

LAW OF UKRAINE

ON THE HIGH COUNCIL OF JUSTICE

(Vidomosti of the Verkhovna Rada of Ukraine (VVR), No. 25, 1998, Art. 146)

(Concerning recognition of some provisions as unconstitutional see Decision of the Constitutional Court of Ukraine No. 9-пн/2002 from May 21, 2002)

(Concerning recognition of some provisions as constitutional see Decision of the Constitutional Court of Ukraine No. 9-пн/2002 from May 21, 2002)

(With the amendments introduced by the Laws of Ukraine

No. 1645-IV of March 23, 2004, VVR No. 29, 2004, Art. 369

No. 3552-IV of March 16, 2006, VVR, No. 35, 2006, Art. 299)

(Official interpretations to the Laws see in the Decision of the Constitutional Court of Ukraine No. 7-пн/2008 from April 17, 2008)

(With the amendments introduced by the Laws of Ukraine

No. 1516-VI of June 11, 2009, VVR No. 49, 2009, Art. 731

No. 2181-VI of May 13, 2010, VVR, No. 26, 2010, Art. 272

No. 2453-VI of July 07, 2010, VVR, No. 41-42, 2010, Art. 529)

(Concerning recognition of some provisions as constitutional, see Decision of the Constitutional Court No. 2- пн/2011 as of 11.03.2011)

(Concerning recognition of some provisions as unconstitutional, see Decision of the Constitutional Court No. 2- пн/2011 as of 11.03.2011)

(Concerning recognition of some provisions as constitutional, see Decision of the Constitutional Court No. 5-пн/2011 (v005p710-11) as of 16.06.2011 No. 7-пн/2011 (v007p710-11) as of 21.06.2011)

(With the amendments introduced by the Laws of Ukraine No. 4001-VI (4001-17) as of 03.11.2011,

No. 4418-VI (4418-17) as of 21.02.2012)

PART I.

GENERAL PROVISIONS

ARTICLE 1. STATUS OF THE HIGH COUNCIL OF JUSTICE

The status of the High Council of Justice shall be established by the Constitution of Ukraine and by this Law.

The High Council of Justice shall be a collective independent body responsible for the formation of highly professional corps of judges capable of qualified, honest and unbiased conduct of justice on a professional basis, as well as for decisionmaking relating to judges' and public prosecutors' infringement of incompatibility requirements and, within its terms of reference, of their disciplinary accountability.

(Provision of part 2 Article 1, according to which the High Council of Justice of Ukraine is the body responsible for adoption, within its terms of reference, of the decisions on disciplining the prosecutors, is considered constitutional according to the Decision of the Constitutional Court of Ukraine No. 9-рп/2002 (v009p710-02) as of 21.05.2002)

The term of office of the High Council of Justice members, except for those incorporated by their position, shall be six years.

The High Council of Justice shall be a legal entity, expenses for its maintenance are determined separately by the State budget of Ukraine.

(Provision of part 4 of the Article 1, according to which the High Council of Justice of Ukraine is the legal entity is considered constitutional according to the Decision of the Constitutional Court of Ukraine No. 9-рп/2002 (v009p710-02) as of 21.05.2002)

ARTICLE 2. REGULATORY AND LEGAL PRINCIPLES OF ACTIVITY OF THE HIGH COUNCIL OF JUSTICE

Competence, organization and procedures of the High Council of Justice shall be specified by the Constitution of Ukraine, by this Law and by the Regulations of the High Council of Justice, as approved at its session.

ARTICLE 3. COMPETENCE OF THE HIGH COUNCIL OF JUSTICE

The High Council of Justice shall:

1) submit proposals to the President of Ukraine as to appointment or dismissal of judges;

1–1) according to the submission of the appropriate Council of Judges appoint

judges to the positions of Chairman, Deputy Chairman of the Court and

dismisses them from these positions; (Part 1 of the Article 3 is completed with paragraph 1–1 according to the Law of Ukraine No.

2453-VI (2453-17) as of 07.07.2010 – according entering into force of amendmend see point 1 of

Part XII “Closing provisions” of the Law No. 2453-VI (2453 - 17) as of 07.07.2010)

2) examine cases and take decisions as to judges’ and public prosecutors’

infringement of incompatibility requirements;

3) execute disciplinary proceedings involving judges of the Supreme Court of

Ukraine and judges of highest specialized courts;

4) consider complaints about decisions of disciplining judges of courts of

appeal, local courts, and public prosecutors.

ARTICLE 4. SYMBOLS AND LOCATION OF THE HIGH COUNCIL OF

JUSTICE The High Council of Justice shall have its seal bearing the National Emblem of

Ukraine and its name, and the emblem of the High Council of Justice, as approved

by its decision.

The National Emblem of Ukraine and the State Banner of Ukraine shall be

obligatory attributes of the session hall of the High Council of Justice.

The High Council of Justice shall be located in the city of Kyiv.

ARTICLE 5. MEMBERSHIP OF THE HIGH COUNCIL OF JUSTICE

In accordance with the Constitution of Ukraine, the High Council of Justice shall

be made of twenty members.

The Verkhovna Rada of Ukraine, the President of Ukraine, the Congress of Judges

of Ukraine, the Congress of Advocates of Ukraine, the Congress of

Representatives of Higher Legal Educational Establishments and Scientific

Institutions shall each appoint three members, and the All-Ukrainian Conference of

Employees of the Public Prosecutors’ Office shall appoint two members of the

High Council of Justice.

The Chairman of the Supreme Court of Ukraine, the Minister of Justice of Ukraine,

and the Procurator-General of Ukraine are ex officio members of the High Council

of Justice.

ARTICLE 6. REQUIREMENTS TO MEMBERS OF THE HIGH COUNCIL OF JUSTICE AND GUARANTEES OF THEIR ACTIVITY

Nominated for a member of the High Council of Justice may be a citizen of Ukraine no younger than thirty five and no older than sixty years old, residing in Ukraine for no less than the latest ten years, having good command of the national language, with higher judicial education and service record in the field of law of no less than ten years.

(Part 1 of the Article 6 according to the Law of Ukraine No. 1645-IV (1645-15) as of 23.03.2004)

If according to this Law a judge should be appointed to the position of the member of the High Council of Justice of Ukraine, he is appointed from among judges elected to the position of the judge for lifetime.

(Article 6 is completed with new part according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 – concerning entering into force of amendment see paragraph 1 of Part XII “Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

The requirements specified in Paragraph one and two of this Article shall not extend to persons being members of the High Council of Justice by position.

(Part 3 of the Article 6 with amendments according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 – concerning entering into force of amendment see paragraph 1 of Part XII “Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

Influence on members of the High Council of Justice shall not be allowed in any manner.

ARTICLE 7. RESTRICTIONS AS TO THE HIGH COUNCIL OF JUSTICE

MEMBERSHIP

Persons legally admitted incapable, partly capable and those having non-cancelled or nonexpunged previous conviction shall not be members of the High Council of Justice.

