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Annex
to the decision of the Bar Council of Ukraine No. 76
of July 24, 2025

OFFICIAL OPINION
OF THE BAR COUNCIL OF UKRAINE

on draft laws on disciplinary liability of judges and declarations of integrity

(No. 13137, No. 13137-1, No. 13165, No. 13165-1, No. 13165-2)

At its meeting on July 24, 2025, the Bar Council of Ukraine approved the official opinion on the draft laws that are under consideration by the Verkhovna Rada of Ukraine, namely: **"On Amendments to the Law of Ukraine "On the Judiciary and the Status of Judges" and Certain Laws of Ukraine on Improving the Procedures for Submission and Verification of Declarations of Integrity** of **Judges**" (Reg. No. 13165 of April 9, 2025), "On Amendments to the Law of Ukraine "On the Judiciary and the Status of Judges" and Certain Laws of Ukraine on Improving the Procedures for Submission and Verification of Declarations of Integrity of Judges" (Reg. No. 13165-1 dated April 23, 2025) and "On Amendments to the Law of Ukraine "On the Judiciary and the Status of Judges" and Certain Laws of Ukraine on Improving Declarations of Integrity of Judges and Judges' Family Relations" (Reg. No. 13165-2 dated April 25, 2025).

Given that the discussion of these draft laws covers not only the judiciary and the integrity of judges, but also directly relates to guarantees of legal protection, procedures for bringing to justice, access to justice, and the professional activities of advocates, the participation of the Bar in these consultations is of fundamental importance.

Determining a balanced position of the Bar Council on each draft law is a prerequisite for ensuring the balance of rights and interests of all participants in the legal system, including advocates as guarantors of human rights protection and legal representation.

The Bar Council of Ukraine considers it expedient to conduct an in-depth expert assessment of the registered draft laws in order to determine their compliance with the opinions of the Venice Commission, in particular with regard to the standards of disciplinary liability, integrity of judges, and compliance with the rule of law.

In this context, the Bar Council of Ukraine emphasises the importance and necessity of preserving the key constitutional principles of judicial independence guaranteed by Article 126 of the Constitution of Ukraine, the case law of the European Court of Human Rights, and international standards, including the recommendations of the Venice Commission.

Any amendments to the legislation should be balanced, proportionate and contribute to the strengthening of the rule of **law, and not create risks of interference with the independence of judges and human rights activities of the Bar.**

To this end, the Bar Council of Ukraine discussed a number of key issues and problematic aspects arising from the provisions of the said draft laws, issued and approved an opinion setting out the position of the Bar on the draft laws that raise issues of disciplinary liability, judicial integrity and the rule of law.

I. The Bar Council of Ukraine, having considered draft laws No. 13137 and No. 13137-1 "On Amendments to the Law of Ukraine "On the Judiciary and the Status of Judges" and Certain Legislative Acts of Ukraine on Improving Disciplinary and Other Procedures" (Reg. **No**. **13137** of March 26, 2025) and "On Amendments to the Law of Ukraine "On the Judiciary and the Status of Judges" and Certain Legislative Acts of Ukraine on Improving Disciplinary and Other Procedures" (Reg. **No. 13137-1** of April 7, 2025), hereby **expresses the following position:**

Certain legislative innovations proposed in these drafts raise serious concerns about their compatibility with international and European standards of justice, especially with the established case law of the European Court of Human Rights, and therefore, the BCU has concluded that they need to be radically revised.

1.1. ***Unjustified introduction of temporary suspension in disciplinary procedures***

The draft laws introduce the institution of temporary suspension of a judge from the administration of justice for up to four months (2+2 months) in connection with disciplinary proceedings with a categorical prohibition on appealing such a decision and mandatory immediate execution, which is fundamentally different from established legal standards, is conceptually flawed and contrary to the foundations of the legal system.

This mechanism does not just go beyond the limits of acceptable procedural norms - it creates a new paradigm of lawlessness, in which a judge is deprived of the possibility of defence before the fact of violation is established.

The Bar Council of Ukraine believes that such norms violate three key constitutional principles - the independence of the judiciary (Article 6 of the Constitution of Ukraine), the right to a fair trial (Article 55), and the right to legal assistance (Article 59). The actual deprivation of a person of the right to appeal against a repressive measure makes it impossible for an advocate to perform the function of an advocate - to provide full legal protection to a client - and undermines the essence of the institution of legal assistance.

It is particularly dangerous to transfer the mechanisms of the criminal process (where temporary suspension has a specific purpose: to avoid influencing the evidence base, preventing escape or reoffending) to disciplinary proceedings, where such risks are absent a priori. Disciplinary violations are of a different nature - they do not pose an immediate threat to society, and therefore do not require immediate restrictions on professional activities.

The proposed draft laws create grounds for manipulation, when disciplinary complaints can be used as a tool to remove “inconvenient” judges on the eve of politically sensitive cases. This grossly violates the principle of the legitimate judge, calls into question the constitutional right of the parties to have their case heard by a proper judge, and opens the way to selective influence on justice.

In addition to the direct threat to independence, the creation of an atmosphere of fear generates a self-censorship effect - judges may avoid making reasonable but “risky” decisions for fear of disciplinary prosecution.

The sanction imposed before a violation is established contradicts the presumption of professional competence and fundamental principles of law. The reputational damage caused by such suspension is irreversible - even in the case of full acquittal, the judge's credibility often remains undermined, with lasting negative consequences for his or her career and public perception.

Restoring trust in the judiciary through reputational losses of judges is a deeply flawed logic. Trying to restore trust in the judiciary by undermining trust in individual judges creates a fundamental contradiction. Since the judicial system is a collection of judges, systematic destruction of the reputation of its constituent elements inevitably destroys trust in the system as a whole.

The public does not distinguish between a “suspended” and a “guilty” judge. As a result, the mere fact of suspension in the public mind is equated with an admission of guilt, creating a persistent negative stereotype even after full acquittal.

When judges make decisions under the influence of fear of suspension rather than being guided by law and justice, this does not create trust, but rather an imitation of it. True trust is built on predictability and independence of justice, not on obedience.

In the long run, the massive use of such suspensions could lead to systemic destabilisation of justice and the collapse of the judicial system, when judges, fearing unjustified reprisals, either leave the profession or make decisions under the influence of fear rather than on the basis of law and justice.

The violation of the constitutional right to defence is particularly critical. The ban on appealing against the decision to suspend makes the defence illusory and violates Article 8 of the Constitution of Ukraine on access to justice. The application of a repressive measure before the fact of the violation is established contradicts the presumption of innocence and the rule of law. The inability to appeal against the suspension makes it impossible for an advocate to fully protect the client's interests, which undermines the very essence of the legal assistance institution.

In accordance with the principle of proportionality enshrined in the case law of the ECtHR, suspension as a measure of last resort should be applied only if there are good reasons to believe that the continuation of the activity poses a serious threat, in the absence of less burdensome alternatives and in compliance with strict procedural guarantees. In disciplinary proceedings, these conditions are fundamentally not met.

Therefore, the Bar Council of Ukraine considers the introduction of temporary suspension in disciplinary procedures to be a conceptually unjustified, procedurally flawed and systemically dangerous mechanism that undermines the foundations of independent justice and sets a precedent for restricting the right to defence for the entire legal community.

