

Map of **ANTICORRUPTION CONDITIONALITIES**

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 unreformed HCJ. The Anti-Corruption Action Center received text of the draft law from its own sources and analyzed its content in details.

On November 5, 2020, after [critical](#) Conclusion of the Venice Commission, the Verkhovna Rada sent the presidential draft law on finalization. However, instead of improving text of the draft law and taking into account recommendations of the Venice Commission, Members of Parliament did the opposite. They proposed changes, opposed by experts of the Venice Commission, and which contradict international obligations of Ukraine.

Here are points what the Committee suggests. Namely:

- The Competition Commission only vetoes dishonest candidates, and the HCJ evaluates candidates and decides whom to appoint to the HQCJ;
- The regulation on the Competition is approved by the HCJ;
- Decisions of the Competition Commission have recommendatory nature;
- The HCJ forms composition of the Competition Commission at its own discretion, international experts have no influence on decisions of the Commission and may not be part of the Commission at all;
- The Competition Commission cannot have its own secretariat and will be completely dependent on the HCJ in its work

Despite the fact that experts of the Venice Commission stressed inadmissibility of new powers for the HCJ until integrity of its members was ensured, the Committee proposed that the HCJ select future members of the HQCJ.

This contradicts not only position of the President, but also commitments of Ukraine to the European Union. Thus, the [Memorandum](#) with the EU, ratified by the Verkhovna Rada on August 12, 2020, provides for *“the creation of new High Qualification Commission of Judges of Ukraine through transparent selection procedure conducted by the Competition Commission with international participation”*.

The latest version of the draft law differs from the one agreed by members of the Committee in December during discussions lasting tens of hours. Instead, the preparation of new text seems to have taken place in closed meetings, about which Members of Parliament did not inform the public contrary to the law.

It is worth to note that Members of Parliament themselves do not hide that new version of the draft law was agreed with the High Council of Justice. At [meeting](#) of the Committee on January 14, representatives of the subcommittee Andriy Pavlish and Mykhaylo Novikov proposed to postpone consideration of the draft law, as

they had some other issues that they “*need to agree with the High Council of Justice*”.