chapter 1. Qualification Commission of Judges**

#### **Article 80. Status of the Qualification Commission of Judges**

1. The Council of Judges of Ukraine forms the Qualification Commission of Judges to screen candidates to judicial positions and to exercise other powers vested in it hereby. The Council of Judges of Ukraine in its resolution to form the Qualification Commission of Judges designates its mandate and scope of powers within the limitations set forth herein.

The Council of Judges of Ukraine shall establish one or more Qualification Commissions of Judges as shall be necessary.

2. The regulations for the Qualification Commission of Judges are set forth herein and by the resolution on the Qualification Commission of Judges, approved by the Council of Judges of Ukraine.

4. The Administration of the Council of Judges shall support the operation of the Qualification Commission of Judges.

#### **Article 81. Powers of the Qualification Commission of Judges**

1. The Qualification Commission of Judges shall exercise the following powers as within the founding resolution of the Council of Judges of Ukraine:

- 1) conduct screening of the candidates for their first judiciary position hereunder;
- 2) submit recommendations on the appointment to a lifetime judicial position to the Verkhovna Rada of Ukraine;
- 4) submit motions to the Council of Judges of Ukraine to designate a court for the judge to take up his position in (including motions to transfer a judge from one court to another);
- 5) other powers stipulated hereunder.

2. To exercise its powers the Qualification Commission of Judges is entitled to request and receive the relevant information under the statutory procedure.

#### **Article 82. Constitution of the Qualification Commission of Judges**

1. The Qualification Commission of Judges is comprised of nine members, who are citizens of Ukraine, have a university degree in law and professional legal background of at least twenty years and have full command of the state language.

The Commission shall comprise:

- 1) six judges or retired judges;
- 2) three public representatives.

2. The term of powers of the Qualification Commission of Judges is determined by the founding resolution of the Council of Judges of Ukraine, but shall not exceed one year.

3. Members of the Qualification Commission of Judges for the term of their powers are deployed with the Commission and shall not perform their duties of office at their main place of employment, with the exception of their teaching and scientific commitments.

4. Members of the Qualification Commission of Judges shall retain their status and main position at the primary place of employment for the duration of their service on the Commission.

5. Members of the Qualification Commission of Judges shall be reimbursed for their expenses incurred through performance of their duties of the Commission members under the procedure and within the amounts set by the Cabinet of Ministers of Ukraine on submission of the Council of Judges of Ukraine.

**Article 83. The procedure for forming the Qualification Commission of Judges**

1. The Assembly of Judges of Ukraine shall approve a list of judges and retired judges complying with the requirements for members of the Qualification Commission of Judges and wishing to become members of the Commission. The list is reviewed every four years.

2. Within fifteen days after expiry of term of powers or pre-term termination of powers of the members of the Qualification Commission of Judges, the Council of Judges of Ukraine at its open session shall select through drawing procedure and appoint new members to the Qualification Commission of Judges.

3. The Council of Judges of Ukraine shall approve a list of public representatives complying with the requirements for members of the Qualification Commission of Judges and wishing to become members of the Commission. The list includes individuals recommended by non-governmental organizations (no more than one person from an organization), professional lawyer associations (no more than three people from one organization), higher educational or scientific institutions (no more than three people from one organization or institution). The organisations, establishments or institutions need to have been registered in the order established by law for not less than ten years. The list is reviewed every four years.

The Council of Judges of Ukraine is entitled to give a justified rejection of a recommended public representative explaining the grounds that will impede him in his performance of duties of a member of the Qualification Commission of Judges.

4. The Commission shall not comprise elected members of the Ukrainian parliament, members of the Cabinet of Ministers of Ukraine, court presidents and their deputies, members of the Council of Judges of Ukraine, High Judicial Council as well as officials subjected to disciplinary sanctions.

5. The Qualification Commission of Judges is competent if it is constituted of at least seven Commission members.

**Article 84. Termination of powers of a member of the Qualification Commission of Judges**

1. The powers of a member of the Qualification Commission of Judges terminate when the mandate is complete or the term of the Qualification Commission of Judges expires.

The powers of the Qualification Commission of Judges member are terminated pre-term in the event:

- 1) a member resigns from his powers as the Commission member;
- 2) a medical certificate is submitted certifying a member's inability to perform his duties for health reasons;
- 3) in case of breach of suitability requirements;
- 4) a guilty verdict of a member comes into effect
- 5) termination of citizenship of a member;
- 6) a member is presumed missing, is proclaimed dead or in case of his death.

2. The decision to terminate the powers of the Commission member pre-term is taken based on submission of any Commission member of the Council of Judges of Ukraine by the Commission majority and the decision to terminate the powers of a member due to a breach



of suitability requirements is taken by at least two thirds of the Commission members by a secret ballot.

**Article 85. Organization and sessions of the Qualification Commission of Judges**

1. The Qualification Commission of Judges at its first session shall elect by a secret ballot from among its members its Chairman, a Deputy Chairman and a Secretary. The election is believed to have taken place if the majority of all the Commission members have voted.

2. The Chairman shall organize operation of the commission, define responsibilities of his Deputy and preside over Commission session. The Deputy shall take over the responsibilities of the Chairman in his absence; should the Deputy be absent as well, then a Commission member, who is one of the judges or retired judges with the lengthiest term of judicial service shall take over.

3. The Secretary shall prepare Commission sessions and be responsible for record keeping for the Commission.

4. The Commission shall hold its sessions openly and publically. The Commission session is competent is no less than two thirds of the total number of Commission members are present.

5. The session of the Commission shall be recorded by technical means.

6. The Commission Chairman shall set the date, time and place of the Commission session, draw up an agenda and notify the person concerned no later than ten days prior.

**Article 86. Powers of a Qualification Commission of Judges member**

1. To exercise his powers a member of the Qualification Commission of Judges shall:

1) examine the materials submitted for Commission consideration, participate in their scrutiny and review;

2) state his motives and considerations, as well as submit additional documents on the matters under consideration;

3) submit proposals to the draft Commission resolution on any issue and vote for or against resolutions;

4) express a dissenting opinion in writing to the Commission resolution;

2. Commission members shall exercise other statutory powers.

**Article 87. Recusal of a the Qualification Commission of Judges member**

1. A Qualification Commission of Judges member shall not take part in deliberation and decision making and shall be recused if circumstances are established casting doubt on his impartiality. A Commission member should file for self-recusal if such circumstances should arise. Under the same circumstances individuals whose matter is deliberated upon or upon whose submission a matter is considered can also request recusal of a Commission member.

2. A recusal has to be justified and submitted as a written request in the Chairman's name before the deliberation starts. The presiding chairperson shall notify the Commission member, whose recusal is requested of the recusal request.

3. The decision on recusal (self-recusal) is voted in by the majority of the attending Commission members. The votes are cast in the absence of the Commission member, whose recusal (self-recusal) is in question.

**Article 88. Resolution of the Qualification Commission of Judges**

1. The Qualification Commission of Judges enacts a decision by its constituent majority, as herein, unless otherwise stipulated herein. The votes are cast in the absence of the individual, whose matter is heard and invitees.
2. Commission resolutions are documented in writing. The resolution shall state the date and place of the decision, constitution of the Commission, the matter at hand and justification for the decision taken. The resolution is signed by the Chairman of the session and Commission members, who participated in the session.
3. A Commission member is entitled to an opinion dissenting from the Commission decision. The dissenting opinion is not voiced at the session, but documented in writing and attached to the case file. The Chairman shall state at the session that a dissenting opinion is attached to the case file.
4. Commission resolution can be appealed under the procedure set forth in the procedural law.

**Chapter 2. The National School of Judges of Ukraine****Article 90. Status and Structure of the National School of Judges of Ukraine**

1. The National School of Judges of Ukraine shall be a state institution. It shall ensure training of highly-qualified personnel for judicial system and conduct research activities. The legislation on higher education shall not be applied to the National School of Judges of Ukraine.
2. The National School of Judges of Ukraine shall operate according to this Law and the Charter to be approved by the Council of Judges of Ukraine.
3. The National School of Judges of Ukraine shall be headed by Rector appointed and dismissed from position by the Council of Judges of Ukraine. Vice-Rectors of the National School of Judges of Ukraine shall be appointed and dismissed from positions by the Council of Judges of Ukraine based on the motion of the Rector of the National School of Judges of Ukraine.
5. The full-time Rector, Vice-Rectors, instructors and staff of the National School of Judges of Ukraine shall be given the status of public servants. Their pay and level of social security may not be less than corresponding categories of public servants of the central executive authorities.
6. The National School of Judges of Ukraine shall be the legal entity, have the seal with imprint of the State Emblem of Ukraine and its name on it, an independent balance sheet and accounts in the bodies of the State Treasury of Ukraine and may have regional branches.

**Article 91. Mission of the National School of Judges of Ukraine**

1. The National School of Judges of Ukraine shall conduct:
  - 1) proficiency training of candidates for a judicial position;
  - 2) training and advanced training of judges;
  - 3) advanced training of court staff;
  - 4) research to improve the arrangement of judiciary system, status of judges and court proceedings;
  - 5) study of international experience on arrangement of court operations;
  - 6) research and methodological support to operations of court of general jurisdiction, the Supreme Council of Justice, Council of Judges of Ukraine, Judicial Qualifications

Commissions, Commissions for Preliminary Study of Complaints and Claims to Bring the Judge to Disciplinary Liability, Disciplinary Commissions of Judges.

## **Section VI.DISCIPLINARY RESPONSIBILITY OF A JUDGE**

### **Chapter 1. The grounds and procedures for disciplinary action against judges**

#### **Article 92. Grounds for disciplinary responsibility of a judge**

1. A judge may be brought to disciplinary responsibility in accordance with disciplinary proceeding for the following reasons:

1) intentional, or in connection with obvious neglect:

- violation of the right to access to justice or the right to a reasoned judgment;
- violation of a reasonable term to hear a case;
- delay in making a judgment;
- the judge's failure to provide a copy of a judgment for its entry into the Unified State Register of Court Decisions;
- illegitimate application of injunctive relief or groundless refusal in application of injunctive relief, which caused harm to a person;
- obstruction of transparency and openness of court proceedings;

2) violation of the requirements regarding unbiased consideration of a case, including in regard of recusal (self-recusal);

3) disclosure of secret information protected by law, including confidential information of the deliberation room or secrets that became known to the judge in the course of proceedings in an in-camera court session;

4) intentional, or caused by an obvious neglect, violation by a judge, who participated in making the judgment, of human rights and fundamental freedoms in the sense of international agencies whose jurisdiction is recognized by Ukraine;

5) failure to notify the Council of Judges of Ukraine and the General Prosecutor Office of Ukraine about cases of illegitimate influence on a judge within five days after they became aware of such a case;

6) continuous or a single gross violation of the rules of judicial ethics defaming the justice ship and degrading the authority of public justice;

7) failure of, or delay in the submission for publication of declaration of a person authorized to perform state or self-government functions; statement of deliberately misleading information in those;

8) use of the status of a judge with the aim of illegitimate acquisition by the judge or a third party of material or other benefits;

9) a demonstration by a judge, or by members of their family, of expenses exceeding incomes of the judge or incomes of their family members;

10) detection of a disparity between the living standards of a judge and property and incomes available to them and members of their family, as established by obtained by monitoring of the judge's lifestyle;

11) a demonstration of unfair behavior in the course of their integrity examination by law-authorized body;

12) acquisition of nationality of another country without terminating Ukrainian nationality;

13) dissociation of a judge having judicial authorities from exercising these authorities;

14) failure to submit statement or other documents as provided by the Article 4 of the Law of Ukraine On Government Lustration.