1.2. *International legal violations in the proposed legislative amendments on the temporary suspension of judges in disciplinary procedures*

The amendments proposed in the draft laws on the temporary suspension of judges in disciplinary procedures raise serious concerns in terms of their compliance with international standards of judicial independence.

The proposed mechanism contradicts **Article 6 of the European Convention on Human Rights**, which guarantees the right to a fair trial and an effective remedy.

Prohibiting appeals against the decision on temporary suspension directly violates these guarantees. Judges can be punished for decisions that do not constitute a disciplinary offence or do not contain signs of misconduct, which contradicts the case law of the ECtHR in Ruiz Torija v. Spain, Application no. 18390/91, December 9, 1994, and García Ruiz v. Spain [GC], Application no. 30544/96, January 21, 1999.

The proposed mechanism does not comply with **the UN Basic Principles on the Independence of the Judiciary (1985),** which prohibit external pressure on judges or their removal without appropriate procedural safeguards. The involvement of political bodies as initiators of disciplinary proceedings upsets this balance.

The introduction of the institute of temporary suspension of a judge in disciplinary proceedings without proper procedural guarantees and before the fact of guilt is established by the above draft laws is **a direct violation of the principles of the Venice Commission's Opinion CDL-AD(2010)004** on ensuring the necessary balance between the independence of the judiciary and the mechanisms of disciplinary liability, and is **fundamentally contrary to European standards of fair trial**.

Thus, the temporary suspension of judges as proposed by the draft laws contradicts Ukraine's European vector, undermines the international community's confidence in the judicial reform, and transforms the legal system from an instrument of justice into a mechanism of control.

II. Grounds for disciplinary liability

2.1. Problematic attempt to classify disciplinary offences

The draft laws envisage amendments to Article 106 of the Law of Ukraine "On the Judiciary and the Status of Judges", introducing **a three-stage classification of disciplinary offences** (minor, serious, substantial) and establishing the relevant qualifying features in parts three to eight of Article 106.

The Bar Council of Ukraine states that **the proposed approach creates more problems than it solves**. Instead of the expected increase in legal certainty, the classification of disciplinary offences is formulated with a **critical degree of uncertainty, since there are no clear criteria for distinguishing** between minor and serious offences; **the evaluative concepts** ("substantial", "long-term", "gross negligence") do not have specific parameters; **the practical application of** such provisions will be extremely difficult due to the subjective nature of interpretation.

Consultative Council of European Judges Opinion (CCJE) No. 27 (2024) in paragraph 27 categorically states: **"In each Member State, the law should define expressly and, as far as possible, in specific terms, the grounds on which disciplinary proceedings against judges may be initiated."**

The proposed classification **directly contradicts** this requirement, as it: creates **additional legal uncertainty** instead of eliminating it; leaves **wide scope for subjective interpretation** by disciplinary bodies; **does not ensure predictability** of legal consequences for judges.

The CCJE in paragraph 27 of Opinion No. 27 (2024) warns that **"vague provisions lend themselves to an overbroad interpretation and abuse, which may be dangerous for the independence of the judges."**

Thus, instead of the declared **"strengthening of legal certainty"**, the proposed classification of disciplinary offences actually **worsens the state of legal regulation** and creates additional risks to the independence of the judiciary. Such an approach contradicts both the Opinion of CCJE No. 27 (2024) and the position of the Supreme Court of Ukraine on the need for a clear and unambiguous definition of the grounds for disciplinary liability.

2.2. Reasonableness of court decisions in the context of disciplinary liability

The proposed amendments to subparagraph 'b' of paragraph 1 of part one of Article 106 of the Law, which establish that only the rejection of **the essential arguments of the parties to the case on the merits of the dispute** without proper justification will constitute grounds for disciplinary liability of a judge, are appropriate.

This provision is not only reasonable, but also **fully complies with the established practice of the ECtHR** regarding the requirements for the reasoning of court decisions under Article 6(1) of the European Convention on Human Rights.

The European Court of Human Rights in its case law has consistently emphasised that Article 6(1) of the Convention imposes an obligation on national courts to give reasons for their decisions. **At the same time, this obligation does not require a detailed response to each argument of the parties**. The scope of this obligation varies depending on the nature of the decision, the variety of arguments presented, and the specificities of national legal systems, including legislative provisions, legal traditions, and established approaches to the formulation of judgments.

The criterion of "materiality" of arguments in the ECtHR case law. In its judgments in Ruiz Torija v. Spain, Application no. 18390/91, December 9, 1994, paragraph 29, and García Ruiz v. Spain [GC], Application no. 30544/96, January 21, 1999, paragraph 26, the ECtHR established that the question of whether the court has fulfilled its duty of reasoning can be determined only in the light of the specific circumstances of the case.

Of particular importance is the ECtHR's conclusion in Mont Blanc Trading Ltd and Antares Titanium Trading Ltd v. Ukraine, application no. 11161/08, judgment of January 14, 2021). In paragraph 82 of the judgment, the Court clearly stated that **the principle of fairness enshrined in Article 6 of the Convention would be disturbed where domestic courts ignore a specific, pertinent and important point made by an applicant**.

Taking into account the above analysis of international practice, we should support the position of the authors of the draft laws that the absence of separate reasons in the court decision for accepting or rejecting each argument presented by the parties on the merits of the dispute cannot serve as an independent ground for bringing a judge to disciplinary liability.

As the established case law of the European Court of Human Rights convincingly demonstrates, the absence of a detailed response to each individual argument of the parties to the proceedings in a court act is not in itself an indicator of the unfoundedness of a court decision and does not violate the requirements of Article 6 of the European Convention on Human Rights on fair trial.

Opinion on the proposed amendments. Taking into account the ECHR case law, the authors of the draft laws should support the position that **the absence of reasons for each argument of the parties in a court decision cannot automatically constitute grounds for disciplinary liability**. Disciplinary sanctions should be applied only in cases of **disregard of substantial, relevant, and important arguments**, which is in line with European fair trial standards and ensures a reasonable balance between the requirements for the quality of court decisions and guarantees of judicial independence.

2.3. Specifying the behaviour that discredits the rank of judge: a positive step towards legal certainty

The provisions of the draft laws amending Article 106 of the Law, which provide for **a detailed specification in paragraph 3 of part one of the** types of behaviour that "discredit the title of judge or undermine the authority of justice", with a clear list of them, are of fundamental importance. The proposed approach is fundamentally different from the current wording of the rule, which contains only general references to the concepts of morality, honesty, judicial ethics, and standards of conduct, leaving **too wide a scope of discretion** for the disciplinary body and creating risks of arbitrary interpretation.

International legal standards of legal certainty

The proposed legislative amendments are fully in line with fundamental international standards that categorically require that any disciplinary offence be clearly and unambiguously defined in law. This ensures compliance with the fundamental principles of the rule of law, independence of the judiciary, and legal certainty and predictability of legal consequences.

Firstly, paragraph 66 of Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe "Judges: Independence, Efficiency and Responsibilities" of November 17, 2010 clearly states that the

interpretation of the law, assessment of facts or weighing of evidence carried out by judges should not give rise to civil or disciplinary liability, except in cases of malice and gross negligence.

Secondly, the principle of legal certainty is consistently enshrined in the Opinions of the CCJE, in particular in Opinion No. 3, which emphasises the critical importance of clear and unambiguous formulation of the grounds for disciplinary liability.