PART II

PROCEDURE OF FORMATION OF THE HIGH COUNCIL OF JUSTICE

ARTICLE 8. PROCEDURE OF APPOINTMENT OF MEMBERS OF THE HIGH COUNCIL

OF JUSTICE BY THE VERKHOVNA RADA OF UKRAINE

Members of the High Council of Justice shall be appointed by the Verkhovna Rada of Ukraine by secret ballot. Two of the three members of the High Council of Justice, appointed by the Verkhovna Rada of Ukraine, should be judges. (Part 1 of the Article 8 with amendments according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII

“Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

Proposals as to the nomination for the High Council of Justice shall be made by groups and factions of deputies.

Appointed member of the High Council of Justice shall be a nominee which has obtained a majority of votes of the constitutional composition of the Verkhovna Rada of Ukraine, by the results of secret ballot.

ARTICLE 9. PROCEDURE OF APPOINTMENT OF MEMBERS OF THE

HIGH COUNCIL OF JUSTICE BY THE PRESIDENT OF UKRAINE The President of Ukraine

shall issue a Decree on appointment of members of the

High Council of Justice. Two of the three members of the High Council of Justice, appointed by the President of Ukraine, should be judges.

(Article 9 with amendments according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII “Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

ARTICLE 10. PROCEDURE OF APPOINTMENT OF MEMBERS OF THE

HIGH COUNCIL OF JUSTICE BY THE CONGRESS OF JUDGES OF

UKRAINE

Nominees for members of the High Council of Justice of Ukraine shall be selected from judges by the Congress of Judges of Ukraine upon proposal by the congress delegates, voted by show of hands, by a majority of present congress delegates, and be included in the ballot for secret ballot of each nominee.

(Part 1 of the Article 10 with amendments according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII

“Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

Appointed member of the High Council of Justice of Ukraine shall be a nominee which has obtained a majority of votes of elected delegates to the Congress of Judges of Ukraine. If the number of voted nominees exceeds the number of vacant High Council of Justice member positions, the nominees obtaining the greatest number of votes shall be appointed. By the results of voting the Chairman and the Secretary of the Congress shall sign

resolutions of appointment of the High Council of Justice members.

The procedure of convening a Congress of Judges of Ukraine shall be specified by Law of Ukraine On the Judiciary and the Status of Judges.

ARTICLE 11. PROCEDURE OF APPOINTMENT OF MEMBERS OF THE HIGH COUNCIL OF JUSTICE BY THE CONGRESS OF ADVOCATES OF UKRAINE

Congress of Advocates of Ukraine shall appoint three members of the High Council of Justice, one of whom is appointed from among judges.

(Article 11 is completed with new part 1 according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII

“Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

Nomination and appointment of members of the High Council of Justice of Ukraine by the Congress of Advocates of Ukraine shall be performed in accordance with the procedure set by Paragraphs one – three, Article 10 of this Law, except the requirements for candidates for the position of the High Council of Justice of Ukraine, established in part one of this Article.

(Part 2 of the Article 11 with amendments according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII

“Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

Delegates to the Congress of Advocates of Ukraine shall be elected at the Republican (the Autonomous Republic of Crimea), regional, city (Kyiv and Sevastopol) conferences of lawyers. No more than five delegates from each district

or town subordinate to regional authority, elected by district or town (subordinate to regional authority) conferences of lawyers may participate in those conferences.

Other matters of the procedure of convening a Congress of lawyers shall be specified by Law of Ukraine On the Bar.

ARTICLE 12. PROCEDURE OF APPOINTMENT OF MEMBERS OF THE HIGH COUNCIL OF JUSTICE BY THE CONGRESS OF REPRESENTATIVES OF HIGHER LEGAL EDUCATIONAL ESTABLISHMENTS AND SCIENTIFIC INSTITUTIONS

The Congress of Representatives of Higher Legal Educational Establishments and Scientific Institutions shall appoint three members of the High Council of Justice, one of whom is appointed from among judges.

(Article 12 is completed with a new part 1 according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII “Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

Nomination and appointment of members of the High Council of Justice of Ukraine by the Congress of Representatives of Higher Legal Educational Establishments and Scientific Institutions shall be performed in accordance with the procedure set by Paragraphs one – three, Article 10 of this Law, except the requirements for candidates for the position of the High Council of Justice of Ukraine, established in part one of this Article.

(Part 2 of the Article 12 with amendments according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII “Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

Delegates to the Congress of Representatives of Higher Legal Educational Establishments and Scientific Institutions shall be elected at the Republican (the Autonomous Republic of Crimea), regional, city (Kyiv and Sevastopol) conferences of employees of said institutions.

Higher judicial educational institutions, faculties and scientific establishments of the Autonomous Republic of Crimea, regions, cities of Kyiv and Sevastopol shall elect to the congress five delegates each.

ARTICLE 13. PROCEDURE OF APPOINTMENT OF MEMBERS OF THE
HIGH COUNCIL OF JUSTICE BY THE ALL-UKRAINIAN
CONFERENCE OF EMPLOYEES OF THE PROCURACY

The All-Ukrainian Conference of Employees of the Procuracy shall appoint two members of the High Council of Justice, one of whom is appointed from among judges. (Article 13 is completed with a new part 1 according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII “Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

Nomination of members of the High Council of Justice of Ukraine and voting at All-Ukrainian Conference of Employees of the Procuracy shall be performed in accordance with the procedure set by Paragraphs one – three, Article 10 of this Law, except the requirements for candidates for the position of the High Council of Justice of Ukraine, established in part one of this Article.

(Part 2 of the Article 13 with amendments according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII “Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

Representatives to the All-Ukrainian Conference of Employees of the Procuracy shall be elected at the Republican (the Autonomous Republic of Crimea), regional, city (Kyiv and Sevastopol) conferences of employees of public prosecutor’s offices. All officials of the prosecutor’s offices of relevant administrative-territorial units shall be eligible to participate in those conferences.

If more than two candidates were nominated for members of the High Council of Justice at a conference, and none of them or one of them has been elected, repeated voting shall be held regarding two nominees who have received more votes of the conference delegates in the first round.

If the necessary number of members of the High Council of Justice within the specified limit has not been elected during the repeated voting, another voting shall be held with other nominees for vacant seats of members of the High Council of Justice, in accordance with the procedure specified by Paragraph three of this

Article.

If no more than two nominees were named at a conference, and neither of them has received the required majority of votes, repeated voting with other nominees shall be held to fill vacant positions of members of the High Council of Justice.

ARTICLE 14. TERMS OF CONVENING CONGRESSES AND

CONFERENCES TO APPOINT MEMBERS OF THE HIGH COUNCIL OF JUSTICE Congresses of judges, lawyers, employees of juridical higher education and

scientific institutions, the All-Ukrainian Conference of Employees of the

Prosecutor's Office shall be held to appoint members of the High Council of

Justice no later than one month prior to the expiry of duties of corresponding members of the High Council of Justice.

ARTICLE 15. BALLOT FOR VOTING AT A CONGRESS AND A

CONFERENCE

The form of ballot, procedure of voting and calculation of votes shall be

established correspondingly by congresses of judges, lawyers of Ukraine,

representatives of legal higher education and scientific institutions, and by AllUkrainian Conference of Employees of the Procuracy.

Voting shall be done by one ballot, with names of all candidates nominated at a relevant congress or conference entered in alphabetical order.