2. A judge shall not assume disciplinary liability if they participated in passing a judgment, the adoption of which has signs of disciplinable offense, and expressed a written dissent on that decision, which indicates a proper performance of their duties.

**Article 93 Disciplinary bodies**

1. The following bodies shall carry out disciplinary proceedings against a judge as disciplinary bodies:

- 1) disciplinary commissions of Judges – in relation to judges of local and appellate courts;
- 2) The High Council of Justice - in relation to judges of high specialized courts and judges of the Supreme Court of Ukraine.

2. Commissions for preliminary examination of complaints (appeals) on bringing judges to disciplinary action shall be effective under the Council of Judges of Ukraine, which take decisions on opening of disciplinary proceedings.

**Article 94. Disciplinary proceedings against a judge**

1. Disciplinary proceedings are a procedure for review by a body, authorized by law, of appeals containing information about a judge's violation of requirements pertaining to their status, duties or oath, as defined in the first paragraph of Article 92 of this Law.

2. The right to file a complaint (appeal) regarding judicial conduct, which may result in disciplinary responsibility of a judge, shall be granted to any person aware of such facts. Disciplinary Commission of Judges shall approve and post on its official web portal sample complaints (appeal) regarding improper judicial conduct that can be used to communicate to the disciplinary body the information about violations of requirements pertaining to the judge's status, duties or oath.

3. A disciplinary body shall not consider any appeals filed on grounds other than those specified in part one of Article 92 of this Law; appeals that do not contain any specific information of alleged disciplinary offense by a judge, and anonymous appeals.

**Article 95. Acceptance of complaints (appeals) and their verification**

1. On the day when the complaint (appeal) is received, the administrative office of the Council of Judges of Ukraine shall register them and, within five days, check whether the complaints (appeals) are eligible for consideration by an appropriate disciplinary authority.

2. An executive officer of the administrative office of the Council of Judges of Ukraine by their substantiated decision shall return the complaint (appeal) to the appellant without substantive consideration if:

- 1) conduct of a judge described in the complaint (appeal) bears no signs of actions specified in Article 92 of this Law;
- 2) the judge was dismissed (except dismissal in connection with the submission of resignation or their powers have been terminated in connection with their death);
- 3) evidence of improper judicial conduct that are described were subject to inspection and earlier and a disciplinary body passed a decision.

The decision to return the complaint (appeal) to the appellant without substantive consideration may be appealed in court.

3. The administrative office of the Council of Judges of Ukraine, having determined eligibility of a complaint (appeal) for consideration by a respective disciplinary body, shall pass it to the Commission for preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility for decision on opening of a disciplinary proceeding.

5. In case it necessary to conduct an additional verification of information contained in the complaint (appeal), it shall be conducted by one or more members of the Commission for preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility within one month from the date of registration of the application (appeal), and if

the verification cannot be completed within that period of time, it can be extended by the disciplinary body, but for not longer than a month.

6. The examination shall be conducted within the circumstances reported in the complaint (appeal) or representation. In the event such examination reveals other circumstances that may be grounds for bringing of the judge to disciplinary liability, a member of the commission for preliminary examination of complaints (appeals) on bringing judges to disciplinary action shall include the relevant information to the examination conclusions.

7. A body of the state power, a body of local self-government, their officials, senior executive officers of state enterprises, institutions and organizations, who received inquiries by the commission for preliminary examination of complaints (appeals) on bringing judges to disciplinary action or by its member, within ten days upon receipt of the inquiry shall be obligated to respond to the request and information available to them. If necessary, the time period to provide the information may be extended up to thirty days, of which the commission or its member shall notify the person who submitted a request for extension of the time period for the information provision.

8. Failure to provide the Commission for preliminary examination of complaints (appeals) on bringing judges to disciplinary action or its member with the requested information held by an authority or official, as well as provision of deliberately misleading information, shall entail bringing the offenders to responsibility as envisaged by law.

9. A member of the Commission for preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility, proceeding from the examination findings, shall prepare an opinion that must include information on the confirmation or refutation of information about misconduct; description of any circumstances identified in the course of the examination; proposal by the Commission for the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility about opening of, or refusal to open, disciplinary proceedings.

10. The conclusion and any materials collected in the examination process must be received by the relevant members of the Commission for preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility no later than five days before the meeting to decide on the opening of, or refusal to open disciplinary proceedings.

#### **Article 96. The opening of disciplinary proceedings**

1. The issue of opening of, or refusal to open, disciplinary proceeding shall be decided by the Commission on preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility by a majority vote. Decisions on those issues must be substantiated.

2. Copies of the decision to open disciplinary proceedings or refusal of the opening shall be communicated to the appellant and to the judge within three days after it has been passed.

3. In case of opening of a disciplinary proceeding the Commission for preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility shall submit its materials to the appropriate disciplinary authority – the Disciplinary Commission of Judges or the High Council of Justice.

4. The decision on the opening of disciplinary proceedings or refusal thereof may not be appealed.

#### **Article 97. Consideration of a disciplinary case**

1. Disciplinary cases shall be considered at a meeting of the disciplinary body, attended by the person upon whose appeal the proceedings were opened, the judge against whom the

proceedings were opened, their representatives, witnesses, and, as appropriate, other interested persons.

2. If unable to participate in a meeting of the disciplinary body for valid reasons, the judge against whom the proceedings were opened may submit a written explanation to be attached to the materials of the proceedings. The judge's written explanations are to be announced at the meeting of the disciplinary body. The judge's repeated failure to appear for the meeting of the disciplinary body shall be grounds for consideration of the disciplinary case *in absentia* only in presence of the judge's written explanations or failure to provide such explanations within the time period stipulated by the disciplinary body.

3. Consideration of a disciplinary case in relation of a judge shall be based on adversarial principles. The disciplinary body at its meeting shall hear a report of the member(s) of the Commission for preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility, which decided to open disciplinary proceedings, about the examination results, explanations of the judge against whom the proceedings were opened, and/or their representative and testimony of witnesses and other interested persons.

4. The judge against whom the proceedings, and (or) his representative, shall have the right to give explanations, ask questions to the participants of the proceedings, object, make motions and challenges to apply for an invitation witnesses.

5. The person who filed a complaint (appeal) and (or) their representative shall have the right to give explanations and ask questions to the participants in the proceedings.

6. The process of consideration of disciplinary proceedings against the judge and the announcement of the results of its consideration shall be registered by technological means.

#### **Article 98. Decision in a disciplinary case against a judge**

1. The disciplinary body shall decide a disciplinary case within six months of receipt of the appeal (complaint), without regard to the time of the judge's temporary disability or vacation.

2. The disciplinary body shall decide a disciplinary case by a majority vote of the total membership. Prior to passing of the decision the disciplinary body shall discuss the results of the disciplinary proceedings in the absence of the judge, the case against whom was considered, and any invitees.

3. In the course of deciding on the awarding a punishment to the judge, the nature of the disciplinary offense, its consequences, the judge's personality, the degree of their fault, any circumstances affecting the possibility of bringing the judge to disciplinary responsibility, shall be taken into account. The disciplinary penalty shall be chosen on the principle of proportionality.

4. A disciplinary penalty may be imposed on a judge not later than two years after the commission of the offense, without regard to the time of the judge's or temporary disability or their vacation time. If the circumstances under which a disciplinary offense was committed were determined by a court decision or decision of an international institution, that term shall be calculated from the publication of the decision.

5. Adoption by the disciplinary body of a conclusion on violation of oath by a judge, which prevents further occupation by that person of the post of a professional judge, shall serve as grounds for the High Council of Justice for a motion for the dismissal of the judge in connection with violation of oath.

6. In the absence of grounds for application of disciplinary penalty to the judge the disciplinary body shall close the disciplinary proceedings.

7. The decision of the disciplinary authority shall be made in writing, signed by the Chairperson and members of the disciplinary body who participated in the consideration of the disciplinary case, and announced at the meeting. A decision in a disciplinary case shall contain the following:

- 1) the given name, patronymic and surname and position of the judge brought to disciplinary responsibility;
- 2) the circumstances revealed in the case, citing evidence;
- 3) the grounds on which the decision was passed;
- 4) the essence of the decision by the consideration results, with indication of the disciplinary penalty in the event of its application;
- 5) the procedure and time limits for appeal against the decision.

8. In presence of a dissenting opinion, a member of the disciplinary body shall set it forth in writing and attach to the case, which fact the chairperson announces at the meeting. The content of the dissenting opinion shall not be announced at the meeting.

9. A copy of the decision passed by the disciplinary authority shall be provided to the judge regarding whom the disciplinary case was considered, or, within seven days, it shall be sent by registered mail with a return receipt. Within that same period, a copy of the decision to impose a disciplinary penalty shall be sent to the head of the court where the judge serves.

10. The decision of the disciplinary body, based upon consideration of the disciplinary case shall, within seven days after its passing, be published on the official web portal of the judiciary and be permanently accessible. In case of cancellation of the decision, information about that shall be made available on the official web portal of the judiciary.

#### **Article 99. Disciplinary penalties against a judge and procedure of its removal**

1. One of the following disciplinary sanctions may be applied to a judge:

- 1) censure;
- 2) reprimand;
- 3) severe reprimand, with deprivation of the right to receive additional payments to the base salary of a judge for one or three months;
- 4) temporary (from one to three months) suspension from the administration of justice, with deprivation of the right to receive additional payments to the base salary of a judge and mandatory referral of the judge to the National School of Judges of Ukraine for qualifications upgrading course, as defined by the disciplinary body;
- 5) conclusion on violation of oath by the judge preventing further occupation by that person of the post of a professional judge;
- 6) termination of the judge in retirement status (if the disciplinary case was decided after the dismissal of a judge).