Thirdly, the European Charter on the Statute for Judges (1998) establishes an imperative requirement that disciplinary procedures should be as transparent as possible, duly justified, and categorically cannot be used as a means of undue pressure on judges.

Finally, these principles are fully in line with the fundamental requirements of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 6 - right to a fair trial), which guarantees fairness of trial and predictability of legal procedures.

Opinion No. 27 (2024) of the CCJE, adopted on December 6, 2024, deals with the standards of disciplinary liability of judges and aims to update and systematise the approaches set out in previous CCJE opinions, in particular No. 3 (2002) and No. 18 (2015).

In Opinion No. 27, the CCJE emphasises that the legislation of each Member State should **define expressly and as far as possible in specific terms, the grounds on which disciplinary proceedings against judges may be initiated**. Vague provisions (such as the "breach of oath" or "unethical behaviour"), lend themselves to an overbroad interpretation and abuse, which may be dangerous for the independence of the judges (paragraph 27).

In addition, the CCJE cautions against justifying grounds of disciplinary liability of judges by reference to the reputation of the judiciary, except when it is intended to refer to the authority of and public confidence in the judiciary (paragraph 28). Such an approach should be justified and not become an instrument of pressure or political influence.

The UN General Assembly's **Basic Principles on the Independence of the Judiciary**, adopted in 1985, require judges to act without pressure, interference, or fear of sanctions in the administration of justice.

The lack of **adequate guarantees of protection against politically motivated prosecutions** and the possibility of **transferring a judge to a lower court as a form of punishment** directly contradict international practice of ensuring the independence of the judiciary, undermining its **institutional autonomy and authority**.

2.4. Monetary penalties as an instrument of pressure on the judiciary

The draft laws provide for the introduction of **draconian penalties**: a monetary penalty of 25 to 50 per cent of the monthly judicial remuneration with simultaneous deprivation of the right to receive all additional payments to the judge's salary for six months, as well as a **severe monetary penalty** of 50 to 100 per cent of the monthly remuneration with deprivation of the right to receive additional payments for nine months **for committing disciplinary offences.**

Direct violations of CCJE Opinion No. 27 (2024) on financial sanctions.

In its most recent **Opinion No. 27 (2024) on the disciplinary liability of judges**, the CCJE has set categorical standards that are **in fundamental contradiction to** the provisions of the analysed draft laws **on financial sanctions.**

Paragraph 40 of the CCJE Opinion No. 27 (2024) explicitly states: **"The CCJE advocates against reduction of salary as a disciplinary sanction because judges must be remunerated equally for like work."** This statement is categorical and does not provide for any exceptions or compromises.

In addition, the Opinion emphasises **the inadmissibility of disciplinary pressure before a violation is established** and **the need for a fully independent and impartial disciplinary body**, which is also violated by the proposed legislative changes.

The draft laws envisage the introduction of **draconian financial repression**: monetary penalties in the amount of 50 to 100 per cent of the monthly judicial remuneration with the simultaneous **complete deprivation of all additional payments for up to 9 months**.

Such sanctions **directly and** categorically **contradict** the CCJE's categorical position on the inadmissibility of salary reduction as a disciplinary sanction and violate the fundamental principle of equal pay for like work, which is **a flagrant violation of European standards, in particular, of** the CCJE's Opinion No. 27 (2024).

In its Opinion No. 27 (2024) on the disciplinary liability of judges, the CCJE sets clear standards that the analysed draft laws do not meet.

The absence of clearly defined boundaries between the lawful professional behaviour of a judge **and the grounds** for disciplinary prosecution creates unacceptable legal uncertainty, **which the CCJE qualifies as a violation of the fundamental principles of fair disciplinary proceedings and a threat to the independence of the judiciary.**

The proposed amendments do not just contradict certain international norms - they create a systemic risk of dismantling judicial independence.

This will inevitably deepen the existing distrust of the international community in the Ukrainian justice system, **finally turning** integrity checks into an instrument of political pressure and disciplinary procedures into a means of selective control over judges.

2.5. The concept of restoring trust in the judiciary through reputational losses of judges is deeply flawed for several critical reasons:

Paradox of destruction for the sake of restoration

Attempts to restore trust in the judiciary by systematically undermining trust in individual judges creates a fundamental contradiction. The judicial system is by its very nature an organic combination of judges as its integral parts, so the deliberate destruction of the reputation of these constituent elements inevitably leads to the erosion of trust in the justice system as a whole.

Psychological effect of stigmatisation

The public consciousness is unable to distinguish between a “suspended” and a "guilty" judge. The very fact of public suspension in public perception is automatically equated with an admission of guilt, forming a persistent negative stereotype that persists even after the judge is fully acquitted and reinstated.

Systemic fear instead of professional justice

When judges are forced to make decisions under the pressure of fear of possible removal, rather than being guided solely by the principles of law and justice, this does not generate true trust in justice, but only a superficial imitation of it.

Genuine trust in the judicial system is built on the predictability of court decisions and guaranteed independence of judges, not on their submission to external pressure.

International experience of democratic countries

The countries with the highest level of trust in the judiciary - **Denmark, Switzerland, Germany, and the Netherlands** - have achieved this by **consistently strengthening institutional guarantees of judicial independence**, not by creating mechanisms to weaken or intimidate them.

A constructive way to restore trust

Confidence in the judiciary must be restored through **systemic reforms**: increasing the transparency of judicial procedures, introducing modern standards for the selection of judges, creating an effective system of disciplinary liability with full respect for all procedural guarantees and principles of fair trial, and **not through repressive mechanisms that undermine the foundations of the rule of law**.

The Bar Council of Ukraine, having analysed these draft laws, **concluded that they introduce repressive mechanisms of control over the judiciary under the guise of "restoring trust", which directly contradicts successful international experience and may lead to the degradation of the Ukrainian justice system.**

Problematic expansion of the circle of initiators of disciplinary proceedings

The authors of the draft laws propose a radical expansion of the list of entities authorised to initiate disciplinary proceedings against judges by amending Article 42 of the Law of Ukraine "On the High Council of Justice."

The key novelty is the introduction of an automatic mechanism for initiating disciplinary proceedings after receiving a separate ruling of a higher court on a lower court's violation of procedural law that contains signs of a disciplinary offence (subparagraph 'b' of paragraph 1 of part two of Article 42).

In order to implement this mechanism, it is envisaged to introduce synchronised amendments to all major procedural codes of Ukraine.

According to these amendments, a separate ruling of a higher court on procedural violations of a judge will be sent to the body authorised to conduct disciplinary proceedings **for a decision to open or refuse to open a disciplinary case.**

The proposed mechanism poses serious risks to the principle of judicial independence for several critical reasons:

Firstly, it establishes a direct dependence of a lower court judge on the assessment of his/her performance by a higher court not only in the context of the correctness of the decision, but also in terms of potential disciplinary liability.

Secondly, this approach may lead to a "cooling effect" on judicial activity, when lower court judges will be forced to focus not on the law and their own legal convictions, but on the possible reaction of higher courts.

Thirdly, it creates an additional channel of pressure on judges through the judicial hierarchy, which may undermine the principle of equality and independence of all judges regardless of the level of court.

