

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

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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 in the memorandum [approved](#) on June 9.

Fulfillment of this provision of the Memorandum is a precondition for receiving the next tranche from the IMF, and therefore through this draft law Ukraine may lose several billion dollars of aid.

In a recently signed Memorandum with the IMF, the Ukrainian government has committed to renewing the High Council of Justice, a key body responsible for the selection and dismissal of judges. The memorandum provides for the establishment of an independent commission with international experts, which should inspect HCJ members for compliance with the law and integrity criteria and initiate their dismissal.

Instead, in his draft law the President proposes that the decision on whether to dismiss HCJ members should be made by the HCJ itself and at least 14 council members should vote for such a decision. There is no wording on the establishment of an independent commission with participation of international experts in the draft law.

*"Zelenskyi makes the same mistake again and doesn't even learn his own lessons. After all, his first attempt to reform the judiciary failed miserably in January this year because of the High Council of Justice. And now the President is once again giving the unreformed body all the power to reform the judiciary, which even sounds like absurd. Just from the analysis of the draft law it is clear that the President's Office does not want any judicial reform, which has been promised to the voters,"* commented Halyna Chyzhyk, expert of the Anti-corruption Action Centre.

The presidential draft law completely gives the formation of the High Qualification Commission of Judges into the hands of the unreformed HCJ. It is the HCJ that will determine the rules of the competition. If previously the selection panel could include only those respected international experts who helped select judges of the High Anti-Corruption Court, **now virtually any international or foreign organization working in the field of justice or anti-corruption will be able to nominate members of the selection panel, while the HCJ will decide on the final list of the panel members.** Undoubtedly, the HCJ will prefer controlled and agreeable experts.

Moreover, one can assume that the appointment of members of the selection panel will be led by the scandalous chairman of the Kyiv District Administrative Court [Pavlo Vovk](#). According to the draft law, if the Council of Judges or internationals do not nominate experts, this power goes to the Parliament's Commissioner for Human Rights. It is worth recalling that a year ago NABU published [records](#) from the office of the head of the KDAC Pavlo Vovk, who allegedly claimed that he controlled the Commissioner Lyudmila Denisova and could ensure the appointment of the right people.

The draft law secures the status of the HQCJ as a subsidiary of the HCJ. The HQCJ alone will not be able to conduct any process within the selection or evaluation of judges, as most of the decisions must be agreed with the HCJ. Such important documents as rules of procedure for evaluation of judges / candidates and the methodology for evaluating results must be approved by the HCJ.

The draft law also contains provisions concerning the Supreme Court and the Supreme Court of Ukraine. The scandalous provision on the number of judges of the Supreme Court is being removed from the law, now the HCJ will determine such a number by its decision. Judges of the Supreme Court of Ukraine must be enrolled in the staff of the Supreme Court and must pass a qualification assessment within a year, which their colleagues from the Supreme Court have already passed during the competition.

We would like to remind that last autumn the Parliament approved the law on judicial reform authored by the President Zelenskyi. However, the law did not bring any changes, initially the reform was [blocked](#) by the High Council of Justice, and in March 2020, the Constitutional Court [repealed](#) its key provisions.