Only one disciplinary penalty may be applied upon consideration of disciplinary case against a judge.

2. A censure shall be cancelled at the moment of its announcement.

A reprimand shall be cancelled in one year, and a severe reprimand – in eighteen months from the date of application.

A temporary suspension of a judge from the administration shall be cancelled in two years from the date of its application, subject to the approval by the disciplinary body of the judge's

report on the results of completion of a qualifications upgrading course, as specified by the disciplinary body.

3. The disciplinary body may pass a conclusion on violation of oath by a judge preventing further occupation by that person of the post of a professional judge, if:

- 1) the judge committed a disciplinary offense envisaged in paragraph 4, 8 – 14 in the first part of Article 92 of this Law;
- 2) the judge committed a disciplinary infraction while still having a non-cancelled disciplinary penalty.

4. A repeated commission of a disciplinary infraction by a judge who still having a non-cancelled disciplinary penalty entails a more severe disciplinary penalty.

#### **Article 100. Appealing a decision in a disciplinary case against a judge**

1. A judge of a local or appellate court may appeal the decision of the disciplinary committee of judges regarding imposing of disciplinary measures to the High Council of Justice or to a court within fifteen days from the date when they have been served a copy of the decision personally or by mail.

2. The judge submits their complaint to the High Council of Justice through the administrative office of the Council of Judges of Ukraine.

3. The administrative office of Council of Judges of Ukraine, not later than three days upon receipt of the complaint, shall forward it to the High Council of Justice, along with the materials in the disciplinary case.

4. The High Council of Justice shall consider the complaints in the manner stipulated by the Law of Ukraine "On the High Council of Justice".

5. Consideration of an administrative claim on appeal against the decision of the disciplinary committee of judges or the High Council of Justice regarding bringing of a judge to disciplinary responsibility shall be carried out as stipulated by the procedural law.

6. Appeal to the High Council of Justice or administrative lawsuit against the disciplinary committee of judges and the High Council of Justice of bringing judges to disciplinary liability suspend disciplinary action.

#### **Chapter 2. The Commission for preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility**

##### **Article 101 The status of the Commission for preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility**

1. The Commission for preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility shall be established by the Council of Judges of Ukraine to examine the information contained in a complaint (appeal), and a decision regarding opening of a disciplinary case.

2. The work procedures of the Commission for preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility shall be determined by this Law and the Provisions on the Commission, approved by the Council of Judges of Ukraine.

##### **Article 102. Personal composition of the Commission on the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility**

1. The Commission on the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility shall operate as a body with nine members who are



citizens of Ukraine having a higher education in law degree and practical experience in the field of law for at least ten years. The commission shall consist of three members representing judges or judges in retirement and six members representing the public.

2. The Commission on the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility shall be created for purposes of preliminary study of a number of complaints (appeals) that is defined in the Provisions on the commission.

3. Members of the Commission on the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility may exercise their professional powers in their main office, but participation in the work of the commission shall be taken into account in the course of the load distribution.

4. Members of the Commission on the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility shall retain their status and main position for the duration of exercise of their powers.

5. Members of the Commission on the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility shall receive compensation for costs associated with the exercise of the powers of the commissioner in accordance with the procedures and in amounts determined by the Cabinet of Ministers of Ukraine upon presentation by the Council of Judges of Ukraine.

**Article 103. Procedures for formation of the Commission on the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility.**

1. The Congress of Judges of Ukraine shall approve a list of judges and judges in retirement who meet the requirements to a member of the Commission on the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility and have expressed their willingness to become commissioners. That list shall be updated every four years.

2. The Council of Judges of Ukraine shall approve a list of public representatives who meet the requirements to a member of the Commission on the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility and have expressed their willingness to become commissioners. The list shall include individuals nominated by public organizations (not more than one person per organization), professional organizations of lawyers (not more than three persons per organization), institutions of higher learning or research institutes (not more than three persons per the institution or institute).

Organisations, establishments or institutions need to have been registered in the order established by law for not less than ten years. That list shall be updated every four years.

The Council of Judges of Ukraine shall have the right to reject, in a substantiated manner, any candidate nominated by the public with reference to circumstances that prevent the exercise of powers of a member of the Commission for the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility.

3. The Council of Judges of Ukraine, having passed the decision to establish a Commission for the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility, or for the purposes of replacement of a member of the commission who is unable to exercise their powers, for valid reasons, at its open meeting shall select and appoint members of the commission by way of ballot casting.

4. People's Deputies of Ukraine, members of the Cabinet of Ministers of Ukraine, heads of courts and their deputies, members of the High Council of Justice and officials who have a disciplinary penalty may not be appointed to the Commission.

5. The Commission for the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility shall be competent if composed of all the nine members. Powers of the Commission shall terminate after processing of a certain number of complaints (appeals). In case of early retirement of a commission member or their recusal, the Council of Judges of Ukraine shall appoint a new member, in accordance with part three of this article.

**Article 104. Organization of work and sessions of the Commission for the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility.**

1. The Commission for the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility shall elect its Chairperson from among its members, by a secret ballot. The candidate who receives the majority of votes of the total Commission members shall be considered elected.

2. The Chairperson of the Commission shall organize the work of the Commission and preside at the Commission sessions. In absence of the Chairperson of the Commission, their duties shall be carried out by a member of the Commission who has the longest length of service as a judge.

3. The Chairman of the Commission shall appoint the date, time and venue for sessions of the Commission, a list of issues to be considered at the session and, not later than ten days prior to the meeting, communicate it to person regarding whom an issue is to be considered.

4. The Commission sessions shall be held in a closed manner - in absence of interested parties and the public.

5. Organizational support to work of the Commission shall be provided by the administrative office of the Council of Judges of Ukraine.

**Article 105. Powers of a member of the Commission for the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility**

1. A member of the Commission for the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility, in exercising their powers, shall:

- 1) study any materials submitted to the Commission, participate in their examination and review;
- 2) have the right to request any necessary information, copies of materials in cases, proceedings on which have been completed, or get familiarized with materials of cases in court; question judges and appellants and other persons, and propose that they submit written explanations;
- 3) have the right to give their reasons and arguments, and provide supporting documents to matters under consideration;
- 4) have the right to put forward proposals regarding draft decisions by the Commission on any issues and vote for or against a decision;
- 5) have the right to express a written dissenting opinion regarding the Commission's decision.

2. Members of the Commission for the preliminary examination of complaints (appeals) on bringing judges to disciplinary responsibility shall exercise other powers as stipulated by law.

**Chapter 3. The Disciplinary Commission of Judges of Ukraine**

**Article 106. Status of the Disciplinary Commission of Judges**

1. The Disciplinary Commission of Judges shall be established by the Council of Judges of Ukraine in order to consider and pass decisions on disciplinary cases. The caseload shall be determined by the Council of Judges of Ukraine.

2. The Council of Judges of Ukraine may establish one or more Disciplinary Commissions of Judges as the need may be.

3. The rules of procedure of the Disciplinary Commission of Judges shall be specified by this Law and Regulation on Disciplinary Commission of Judges approved by the Council of Judges of Ukraine.

4. The Disciplinary Commission of Judges shall:

1) consider and pass decisions on disciplinary cases against judges of local and appellate courts as well as retired or resigned judges;

2) pass decision to dismiss the judge from office due to criminal action against the judge on the grounds of reasoned application of the Prosecutor General of Ukraine;

3) exercise other powers as specified by this Law.

5. For the exercise of its powers, the Disciplinary Commission of Judges shall have the right to request and receive necessary information in compliance with procedure specified by this Law.

#### **Article 107. Composition of the Disciplinary Commission of Judges**

1. The Disciplinary Commission of Judges of Ukraine shall be composed of 5 members who are citizens of Ukraine, have higher legal education and record of service in the legal profession of at least 15 years. The Commission shall include 3 members representing judges or retired judges and 2 public representatives.

2. The Disciplinary Commission of Judges shall be established to consider a specific caseload of disciplinary cases. This caseload shall be specified by the Regulation on Disciplinary Commission of Judges.

The Council of Judges of Ukraine shall establish more than one Disciplinary Commission of Judges to ensure timely decisions on disciplinary cases.

3. The members of Disciplinary Commission of Judges shall execute their professional duties at their primary employment, however participation in Disciplinary Commission of Judges shall be considered for distribution of workload.

4. The member of Disciplinary Commission of Judges shall retain the status and primary employment during execution of duties.

5. The members of Disciplinary Commission of Judges shall be reimbursed for expenses associated with execution of duties of a Commission member in compliance with procedure and within the amount specified by the Cabinet of Ministers of Ukraine on a motion presented by the Council of Judges of Ukraine.

#### **Article 108. Procedure for Establishment of the Disciplinary Commission of Judges**

1. The list of judges and retired judges shall be approved by the Congress of Judges of Ukraine. They shall comply with the requirements to the member of the Disciplinary Commission of Judges and state their willingness to become such members. This list shall be updated each 4 years.

2. The Council of Judges of Ukraine shall approve a list of public representatives who comply with the requirements to the member of the Disciplinary Commission of Judges and state their willingness to become such members. The list shall include the persons suggested by non-governmental organizations, but no more than 1 person from organization, professional jurist organization, but no more than 3 persons from organization, higher educational institutions or research establishments, but no more than 3 persons from institution or establishment. Organisations, establishments or institutions need to have been registered in

the order established by law for not less than ten years. This list shall be updated each 4 years.

The Council of Judges of Ukraine shall have the right to reject the suggested public candidate in a reasoned manner with a reference to circumstances that impede the member of the Disciplinary Commission of Judges to execute powers.

3. The Council of Judges of Ukraine, while making a decision to establish the Disciplinary Commission of Judges or replace a Commission member who for good reasons is not able to execute powers, shall elect and appoint the members of Disciplinary Commission of Judges in an open meeting by drawing lots.

4. The people's deputies, members of the Cabinet of Ministers of Ukraine, chief justice, their deputies, members of the Supreme Council of Justice and persons under disciplinary sanctions may not be appointed to the Commission.

5. The Disciplinary Commission of Judges shall be deemed competent if at least all 5 members of the Commission have been available. The powers of the Disciplinary Commission of Judges shall be discontinued after consideration of the specified caseload of disciplinary cases. In the event of early vacation of a seat by the Commission member or rejection of the member, the Council of Judges of Ukraine shall appoint the new member on this position in compliance with item 3 of this Article.