The proposed mechanism contradicts the CCJE Opinion No. 27 (2024), according to which judicial decisions, including interpretation of the law and assessment of facts, should not lead to disciplinary liability, except in cases of malice or gross negligence.

The automatic referral of cases to disciplinary bodies on the basis of procedural errors violates the principle of proportionality and may lead to abuse of disciplinary procedures as a means of influencing judges.

The Bar Council of Ukraine emphasises that **the expansion of the range of subjects for initiating disciplinary proceedings *through the introduction of an automatic mechanism based on individual decisions of higher courts creates unacceptable risks for the independence of the judiciary* and contradicts European standards of disciplinary liability of judges.**

2.6. The draft laws also envisage a radical **expansion of the range of subjects for initiating disciplinary proceedings**, according to which **temporary investigative and temporary special commissions of the Verkhovna Rada of Ukraine, the assembly of judges and the Council of Judges of Ukraine will be** entitled to initiate disciplinary proceedings against judges (subparagraphs 'b', 'c' and 'd' of paragraph 2 of part two of Article 42). To implement these provisions, it is envisaged to introduce appropriate amendments to part eight of Article 128 and part twelve of Article 133 of the Law "On the Judiciary and the Status of Judges", as well as to Articles 12 and 24 of the Law of Ukraine "On Temporary Investigation Commissions and Temporary Special Commissions of the Verkhovna Rada of Ukraine."

Creation of a mechanism for political pressure on the judiciary

The proposed amendments empower these bodies to apply to the disciplinary authorities to initiate disciplinary proceedings against judges in case they receive any information about possible disciplinary offences. Such an approach **creates an unacceptable situation** where **decisions of collegial bodies adopted by voting acquire a special "political weight" in disciplinary proceedings against representatives of the judiciary**.

Violation of constitutional principles. The Bar Council of Ukraine states that the proposed amendments **grossly violate fundamental constitutional principles**:

Firstly, granting the legislature (temporary commissions of the Verkhovna Rada) the right to initiate disciplinary proceedings against members of the judiciary is **a direct violation of the principle of separation of powers**, as it creates a mechanism for direct political interference of the parliament in the affairs of the judiciary.

Secondly, it contradicts **the presumption of innocence in its broadest sense,** as the court, as the body that should be the last to speak in a dispute over the protection of a violated right, is under pressure from previous political assessments of its activities.

No objective need for expansion

In Ukraine, there is already **an unprecedentedly wide range of subjects** for initiating disciplinary liability of judges. Any person, including those who are legally incapacitated, has the right to file a disciplinary complaint against a judge. Therefore, there is **no objective need to expand** this list further fby involving public authorities.

Inadmissible mixing of functions of disciplinary bodies: violation of international standards

The proposed expansion of the range of subjects for initiating disciplinary proceedings essentially contradicts fundamental international standards of judicial independence, in particular paragraph 26 of the OSCE Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia "Administration of the Judiciary, Selection and Liability of Judges", adopted on June 23-25, 2010, which categorically states: "The bodies that adjudicate cases of judicial discipline may not also initiate them or have as members persons who can initiate them."

It is particularly unacceptable to grant the Disciplinary Chamber and the High Qualification Commission of Judges of Ukraine the right to initiate disciplinary proceedings against judges. This makes it possible to unacceptably combine two incompatible roles of the same body in the same proceedings: the function of initiator of a disciplinary case and the function of the body that considers the case and makes a decision on bringing to justice.

Such mixing of functions directly violates the fundamental requirement of the OSCE Kyiv Recommendations and fundamentally contradicts international standards of fair proceedings, in particular, the CCJE Opinion No. 27 (2024), which categorically states in paragraph 19 the following: "The body that is responsible for the initiation of a disciplinary procedure and its investigation should not be the same body deciding the disciplinary matter."

The OSCE Kyiv Recommendations also require that judges accused of breaching the rules of professional conduct be provided with a full range of procedural safeguards, including the right to defence and appeal. **The proposed amendments undermine these guarantees by creating a situation where the initiating authority is also the judge in the case.**

Thus, the proposed draft laws contradict several key international standards at once, which indicates their systemic unacceptability for a democratic state governed by the rule of law.

The Bar Council of Ukraine states that the proposed amendments grossly violate both the Kyiv Recommendations and the CCJE Opinion No. 27 (2024) on the division of functions in disciplinary proceedings and should be completely rejected as undermining the foundations of independent and fair justice.

2.7. The CCJE Opinion No. 27 (2024) sets out the fundamental principles of legal certainty in the area of disciplinary liability of judges. In particular, it is emphasised that in each Member State the law should clearly and, as far as possible, in

specific terms define the grounds on which disciplinary proceedings against judges may be initiated. The **CCJE categorically demands that the possibility of introducing special grounds of disciplinary liability with retroactive effect be excluded**.

The principle of accountability without subordination

The CCJE emphasises that all branches of state power are accountable to the society they serve, and the disciplinary liability of judges ensures the accountability of the judiciary. At the same time, **this does not categorically mean that the judiciary is subordinate to another branch of government.** Such a subordination would contradict the constitutional function of the judiciary as a state power consisting of independent arbitrators whose function is to decide cases impartially and in accordance with the law. Subordination of the judiciary would also undermine the very basis of the rule of law, which guarantees specific rights and freedoms to its citizens.

Mandatory separation of functions in disciplinary proceedings

The provision of the CCJE Opinion No. 27 (2024) that the body responsible for initiating a disciplinary procedure and conducting an investigation should not be the same body that decides the disciplinary case is of fundamental importance. The CCJE recommends that Member States establish a special investigative body or person responsible for receiving complaints, hearing the judge's explanations and considering whether there are sufficient grounds to initiate disciplinary proceedings against the judge.

Inconsistency with the nature of judicial self-government bodies

Particular attention should be paid to the fact that the **meeting of judges and the Council of Judges of Ukraine are judicial self-government bodies that are not inherently empowered to initiate disciplinary proceedings.** Granting such powers to the judicial self-government bodies contradicts their nature and main functions aimed at ensuring the organisational independence of the judiciary.

Position of the Bar Council of Ukraine.

Taking into account the above principles of the CCJE Opinion No. 27 (2024) and the peculiarities of the legal nature of the judicial self-government bodies, the Bar Council of Ukraine **supports the need for strict adherence to international standards of separation of functions in disciplinary proceedings and opposes the proposed legislative changes as contrary to the fundamental principles of judicial independence**.

III. On Amendments to the Law of Ukraine "On the High Council of Justice"

3.1. Problematic reduction of the quorum requirements for the High Council of Justice

The draft laws envisage amendments to part two of Article 30 of the Law of Ukraine "On the High Council of Justice", which would drastically reduce the quorum requirements for holding authorised HCJ meetings. The proposed amendments replace the current requirement of "a majority of the HCJ or the Disciplinary Chamber" with the wording "a majority of the elected (appointed) members of the HCJ or the Disciplinary Chamber, respectively."

3.2. Weakening the collegiality of decision-making

At the same time, it is proposed to reduce the number of HCJ members required to decide on the submission of a motion on the appointment of a judge by replacing the specific number "fourteen" with the estimated concept of "two-thirds of the elected (appointed) members". Similar amendments are envisaged to Article 37 of the Law of Ukraine "On the High Council of Justice" regarding the rules for the HCJ to make decisions on judicial candidates.