Voting in favour of a candidate shall be done by leaving the words «in favour» and

crossing out the word «against» against a candidate's name. Voting against a

candidate shall be done by crossing out the words «in favour» against a candidate's name.

Ballots in which more names were left than set for election by a relevant congress or conference of employees of public prosecution offices, and ballots of nonstandard form shall be considered invalid.

ARTICLE 16. COMPETENCE OF THE HIGH COUNCIL OF JUSTICE

The High Council of Justice shall be considered competent on condition of

appointment of no less than three quarters of its constitutional membership and

their taking the oath, with account of persons being members of the High Council of Justice by their position.

The first session of the High Council of Justice shall be convened in a week after taking the oath by all its members.

ARTICLE 17. OATH OF A MEMBER OF THE HIGH COUNCIL OF JUSTICE

Prior to entering into office, a member of the High Council of Justice shall take the oath at a session of the Verkhovna Rada of Ukraine, as follows: «I swear to perform the duties of a member of the High Council of Justice conscientiously, honestly and without prejudice, in order to ensure formation of the corps of judges from among highly qualified and honest lawyers, and compliance with the Law and ethical norms in the activity of judges and public prosecutors».

(Part 1 of the Article 17 in edition of the Law of Ukraine No. 1516-VI (1516 -17) as of 11.06.2009)

Refusal to take the oath shall entail loss of membership in the High Council of Justice.

ARTICLE 18. TERMINATION OF POWERS OF A MEMBER OF THE HIGH COUNCIL OF JUSTICE

Powers of a member of the High Council of Justice shall be terminated in the following events:

- 1) expiry of term for which a member was appointed;
- 2) verdict of «guilty» brought in by a court with respect to a member, entering into legal force;
- 3) loss of Ukrainian citizenship;
- 4) a member being assumed missed or declared deceased;
- 5) on grounds specified in Article 7 of this Law;
- 6) a member's application for termination of his powers;
- 7) inability to perform his duties for poor health, in presence of a medical finding certified by the court;
- 8) breach of the oath, or commitment of immoral deeds.

(Official interpretations of the provisions of the Article 18, part 1 see in the Decision of the Constitutional Court of Ukraine No. 7- пн/2008 (v007p710-08) as of 17.04.2008)

If a person being a member of the High Council of Justice by his position breaks the oath, the High Council of Justice shall adopt and forward to the body, which has elected or appointed the said member, its decision as to the advisability of his further service; (Provisions of paragraph 2 point 8 part 1 of the Article 18 are considered constitutional according to the Decision of the Constitutional Court of Ukraine No. 9-пн/2002 (v009p710-02) as of 21.05.2002)

9) dismissal from the position making him a member of the High Council of Justice;

10) his death.

A decision of termination of powers of a member of the High Council of Justice in the events provided by items 1–4, 6, 7, 9, Paragraph one of this Article, shall be taken by the High Council of Justice, and in cases provided by items 5 and 8 hereinbefore, by the body appointing the member of the High Council of Justice.

(Official interpretation of the provisions of the Article 18, part 2 see in the Decision of the Constitutional Court of Ukraine No. 7- пн/2008 (v007p710-08 as of 17.04.2008)

Persons being members of the High Council of Justice by their position shall be withdrawn from the High Council of Justice on the day of their removal from the corresponding position. Appointment of a new member of the High Council of Justice to replace a dismissed one shall be done no later than two months after passing decisions envisaged by Paragraph two of this Article.

PART III

PROCEDURES OF THE HIGH COUNCIL OF JUSTICE

CHAPTER 1. ORGANIZATION AND STRUCTURE OF THE HIGH COUNCIL OF JUSTICE

ARTICLE 19. STRUCTURE OF THE HIGH COUNCIL OF JUSTICE

The High Council of Justice shall form sections:

for appointment of judges to the position and their dismissal from office

(Paragraph 2 of the part 1 of the Article 19 in the edition of the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

disciplinary section, to conduct disciplinary proceedings, consider complaints

about decisions of disciplining judges and public prosecutors and about decisions

on violation of incompatibility requirements. The Chairman of the High Council of Justice, and in his absence – Deputy

Chairman of the High Council of Justice shall supervise the activities of the High Council of Justice.

Chairman, Deputy Chairman, secretaries of sections of the High Council of Justice shall exercise their duties on a permanent basis.

Persons appointed members of the High Council of Justice, with the exception of members of Parliament of Ukraine during their term of office of the High Council of Justice members shall be permanently attached to the High Council of Justice, while retaining their positions and corresponding preferences.

ARTICLE 20. CHAIRMAN OF THE HIGH COUNCIL OF JUSTICE

The Chairman of the High Council of Justice shall manage the activities of the High Council of Justice. The Chairman of the High Council of Justice shall be elected from among the High

Council of Justice members for a three-year term, without the right of re-election, at the initial session of the High Council of Justice, by secret ballot, with ballots, containing any number of candidates offered by members of the High Council of Justice. None of the persons being members of the High Council of Justice by their position may be elected Chairman of the High Council of Justice.

The procedure of voting shall be established by the High Council of Justice.

The Chairman of the Supreme Court of Ukraine, and in his absence – the Minister of Justice of Ukraine shall open and preside the the initial session of the High Council of Justice prior to the election of the Chairman of the High Council of Justice.

A decision of election of the Chairman of the High Council of Justice shall be considered passed, if voted in favour of by more than one half of the constitutional composition of the High Council of Justice.

ARTICLE 21. COMPETENCE OF THE CHAIRMAN OF THE HIGH COUNCIL OF JUSTICE

Competence of the Chairman of the High Council of Justice shall include: 1) organization of work of the High Council of Justice, and presiding at its sessions;

2) coordination of work of the High Council of Justice sections and members;

3) appointment of sessions of the High Council of Justice;

4) sending representations of the High Council of Justice to the President of Ukraine, concerning appointment and dismissal of judges;

5) general supervision of the High Council of Justice staff;

6) management of budget allocations for maintenance and support of activities of the High Council of Justice;

7) other powers as may be stipulated by the procedures of the High Council of Justice.

The Chairman of the High Council of Justice shall represent the High Council of Justice in relations with other bodies and organizations.

ARTICLE 22. DEPUTY CHAIRMAN OF THE HIGH COUNCIL OF JUSTICE

The High Council of Justice shall elect Deputy Chairman of the High Council of Justice, to perform the Chairman's duties in case of his absence, to arrange for preparation of cases for examination, and to perform other such duties as may be provided by this Law and by the procedures of the High Council of Justice. Deputy Chairman of the High Council of Justice shall be elected in accordance with the procedure specified in Article 20 of this Law.

ARTICLE 23. SECTIONS OF THE HIGH COUNCIL OF JUSTICE

A decision as to formation of sections of the High Council of Justice and their personal membership shall be taken at the initial session of a newly established High Council of Justice.

Sections' activities shall be organized in accordance with this Law and the procedures of the High Council of Justice.

The section's secretary, who is responsible for organizing section's activities, shall be elected by show of hands from among candidates proposed by members of the High Council of Justice, except those being its members by their position.

A section shall take decisions within its terms of reference and submit them for consideration by the High Council of Justice.