#### **Article 109. Arrangement of Work and Meetings of the Disciplinary Commission of Judges**

1. The Disciplinary Commission of Judges shall elect from among its members, in secret vote, the Head of the Commission. The candidate receiving a majority of the votes of all members of the Commission shall be deemed to have been elected.

2. The Head of the Disciplinary Commission of Judges shall organize the work of the Commission and preside at the meetings. In the absence of the Head of the Commission, this duty shall be performed by the Commission member who has longer record of service on the judicial position.

3. The Head of Commission shall determine the date, time and place of the Commission's meeting, the list of items to be put on the agenda of the meeting, and send a notification to the person whose case is to be heard not later than ten days before the meeting.

4. Meetings of the Commission shall be open and public. The Commission either by its own motion or by motion made by the applicant or judge whose case is to be heard, based on the reasoned decision, may announce the meeting or its part private in order to prevent disclosure of state secret or other secrets protected by the law.

5. Staff of the Council of Judges of Ukraine shall provide for administrative support to activities of the Disciplinary Commission of Judges.

#### **Article 110. Powers of a Member of the Disciplinary Commission of Judges**

1. A member of the Disciplinary Commission of Judges shall have the following powers:

- 1) be acquainted with materials submitted for the Commission's consideration and take part in their examination and verification;
- 2) has the right to request necessary information, transcript of records of closed cases, or be acquainted with the files of the case in court;
- 3) present reasons and arguments and submit additional documents concerning the issues under consideration;

- 4) submit proposals regarding draft resolution of the Commission on any issues and vote for or against any particular decision;
- 5) express in written form a dissenting opinion on any decision made by the Disciplinary Commission of Judges.

2. A member of the Disciplinary Commission of Judges shall exercise other powers specified by the law.

3. A member of the Disciplinary Commission of Judges may not take part in the consideration and adjudication if circumstances exist which might call into question the member's impartiality. In the presence of such circumstances, the Commission's member must make a motion for recuse. For the same reasons, recuse of the Commission's member may be requested by persons involved in the issue under consideration or persons having presented the issue for consideration.

A request for recuse, in the form of a written application addressed to the Head of Commission, must be grounded and submitted prior to beginning of consideration of the issue. The Chair of the meeting shall be obliged to acquaint with the application of the Commission's member whose recuse is sought.

A decision on recusal or self-recusal of a Commission's member shall be taken by a majority of the votes of the Commission's members present at the meeting in the absence of the Commission's member whose recusal or self-recusal is to be voted upon.

## **Section VII. DISMISS FROM OFFICE OF A JUDGE OF A COURT OF GENERAL JURISDICTION**

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

#### **Article 111. General conditions to dismiss a judge from office**

1. A judge of a court of general jurisdiction shall be dismissed from office solely on the grounds set forth in Part 5, Article 126 of the Constitution of Ukraine by the body which elected or appointed the judge, upon a motion by the Supreme Council of Justice.

#### **Article 112. Dismissal of a Judge from Office due to Expiry of Term of Appointment**

1. The Supreme Council of Justice shall submit a motion to the President of Ukraine for dismissal of a judge from office due to expiry of the term of appointment of a judge if:

- 1) the judge has failed to submit an application for selection to a lifetime position three months prior to expiration of term of appointment;
- 2) the Qualifications Commission of Judges adopted a decision not to recommend the judge to be elected to a lifetime position.

2. The Supreme Council of Justice shall submit a motion for dismissal of a judge from office due to expiry of the term of appointment and indicate the date on which the dismissal of the judge should take effect.

3. A judge shall be dismissed from office by the President of Ukraine.

4. If a judge for any reason has not been dismissed from office or a decision to appoint the judge to a lifetime position has not been made, the judge shall not be entitled to exercise the powers in administering justice from the next day after the expiry of the term of appointment.

#### **Article 113. Dismissal of a Judge from Office on the Grounds of Age**

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

2. The Qualifications Commission of Judges shall, not later than 1 month before the day of reaching the age of sixty-five, notify the Supreme Council of Justice of the presence of a grounds for the dismissal of a judge.

3. The Supreme Council of Justice shall, not later than 15 days before the day specified in item 1 of this Article, submit a motion for dismissal of a judge upon reaching the age of sixty-five to the body which elected or appointed the judge.

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

#### **Article 114. Dismissal of a Judge from Office for Health Reasons**

1. A judge shall be dismissed from office in case the judge is unable to exercise powers for health reasons, provided that this fact is certified by a medical opinion issued by a medical commission formed by a specially authorized central body of executive power in charge of public health or upon a court decision finding the judge to be partially capable or legally incapable which has entered into legal force.

2. Having acknowledged that the state of health prevents a judge from exercising powers for a long time or permanently, the Supreme Council of Justice shall submit a motion for dismissal of the judge to the body which elected or appointed the judge.

#### **Article 115. Dismissal of a Judge from Office for Violating Incompatibility Requirements**

1. A judge shall be dismissed from office for violating the incompatibility requirements upon a motion to be submitted by the Supreme Council of Justice to the body which elected or appointed the judge in compliance with the procedure specified by the Law of Ukraine "On Supreme Council of Justice".

#### **Article 116. Dismissal of a Judge from Office for Violating the Oath of Office**

1. A judge shall be dismissed from office for violating the oath of office upon a motion by the Supreme Council of Justice submitted on the basis of a reasoned conclusion on violation the oath of office by the judge which renders impossible the further occupation of position of a professional judge.

2. In case the conclusion on violation the oath of office by the judge which renders impossible the further occupation of position of a professional judge has been made by the Disciplinary Commission of Judges, this conclusion shall be submitted to the Supreme Council of Justice to consider a motion to dismiss a judge from office for violation the oath of office by the judge. The Supreme Council of Justice upon the appeal of a judge brought to disciplinary liability may verify facts that became the grounds for enforcement of respective disciplinary penalty.

3. The Supreme Council of Justice shall consider the matter on motion to dismiss a judge from office for violation the oath of office by the judge in compliance with the Law of Ukraine "On Supreme Council of Justice". A decision to submit a motion to dismiss a judge from office for violation the oath of office by the Supreme Council of Justice and decision on groundlessness of conclusion on violation the oath of office by the judge which renders impossible the further occupation of position of a professional judge by this person, shall be made by the majority of votes of the constitutional members of the Supreme Council of Justice.

4. A decision of the Supreme Council of Justice shall contain information on circumstances that became the grounds for conclusion on violation the oath of office and arguments in support of decision.

5. The Supreme Council of Justice shall submit a motion to dismiss a judge from office for violation the oath of office by the judge to the body which elected or appointed the judge.

6. Upon a motion by the Supreme Council of Justice the President of Ukraine shall issue a decree on dismissal of a judge from office and make a mandatory reference to the respective motion by the Supreme Council of Justice.

7. Upon a motion by the Supreme Council of Justice the Verkhovna Rada of Ukraine shall pass a resolution on dismissal of a judge from office with a mandatory reference to the respective motion by the Supreme Council of Justice.

8. The case shall return to disciplinary body to appoint another disciplinary penalty if the Supreme Council of Justice or court pass a decision on unlawfulness of conclusion on violation the oath of office by the judge which renders impossible the further occupation of position of a professional judge by a person due to disproportion of selected disciplinary penalty.

**Article 117. Dismissal of a Judge from Office due to Entry into Legal Force of a Judgment of Conviction against the Judge**

1. A court which has handed down a judgment of conviction against a judge shall immediately report this fact to the Supreme Council of Justice.

2. Once a judgment of conviction against a judge has entered into legal force, the Supreme Council of Justice shall submit a motion for dismissal of the judge from office.

3. A judge against whom a judgment of conviction has entered into legal force may no longer exercise powers until the dismissal from office, and shall lose the guaranties of judicial immunity provided by the law as well as the right to financial and other support.

**Article 118. Dismissal of a Judge from Office in Case of Termination of Citizenship**

1. A judge shall be dismissed from office upon a motion by the Supreme Council of Justice in case of termination of citizenship pursuant to the Law of Ukraine "On Citizenship of Ukraine".

2. A judge may no longer exercise powers from the moment of termination of citizenship.

**Article 119. Dismissal from Office of a Judge Who Was Found Missing or Announced Dead**

1. A court which passed a decision to acknowledge a judge missing or announced dead shall immediately report this fact to the Supreme Council of Justice. In case such a decision enters into legal force, the Supreme Council of Justice shall submit a motion for dismissal of the judge from office.

2. If a person found missing or announced dead re-appears before the decision to dismiss from office is passed by the body which elected or appointed such person, the Supreme Council of Justice shall withdraw the motion. If a person re-appears after the passing of a decision to dismiss such person from office, the issue to re-instate the person in judicial position shall be adjudged in a judicial procedure.

**Article 120. Dismissal of a Judge from Office due to Resignation Request or Voluntary Resignation**

1. A judge whose record of judicial service is not less than twenty years, as determined pursuant to this Law, shall have the right to request a resignation. A judge shall likewise have the right to request resignation regardless of record of service if the state of health, as certified by a medical opinion that states the connection between the illness and execution of judicial duties, prevents the judge from performing judicial duties.

2. A judge shall have the right at any time of tenure to submit a request for voluntary resignation, regardless of the reason.

3. A request for resignation, request for voluntary termination of service shall be submitted by a judge directly to the Supreme Council of Justice that in the course of 1 month starting from the day the request is received shall submit a request for dismissal from office to the body which elected or appointed the judge.

4. A judge shall continue to exercise powers until a decision is passed to dismiss the judge from office.

**Article 121. Requirements Regarding a Motion for Dismissal of a Judge from Office**

1. A motion by the Supreme Council of Justice for dismissal of a judge from office shall state:

- 1) the date of submission of the motion;
- 2) the full name of the judge;
- 3) the date of birth of the judge;
- 4) information on the judge's tenure of office;
- 5) the name of the court;
- 6) the grounds for submitting the motion for dismissal from office, as set forth in Part 5, Article 126 of the Constitution of Ukraine;
- 7) justification for motion with a referral to circumstances and evidences in case the motion is submitted on the grounds set forth in Articles 115 – 117 of this Law;
- 8) other information as set forth in law.

**Article 122. Consideration of and Passing a Decision by the Verkhovna Rada of Ukraine for Dismissal from Office of a Judge Elected for a Lifetime Position**

1. A procedure for consideration of and passing a decision by the Verkhovna Rada of Ukraine for dismissal of a judge from office elected to a lifetime position is set forth in this Law and Law of Ukraine "On Procedural Rules of the Verkhovna Rada of Ukraine".

2. The issue of dismissal of a judge from office elected for a lifetime position shall be considered at the next plenary meeting of the Verkhovna Rada without conclusion of committees of the Verkhovna Rada of Ukraine and any verification.