3.3. Risks to the quality of the judiciary

In fact, the proposed amendments will lead to a **significant reduction of the legal requirements for the HCJ quorum**, which poses serious risks to the process of forming the judiciary:

Firstly, the reduction of the quorum may lead to decisions on the appointment of judges being made by **a narrow circle of participants**, which reduces the level of collegiality and consensus of such decisions.

Secondly, the use of the evaluative concept of "**two-thirds of elected (appointed) judges"** instead of a specific numerical indicator creates legal uncertainty and may lead to different interpretations of the quorum depending on the actual composition of the HCJ at the time of the meeting.

Thirdly, weakening the quorum requirements may negatively affect **the legitimacy of the HCJ decisions** in the public perception, as important personnel decisions will be made with the participation of fewer members of the Council.

3.4. Contradiction with the principles of collegiality

The Bar Council of Ukraine believes **that lowering the quorum standards contradicts the principle of collegiality in decision-making in the field of judicial governance** and may weaken the guarantees of independent and professional selection of judges. Given the critical importance of the function of forming the judiciary,

quorum requirements should remain as high as possible to ensure broad representation and consensus decisions.

The existence of the High Council of Justice, constitutional requirements for its composition, and procedure of formation are integral to the principle of judicial independence. Compliance with these fundamental requirements is ensured by the established rules on the HCJ quorum. Any simplification of the quorum requirements would inevitably undermine other principles of formation of this body and, as a result, weaken the constitutional guarantees of judicial independence.

3.5. Entry of the HCJ decisions into force

The provisions of part eleven of Article 50 of the Law of Ukraine "On the High Council of Justice" as drafted stipulate that the decision of the Disciplinary Chamber to bring a judge to disciplinary liability comes into force **on the day it is made** and **is subject to immediate execution**, even if it is appealed - **except for the decision to dismiss a judge from office**.

At the same time, part twelve of Article 50 as proposed establishes that the decision to **dismiss a judge from office** shall enter into force **only after the expiry of the term for appeal**, provided that no appeal is filed. In case of appeal, the relevant procedure for entry into force shall be regulated.

The Bar Council of Ukraine supports the need for legislative regulation of the effective date of the decisions of the Disciplinary Chamber. However, it expresses reservations that **the approach envisaged for the decision on dismissal** should **also be applied to other decisions on bringing a judge to disciplinary liability**.

According to part ten of Article 51 of the Law, the HCJ has the right to:

1. Fully cancel the decision and close the proceedings;
2. Partially cancel the decision and adopt a new one;
3. Fully or partially cancel the decision on the refusal to bring to justice;
4. Change the decision by applying a different penalty;
5. Leave the decision unchanged.

Thus, given the possibility of **changing or cancelling the decision** following the results of the appellate review, the **immediate entry into force of the Disciplinary Chamber's decision on the day it is made is unreasonable, especially in the context of potential negative consequences for the judge.**

In this regard, we should be guided by **the analogy with the entry into force of court decisions**, which provides for the completion of the appeal procedure as a prerequisite for their implementation.

3.6. On preventing abuse of the right to file a disciplinary complaint

The authors of the draft laws propose to amend the Law of Ukraine "On the High Council of Justice" to prevent abuse of the right to file a disciplinary complaint.

In particular, it is envisaged to introduce a new section 41, which establishes mechanisms for responding to repeated unfounded complaints**, including the obligation to pay for the submission of subsequent complaints** in an amount not exceeding ten subsistence minimums for able-bodied persons (part two of Article 50-3).

Opinion No. 27 of the CCJE (2024) states that disciplinary proceedings should be initiated only if there are **strong legal grounds**, and that **complaints that are groundless or procedurally unfounded** should be rejected as inadmissible. The CCJE recommends that member states introduce **a system of filtering complaints** to avoid abuses that could undermine the independence of the judiciary.

The introduction of a fee for resubmitting a complaint in cases of abuse of the right is a reasonable measure in line with international standards and recommendations. However, the proposed regulatory wording contains significant flaws that raise legitimate concerns:

The absence of a fixed fee creates excessive discretion for the disciplinary authority, which contradicts the principle of predictability of legal consequences.

The lack of objective criteria for determining a specific amount violates the principle of legal certainty and may lead to arbitrary decisions.

The disproportionality of the upper limit - ten subsistence minimums - potentially **turns this measure into an insurmountable obstacle to the exercise of the constitutional right to appeal,** especially for persons with limited financial means.

3.7. Regarding the HCJ's powers to recognise a complaint as an abuse of law

The provision proposed by the draft laws**, which provides for the High Council of Justice to be empowered to recognise a disciplinary complaint as an abuse of law** in case of complete cancellation of the decision of the Disciplinary Chamber and closure of disciplinary proceedings (part four of Article 50-1 of the Law of Ukraine "On the High Council of Justice")**, cannot be supported.**

By cancelling the decision of the Disciplinary Chamber, the HCJ actually performs the function of a quasi-court of appeal. At the same time, according to international standards, in particular Opinion No. 27 of the CCJE, the recognition of a complaint as an abuse of the right of appeal belongs to the system of **preliminary filtering of complaints**, which should ensure prompt rejection of vexatious or unfounded appeals.

In this context, it would be logical to grant the **HCJ disciplinary inspector or the Disciplinary Chamber the** relevant powers at the stages of **preliminary examination of the complaint** or **opening of disciplinary proceedings**, rather than after consideration of the case on the merits.

Providing the HCJ with such powers at the stage of appellate review contradicts the logic of the process and may create risks to the objectivity of the assessment.

Given that the Disciplinary Chamber has already considered the complaint on the merits and issued a decision, it **is procedurally inappropriate to recognise the complaint as an abuse of law at this stage**.

Therefore, the Bar Council of Ukraine proposes **to exclude the relevant provision from the draft laws.**

IV. Draft Laws No. 13137 and No. 13137-1 contain provisions directly related to the Bar and the legal status of advocates, in particular in the context of disciplinary liability mechanisms and possible restrictions on professional activities.

The key novelty is the introduction of **an automatic mechanism for initiating disciplinary proceedings against an advocate on the basis of a separate court ruling or a decision of a disciplinary body against a judge** that recognises the abuse of the right to file a complaint by an advocate.

In order to implement this mechanism, it is planned to supplement Article 36 of the Law of Ukraine "On the Bar and Practice of Law" with a new part that will set out the legal grounds and procedural features of disciplinary proceedings.

The proposed amendment to the relevant law on the Bar creates a mechanism for the automatic initiation of disciplinary proceedings **against advocates on the basis of individual court rulings or decisions of disciplinary bodies against judges, which effectively establishes a system of indirect pressure on the Bar through the threat of disciplinary prosecution for professional activities** in protecting clients' rights and filing substantiated complaints about improper conduct of representatives of the judiciary, thereby undermining the constitutional guarantees of the independence of the Bar.

The proposed changes create systemic risks to the independence of the legal profession.

Firstly, the recognition of a disciplinary complaint of an advocate as an abuse of law may become an instrument of indirect pressure on advocates, especially in cases where such a decision is made by the body that directly considers the complaint on the merits.

Secondly, the lack of clear and objective criteria for determining the abuse of law violates the fundamental principles of legal certainty and poses a threat to the independence of the legal profession guaranteed by the Constitution of Ukraine.