CHAPTER 2. ORGANIZATION OF ACTIVITIES

OF THE HIGH COUNCIL OF JUSTICE

ARTICLE 24. SESSION OF THE HIGH COUNCIL OF JUSTICE

A session of the High Council of Justice shall be considered valid, if attended by majority of its constitutional membership.

(Part 1 of the Article 24 with changes made according to the Law of Ukraine No. 2181-VI (2181-17) as of 13.05.2010)

(Provisions of part 1 of the Article 24 are considered constitutional according to the Decision of the Constitutional Court of Ukraine No. 5-пр/2011 (v005p710-02) as of 16.06.2011)

The High Council of Justice meets in open sessions. Decision on closed session shall be passed by a majority of the constitutional membership of the High Council of Justice.

Minutes shall be recorded at a session of the High Council of Justice.

Decisions shall be passed by a majority of the constitutional membership of the High Council of Justice, unless otherwise provided by this Law. A decision of the High Council of Justice shall be taken within premises unattended by other persons, not being members of the High Council of Justice.

A session of a High Council of Justice section shall be considered valid, if attended by no less than three quarters of its composition.

(Part 5 of the Article 24 with changes made according to the Law of Ukraine No. 2181-VI (2181-17) as of 13.05.2010)

Conclusions of a High Council of Justice section shall be adopted by a majority of members of the High Council of Justice present at the session.

ARTICLE 25. COMPETENCE OF THE HIGH COUNCIL OF JUSTICE AT EXAMINATION OF CASES

In order to exercise their duties, the High Council of Justice and its members may request and obtain necessary information and cases from bodies of state administration and local selfgovernment, its officials, managers of enterprises, entities, organizations, irrespective of forms of property and subordination, individuals and their public associations.

Information concerning: reasons for dismissal of judge from position for oath violation; facts of disciplinary offence of judge of the Supreme Court of Ukraine or judge of High Specialized Court; breach of demands as to incompatibility of judge or a public prosecutor; circumstances mentioned in claims against decisions of the High Qualification Commission of Judges of Ukraine, and also against decisions on taking to disciplinary responsibility of public prosecutors shall be verified by member of the High Council of Justice on behalf of the High Council of Justice or its Chairman.

In connection with the execution of order, a member of High Council of Justice may demand and obtain completed court cases (their copies), become familiar with uncompleted court cases, accept explanations of judges or public prosecutors, make necessary inquiries, copies and examine dossiers of judges and public prosecutors.

A member of the High Council of Justice may not demand and obtain originals of uncompleted court cases.

If the court case was returned to retrial or it was brought to proceeding of another judge and a subject of verification was information concerning actions of judge proceeded the abovementioned case, the High Council of Justice or its member may demand and obtain copy of this case in the part, which was considered of this judge.

Body of state administration and local self-government, its officials, managers of enterprises, entities, organizations, irrespective of forms of property and subordination, individuals and their public associations, which receive the request of the High Council of Justice or its member, are obliged to forward necessary information and/or court case (its copy) during ten days from the day when the request was received.

Non-fulfillment of legal requirements of the High Council of Justice or its member regarding

giving of information, uncompleted court case (its copy), refusal of familiarization with uncompleted court case, as well as providing information known to be false and inobservance of terms determined of part 6 of this article entails the responsibility stated by the law.

A member of the High Council of Justice shall be entitled to study materials submitted for the Council's examination, to participate in their clarification and control, to send applications, cite his motives, and submit relevant document.

(Article 25 in the edition of the Law of Ukraine No. 2181-VI (2181-17) as of 07.07.2010, and Law of Ukraine No. 4001-VI (4001-17) as of 03.11.2011)

ARTICLE 26. RECUSAL OF A MEMBER OF THE HIGH COUNCIL OF JUSTICE

A member of the High Council of Justice shall not participate in examination of an issue and shall be recused if it is established that he is personally interested, directly or indirectly, in the outcome of the case, is a relative of the person involved in the case, or under other established circumstances, which may raise doubt of his impartiality. In the event of such circumstances a member of the High Council of Justice shall announce his self-recusal. Under similar circumstances, a member of the High Council of Justice may be recused by a person representing the case, or by a person lodging a complaint. Recusal may be declared at any moment prior to the High Council of Justice taking its decision.

A recusal shall be well-grounded and formalized in writing prior to consideration of the matter.

A decision of rejection (self-rejection) shall be taken by a majority of votes of members of the High Council of Justice participating in the session, secretly, in the consulting room, in absence of the member of the High Council of Justice subject to recusal (self-recusal).

ARTICLE 27. DEEDS OF THE HIGH COUNCIL OF JUSTICE

The High Council of Justice shall adopt the following deeds:

- 1) representation of appointment of judges;
- 2) representation of dismissal of judges;
- 2-1) decision on appointment of judges to the positions of the Chairman of the

court, Deputy Chairman of the court;

(Part 1 of the Article 27 is completed with paragraph 2-1 according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

2–2) decision on dismissal from the positions of the Chairman of the court, Deputy Chairman of the court;

(Part 1 of the Article 27 is completed with paragraph 2-2 according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

3) decision on incompatibility requirements breach;

4) decision on disciplining;

5) decision on an appeal against a decision on disciplining a judge;

6) decision on dismissal of a member of the High Council of Justice in the events provided by Article 18 of this Law;

6–1) decision on the complaint against the results of qualifying exam of the candidate to the position of a judge; (Part 1 of the Article 27 is completed with paragraph 6-1 according to the Law of Ukraine No.

2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

(Provision of the paragraph 6-1 of the part 1 of the Article 27 concerning reconsideration and cancellation of decisions of the High Qualification Commission of Judges of Ukraine as to determination of results of qualification exam of judges -candidates, rejection to recommend a candidate to position of judge indefinitely, taking a judge to disciplinary accountability, is considered constitutional according to the Decision of the Constitutional Court of Ukraine No. 7-рп/2011 (v007p710-11) as of 21.06.2011)

6–2) decision on the complaint against failure to recommend to elect a candidate to the lifetime position of the judge;

(Part 1 of the Article 27 is completed with paragraph 6-2 according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see

paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)
(Provision of the paragraph 6-2 of the part 1 of the Article 27 concerning reconsideration and cancellation of decisions of the High Qualification Commission of Judges of Ukraine as to determination of results of qualification exam of judges -candidates, rejection to recommend a candidate to position of judge indefinitely, taking a judge to disciplinary accountability, is considered constitutional according to the Decision of the Constitutional Court of Ukraine No. 7-рп/2011 (v007p710-11) as of 21.06.2011)

7) other deeds within the powers of the High Council of Justice

(Part 1 of the Article 27 is completed with paragraph 7 according to the Law of Ukraine No. 2181-VI (2181-17) as of 13.05.2010)

The High Council of Justice shall adopt the following procedural deeds:

- 1) decision on a disciplinary proceeding;
- 2) decision on a proceeding upon legislative requirements as to incompatibility;
- 3) decision on refusal of a nomination;
- 4) decision on recusal (self-recusal) of a member of the High Council of Justice;
- 5) other procedural documents as may be required for the discharge of functions by the High Council of Justice.