3. The Head of the Supreme Council of Justice or a member of the Supreme Council of Justice who acts by his order report the issue of the dismissal of a judge from office elected for a lifetime position at a plenary meeting of the Verkhovna Rada of Ukraine.

4. The decision to dismiss a judge from office shall be taken by a majority of the constitutional composition of the Verkhovna Rada of Ukraine. The decision shall be formalized by a resolution of the Verkhovna Rada of Ukraine.

5. In case if the majority of votes from the constitutional composition of the Verkhovna Rada of Ukraine is not received for a decision to dismiss a judge from office elected for a lifetime position, re-voting shall be conducted to pass this decision.



6. The powers of a judge shall be terminated on the day the Verkhovna Rada of Ukraine passes the correspondent resolution.

#### **Article 123. Termination of the Powers of a Judge**

1. The powers of a judge shall be terminated in the event of death.

2. The Chief Justice where the judge held office shall report on termination of the powers of a judge in the event of death to the Council of Judges of Ukraine.

#### **Article 124. Suspension of the Powers of a Judge**

1. The powers of a judge shall be suspended in the event of:

- 1) expiry of tenure of office of a judge;
- 2) reaching the age of sixty-five;
- 3) acknowledgement of judge missing or announcement of death of a judge;
- 4) termination of citizenship;
- 5) entry into legal force of a judgment of conviction against a judge;
- 6) temporary duty of a judge in the Supreme Council of Justice, Qualification Commission of Judges, National School of Judges.

2. Suspension of the powers of a judge continues:

- 1) in case set forth in Item 1, Paragraph 1 of this Article until passing a decision to elect a judge for a lifetime position or dismissal of a judge from office;
- 2) in cases set forth in Items 2 – 5, Part 1 of this Article until a decision made to dismiss a judge from office;
- 3) in case set forth in Item 6, Paragraph 1 of this Article until a return from temporary duty or dismissal of a judge from office.

### **Section VIII. JUDICIAL AUTONOMY**

#### **Chapter 1. General Principles of the Judicial Autonomy**

#### **Article 125. Objectives of the Judicial Autonomy**

1. The judicial autonomy is aimed at establishing independent organizational and other types of conditions for the activities of judges, establishing independence of court, protecting judges from interference into their operations as well as enhancing judicial quality.

2. The judicial autonomy aims at solving the following issues:

- 1) Increasing independence of judges, protection from interference into their activities.
  - 2) Determining standards of personnel, fiscal, logistical and other types of support for the judges as well as monitoring their adherence.
  - 3) Selecting judges for administrative appointments at courts following procedures as established by this Law.
  - 4) Appointment of judges of the Constitutional Court of Ukraine.
  - 5) Appointment of judges to the High Judicial Council as per procedure specified in the law.
- Based on this Law the judicial autonomy also envisages solving other issues.

#### **Article 126. Organizational Forms of Judicial Autonomy**

1. The organizational form of judicial autonomy shall be the conference of judges, board of judges of Ukraine, congress of judges of Ukraine.

2. Judicial autonomy in Ukraine is executed through:

- 1) conference of judges of a local court, court of appeals, higher specialized court, the Supreme Court of Ukraine,
- 2) board of judges of Ukraine,
- 3) congress of judges of Ukraine.

3. Judicial autonomy procedures are identified by this Law, other legislative acts as well as regulations and instructions, adopted by judicial autonomy organizations in accordance with this Law.

## **Chapter 2. Conference of Judges**

### **Article 127. Conference of Judges**

1. Conferences of judges are gatherings of judges of a particular court at which issues of internal court operations are discussed and collective decisions on the issues under discussion are taken.

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

3. Meetings of judges shall be convened as necessary but not less than once every three months.

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

5. A meeting of judges shall:

- 1) discuss issues related to internal operation of the court or a member of the staff and take binding decisions on these issues,
- 2) identify specialization of judges to consider specific categories of cases,
- 3) hear reports from judges holding administrative positions, and from the manager of the court staff,
- 4) exercise other powers specified by the law.

6. Conference of judges of each court of general jurisdiction (besides local courts of general jurisdiction) elects delegates for the Congress of Judges of Ukraine in a secret ballot.

The conferences of judges of each local court of general jurisdiction elect delegates in a secret ballot for the joint conference of judges of local courts of general jurisdiction within the Autonomous Republic of Crimea, each region of Ukraine, cities of Kyiv and Sevastopol under the principle one delegate per 5 judges. If a court has less than 5 judges then the court delegates 1 person.

The joint conference of judges of the local courts of general jurisdiction in the Autonomous Republic of Crimea, each region of Ukraine, cities of Kyiv and Sevastopol shall be conducted in order to elect delegates for the Congress of Judges of Ukraine in a secret ballot.

Procedures to convene and conduct joint conferences of judges of the local courts of general jurisdiction shall be identified by the Board of Judges of Ukraine.

7. Conferences of judges may submit proposals regarding resolution of court operation issues to the state administrative bodies and local government which must review these proposals and respond to them on their merits.

8. Conferences of judges may discuss issues related to application of legislation and work out relevant proposals on ways to improve that application and legislation.

8. Decisions of conference of judges shall be taken by a majority of votes of the conference delegates in an open ballot if a decision on a secret ballot has not been made. Decisions on

appointments to administrative positions or retirement from these positions shall be made in a secret ballot.

**Article 128. Implementation of the Decisions of the Conferences of Judges**

1. Implementation of the decisions of the conference of judges shall be entrusted by the conference to the chief judge of the court or his/her deputy.

**Chapter 3. Higher Judicial Autonomy Bodies**

**Article 129. The Congress of Judges of Ukraine**

1. The highest judicial autonomy body is the Congress of Judges of Ukraine.

2. The Congress of Judges of Ukraine shall:

- 1) hear reports by the Board of Judges of Ukraine on performance of tasks of judicial autonomy related to providing for independence of courts and judges, and on the status of funding and organizational support to the operation of courts as well as disciplinary practice with regard to judges,
- 2) hear report of the Qualifications Commission of Judges of Ukraine on its operations,
- 3) hear report of the Head of the State Judicial Administration of Ukraine about their operations,
- 4) appoint and dismiss justices of the Constitutional Court of Ukraine in accordance with the Constitution of Ukraine and the laws of Ukraine,
- 5) appoint members of the High Council of Justice and decide on termination of their powers in accordance with the Constitution of Ukraine and laws of Ukraine,
- 6) in accordance with the Law of Ukraine On the High Council of Justice submit proposals to the Parliament of Ukraine, President of Ukraine, congress of representatives of the higher law educational establishments and research institutions, congress of attorneys of Ukraine, the all-Ukrainian congress of employees of the public prosecution offices with regard to candidates to be appointed to the High Council of Justice who are selected among judges or retired judges,
- 7) approve lists of judges and retired judges who are candidates to sit on the judges' qualifications committee, committee for preliminary examination of claims with regard to disciplinary actions against judges, judges' disciplinary committee,
- 8) submit proposals regarding resolution of court operation issues to the state administrative bodies and officials thereof,
- 9) consider other issues of judicial autonomy in accordance with the law.

3. The Congress of Judges of Ukraine makes decisions that are binding for all courts and judicial autonomy bodies.

**Article 130. Procedure for Convening the Congress of Judges of Ukraine**

1. A regular Congress of Judges of Ukraine shall be convened by the Board of Judges of Ukraine once every two years. An extraordinary Congress of Judges of Ukraine may be convened by the decision of the Board of Judges of Ukraine.

If necessary, the conference of judges may request the Board of Judges of Ukraine to convene an extraordinary Congress of Judges of Ukraine. The Board of Judges of Ukraine is obliged to convene an extraordinary Congress of Judges of Ukraine at the request of the conference of judges of at least one-fifth of all courts.

2. The Board of Judges of Ukraine that convenes the Congress of Judges of Ukraine, as specified by part 1 of this article, approves a preliminary list of issues to be considered by the Congress, and determines the date and place of the Congress.

3. Invitations to the Congress of Judges of Ukraine may be extended to the Minister of Justice of Ukraine, members of the High Council of Justice, Chairman of the National Court Administration of Ukraine and persons that do not participate in voting the decision of the Congress of Judges of Ukraine.

4. The delegates to the Congress of Judges of Ukraine and invitees shall be notified of the date of the congress and its agenda not later than twenty days prior to the beginning of the congress.

#### **Article 131. Election of Delegates to the Congress of Judges of Ukraine**

1. Conferences of judges of each court of general jurisdiction (besides the local court of general jurisdiction) elect delegates to the Congress of Judges of Ukraine in an amount of 1 delegate from among 20 judges. If less than 20 judges work in a court, then the court delegates 1 person.

2. Joint conference of judges in each region of Ukraine, Autonomous Republic of Crimea, cities of Kyiv and Sevastopol elect delegates to the Congress of Judges of Ukraine in an amount of 1 delegate from among 20 judges from the total number of judges that work at local courts of general jurisdiction in each region of Ukraine, Autonomous Republic of Crimea, cities of Kyiv and Sevastopol.

3. Delegates to the Congress of Judges of Ukraine shall be elected in a secret ballot with free nomination of candidates for election among judges of respective courts or retired judges, notwithstanding their place of work prior to retirement. Judges who are assigned to administrative positions at courts or judges who are members of the High Council of Justice may not be elected as delegates to the Congress of Judges of Ukraine.

#### **Article 132. Procedure for Holding the Congress of Judges of Ukraine**

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

2. A Congress of Judges of Ukraine shall be inaugurated by the head of the Board of Judges of Ukraine; and in his/her absence - by the authorized member of the Board of Judges of Ukraine.

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

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

5. There shall be kept minutes of the Congress of Judges of Ukraine.

6. The decisions of the Congress of Judges of Ukraine shall be taken by a majority of votes of the delegates in an open or secret ballot. The issues specified in Items 4, 5 of part two, Article 129 of this Law shall be settled by secret ballot.

7. Other issues relating to the procedure of holding the Congress of Judges of Ukraine shall be governed by the regulations of the Congress of Judges of Ukraine, to be approved by the Congress.

#### **Article 133. Board of Judges of Ukraine**

1. In between the Congresses of Judges of Ukraine, the highest body of judicial autonomy shall be the Board of Judges of Ukraine.

2. The Board of Judges of Ukraine consists of:

- 1) 12 judges from local courts of general jurisdiction,
- 2) 3 judges from district administrative courts,
- 3) 3 judges from district civil and criminal courts,
- 4) 3 judges from the courts of appeals of regions of Ukraine, cities of Kyiv and Sevastopol, Autonomous Republic of Crimea,
- 5) 3 judges from administrative courts of appeals,
- 6) 3 judges from each of the higher specialized courts and the Supreme Court of Ukraine,
- 7) 3 retired judges.