Particularly problematic is the fact that such a system may lead to self-censorship of advocates, who will be afraid to file substantiated disciplinary complaints against judges due to the risk of their own disciplinary prosecution. This fundamentally undermines the role of the Bar as a guarantor of human rights protection and an independent element of the justice system.

These provisions have caused justified concern among the professional community. The Ukrainian National Bar Association has officially drawn attention to the inconsistency of the proposed amendments with the current legislation and the absolute need for their radical revision in line with international standards of independence of the legal profession.

V. Regarding the draft laws on declarations of integrity of judges (No. 13165, No. 13165-1, No. 13165-2)

5.1. Draft laws No. 13165, No. 13165-1, No. 13165-2: comparative analysis of regulatory concepts

Three draft laws were registered in the Verkhovna Rada of Ukraine to improve the procedures for verification of judges' integrity declarations.

The main governmental draft law No. 13165, initiated by the Cabinet of Ministers, provided for a mandatory 24-month verification of integrity declarations and family ties of judges of the Supreme Court and higher specialised courts by the High Qualification Commission of Judges with the participation of the Public Integrity Council.

As an alternative, two draft laws were submitted: No. 13165-1 by MP Serhii Vlasenko and No. 13165-2 by Deputy Chairman of the Committee on Legal Policy Ivan Kalaura.

On 3 June 2025, Verkhovna Rada of Ukraine adopted in the first reading an alternative draft law No. 13165-2, initiated by the Deputy Chairman of the Committee on Legal Policy Ivan Kalaura, which is fundamentally different from the main government initiative in several key respects.

Firstly, the draft law completely excludes any direct references to mandatory verification of integrity declarations of judges of the Supreme Court and the High Anti-Corruption Court.

Secondly, instead of a selective approach, the draft law provides a general procedure for verification of declarations of all judges of Ukraine by the High

Qualification Commission of Judges without the participation of the Public Integrity Council.

Thirdly, the draft law introduces an important procedural guarantee - the right of judges to appeal against the HQCJ's decisions on the results of the verification of declarations in administrative proceedings.

Thus, the version adopted in the first reading demonstrates a fundamentally different philosophy of legal regulation, moving away from the concept of targeted inspections by higher courts in favour of the universal integrity control mechanism with enhanced judicial protection guarantees.

5.2. Constitutional and legislative foundations of judicial integrity

Integrity as a fundamental requirement for judges has a solid constitutional and legislative basis in the Ukrainian legal system. Article 127 of the Constitution of Ukraine clearly defines integrity as one of the key requirements for candidates for the position of judge, thereby establishing a constitutional standard for the judiciary.

This constitutional norm has been implemented in the 2016 version of the Law of Ukraine "On the Judicial System and Status of Judges," which sets out in detail the criteria of integrity and professional ethics as mandatory parameters for evaluating judges. This law created the legal basis for verifying the compliance of judges with established standards of integrity.

An important step in standardising the assessment process was the decision of the High Council of Justice in 2024 to approve the Unified Integrity Indicators. These indicators are universal in nature and are applied by all assessment bodies, ensuring uniformity of approaches and criteria in the process of verifying the integrity of judges throughout the country.

5.3. The problem of duplication of judge evaluation procedures

A fundamental flaw in the draft law is that it ignores the qualification evaluation of judges already carried out in accordance with the transitional provisions of the 2016 Constitution and the Law on the Judicial System and Status of Judges.

This assessment included a comprehensive integrity check, **so repeated declarations** create duplication of procedures and undermine confidence in the recently completed processes.

5.4. Legal uncertainty in judicial practice and limited judicial review of HQCJ decisions

Law enforcement practice in the area of assessing judicial integrity is characterized by a certain degree of legal uncertainty and limited judicial review. The Grand Chamber of the Supreme Court has consistently recognized in its decisions that

the concept of integrity does not have a clear normative definition, which creates room for subjective interpretation of this criterion. Instead, courts classify integrity as a moral and ethical category that is assessed through an analysis of a judge's behavior, lifestyle, financial status, and other objectively established circumstances.

A particularly problematic aspect is the limited judicial review of the HQC's decisions on integrity issues. Judicial practice demonstrates an approach whereby the assessment of integrity is considered to be the discretionary competence of the High Qualification Commission of Judges, which significantly limits the possibilities for appealing such decisions. This creates a risk of arbitrary application of integrity criteria and violation of the principle of fair trial.

In view of the above, the Supreme Court Plenum's strong opposition to the government's draft law No. 13165 is understandable and logical, as it demonstrates the judiciary's deep distrust of the proposed mechanisms for verifying integrity.

At the same time, the Plenum's cautious support for alternative draft laws No. 13165-1 and No. 13165-2, with a categorical demand for their radical revision, indicates systemic shortcomings in all proposed options for legislative regulation. This position demonstrates the existence of serious legal and procedural shortcomings in legislative initiatives, which require a fundamental rethinking of approaches to verifying the integrity of judges.

5.5. International standards and recommendations

Leading international organizations, including GRECO, the Venice Commission, the European Union, and the OECD, in their recommendations to Ukraine, consistently emphasize the need to adhere to the basic principles of legal certainty and proportionality in procedures for assessing judicial integrity.

The primary requirement is to ensure clear, understandable, and predictable integrity criteria that exclude the possibility of arbitrary interpretation and application. International experts emphasize the importance of guaranteeing the independence of assessment bodies from political influence and ensuring their ability to conduct objective and impartial assessments.

International organizations pay particular attention to the need to avoid duplication of integrity assessment procedures, as repeated assessments without reasonable grounds undermine legal certainty and may be considered a disproportionate interference with the independence of the judiciary. This approach is consistent with European standards of the judiciary and the principles of the rule of law.

The mechanisms for mandatory integrity declarations by judges proposed in draft laws No. 13165, No. 13165-1, and No. 13165-2 **require a fundamental review**, with

mandatory consideration of the qualification assessment and suitability checks already carried out. Duplicating recently completed processes without sufficient legal justification contradicts the principles of procedural economy and legal certainty.

A critical problem is the imposition on the High Council of Justice of additional functions of mass verification of declarations without the relevant institutional reform, which will not only be ineffective but also potentially detrimental to the quality of the entire system of qualification assessment of judges.

The development of approaches to ensuring the integrity of the judiciary must be based on a comprehensive consideration of several key factors.

First, any legislative initiatives must fully comply with the Constitution of Ukraine and not violate the principle of judicial independence.

Second, it is necessary to realistically assess the institutional capacity of existing bodies and provide for appropriate mechanisms to enhance it.

Third, the principle of legal certainty requires a clear definition of the criteria, procedures, and consequences of integrity assessment.

The introduction of integrity declarations in the absence of proper legal justification and adequate resources is inappropriate and contrary to the principles of effective public administration.

Official statements by the leadership of the High Qualification Commission of Judges itself testify to the significant workload of the Commission and its lack of resources to properly process integrity declarations. Liudmyla Volkova, a member of the High Qualification Commission of Judges, emphasized in her public statement that “the shortage of judges and, accordingly, the excessive workload on working judges systematically leads to violations of reasonable time limits for the consideration of cases.”

The scale of the problem is demonstrated by the statistics she cited: “there is a shortage of more than 2,200 judges in courts of various instances.” The reason for this critical situation is that “since 2019, the work of the High Qualification Commission of Judges of Ukraine has been blocked, and no selection of judges has been carried out at all.”