Deeds of the High Council of Justice may be appealed to the High Administrative Court of Ukraine according to the procedure stated by the Administrative Code of Ukraine.

(Article 27 is completed with part 3 according to the Law of Ukraine No. 2181-VI (2181-17) as of 13.05.2010) (Concerning recognition of provisions of part 3 of the Article 27 as constitutional, see Decision

of the Constitutional Court No. 2- рп/2011 (v002p710-11) as of 11.03.2011)

ARTICLE 28. RESPONSIBILITY FOR NON-EXECUTION OF DEEDS BY

THE HIGH COUNCIL OF JUSTICE

Non-execution or late execution of deeds of the High Council of Justice, evasion from submission or violation of terms of presentation of requested documents and materials to the High Council of Justice shall entail legal responsibility of relevant

officials.

PART IV.

HIGH COUNCIL OF JUSTICE RESOLUTION OF MATTERS

WITHIN ITS COMPETENCE

CHAPTER 1. PARTICIPATION OF THE HIGH COUNCIL OF

JUSTICE IN THE FORMATION OF THE CORPS OF JUDGES

ARTICLE 29. INITIAL NOMINATION OF JUDGES

The High Council of Justice shall upon recommendation of the High Qualification Commission of Judges of Ukraine submit proposals to the President of Ukraine as to the initial appointment of a citizen of Ukraine to a judicial position.

(Part 1 of the Article 29 with amendments according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

The following documents shall be enclosed to the relevant representation of the High Council of Justice:

- 1) recommendation by the qualification commission;
- 2) personal record attachment form and autobiography of a candidate for a judge;
- 3) copies of diplomas of education, academic degree or status;
- 4) a copy of an essay on legal matters, drawn up by the candidate for a judge;
- 5) review of the essay;
- 6) certificate of the state tax service on the filed declaration of property and income (tax declaration) for past year of candidate for judge. A nominee for a judge shall be considered in person after a report by a member of the High Council of Justice, acting on commission from the relevant section conducting preliminary examination of materials relating to the candidate for a judge.

A decision on a candidate for a judge shall be taken at a session of the High Council of Justice by show of hands. A proposal of nomination of a candidate for representation to the President of Ukraine shall be considered approved if voted in

favour of by more than one half of the constitutional membership of the High Council of Justice.

ARTICLE 29–1. APPOINTMENT OF JUDGES TO THE POSITIONS OF
THE CHAIRMAN, DEPUTY CHAIRMAN OF THE COURT

High Council of Justice shall appoint judges to the position of the Chairman, Deputy Chairman of the court in the order established by the Law of Ukraine «On the Judicial System and Status of Judges».

Candidates for the positions of the Chairman, Deputy Chairman of the court are forwarded to the High Council of Justice by the submission of the appropriate Council of Judges and considered at the session of the High Council of Justice personally.

During this meeting of the High Council of Justice an interview with the candidate is conducted.

Decision on appointment of the Chairman, Deputy Chairman of the court shall be adopted according to the results of the consideration process at the meeting of the High Council of Justice by the open voting. The decision to appoint a judge to the position of the Chairman, Deputy Chairman of the court shall be approved if more than a half of members of the constitutional composition of the High Council of Justice voted for him.

Requirements for documents on the appointment of a judge for the position of the Chairman, Deputy Chairman of the court, and the order of preparation and consideration of this matter in the High Council of Justice shall be approved by the acts of the High Council of Justice.

(The Law is completed with Article 29–1 according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII “Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

ARTICLE 29–2. CONSIDERATION BY THE HIGH COUNCIL OF
JUSTICE OF THE APPEALS AGAINST DECISIONS OF THE HIGH
QUALIFICATION COMMISSION OF JUDGES OF UKRAINE, TAKEN IN
THE PROCESS OF APPOINTING OR ELECTING JUDGES TO OFFICE

The decisions of the High Qualification Commission of Judges of Ukraine may be appealed against to the High Council of Justice concerning:

- 1) finding the results of qualifying exam of candidates to the position of a judge;
- 2) refusal to recommend a candidate to the position of a judge for lifetime.

A complaint against decision of the High Qualification Commission of Judges of Ukraine may be submitted to the High Council of Justice no later than one month from the day following its adoption.

An appeal against the decision referred to in paragraph 1 of the part one of this Article may be submitted by the candidate to the position of a judge, who made up a qualifying exam and disagrees with its results, and the decision referred to in paragraph 2 of the part one of this Article, – candidate for the position of a judge, who was denied in recommendation as candidate for election to the position of a judge indefinitely.

Complaint is considered by the High Council of Justice within one month after the date of its receipt following inspection carried out by a member of the High Council of Justice.

After consideration of the complaint and if there are proper grounds the High Council of Justice may:

- 1) satisfy the complaint, revoking the decision of the High Qualification

Commission of Judges of Ukraine concerning finding the results of

qualifying exam of the candidate to the position of a judge, who submitted an appeal, and obliging Higher Qualification Commission of Judges of

Ukraine to conduct re-qualification examination of the candidate; 2) satisfy the complaint, revoking the decision of the High Qualification

Commission of Judges of Ukraine to refuse to recommend a judges for the election as candidate to the position of a judge indefinitely and obliging Higher Qualification Commission of Judges of Ukraine to take a new decision;

- 3) leave complaint without satisfaction and the decision of the High

Qualification Commission of Judges of Ukraine unchanged.

The candidate to the position of a judge, who submitted the complaint, and representative of the High Qualification Commission of Judges of Ukraine are invited at the meeting of the High Council of Justice of Ukraine. Their absence of any reasons shall not preclude consideration of the complaint.

(The Law is completed with the Article 29–2 according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII “Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

(Provision of the Article 29-2 concerning reconsideration and cancellation of decisions of the High Qualification Commission of Judges of Ukraine as to determination of results of qualification exam of judges -candidates, rejection to recommend a candidate to position of judge indefinitely, taking a judge to disciplinary accountability, is considered constitutional according to the Decision of the Constitutional Court of Ukraine No. 7-пн/2011 (v007p710-11) as of 21.06.2011)

CHAPTER 2. CONSIDERATION OF ISSUES OF RELEASE

OF JUDGES FROM THEIR DUTIES

ARTICLE 30. SUBJECTS ELIGIBLE TO MAKE PROPOSALS AS TO

RELEASE OF JUDGES FROM THEIR DUTIES

Turning to the High Council of Justice with proposals as to release of judges from their duties may be the following persons:

1) High Qualification Commission of Judges of Ukraine; (Paragraph 1 of the part 1 of the Article 30 in edition of the Law of Ukraine No. 2453-VI (2453-

17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII “Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

2) a member of the High Council of Justice.

(Article 30 in edition by the Law of Ukraine No. 2181-VI (2181-17) as of 13.05.2010)

(Concerning recognition of provisions of the Article 30 in edition of the Law of Ukraine No.2181-VI (2181-17) as of 13,05,2010 as constitutional, see Decision of the Constitutional Court No. 5- пн/2011 (v005p710-11) as of 16.06.2011)

A member of the High Council of Justice raising the issue of release of a judge from his duties shall not participate in voting during the decision-making.

