

# HCJ relaunch

## Background

Amend the Law on the High Council of Justice (HCJ) to enhance the selection process ensuring that its members have impeccable reputation and integrity (an end-October 2020 structural benchmark). Through an amendment of the HCJ Law (Law No. 2016/1798-VIII), and consistent with the March 2020 decision of the Constitutional Court, an independent commission will be established to pre-screen potential candidates to the HCJ and assess their integrity. This commission will perform a similar one-off screening of existing HCJ members. At least half of the commission's members will be respected experts with recognized ethical standards and judicial experience, including with relevant experience in other countries. The commission will give said experts a crucial role and decisive vote. In addition, the amendment will outline the procedures and criteria for the pre-selection process for the HCJ candidates, including a call by the commission for applications. The commission will then nominate at least two persons for each vacancy, which will be forwarded to the respective appointing authorities as designated by the Constitution for final selection and approval. In case of negative assessment by the commission of an existing HCJ member, the commission will send and publish a recommendation for dismissal to the respective appointing authority.

Amend the HCJ's organic law (Law No. 2016/1798-VIII) by end-November 2020 to create a permanent inspectorate unit in the HCJ. This unit will be responsible for investigating disciplinary cases against judges and submitting recommendations to the HCJ for disciplinary actions and sanctions against judges. We will ensure that the unit will be composed of permanent staff to ensure consistency in investigative practice and continuity and evenhandedness in the treatment of judicial disciplinary cases.

## Timeline

### **The Supreme Court wants to bury the judicial reform with the CCU's help**

08.10.2021

Today, on October 8, the Plenum of the Supreme Court considered the appeal of the High Council of Justice regarding unconstitutionality of the judicial reform. Judges of the Supreme Court (SC) decided to appeal to the Constitutional Court of Ukraine (CCU). This means the beginning of the abolition of the judicial reform. The appeal was [...]

### **Council of Judges blocked the reform of the High Council of Justice**

13.09.2021

At a meeting held on 13 September, members of the Council of Judges refused to delegate their representatives to the Ethics Council, which is tasked with checking the integrity of the HCJ members. This means that the Council of Judges, controlled by the judicial mafia, is sabotaging judicial reform. Judicial reform envisages the establishment of [...]

## **The chance for real judicial reform: The Rada supported cleansing of the High Council of Justice**

14.07.2021

On Wednesday, July 14, the Verkhovna Rada supported draft law No.5068 on the reform of the High Council of Justice by 259 votes. It provides for a review of the integrity of the HCJ members, and also changes the procedure for bringing judges to disciplinary responsibility. The main advantage of the law is that it provides for relaunch of the HCJ with the participation [...]

## **The key to judicial reform: what Venice Commission said about the reform of the High Council of Justice**

14.05.2021

Originally published on EP On May 5, the Venice Commission (VC) issued an urgent opinion on draft law No.5068 on the reform of the country's main judicial body – the High Council of Justice (HCJ). The next day, the EU Ambassador to Ukraine Matti Maasilta stated that the recommendations of the Venice Commission should be taken into account not only with [...]

## **Justice is not for everyone: the Rada gave the judicial reform into the hands of dishonest judges**

04.03.2021

On Wednesday, March 3, Members of Parliament by 227 votes supported in the first reading the draft law №3711-d, which gives formation of new High Qualification Commission of Judges (HQCJ) into hands of the unreformed High Council of Justice (HCJ). The HQCJ is judicial body that is responsible for selection and evaluation of judges. The HCJ, [...]

## **Zelenskyi's judicial reform: there will be no cleaning of courts**

22.02.2021

Halyna Chyzhyk, Mykhaylo Zhernakov, Kateryna Butko for UP The President Zelenskyi announced another judicial reform. On February 13, the press service of the Presidential Office announced that the head of state was submitting to the Verkhovna Rada the draft law on checking the integrity of members of the High Council of Justice (HCJ). This reform concerns commitments of Ukraine [...]

## **The judicial reform is being cancelled: the Committee secretly**

## **rewrote draft law on the HQCJ during the New Year's festivities**

15.01.2021

During winter holidays members of the Committee on Legal Policy changed wording of the draft law №3711, which provides for the relaunch of the High Qualification Commission of Judges (HQCJ). The role of international experts in selection of members of the HQCJ was nullified by Members of Parliament, who had handed over all power to [...]

## **The Venice Commission called on immediate reform of the HCJ and criticized Zelenskyi's judicial draft law**

09.10.2020

On October 9, the Venice Commission approved its opinion regarding draft law of the President No. 3711 on judicial reform introduced by Volodymyr Zelenskyi in June this year. Experts of the Venice Commission made a number of critical remarks regarding new procedure of formation of the High Qualification Commission of Judges (HQCJ) and stressed on the importance of immediate [...]

## **Analysis of Zelenskyi's draft law on judicial reform: it contradicts Memorandum with IMF and gives full control to the HCJ**

22.06.2020

On June 22, the President registered draft law № 3711 on amendments to the Law of Ukraine "On the Judiciary and the Status of Judges" and some laws of Ukraine on the activities of the Supreme Court and judicial governance. However, the draft law completely contradicts the requirements of the International Monetary Fund, which are agreed on [...]

## **Documents**

### **MFA**

The authorities will strengthen the independence, integrity and effective functioning of the judiciary, taking into account the opinions from the Venice Commission, including through legislative amendments, to ensure: a) the creation of a new High Qualification Commission of Judges of Ukraine through transparent selection procedure conducted by a Selection Commission with international participation; and b) the creation of an Ethics Commission with international participation, which would have the mandate to 1) carry out a one-time assessment of the integrity and ethics of members of the High Council of Justice and recommend their dismissal to the electing (appointing) authorities in those cases where the members of the High Council have been found non-complying with the standards, and 2) establish a pool of pre-selected candidates from which the electing (appointing) authorities for members of the High Council of Justice, will draw their nominations.

Full doc:

# IMF

We will ensure that the judicial selection processes and disciplinary mechanisms (including for the Supreme Court) are managed and implemented by persons with high competence, trustworthiness and integrity.

Full doc: <https://www.imf.org/~media/Files/Publications/CR/2020/English/1UKREA2020001.ashx>