In such circumstances, entrusting the HQCJ with additional functions of mass verification of integrity declarations of all judges in Ukraine seems unrealistic and counterproductive. The Commission, which is unable to cope with its main task of providing the judicial system with the necessary number of qualified personnel, will be physically unable to perform additional duties without a radical increase in its resource capacity.

In this context, the situation with the current competitions for judicial positions is indicative. As of July 22, 2025, only 25 candidates had applied to participate in the competition for 23 vacant positions of judges of the High Anti-Corruption Court, with the deadline for submitting documents ending on August 6, 2025.

These statistics clearly demonstrate the limited interest in a judicial career and the difficulties in staffing the judiciary, even at the level of specialized anti-corruption courts. The minimal excess of candidates over the number of vacancies (25 candidates for 23 positions) indicates a shortage of qualified legal professionals willing to take up judicial positions.

In such circumstances, when the HQC has great difficulty in ensuring the basic selection of judges for critically important anti-corruption courts, it seems particularly inappropriate to entrust the commission with additional large-scale functions of verifying the integrity declarations of all judges in Ukraine. The commission should focus on its primary task of ensuring that the judicial system has a sufficient number of qualified judges, rather than spreading its limited resources on additional checks.

In addition, the High Qualification Commission of Judges itself needs urgent institutional strengthening, rather than an expansion of its functional responsibilities without adequate support. Imposing additional tasks on an institution that is not ready to perform them will inevitably lead to a decline in the quality of both the commission's new and traditional functions (see Section VII of this Opinion).

These draft laws clearly demonstrate the deep systemic disagreements between the Ministry of Justice and the judiciary over the interpretation of European requirements, the expediency of selective integrity checks of judges of higher courts, and general approaches to reforming the judicial integrity assessment system in Ukraine.

Significant amendments and additions may be made to the adopted draft law before the second reading in the Verkhovna Rada of Ukraine. This is especially true for any initiatives from the government, which has been pushing for mandatory two-year checks on the integrity declarations of Supreme Court and High Anti-Corruption Court judges, with the Public Integrity Council involved.

In view of this, it is crucial to analyse in detail the role of the Public Integrity Council, the principles of its organisation and the actual quality of its public control.

VI. The Public Integrity Council: Critical Analysis of Systemic Shortcomings and Ways to Reform

6.1. Legislative outdatedness and institutional imbalance

The key problem is the eight-year unchanged Article 87 of the Law of Ukraine “On the Judiciary and the Status of Judges” since 2016, which led to the HQCJ's

announcement of the formation of the fourth composition of the Public Integrity Council based on the same outdated principles.

Unlike the evolution of other key judicial bodies - the Competition Commission for the Selection of HQCJ Members and the Ethics Council, which are moving from the permanent participation of international experts to the national model (international representation only in the first composition with further transition to exclusively national formation), the PIC remains "mothballed" in the 2016 concept.

This creates a fundamental contradiction: the legislator consistently implements the principle of gradual transition of judicial institutions to the national model with a clearly defined list of authorised subjects, while the PIC continues to function under the direct influence of international donors through artificial restriction of the right to participate exclusively to civil society organisations - recipients of international technical assistance.

6.2. Identified systemic violations and risks

The analysis of the PIC formation practice reveals serious structural defects. There is a concentration of candidates from a limited number of interconnected organisations, which undermines the principle of broad public representation and creates risks of corporate capture of the institution. Numerous cases of nomination of identical persons from different civil society organisations indicate coordinated actions and violation of the principle of independence of selection.

The example of the formation of the fourth PIC, when the DEJURE Foundation openly admitted to manipulative practices in its official announcement of July 9, 2025, is particularly illustrative. The organisation stated that “we are nominating a number of candidates from other organisations in case the High Qualification Commission of Judges decides not to allow any of these CSOs to participate in the selection.” This directly confirms the existence of a system of “fake” candidates and coordinated actions between formally independent CSOs.

This practice demonstrates that certain organisations actually control the process of PIC formation through a network of affiliated structures, ensuring guaranteed representation regardless of the HQCJ's decisions on the admission of specific organisations. This fundamentally contradicts the spirit of the law on public control and turns the selection procedure into an imitation of a competitive selection.

The analysis of the procedures for nominating candidates to the fourth composition of the Public Integrity Council reveals systemic violations of the principles of transparency and democracy that undermine the legitimacy of this public oversight body.

Firstly, none of the organisations delegating candidates to the PIC has made the nomination procedure public. The selection procedures, if they existed at all, remained completely hidden from the public, which contradicts the basic principles of openness of civil society organisations.

Secondly, none of the organisations held public debates on the candidates. The absence of public debate deprives the public of the opportunity to assess the competence and suitability of the candidates to perform the functions of controlling the integrity of judges.

Thirdly, none of the organisations has made public the candidates' biographies and a list of their professional achievements in the areas of anti-corruption and human rights protection. Such secrecy makes it impossible to objectively assess the qualifications of the candidates and their compliance with the criteria for participation in the PIC.

Fourthly, none of the candidates took part in the internal primaries and did not disclose their reasons for participating in the PIC. The absence of competition within organisations indicates that candidates were appointed behind the scenes without taking into account the opinion of the members of these associations.

Fifthly, a number of candidates were nominated by several organisations at the same time, which indicates non-transparent agreements between individual CSOs. This is further confirmed by DEJURE Foundation's statement about the nomination of candidates "from other organisations in case of non-admission of the main nominees", which reveals a system of coordinated actions and fake nominations.

This practice actually turns the PIC formation procedure into an imitation of public control, where decisions are made in a closed regime by a limited number of people without the participation of the general public and professional community.

Compliance with the criterion of political neutrality is particularly problematic. Facts about the behaviour and public positions of certain candidates raise reasonable doubts as to their compliance with the requirements of political impartiality and integrity, which are mandatory criteria for PIC membership.

6.3. Professionalisation of civic activism as a threat to authentic civic oversight

An example of the fact that members of the Public Integrity Council receive funding from CSOs funded by international donors is the publication of an interview in which the editor-in-chief of the Watchers Media project, Victoriia Malota, spoke with Olha Piskunova, an anti-corruption expert at the Centre of Policy and Legal Reform, and Tetiana Katrychenko, executive director of the Media Initiative for Human Rights, about the work of the Public Integrity Council.

The tendency for members of the Public Integrity Council, as well as representatives of organisations that exist thanks to donor financial support, to turn into professional civic activists is a matter of serious concern.

This situation fundamentally distorts the very essence of public control, as people whose professional activity and financial support directly depend on participation in such initiatives lose the signs of true public and independence.

Instead of volunteer public oversight by unbiased representatives of society, we get a system of **professional "activism on demand",** which contradicts the basic principles of public control and calls into question the objectivity and impartiality of assessments of judicial integrity. Real public control should be carried out by people for whom such activities are not the main source of income, but rather a public duty and a manifestation of civic position.

This problem is confirmed by the PIC members' open admissions of receiving financial remuneration. In particular, the declarations of some PIC members include remuneration from the DEJURE Foundation for analysing judicial profiles, and the total income of individual members of the Council is "100 thousand or more per month". Tetiana Katrychenko explained this by saying that "some of the PIC members had to leave their main job" because of the heavy workload, and "society, represented by this CSO, said: let us help you."