ARTICLE 31. PROPOSAL AS TO RELEASE FROM DUTIES ON GENERAL GROUNDS

The High Council of Justice shall on a proposal of the qualification commission of judges or on its own initiative lodge a representation as to release of judges from their duties, to be submitted to the body which has appointed or elected the judges.

(Provisions of part 1 Article 31 are constitutional according to the Decision of the Constitutional Court of Ukraine No. 9-rp/2002 (v009p710-02) as of 21.05. 2002)

A decision on proposals of release of judges from their duties on grounds specified in items 1–3, 7–9, Paragraph five, Article 126 of the Constitution of Ukraine shall be taken at a session of the High Council of Justice by a majority of votes of its members participating in the session. In the event of a judge's application for dismissal on his own accord, the High Council of Justice shall lodge a representation as to the release of a judge from his duties to the body which has appointed or elected the judge upon preliminary clarification of the judge's true will, presence of outside pressure or compulsion.

ARTICLE 32. PROPOSAL AS TO A JUDGE'S RELEASE FROM DUTIES ON SPECIAL GROUNDS

The High Council of Justice shall consider the issue of a judge's release from his duties on grounds specified in items 4–6 part 5 article 126 of the Constitution of Ukraine (infringement of legal requirements of non-combination of jobs, breach of oath by a judge, verdict of «guilty» coming into legal force with respect to a judge) upon submission by the High Qualification Commission of Judges of Ukraine of a relevant conclusion by the qualification commission, or on its own initiative.

(Part 1 of the Article 32 with amendments according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

Breach of oath by a judge is:

committing acts which compromise the title of judge and might challenge its objectivity,

impartiality and independence, in fairness and incorruptibility of the judiciary;

wealth illegally acquired by the judge or the implementation of costs that exceed the revenues of the judge and his family;

deliberate delay by the judge of case consideration terms over legal limit;

violation of the code of judicial ethics.

(Concerning recognition of provisions of the part 2 of the Article 32, see Decision of the Constitutional Court No. 2- рп/2011 (v002p710-11) as of 11.03.2011)

Breach of the oath of a judge, who holds an administrative position in court, is also a failure to perform duties prescribed for the relevant administrative positions related to the proceedings.

(Concerning recognition of provisions of the part 3 of the Article 32, see Decision of the Constitutional Court No. 5- рп/2011 (v005p710-11) as of 16.06.2011)

Judge, whose case is in question, and/or his representative have the right to give explanations, ask questions to the participants of the session, object, and assert petitions and outlets.

(Article 32 is completed with the new part according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

The judge involved shall be invited to the session obligatory. In the event of impossibility to participate in the session of the High Council of Justice because of reasonable excuses, the judge may forward written arguments concerning the raised issues, which are added to the case materials. Written arguments of the judge are voiced on the session of the High Council of Justice in obligatory manner. Repeated absence of this judge is the reason for consideration of his case in his absence. A decision on lodging a representation by the High Council of Justice as to a judge's release from duties in accordance with points 4, 5 and 6, part 5 article 126 of the Constitution of Ukraine, shall be taken by the majority of votes of the constitutional membership of the High Council of Justice.

If during consideration of the question on release from duties on special grounds the High Council of Justice comes to conclusion there was no reason for the dismissal of a judge, but judge's committed actions may lead to disciplinary liability, the High Council of Justice may

decide to bring judges of the Supreme Court of Ukraine and high specialized courts to disciplinary liability, and regarding other judges – of sending materials to the High Qualification

Commission of Ukraine.

(Article 32 is completed with the part 7 according to the Law of Ukraine No. 2453-VI (2453-17)

as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII

“Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

(Article 32 in edition of the Law of Ukraine No. 2181-VI (2181-17) as of 13.05.2010)

ARTICLE 32–1. DISMISSAL OF JUDGES FROM POSITION OF THE CHAIRMAN,

DEPUTY CHAIRMAN OF THE COURT

High Council of Justice dismisses Chairman, Deputy Chairman of the court in the order

established by the Law of Ukraine «On the Judicial System and Status of Judges».

Issues about the dismissal of the Chairman, Deputy Chairman of the court are

considered following the submission of the Council of relevant specialized courts

at the session of the High Council of Justice, where the Chairman, Deputy Chairman of the court,

which are proposed to be dismissed from office, are invited.

If Chairman, Deputy Chairman of the court in question are unable to attend the

meeting of the High Council of Justice for valid reasons, they may provide a

written explanation that is attached to the case materials. Written explanation of the

Chairman, Deputy Chairman of the court are announced at the session of the High

Council of Justice mandatory. Repeated failure to attend of the Chairman, Deputy

Chairman of the court in question is the ground for proceedings in his absence.

The decision on dismissal of the Chairman, Deputy Chairman of the court is

considered to be approved if more than a half of the members of the constitutional

composition of the High Council of Justice voted for it.

Requirements for documents formulation on dismissal from office of the Chairman, Deputy

Chairman of the court, and order of preparation and consideration of this matter in the High

Council of Justice are approved by the acts of the High Council of Justice.

(The Law is completed with the Article 32-1 according to the Law of Ukraine No. 2453-VI

(2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of

Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

CHAPTER 3. DECISION-MAKING ON INFRINGEMENT OF

LEGISLATIVE REQUIREMENTS OF INCOMPATIBILITY

ARTICLE 33. CONSIDERATION OF INCOMPATIBILITY ISSUES The High Council of Justice shall consider issues of judges' and public

prosecutors' infringement of requirements of non-combination of their duties with activities prohibited by the Constitution and Laws of Ukraine.

The High Council of Justice may pass a decision:

of assuming a supplementary occupation of a judge or a public prosecutor as noncomplying with a judge's or a public prosecutor's duties, and may suggest him

within a term specified by the High Council of Justice take a decision as to further employment as a judge or a public prosecutor, or engagement in other activity, with notification of the High Council of Justice;

of establishing the fact of a judge's or a public prosecutor's infringement of requirements of non-combination of jobs, and forward a representation to relevant bodies, suggesting their release from official duties.

(Provision of paragraph 2 of the part 2 of the Article 33 is constitutional according to the Decision of the Constitutional Court of Ukraine No. 9-пн/2002 (v009p710-02) as of 21.05.2002)

ARTICLE 34. SUBJECTS

ELIGIBLE TO APPLY ON MATTERS OF

INFRINGEMENT OF INCOMPATIBILITY REQUIREMENTS

The following persons may apply to the High Council of Justice with a proposal to examine the issue of incompatibility of a judge's or a public prosecutor's activities with their official duties:

- 1) a Member of Parliament of Ukraine;
- 2) the Chairman of the Supreme Court of Ukraine, chairmen of highest specialized courts, the Minister of Justice of Ukraine – with regard to judges;
- 3) Procurator General of Ukraine – with regard to public prosecutors;
- 4) High Qualification Commission of Judges of Ukraine.