Every two years the Congress of judges of Ukraine shall renew the composition of the Board of Judges of Ukraine for at least one-third of its members within the representational quota.

3. The Congress of Judges of Ukraine shall elect the Board of Judges of Ukraine in a secret ballot. Judges that take part in the Congress of Judges of Ukraine may submit proposals as to candidates for the Board of Judges of Ukraine.

Judges holding administrative positions or those who are members of the High Council of Justice may not be members of the Board of Judges of Ukraine.

3. At a meeting of the Board of Judges of Ukraine, its members shall elect from among its members the head of the Board of Judges of Ukraine, the deputy head, and the secretary in a secret ballot. During the term of office the head of the Board of Judges of Ukraine, the deputy head and the secretary are seconded to the Board of Judges of Ukraine with the preservation of positions they hold.

4. In between the congresses, the Board of Judges of Ukraine shall oversee the implementation of the decisions taken by the Congress well as decide on the convocation of a Congress. The authority and operating procedures of the Board of Judges of Ukraine shall be determined by this Law and by the statute of the Board of Judges of Ukraine, to be approved by the Congress of Judges of Ukraine.

5. The Board of Judges of Ukraine shall:

- 1) develop and provide for the implementation of measures to ensure judicial independence and improvement of organizational support for the operation of courts,
- 2) consider issues related to legal protection of judges, social protection and welfare for judges and their families, and take decisions to this effect,
- 3) determines a person authorized to present budget requests on financing of courts of general jurisdiction, other bodies and institutions of the judiciary when discussing draft law "On the State Budget of Ukraine" for a corresponding year or amendments to this law,
- 4) appoint and relieve the head of the State Court Administration of Ukraine and his/her deputies,
- 5) based on the proposal submitted by the judges' qualifications committee identify a court to appoint a judge to,
- 6) account for the number of judge positions at courts of general jurisdiction, including vacant positions,
- 7) determine requirements for government order with regard to professional training of candidates to be appointed judges at the National Judge School of Ukraine,
- 8) appoint members of the judges' qualifications committee, committee for preliminary examination of claims with regard to disciplinary actions against judges, judges' disciplinary committee,
- 9) develop and approve regulations regarding rules and internal procedures for the judges' qualification committee, committee for preliminary examination of claims with regard to disciplinary actions against judges, judges' disciplinary committee

- 10) monitor operational procedures in courts of general jurisdiction, hear reports by heads of the National Court Administration of Ukraine on these issues,
- 11) provides opinions to draft laws and other documents regarding judicial system, status of judges, judicial procedure, submit proposals regarding resolution of court operation issues to bodies of state power and bodies of local self-government
- 12) approve samples of IDs for a judge, retired judge, peoples' assessor, jury,
- 13) perform other functions in accordance with this law.

6. Decisions taken by the Board of Judges of Ukraine within its authority under this Law shall be binding for the National Court Administration of Ukraine and courts of general jurisdiction. A decision of the Board of Judges of Ukraine may be canceled by the Congress of Judges of Ukraine

7. The Board of Judges of Ukraine may invite the Minister of Finance of Ukraine in order to discuss issues, related to funding of the courts.

8. Committees for preliminary examination of claims with regard to disciplinary actions against judges, judges' disciplinary committee, judicial ethics committee, and judges' qualification committee operate under the Board of Judges of Ukraine.

#### **Article 134. Support of the Operation of Bodies of Judicial Autonomy**

1. Financial support for the work of the Congress of Judges of Ukraine and for the operation of the Board of Judges of Ukraine and its constituent bodies shall be provided by the National Court Administration of Ukraine at the expense of the national budget of Ukraine as required by Section XI of this Law.

2. The staff of the Board of Judges of Ukraine organizationally supports activities of the Board of Judges and its bodies.

The status of the staff members of the Board of Judges of Ukraine shall be determined by the

Law of Ukraine "On the Government Service". In terms of payment and social protection the staff members of the Board of Judges of Ukraine shall be equal to the staff members of the central executive bodies.

The Board of Judges of Ukraine approves organization and staff size of the secretariat based on allocations, aimed at supporting the Board of Judges of Ukraine.

The head of the Board of Judges of Ukraine shall appoint and relieve staff members of the Board of Judges of Ukraine.

### **Section IX. SUPPORT TO A JUDGE**

#### **Article 135. Remuneration for the Judge**

1. The remuneration for a judge shall be governed by this Law, Law of Ukraine "On the Constitutional Court of Ukraine" and may not be determined by any other legal acts.

2. The remuneration for a judge consists of the position allowance and the following allowances:

- 1) longevity allowance,
- 1) allowance for working at a higher level court,
- 3) allowance for being appointed to an administrative position in a court.

3. The position allowance of a judge shall be fixed at 15 times the minimum salary established by the law.

4. The judges are paid a monthly longevity allowance at the following rates: for the longevity period up to 5 years – 15%, more than 5 years – 20%, more than 10 years – 30%, more than 15 years – 40%, more than 20 years – 50%, more than 25 years – 60%, more than 30 years – 70%, more than 35 years – 80% of the position allowance.

The judges of the Constitutional court of Ukraine, who are appointed judges for the first time, shall be paid a monthly longevity allowance at the rate of 5% for each year of work.

5. Annual allowance for being assigned to a higher level court makes up:

1) for a judge of a court of appeals – 10%,

2) for a judge of a higher specialized court – 15%,

3) for a judge of the Supreme Court of Ukraine, a judge of the Constitutional Court of Ukraine – 20% of the position allowance.

6. Judges that hold positions of a deputy chief judge of a court, head of a judicial chamber get 5% of the position allowance of a judge of the respective court; chief judge – 8% of the position allowance of a judge of the respective court.

7. Amounts of expenses to ensure payment of salaries to judges shall be planned and considered in a separate code of economic classification of expenses.

#### **Article 136. Vacation**

1. Judges shall be granted an annual paid vacation of thirty working days. In such case, they shall be paid, in addition to the remuneration, a healthcare allowance amounting to one position allowance. Judges whose length of service is more than 10 years shall be granted an additional paid vacation of fifteen calendar days.

#### **Article 137. Judge's Length of Service**

1. The length of a judge's term of service shall include the following appointments:

1) a judge of courts of Ukraine, arbitrators of arbitration courts of Ukraine, state arbitrator of the former National Arbitration of Ukraine, arbitrator of departmental arbitrations of Ukraine,

2) a member of the High Board of Justice, member of the High Qualifications Commission of Judges of Ukraine,

3) judges in courts and arbitrators in the state and departmental arbitration courts of the former USSR and the republics which were previously part of the USSR.

#### **Article 138. Providing a Judge with Housing**

1. A judge assigned to the Constitutional Court of Ukraine, Supreme Court of Ukraine, higher specialized court, court of appeals, local court and who requires improvement to his/her housing conditions, shall be provided with official housing at the court's location in the order, established by the Cabinet of Ministers of Ukraine.

#### **Article 139. Meeting the Judge's Needs, Related to his/her Professional Duties**

1. A judge shall be provided with a judicial robe and a judge's breast badge at the expense of the National budget of Ukraine.

2. A judge shall be provided with a separate office, work space and office supplies necessary for his/her work.

#### **Article 140. State Protection of Judges and Their Family Members**

1. Judges, their families and their property shall be under special protection by the state. If a judge submits a request with the internal affairs agency with regard to providing security of a

judge, his/her family, and protection of their property, the internal affairs agency shall take the necessary measures to provide for such security and protection of property.

2. Infringements on life and health of a judge, destruction or damage to a judges' property, threat of a murder, violence or damage to property of a judge, insult or libel against a judge, as well as infringement on life and health of immediate family members of a judge (parents, wife, husband, and children), threats of murder, damage to property, resulting for the judge's professional activities, entail responsibility set by the law.

3. A judge may be provided with protection means by the internal affairs agencies.

#### **Article 141. Social Insurance for a Judge**

1. The life and health of judges shall be subject to obligatory national personal risk insurance to be covered by the Social Insurance Fund of Ukraine based on the Law of Ukraine "On compulsory national social insurance related to workplace accidents and occupational diseases, resulting in the loss of working capacity".

### **Section X. STATUS OF A RETIRED JUDGE**

#### **Article 142. Retirement of a Judge**

1. Each judge shall have the right to voluntarily retire irrespective of his/her age.

2. A judge is considered to be retired if he/she has been relieved from his/her appointment as a judge for the reasons, specified in part 1, Article 120 of this Law.

3. The retired judge shall retain the title of judge.

#### **Article 143. One-Time Allowance for a Judge Upon his/her Retirement**

1. Upon retirement a judge shall be paid a one-time allowance in the amount of a 6 months' pay (calculations shall be based upon judge's position allowance for the last full month of work as a judge prior to retirement).

2. The one-time payment shall not be executed if the judge's retirement had been terminated due to his/her subsequent re-election to a position, and if this judge has submitted a new retirement request.

#### **Article 144. Retirement pay or life endowment for a retired judge**

1. Having reached the retirement age, a retired judge shall be paid a retirement pay based on the conditions, specified by the Law of Ukraine "On the Government Service" or as opted by the judge – a monthly life endowment.

2. A retired judge who has not reached the retirement age shall be paid a monthly life endowment. When such a judge reaches retirement age he/she retain the right to be paid the monthly life endowment or, as opted by the judge – a retirement payment shall be established based on the requirements of the Law of Ukraine "On the Government Service".

3. The monthly life endowment shall be paid to a judge at the rate of 80% of the position allowance of an active judge holding a comparable position. For each full year of work in excess of 20 years in a judicial position, the rate of the monthly lifetime allowance shall be increased by two percent of the salary, provided that it does not exceed 90 percent of a judge's salary.



4. In case position allowance for active judge changes, a respective adjustment of the previously calculated monthly life endowment shall be executed. Adjustment of the monthly life endowment shall cover the total amount of the position allowance of active judges from the day when the right for such adjustment originates.

5. The retirement pay or monthly life endowment is payable to a judge notwithstanding the earnings (income) that this judge makes after his/her retirement. Payment of pension or monthly financial support of a judge shall be exercised by pension authorities at the judge's place of residence.

#### **Article 145. Termination of a Judge's Retirement**

1. The retirement of a judge shall be terminated in the following cases:

- 1) re-election to a position of a judge,
- 2) when a disciplinary body makes a decision to terminate a judge's retirement based on the results of examining his/her disciplinary case,
- 3) entry into legal force of a judgment of conviction against the judge for an intentional crime,
- 4) termination of his/her citizenship,
- 5) when a judge is declared missing or dead,
- 6) his/her death.

