

First month of the qualification assessment of judges

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The High Qualification Commission of Judges (HQCJ) is now in the middle of qualification assessment of acting judges. The assessment was introduced as a part of judicial reform in order to reexamine acting judges and to clear judicial system of those with poor human rights records, unjustified assets and/or those having engaged themselves in political persecutions.

First round of qualification assessment includes 990 judges out of total 5700 being subject to assessment. As of end of April, the HCJ had interviewed 578 or 58% of judges.

Result of first half of the first round of qualification assessment is as follows:

- 74% of interviewed judges (431 people) are considered fitting enough to continue performing justice in their courts. Among these judges is Anzor Saadylaev, who took biased decision against a participant of the Revolution of Dignity (namely, cancelled driver's licence of a person, who participated in a rally to the residence of Viktor Yanukovych in late December 2013. Mass canceling of driver's licenses was a part of the effort of Yanukovych's administration to punish and discourage people from protesting). However, according to the civil campaign 'Chesno: filter the judiciary!', **at least 73 judges who successfully passed qualification assessment are of questionable integrity.**
- Only 2,7% or 16 judges are considered not fitting for their positions. Thus, the High Council of Justice is expected to consider their dismissal from judicial positions; however, but the HCJ is also free to keep unfit judges.
- In 131 cases the qualification assessment was put on hold until further clarifications are received. This also includes 43 judges regarding whom the Public Integrity Council issued its negative opinions before it suspended its participation in the qualification assessment. For 23 judges qualification assessment will be pending until the HCJ makes decisions in already opened disciplinary cases against them.

In the meantime, qualification assessment continues without participation of the Public Integrity Council. On March 26 the PIC suspended their participation in assessment as an answer to unlawful limitations on their role, introduced by the HCJ.

In February 2018 the HCJ amended its rules of procedure and introduced new pre-conditions under which negative opinions of the PIC are taken into account or neglected. Namely, the HCJ established that negative opinion of the PIC regarding any candidate shall not be taken into consideration unless it is based on a decision of the state authority, recognizing the guilt or violation of law the PIC refers to. If PIC's

opinion does not take into account the above-mentioned pretext, the HQCJ does not even need to overcome it and simply considers such a negative opinion non-existent.

Such approach runs against the law on the judiciary, which neither establishes any requirements towards motivation of PIC's opinions, nor gives the HQCJ a right to establish such limitations. Moreover, limiting PIC's role to reinstating already issued opinions of state authorities contradicts the idea of the PIC as an additional filter in the selection procedure, representing public perception and working with materials from investigative journalists and whistleblowers. New regulation also makes the PIC unnecessary, since the HQCJ receives opinions of different authorities regarding candidates within the special checks procedure that precedes the interviews.

As a result, the PIC felt itself in the "window-dressing" role without any influence on the qualification assessment of judges and suspended its participation until unlawful limitation is abolished. However, since the end of March the HQCJ did not manage to find time for mediation meeting with the PIC.