(Paragraph 4 of the part 1 of the Article 34 in edition of the Law of Ukraine No. 2453-VI (2453-

17) as of 07.07.2010 -- concerning entering into force of amendment see paragraph 1 of Part XII
“Closing provisions” of the Law No. 2453-VI as of 07.07.2010)

The High Council of Justice may, proceeding from the materials at its disposal, consider the
issue of incompatibility on its own initiative. ARTICLE 35. DECISION AS TO INCOMPATIBILITY OF A
JUDGE’S

OFFICIAL DUTIES WITH OTHER ACTIVITIES

The High Council of Justice shall, upon representation of subjects specified in
Article 34 of this Law, consider the issue of incompatibility of a judge’s official
duties with other activities.

A decision on incompatibility shall be taken at a session, by a majority of votes of
the constitutional membership of the High Council of Justice, and be binding for
immediate execution by the judge, or serve as a basis for lodging a representation
of the judge’s release from his duties.

ARTICLE 36. DECISION AS TO INCOMPATIBILITY OF A PUBLIC

PROSECUTOR’S OFFICIAL DUTIES WITH OTHER ACTIVITIES

The High Council of Justice shall, upon representation of subjects specified in
Article 34 of this Law, or upon a proposal by the disciplinary board of a public
prosecutor’s office, or by its own initiative, consider the issue of incompatibility of
a public prosecutor’s official duties with other activities.

A decision on incompatibility shall be taken at a session, by a majority of votes of
the constitutional membership of the High Council of Justice, and be binding for immediate
execution by the relevant authorities of the Public Prosecutor’s office to
which it is forwarded.

CHAPTER 4. DISCIPLINARY PROCEEDING INVOLVING

JUDGES OF THE SUPREME COURT OF UKRAINE AND

HIGHEST SPECIALISED COURTS

ARTICLE 37. PUNISHMENTS APPLIED BY THE HIGH COUNCIL OF

JUSTICE

The High Council of Justice may bring the Chairman, Deputy Chairmen and judges of the

Supreme Court of Ukraine, Chairman, Deputy Chairmen and judges of highest specialised courts to disciplinary liability on grounds provided by item 5, Paragraph five, Article 126 of the Constitution of Ukraine, and by Law of Ukraine On the Status of Judges.

The High Council of Justice may impose a reprimand on those judges as a disciplinary action. (Part 2 of the Article 37 in edition of the Law of Ukraine No. 2453-VI (2453-17) as of

07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

The High Council of Justice may decide on judge's disparity of position and on forwarding submission on judge's dismissal to the body which appointed or elected him.

(Part 3 of the Article 37 with amendments according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 -- concerning entering into force of amendment see paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

ARTICLE 38. GROUNDS FOR DISCIPLINARY PROCEEDING

Serving as grounds for a disciplinary proceeding shall be a representation by:

(Provision of the paragraph 1 part 1 of the Article 38 loses its validity as unconstitutional according to the Decision of the Constitutional Court of Ukraine No. 9-pn/2002 (v009p710-02) as of 21.05.2002)

1) a Member of Parliament of Ukraine;

(Provision of the paragraph 2 part 1 of the Article 38 loses its validity as unconstitutional according to the Decision of the Constitutional Court of Ukraine No. 9-pn/2002 (v009p710-02) as of 21.05.2002)

2) the Commissioner of the Verkhovna Rada of Ukraine on human rights;

3) a member of the High Council of Justice, upon the results of verification of obtained information.

ARTICLE 39. STAGES OF DISCIPLINARY PROCEEDING

Disciplinary proceeding shall involve the following stages:

1) verification of information of a disciplinary misdemeanour;

2) opening of a disciplinary proceeding;

3) consideration of a disciplinary case;

4) passing a decision.

Upon the results of verification, a conclusion shall be drawn up, specifying facts and circumstances established in course of verification, and putting proposals.

ARTICLE 40. VERIFICATION OF INFORMATION OF A DISCIPLINARY

MISDEMEANOUR

Information of a disciplinary offence shall be verified by a member of the High Council of Justice on behalf of the High Council of Justice or its Chairman, by means of obtaining relevant written explanations from a judge and other persons, obtaining of court cases (their copies), which consideration is finished, and familiarization with materials of court cases, which consideration is not finished, obtaining other information from bodies of state administration and local self-government, its officials, managers of enterprises, entities, organizations, irrespective of forms of property and subordination, individuals and their public associations.

(Part 1 of the Article 40 in edition of the Law of Ukraine No.4001-VI (4001-17) as of 03.11.2011)

Upon the results of verification, a report shall be drawn up, specifying actual circumstances established in course of verification, along with conclusions and proposals. The judge subject to verification shall get to know the report and the materials.

The report and all materials shall be forwarded to the High Council of Justice, to decide on advisability of disciplinary proceeding.

ARTICLE 41. COMMENCING OF A DISCIPLINARY PROCEEDING

In presence of grounds for disciplinary proceeding with regard to the Chairman, Deputy Chairman or a judge of the Supreme Court of Ukraine, chairman, deputy chairman or a judge of a highest specialised court, disciplinary proceeding shall be open upon a resolution of the High Council of Justice within ten days from the day of obtaining information about a judge's disciplinary misdemeanour, and in case such information requires verification – within no more than ten days from the completion of verification.

ARTICLE 42. EXAMINATION OF A DISCIPLINARY CASE AND TAKING A DECISION

The High Council of Justice shall examine a disciplinary case at the nearest session of the High Council of Justice after receipt of the conclusion and verification materials.

A decision on a disciplinary case shall be taken in absence of the person involved, by secret ballot, by a majority of constitutional membership of the High Council of Justice, and shall specify the name of the commission, surname, first name, patronymic and position of the judge brought to disciplinary account, circumstances of his disciplinary misdemeanour, the judge's explanations and information characterising his personality, motives for the decision taken, with reference to the evidence, disciplinary punishment applied to the judge, or grounds for termination of the proceeding, as well as the procedure and the term of appeal against the decision.

In the event of imposing a disciplinary punishment, taken into consideration shall be the nature of the disciplinary misdemeanour, its consequences, the judge's personality, his guilt and other circumstances which may influence the accountability.

When deciding on a judge's disciplinary accountability, the High Council of Justice shall listen to his explanation. In the event of impossibility to participate in the session of the High Council of Justice because of reasonable excuses, the judge may forward written arguments concerning the raised issues, which are added to the case materials. Written arguments of the judge are voiced on the session of the High Council of Justice in obligatory order. Repeated absence of this judge is the reason for consideration of his case in his absence. A judge, in respect of whom the question of disciplinary liability is raised, and/or his representative have the right to give explanations, ask questions to the participants of the session, object and assert petitions and outlets.

(Part 4 of the Article 42 in edition of the Law of Ukraine No. 2181-VI (2181-17) as of 13.05.2010 with amendments according to the Law of Ukraine No. 2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII "Closing

provisions” of the Law No. 2453-VI as of 07.07.2010)

ARTICLE 43. TERMS OF APPLICATION OF A DISCIPLINARY

PUNISHMENT A disciplinary punishment shall be imposed by on a judge the High Council of Justice no later than six months after revealing the misdemeanour, with the exception of the term of temporary disablement or vacation of the judge, but no later than one year from the misdemeanour.

ARTICLE 44. CANCELLATION OR REMISSION OF DISCIPLINARY

PUNISHMENT

If within a year from imposition of a disciplinary punishment a judge is not subjected to another disciplinary punishment, this judge shall be considered as having no disciplinary punishment. A disciplinary punishment imposed on a judge may be remitted by the High Council of Justice earlier, upon an application of the judge involved, but no less than six months after the punishment was applied.