2. Termination of a retirement of a judge shall entail termination of monthly life endowment to him/her which was granted upon retirement. If a judge's retirement has been terminated for the reasons, specified by items 2 and 3, part 1 of this Article, a retirement pay shall be granted to this judge on the same basis as to anyone else.

3. A decision to terminate a retirement of a judge shall be made by the Board of Judges of Ukraine and in cases, specified in item 2, Part 1 of this Article – by a disciplinary board of the judges.

### **Section XI. ORGANIZATIONAL SUPPORT FOR COURTS**

#### **Chapter 1. General Questions of Support for Courts**

##### **Article 146. Peculiarities of Support for Operation of the Judiciary**

1. The state ensures funding and proper conditions for operation of courts and activities of judges.

2. Support for operation of the judiciary includes:

- 1) allocation of expenditures in the State Budget of Ukraine for funding of courts at the level not lower than needed to provide full and independent administration of justice in accordance with the law;
- 2) legislative guarantees for full and timely funding of the courts;
- 3) guarantees for a sufficient level of social protection of judges.

##### **Article 147. Support System for Operation of the Judiciary**

1. In Ukraine, a unified support system for operation of the judiciary – the courts of general jurisdiction and the Constitutional Court of Ukraine - functions.

2. Government authorities participate in the organizational support for the courts in the instances and manner provided by this and other laws.

3. Procedure for organizational support of the Constitutional Court of Ukraine is established by this Law, the Law of Ukraine "On the Constitutional Court of Ukraine" and other laws.

**Article 148 Principles of Funding of Courts and Property Management**

1. Financial support for all courts in Ukraine comes from the general and special funds of the State Budget of Ukraine.

Budgetary allocations of the general fund of the State Budget of Ukraine for the financial support of courts fall within the category of the protected expenditure items of the State Budget of Ukraine.

2. Functions of the key spending units of funds from the State Budget of Ukraine that are allocated for financial support of courts are carried out by:

- 1) the Constitutional Court of Ukraine;
- 2) the State Judicial Administration of Ukraine – regarding their funding; funding of the courts of general jurisdiction of Ukraine, the judiciary's self-government bodies, bodies attached to the Council of Judges of Ukraine in accordance with this Law, the National School of Judges of Ukraine.

3. Expenditures for maintenance of courts are determined in the State Budget of Ukraine in a separate line regarding:

- 1) the Constitutional Court of Ukraine;
- 2) the State Judicial Administration of Ukraine;
- 3) each court of general jurisdiction.

4. Expenditures for maintenance of courts established in the State Budget of Ukraine cannot be reduced during the current fiscal year.

5. Peculiarities of the preparation and adoption of the draft law on the State Budget of Ukraine for the respective year in the part concerning funding of courts and other bodies and institutions of the judicial system are determined by the Budget Code of Ukraine.

6. The key spending units of funds from the State Budget of Ukraine meant for financial support of courts manage the property that ensures their activities.

7. Control over the compliance with the requirements of this Law regarding the funding of courts and management of property that ensures their activity is carried out in the manner specified by the law.

**Article 149 Financial Security and Social Protection of the Judiciary System Employees**

1. Payment conditions of court administration staff, the staff of the Council of Judges of Ukraine, the State Judicial Administration of Ukraine, the National School of Judges of Ukraine, their welfare support and social protection shall be determined by law.

Amounts of expenses provided by the State Budget of Ukraine for work payment of afore mentioned staff shall ensure the level of their salaries that shall not be lower than the one civil servants in executive authorities have.

The salary amount of a worker of court administration staff whose position is referred to the sixth category of positions of civil servants shall be established in the amount of 30% of the salary of a judge in a local court. Salary amounts of court administration staff whose positions are referred to higher category shall be established with a ratio of 1.3 to salary amounts of court administration staff of lower category.

2. The State Judicial Administration of Ukraine is responsible for expenses for burial and commemoration of judges, including retired judges.

## **Chapter 2. The State Judicial Administration of Ukraine**

### **Article 150. Status of the State Judicial Administration of Ukraine**

1. The State Judicial Administration of Ukraine provides organizational support for the activities of the bodies of justice system within the powers established by law.

2 The State Judicial Administration of Ukraine reports to the Congress of Judges of Ukraine, and in between – to the Council of Judges of Ukraine within the scope prescribed by this Law.

3 Territorial offices of the State Judicial Administration of Ukraine shall be established in the Autonomous Republic of Crimea, regions (oblasts), cities of Kyiv and Sevastopol.

4. Officials of the State Judicial Administration of Ukraine and its territorial offices are state servants.

5. The State Judicial Administration of Ukraine is a legal entity with a seal featuring the State Emblem of Ukraine and its name, has its own balance sheet and accounts in the agencies of the State Treasury Service of Ukraine.

6. The Council of Judges of Ukraine approves the regulation on the State Judicial Administration of Ukraine.

### **Article 151. Powers of the State Judicial Administration of Ukraine**

1. The State Judicial Administration of Ukraine:

1) prepares and submits budget request to ensure the functioning of courts of general jurisdiction, as well as other agencies and institutions of the judicial system during the preparation of the draft law on the State Budget of Ukraine for the respective year or amendments to this Law;

2) ensures proper conditions for functioning of courts of general jurisdiction, judicial self-government authorities, the National School of Judges of Ukraine;

3) examines the practice of the courts, develops and submits proposals for its improvement following the established procedure;

4) together with the respective higher specialized court and the Supreme Court of Ukraine ensures the necessary conditions for continuous training and improving qualification of court staff;

5) organizes keeping of court statistics, records and archives; monitors the status of document flow within courts of general jurisdiction;

6) provides organizational and methodological assistance on budget and financial issues to courts of general jurisdiction and the Council of Judges of Ukraine;

7) ensures functioning and development of the unified court information system, organizes the exercise of informatization measures by courts to carry out their powers, record keeping, information and regulatory support for judicial activities, and operation of automated file management system in the courts; ensures provision of courts with the necessary technical means for recording trials; ensures the system of videoconference calls for persons to participate in hearing through videoconference;

8) interacts with the relevant authorities and agencies, including those from other countries, to improve the organizational support for the judicial system;

9) organizes activities of the service of court bailiffs;

10) manages objects of state property within the jurisdiction of the State Judicial Administration of Ukraine;

11) exercises other powers stipulated by law.

**Article 152 Head of the State Judicial Administration of Ukraine**

1.The Head of the State Judicial Administration of Ukraine is in charge of the State Administration of Justice of Ukraine.

2.The Head of the State Judicial Administration of Ukraine is appointed and dismissed by the Council of Judges of Ukraine.

3.The Head of the State Judicial Administration of Ukraine shall have no right to combine his/her official activity with other work, except for teaching, scholarly or creative activities during non-office hours, or be a member of the governing body or supervisory board of a business organization that aims to receive profit.

4.The Head of the State Judicial Administration of Ukraine:

- 1) manages the activities of the State Judicial Administration of Ukraine, and is personally responsible for the performance of tasks assigned to it;
- 2) organizes the work of the State Judicial Administration of Ukraine;
- 3) appoints, after a competitive selection, conducted by the State Judicial Administration of Ukraine in accordance with the legislation on state service, employees of the State Judicial Administration of Ukraine, and dismisses them;
- 5) appoints and dismisses the chiefs of staff of the Supreme Court of Ukraine, higher specialized courts of Ukraine, appellate courts, their deputies upon agreement or recommendation of the chief judge of the court;
- 6) applies incentives to the chiefs of staff of the Supreme Court of Ukraine, higher specialized courts of Ukraine, appellate courts, their deputies or imposes disciplinary action in accordance with the law, including upon recommendation of the chief judge of the respective court;
- 7) confers ranks of state servants according to legislation on state service to the chiefs of staff of the Supreme Court of Ukraine, higher specialized courts of Ukraine, appellate courts, their deputies ;
- 8) approves regulations on the territorial offices of the State Judicial Administration of Ukraine and regulations of structural subdivisions of the State Judicial Administration of Ukraine;
- 9) reports on the activities of the State Judicial Administration of Ukraine to the Congress of Judges of Ukraine, informs the Council of Judges of Ukraine about the activities of the State Judicial Administration of Ukraine regarding questions of organizational support of the courts of general jurisdiction;
- 10) together with a person authorized by the Council of Judges of Ukraine presents proposals to the draft State Budget of Ukraine for the respective year concerning financial support of courts of general jurisdiction, other bodies and institutions of the judicial system before the Cabinet of Ministers of Ukraine and the Verkhovna Rada of Ukraine, and during the amendments procedure of the law on the State Budget of Ukraine for the current year;
- 11) approves structure and staff of the State Judicial Administration of Ukraine, appellate courts, high specialized courts and the Supreme Court of Ukraine;
- 12) determines the staff quantity in staff administrations of courts of general jurisdiction;
- 13) exercises other powers stipulated by law.

5.The Head of the State Judicial Administration of Ukraine shall issue orders on matters within its powers.

Orders of the State Judicial Administration of Ukraine issued within its competence are obligatory for staff administrations of courts of general jurisdiction.

6.The Head of the State Judicial Administration of Ukraine has deputies, who are appointed and dismissed by the Council of Judges of Ukraine upon the recommendation of the Head of the State Judicial Administration of Ukraine. Deputy Heads of the State Judicial

Administration of Ukraine carry out functions determined by the Head of the State Judicial Administration of Ukraine.

7. The Head of the State Judicial Administration of Ukraine submits a request to the Council of Judges of Ukraine regarding the maximum limit of staff of the State Judicial Administration of Ukraine, including its territorial offices.

#### **Article 153. Territorial Offices of the State Judicial Administration of Ukraine**

1. Territorial offices of the State Judicial Administration of Ukraine are regional bodies of the State Judicial Administration of Ukraine exercising functions of organizational support of local courts.

2. A territorial office of the State Judicial Administration of Ukraine shall be chaired by a chief who is appointed and dismissed from the office by the Head of the State Judicial Administration of Ukraine.

3. A chief of a territorial office of the State Judicial Administration of Ukraine:

- 1) exercises organizational support of local courts;
- 2) exercises authorities, provided by the budget legislation for budget owners regarding financial support of local courts;
- 3) appoints and dismisses the chief of staff of the local court, deputy chiefs of staff of the local court - upon agreement or recommendation of the chief judge of the court;
- 4) applies incentives to them or imposes disciplinary actions, including upon recommendation of the chief judge of the court;
- 5) assigns ranks of state servants according to legislation on state service to the chief of staff of the local court, his deputies;
- 6) approves structure and staff composition of local courts;
- 7) appoints employees of the respective territorial office of the State Judicial Administration of Ukraine, dismisses them from office, and assigns ranks of state servants according to legislation on state service;
- 8) carries out other powers specified by law.