The issue of financing PIC members is covered by them in the material under the following link: https://pravo.org.ua/blogs/chlenkyni-gromadskoyi-rady-dobrochesnosti-na-sogodni-zhodna-gromadska-organizatsiya-chy-donor-ne-vplyvaye-na-rishennya-grd.

Such a funding system effectively turns "public control" into a paid professional activity, where those who are supposed to assess the integrity of judges **are themselves financially dependent on donor organisations, creating an obvious conflict of interest and undermining the very idea of independent public oversight of the judiciary.**

6.4. Threat to sovereignty and independence

A critical issue is the influence of foreign funding on the integrity assessment of Ukrainian judges. The dependence of the nominating organisations on external funding creates conflicts of interest and calls into question the independence of decisions on key issues of the judiciary. This situation is unprecedented in developed democracies and contradicts the principles of judicial sovereignty.

6.5. Conclusions and prospects

The current state of the PIC is characterised by systemic shortcomings that undermine its credibility. Eight years of unchanged outdated principles against the

background of the evolution of other judicial bodies creates an institutional imbalance and requires urgent legislative intervention.

The successful legislative experience of the Competition Commission and Ethics Council models demonstrates the possibility of introducing a more democratic, transparent and professional model of PIC formation. It is necessary to bring this institution in line with modern standards, ensuring broad representation of Ukrainian civil society, high professional standards and real independence from external influences.

Only through comprehensive reform will the PIC be able to restore its legitimacy and effectively perform its functions of assessing the integrity of judges within the independent judicial system of Ukraine.

VII. Regarding the High Qualification Commission of Judges

7.1. Fundamental conflict of interest as a cause of the crisis

The analysis of the National Agency on Corruption Prevention (NACP) within the framework of the State Anti-Corruption Programme for 2023-2025 clearly identified the main cause of the crisis - a fundamental conflict of interest between the HCJ and the HQCJ.

The situation when the HCJ appoints HQCJ members, and then considers disciplinary cases against them, approves the results of competitions, and can participate in competitions organised by the HQCJ, creates a system of interdependence that undermines the independence and objectivity of both bodies.

7.2. Systemic crisis of confidence in the current model of the HQCJ

The legislative model of its formation by the High Council of Justice instead of elected representatives of professional institutions proved to be flawed and created preconditions for a systemic institutional crisis.

A series of scandals around the HQCJ demonstrates institutional collapse and the growth of corporate and backroom influence.

According to the Foreign Intelligence Service, the Head of the Commission, Roman Ihnatov, is suspected of having Russian Federation citizenship, which undermines the basic principles of national trust in the body. Deputy Head of the Commission Oleksii Omelian was accused of harassing the Secretariat staff and violating ethical standards, which led to the intervention of law enforcement agencies.

HQCJ members Volodymyr Luhanskyi, Ruslan Melnyk, and Roman Sabodash became involved in criminal proceedings. The March searches by the State Bureau of Investigation and the seizure of the HQCJ servers on suspicion of interference with the

automated system of judicial evaluation took place during competitions to certain courts.

Currently, the HQCJ is experiencing a management crisis, loss of professional control, and destruction of transparency principles. The absence of open competition and participation of delegates of professional congresses, which were present in the previous model, indicates the curtailment of democratic principles of judicial formation.

7.3. Symptom of a systemic crisis: scandalous re-evaluation of the results of the High Council of Justice

The publication in the Judicial and Legal Newspaper on July 21, 2025, under the following link https://sud.ua/uk/news/publication/336356-vkks-po-tikhomu-peresmotrela-rezultaty-kvalifikatsionnogo-ekzamena-v-ramkakh-konkursa-v-apellyatsionnye-sudy-kandidat-poluchil-dopusk-k-sobesedovaniyu#google_vignette is further evidence of a crisis of confidence in the High Qualification Commission of Judges, as well as violations of procedural standards and the principle of transparency in the conduct of competitions.

On July 9, 2025, the High Qualification Commission of Judges of Ukraine admitted Judge Serhii Melnychenko to the next stage of the competition for the positions of judges of the courts of appeal, although he had previously failed the practical task.

After the candidate appealed to the Supreme Administrative Court, the High Qualification Commission found that his first model task had not been properly assessed. The Commission conducted a re-examination, and the result improved significantly, from 2.5 to 63.5 points.

Such exceptional cases, especially against the backdrop of numerous appeals to the Supreme Court regarding the results of the qualification exam, point to deeper systemic problems in the organization of competitive procedures. They call into question the transparency of the process, the objectivity of candidate assessment, and undermine confidence in the selection of judges in general.

7.4. Threat to the independence of the judiciary due to behind-the-scenes control by the High Council of Justice

Developments in the case of former Head of the Supreme Court of Ukraine Vsevolod Kniazev raise serious concerns about the transparency and integrity of the procedure for forming the High Council of Justice.

During a search of Vsevolod Kniazev's office, documents were seized that indicate the existence of informal lists of “preferred candidates” for membership in the High Qualification Commission of Judges. Representatives of the criminal group,

which, according to the investigation, included the former head of the Supreme Court, made assessments on these documents using marks such as “plus,” “minus,” and even offensive characteristics.

This approach indicates an attempt to establish behind-the-scenes control over the selection process for commission members, which is of strategic importance for the functioning of the entire judicial system. This poses a threat to the principles of independence and impartiality of justice.

At the same time, it should be noted that the materials obtained during the pre-trial investigation were prematurely made public, which became the subject of separate criminal proceedings.

7.5. The need for a fundamental change in the HQCJ formation model

The current model of the HQCJ demonstrates institutional imitation rather than reform. Instead of professionalising the judiciary, it stabilises backroom influence.

The only systemic solution is to introduce a model of direct appointment of HQCJ members by the relevant professional communities: judges through the Congress of Judges or the Council of Judges of Ukraine, advocates through the Congress of Advocates of Ukraine, prosecutors through the Congress of Prosecutors of Ukraine, academics through the National Academy of Legal Sciences of Ukraine and representatives of the institution of the Verkhovna Rada Commissioner for Human Rights.

7.6. Legal possibility of reform and its urgency

It is critically important that the Constitution of Ukraine does not contain specific provisions on the formation of the HQCJ and does not provide the HCJ with direct authority to appoint HQCJ members. This means that the proposed reform can only be implemented through amendments to the Law of Ukraine “On the Judiciary and the Status of Judges” without the need for constitutional amendments, which greatly simplifies the procedure and makes it politically feasible.

The continuation of the HQCJ's functioning in the current format threatens to completely discredit the judicial reform and cause the public to lose confidence in the possibility of building an independent judiciary in Ukraine. Only a radical change in the model of the HQCJ formation by granting autonomy to professional communities can restore the legitimacy of this key institution and ensure real progress in restoring trust in the judiciary.

Future legislative regulation of judicial integrity issues should be aligned with international standards and recommendations of leading European organizations, ensure legal certainty through clear criteria and evaluation procedures, avoid duplication of integrity checks, which could constitute undue pressure on the

independent judiciary, and guarantee the real and fair effectiveness of integrity checks. Only under such conditions can a genuine increase in public trust in the judiciary be achieved without undermining the constitutional foundations of the judicial system.

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