CHAPTER 5. CONSIDERATION OF COMPLAINTS ABOUT A

DECISION OF CALLING JUDGES AND PUBLIC

PROSECUTORS TO DISCIPLINARY ACCOUNT

ARTICLE 45. POWERS OF THE HIGH COUNCIL OF JUSTICE AT

CONSIDERATION OF COMPLAINTS ABOUT A DECISION OF

CALLING JUDGES AND PUBLIC PROSECUTORS TO ACCOUNT

The High Council of Justice shall consider complaints about decisions on disciplining judges of specialised courts, courts of appeal and local courts, as well as public prosecutors no later than within one month after their receipt, and in the event of additional verification of circumstances and materials of the case – within three months after the complaint.

ARTICLE 46. CONSIDERATION OF COMPLAINTS ABOUT A

DECISION OF CALLING JUDGES TO DISCIPLINARY ACCOUNT

A complaint about a decision of a qualification commission the High Qualification Commission of Judges of Ukraine on the matter of disciplining may be lodged to the High Council of Justice no later than one month from the day following the day

of handing the relevant decision to the judge or a person, who initiated disciplining a judge.

(Part 1 of the Article 46 with amendments according to the Law of Ukraine No. 3552-VI (3552-15) as of 16.03.2006 and the Law of Ukraine No.2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

The High Council of Justice may extend the term of lodging a complaint, if it admits that the one-month term has been violated for valid reasons.

The High Council of Justice shall consider complaints about decisions of disciplining judges of courts of appeal and local courts no later than within one month after their receipt, and in case of the need for additional verification of circumstances and materials of the case – within two months after the complaint.

The High Council of Justice shall consider complaints of judges or persons, who initiated calling a judge to the disciplinary account, about decisions of the High Qualification Commission of Judges of Ukraine as to disciplining judges, and, by the results of consideration, shall take a decision upon a report of a member of the disciplinary section of the High Council of Justice.

(Part 4 of the Article 46 with amendments according to the Law of Ukraine No. 3552-VI (3552-15) as of 16.03.2006 and the Law of Ukraine No.2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

Upon consideration of the complaint by a judge or a person who initiated disciplining the judge the High Council of Justice on sufficient grounds may:

(Paragraph 1 of the part 5 of the Article 46 with amendments according to the Law of Ukraine No. 3552-IV (3552-15) as of 16.03.2006)

1) satisfy the complaint by a judge or a person who initiated disciplining the judge, cancel the decision of his calling to disciplinary account, and terminate disciplinary proceeding;

(Paragraph 1 of the part 5 of the Article 46 with amendments according to the Law of Ukraine

No. 3552-IV (3552-15) as of 16.03.2006)

2) satisfy the complaint, fully or partially, and change the decision of the High

Qualification Commission of Judges of Ukraine;

(Paragraph 2 of part 5 of the Article 46 with amendments according to the Law of Ukraine

No.2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see

paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

3) leave the complaint unsatisfied, and the decision of the High Qualification

Commission of Judges of Ukraine – unchanged.

(Paragraph 3 of part 5 of the Article 46 with amendments according to the Law of Ukraine

No.2453-VI (2453-17) as of 07.07.2010 - concerning entering into force of amendment see

paragraph 1 of Part XII "Closing provisions" of the Law No. 2453-VI as of 07.07.2010)

When deciding on a judge's disciplinary responsibility, the High Council of Justice shall listen to his explanation. In the event of impossibility to participate in the session of the

High Council of Justice due to reasonable excuses the judge may

forward written arguments concerning the raised issues, which are added to the

case materials. Written arguments of the judge are voiced on the session of the

High Council of Justice in obligatory manner. Repeated absence of this judge is the

reason for consideration of his case in his absence.

(Part 6 of the Article 46 in edition of the Law of Ukraine No.2181-VI (2181-17) as of

13.05.2010)

(Concerning recognition of provisions of the part 6 of the Article 46 as constitutional, see

Decision of the Constitutional Court No. 5-пн/2011 (v005p710-11) as of 16.06.2011)

ARTICLE 47. CONSIDERATION OF COMPLAINTS ABOUT A

DECISION OF DISCIPLINING PUBLIC PROSECUTORS

When considering public prosecutors' complaints about a decision of their calling

to disciplinary account, the High Council of Justice shall be guided by a report of a

member of the High Council of Justice, whereupon it shall take its decision.

A public prosecutor's complaint may be accepted by the High Council of Justice

no later than one month after the day he is handed an order of bringing him to

disciplinary account. The High Council of Justice may extend the term for lodging a complaint if it admits that the one-month term has been exceeded for valid reasons.

Upon consideration of a public prosecutor's complaint, the High Council of Justice may, on sufficient grounds:

- 1) satisfy a public prosecutor's complaint, cancel the decision of calling to disciplinary account, and terminate disciplinary proceeding;
- 2) satisfy the complaint, fully or partially, and change the decision of the body which has imposed the disciplinary punishment;
- 3) leave the complaint unsatisfied, and the decision of the body which has imposed the disciplinary punishment unchanged.

When deciding on a judge's disciplinary accountability, the High Council of Justice shall hear his explanation. In the event of impossibility to participate in the session of the High Council of Justice because of reasonable excuses, the judge may forward written arguments concerning the raised issues, which are added to the case materials. Written arguments of the judge are voiced on the session of the High Council of Justice in obligatory manner. Repeated absence of this judge is the reason for consideration of his case in his absence.

(Part 4 of the Article 47 in edition of the Law of Ukraine No. 2181-VI from 13.05.2010)

PART V.

ORGANISATION AND INFORMATION SUPPORT OF

ACTIVITIES

OF THE HIGH COUNCIL OF JUSTICEARTICLE 48. STAFF OF THE HIGH COUNCIL OF JUSTICE

(Provisions of the Article 48 are constitutional according to the Decision of the Constitutional Court of Ukraine No. 9-рп/2002 (v009p710-02) as of 21.05.2002)

Organizational, information and other support of activities of the High Council of Justice shall be provided by its Secretariat.

Regulations of Secretariat of the High Council of Justice, its structure and staff

shall be approved by the High Council of Justice.

The director and other officials of the High Council of Justice shall be considered civil servants.

ARTICLE 49. PUBLICATION OF OFFICIAL MATERIALS OF THE HIGH COUNCIL OF JUSTICE

Official materials of the High Council of Justice shall be published in the Bulletin of the Supreme Court of Ukraine, and in urgent cases – in the Holos Ukrayiny and Uryadovy Kuryer newspapers.

PART VI.

CLOSING PROVISIONS

1. This Law shall enter into force on the day of its publication.
2. The High Council of Justice shall be formed within three months after the enactment of this Law.
3. The Cabinet of Ministers of Ukraine shall within three months after the enactment of this Law grant premises in the city of Kyiv to house the High Council of Justice, its divisions and services, and shall solve the matters of its activities financial and logistic support.

President of Ukraine L. KUCHMA

The City of Kyiv, January 15, 1998.

No. 22/98-BP