4. The Head of the State Judicial Administration of Ukraine approves the structure and staff list of the territorial office of the State Judicial Administration of Ukraine on the basis of the offer of the chief of the territorial office of the State Judicial Administration of Ukraine.

5. The territorial office of the State Judicial Administration of Ukraine is a legal entity with a seal featuring the State Emblem of Ukraine and its name, has its own balance sheet and accounts in the agencies of the State Treasury Service of Ukraine.

6. Territorial offices of the State Judicial Administration of Ukraine operate on the basis of regulation on them, which is approved by the Head of the State Judicial Administration of Ukraine.

#### **Article 154. Court Staff**

1. Court staff carries out organizational support of the court, and is chaired by chief of staff.

2. Regulation on the court's staff shall be drafted on the basis of the model regulation on the court's staff and approved by the conference of judges of a respective court. Model regulation on the court's staff shall be approved by the State Judicial Administration of Ukraine and agreed with the Council of Judges of Ukraine.

3. Chief of local court's staff and deputies shall be appointed by the Head of territorial office of the State Judicial Administration of Ukraine upon agreement or recommendation of the chief judge of a respective court.

Chief of staff of an appellate court, high specialized court and the Supreme Court of Ukraine and deputies shall be appointed by the Head of the State Judicial Administration of Ukraine upon agreement or recommendation of the chief judge of a respective court.

In local and appellate courts with a quantity of staff exceeding 60 persons no more than two deputy chiefs of staff may be appointed.

In appellate courts with a quantity of staff exceeding 140 persons no more than three deputy chiefs of staff may be appointed.

Chief of staff of the Supreme Court of Ukraine, high specialized court may have no more than three deputies.

4. Chief of staff is personally responsible for the proper organizational support of the court, judges and the judicial proceedings, the operation of the automated file management system, ensuring proper conditions for stay of people on the courts premises (excluding chambers of judges), informs meetings of judges about his/her activities.

Chief of staff of an appellate court, high specialized court, the Supreme Court of Ukraine represents court as a budget institution and exercised authorities provided by the budget legislation as a budget owner.

Staff of local court on issues of court's organizational support shall report to territorial offices of the State Judicial Administration of Ukraine.

Staff of appellate court, high specialized court and the Supreme Court of Ukraine on issues of court's organizational support shall report to the State Judicial Administration of Ukraine.

Meetings of judges may express vote of no confidence to the chief of staff of a court, which entails internal investigation in the order foreseen by laws.

5. Status of court staff is determined by the Law of Ukraine "On State Service".

Court staff employees are required to observe the rules of conduct for court employee, approved by the Council of Judges of Ukraine.

6. The court staff may have departments, divisions, sectors that perform their functions in virtue of the regulations for the relevant department that are approved by chief of staff of the respective court.

7. Court staff ensures regular administration of profiles of judges in the order approved by the State Judicial Administration of Ukraine and agreed with the Council of Judges of Ukraine.

8. Chief of staff may issue orders regarding court's functioning.

#### **Article 155. Judges' Assistants in the Courts of General Jurisdiction**

1. Each judge of the court of general jurisdiction has an assistant whose status and conditions of activity are determined by this Law, the Law of Ukraine "On State Service" and regulation on Judge's Assistant, approved by the Council of Judges of Ukraine.

2. A judge's assistant shall be a citizen of Ukraine who has a law degree and is fluent in the state language. Assistants of judges of the Supreme Court of Ukraine shall also have experience in the field of law of at least three years.
3. Judges conduct selection of assistants on their own. A judge's assistant is appointed and dismissed by the chief of staff of the respective court upon the recommendation of a judge.
4. Judges' assistants are accountable only to the respective judge in matters of preparation of cases for trials.
5. Time of serving as judge's assistant shall be included into the years of service in the area of expertise of such assistant.

#### **Article 156. Service of Court Bailiffs**

1. Each court has service of court bailiffs. Court bailiffs ensure compliance of persons present in court, with the rules, their implementation of the decrees of the presiding judge at the hearing.
2. The chief of staff of the respective court appoints and dismisses the bailiffs.
3. Court bailiffs are provided with uniforms, which is approved the State Judicial Administration of Ukraine in consultation with the Council of Judges of Ukraine.
4. Court officers are guided in their work by this Law, the requirements of procedural law, relevant rules and regulations, decrees by chief judge of the court presidents and a judge.
5. Establishment and operation of service of court officers are determined by the regulation, approved by the State Judicial Administration of Ukraine in consultation with the Council of Judges of Ukraine.

#### **Article 157 Ensuring Safety and Security in Courts**

1. Special units of the judicial militia who act pursuant to the Law of Ukraine "On Militia" ensure safety of court premises and security in the courts, carry out functions of state protection of judges, court employees, ensuring security of trial participants.

### **Chapter 3. Unified Judicial Information System**

#### **Article 158. Purpose of Unified Judicial Information System**

1. Unified Judicial Information System is meant for creation of unified information space for courts of general jurisdiction, other authorities and institutions of judicial system, storage and exchange of information, maintenance of internal and external communication by means of information technology.
2. Unified Judicial Information System provides for electronic file management in courts, between courts, other authorities and institutions collaborating with judicial system, ensures electronic communication with judicial system clients.

#### **Article 159. Structure of Unified Judicial Information System**

1. Unified Judicial Information System consists of: automated systems of file management of courts, of the Council of Judges of Ukraine, of qualifications commission of judges, of disciplinary commission of judges, of the State Judicial Administration of Ukraine, of the High Council of Justice, official Internet portal of judicial authorities, websites of courts and other judicial system authorities and institutions, Unified State Register of Judicial Decisions, Unified Database of Email Addresses, Fax Numbers (Telefax) of State Agencies, software

tools for audio fixation of judicial proceedings and video conference calls, subsystem of personnel inventory, subsystem of keeping judicial statistics and monitoring trial stages of cases, and other subsystems.

2. The list of subsystems of the Unified Judicial Information System and their requirements are specified in the regulation on the Unified Judicial Information System, which is approved by the State Judicial Administration of Ukraine upon consultations with or by initiative of the Council of Judges of Ukraine.

#### **Article 160. Automated File Management System in Courts**

1. Courts of general jurisdiction have standardized automated file management system that ensures:

- 1) registration of incoming, outgoing and internal court documents, and noting stages of how documents are passed and transferred to electronic archive;
- 2) objective and impartial distribution of judicial cases between judges in accordance with Article 9 hereof;
- 3) providing participants of judicial proceedings with information about progress of cases where they participate;
- 4) monitoring observation of terms in judicial proceedings and automated preparation of information regarding observation of terms in judicial proceedings by every judge;
- 5) centralized storing of electronic texts of court decisions and other procedural documents;
- 6) issuing court decisions and executive court documents on the grounds of data stored in automated system;
- 7) preparing and monitoring of statistics data;
- 8) maintaining electronic archive of court cases;
- 9) information exchange on cases between courts;
- 10) electronic communication between court and judicial system clients, namely by sending procedural documents in e-form and notices of appointment via SMS to participants of judicial procedure (criminal proceedings);
- 11) sending electronic copies of court decisions to the Unified state register of court decisions;
- 11) performance of other tasks aimed at proper court functioning and ensuring citizens' access to justice.

2. Access to automated file management system in courts is granted to judges and court staff of the respective court according to their functional duties.

Chief of court staff bears the personal responsibility for operation of automated system of file management of the court.

3. Order of functioning of automated file management system of the court shall be determined in the Regulation on automated file management system of a court, which is approved the Council of Judges of Ukraine upon the recommendation of the State Judicial Administration of Ukraine.

4. Unlawful interference with automated system functioning results into liability determined by law.

### **Section XII. FUNCTIONING OF COURTS IN SPECIAL CONDITIONS**

#### **Article 161. Territorial Jurisdiction in Special Conditions**

1. If it is found impossible for some courts to function properly as a consequence of antiterrorist operation, state of war or emergency, location of court on temporarily occupied territory chief judge of respective high specialized court upon the recommendation of the State Judicial Administration of Ukraine shall issue a an order to appoint other courts to hear cases of respective jurisdiction, unless otherwise is provided by laws.



2. Cases that are not decided and were heard by courts that temporarily do not hear cases shall be passed to courts according to the jurisdiction established by this Article within ten working days after the day of such decision.

#### **Article 162. Functioning of Investigation Courts in Special Conditions**

1. If it is found impossible for some courts to function properly as a consequence of antiterrorist operation, state of war or emergency to exercise court control on how rights, freedoms and interests of persons in criminal proceedings are protected on respective territory a judge-investigator of another court may be seconded upon his agreement or in case of mobilization as provided by the Law of Ukraine On Preparedness Activity and Mobilization.

The Head of the Supreme Court of Ukraine for Civil and Criminal Cases upon the recommendation of the State Judicial Administration of Ukraine determines the necessity for secondment.

2. Judge-investigator exercises authorities on a territory, defined in the order of the Head of the Supreme Court of Ukraine for Civil and Criminal Cases, regardless of territorial jurisdiction of the court where he works.

3. Judge-investigator during the secondment receives salary of a judge in double amount.

#### **Article 163, Temporary Transfer of Judges in Special Conditions**

1. In case of temporary termination of proceedings due to the impossibility of proper functioning of some courts according to the Article 161 hereof judges of these courts shall be seconded upon their agreement to exercise their authorities in other courts of the same level and specialization upon the order of the head of respective high specialized court. These judges shall exercise justice in a court where there have been seconded to.

2. The State Judicial Administration of Ukraine shall ensure place of work and salary payment to seconded judges in a court at the place of secondment.

#### **Article 164. Restoration of Functioning of Courts whose Activity was Terminated in Special Conditions**

1. In case of restoration of proper conditions for the functioning of courts whose activity was temporarily terminated in special conditions the State Judicial Administration of Ukraine shall send a recommendation to the head of respective high specialized court about the possibility to restore functioning of the respective court. The head of respective high specialized court shall issue an order to restore functioning of a court indicated in the recommendation of the State Judicial Administration of Ukraine.

2. Territorial jurisdiction regarding cases that should be heard after the head of respective high specialized court issues an order to restore functioning of a court shall be determined according to general rules, provided by procedural law.

3. Courts temporarily deciding cases according to the provisions of this Section after the head of respective high specialized court issues an order to restore functioning of respective courts shall continue deciding such cases.