Draft

To be submitted by the President of Ukraine

**LAW OF UKRAINE**

On Amending the Law on the Judiciary and Status of Judges with Respect to the Adoption of the Law on High Anti-Corruption Court

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The Verkhovna Rada of Ukraine proclaims:

1. Amend the Law of Ukraine “On the Judiciary and Status of Judges” (Vidomosti of the Verkhovna Rada of Ukraine, 2016, No 31, p. 545 with subsequent changes)

1. To supplement Part 5 of Article 15 with the following paragraph:

"At courts which are located in several populated areas, the case distribution process will allow for the location of judges' workplaces in corresponding populated areas and criteria set forth by law for definition of the court jurisdiction associated with the raion in which a populated area in question is located".

2. To replace Parts 4 through 7 of Article 31 with the following six parts:

"4. Court chambers may be set up at a High Specialized Court for the purpose of considering selected categories of case at the first instance. In addition, an Appellate Chamber will be set up for considering cases at the appellate instance. The Appellate Chamber of a High Specialized Court will operate as part of the latter on the principles of institutional, organizational, personnel, and financial autonomy. The number of judges at the Appellate Chamber of a High Specialized Court will be defined within the total number of judges of the High Specialized Court by the State Judicial Administration of Ukraine upon agreeing on with the High Council of Justice.

5. A Court Chamber in charge of considering selected categories of cases at the first instance will be headed by the Court Chamber Secretary to be elected from among judges of a relevant chamber for a three-year term. The Appellate Chamber will be headed by the Chief Judge of the chamber to be elected from among judges of this chamber for a three-year term.

6. The Secretary of the Court Chamber in charge of considering selected categories of cases at the first instance will:

(1) Organize operations of a relevant chamber;

(2) Monitor the processes of analyzing and summarizing judicial practices in cases falling under the chamber competence;

(3) Inform the meeting of judges of a relevant High Specialized Court on the court chamber activities.

7. The Chief Judge of the Appellate Chamber will:

(1) Exercise powers specified by Items 1-3 of Part 6 of this Article;

(2) Represent the Appellate Chamber before government authorities, local governments, legal entities, and individuals on its operation matters;

(3) Inform the meeting of judges of a High Specialized Court and Supreme Court on the summary of judiciary practices;

(4) Promote fulfillment of requirements with regard to maintenance of the chamber judges' qualifications, and their professional development;

(5) Monitor performance of a standalone structural unit which is responsible for organizational support of the Appellate Chamber operation;
put forward proposals on appointing its Director and approve his/her dismissal;
put forward a proposal on awarding or disciplining his/her according to the legislation;
approve the draft regulation on such structural units and amendments hereto;

(6) Approve the draft budget of a High Specialized Court with regard to funding of the Appellate Chamber operation as well as approve the use of budget funds allocated for maintenance of the Appellate Chamber;

(7) Exercise other powers specified by law.

8. In case of absence of the Chief Judge of the Appellate Chamber his/her duties will be discharged by the chamber judge with the longest service on the judge position.

9. Decisions on establishment and composition of court chambers for considering selected categories of cases at the first instance and election of the secretaries of these court chambers will be made by the meeting of judges of a relevant High Specialized Court at the proposal of Chief Judge of the Court. A decision on electing the Chief Judge of the Appellate Chamber will be made by the meeting of the Appellate Chamber judges by way of secret vote by majority vote the Appellate Chamber judges".

3. To add "unless another court is defined by procedural law" after "another administrative-territorial unit (Autonomous Republic of Crimea, oblast, Kyiv or Sevastopol city)" in Article 49 Part 10 Paragraph 2.

4. In part two of Article 60 after the words “once every five years” add the words “(unless otherwise provided by law)”.

5. In subitem “f” of point 2 of part two of Article 61 add the words “members of the Public Council of International Experts on Selection of Judges of the High Anticorruption Court which is established in line with the law that determines the principles of organization and operations of the High Anticorruption Court”.

6. In Article 64:

(1) To replace "Territorial Office of the State Judicial Administration of Ukraine" with "State Judicial Administration of Ukraine (its territorial office)" in Parts 1 and 3;

(2) To remove "territorial office" in part 4;

7. To replace "territorial offices of the State Judicial Administration of Ukraine" with "the State Judicial Administration of Ukraine" in Article 68, Part 1, Sentence 3.

8. In Article 81:

(1) To add "of the Appellate Court" after "Position of Judge" in the title;

(2) To amend Part 1 to read:

"1. For the purpose of this Law, a procedure for appointing individuals meeting one the requirements defined by Part 1 of Article 28, Part 1 or 2 of Article 33, Part 1 of Article 38 of this Law to the judge position at a relevant court will be deemed a special procedure for appointing to the judge position of the Appellate Court, High Specialized Court or Supreme Court, respectively";

(3) To amend Part 3 to read:

"3. An individual who meets the requirements to candidates for the judge position, has confirmed his/her ability to administer justice at a relevant court and by relevant specialization based on the qualifications evaluation results, and meets one of the requirements defined in Part 1 of Article 28 (for the Appellate Court), Part 1 or 2 of Article 33 (for a High Specialized Court) of this Law
may be appointed to the judge position of a relevant Appellate Court or High Specialized Court under the special procedure.

An individual participating in the competitive selection of a judge of the Appellate Chamber of a High Specialized Court may not simultaneously take part in the competitive selection of other judges of this court";

(4) To amend Paragraph 1 and Item 3 of Part 4 to read:

"4. In order to be admitted to qualifications evaluation to participate in a competition for judicial position at an Appellate Court, High Specialized Court or the Supreme Court under special procedure, a judicial candidate shall submit to the High Qualifications Commission of Judges of Ukraine";

"3) Documents evidencing compliance with one of the requirements defined by Part 1 of Article 28, Part 1 or 2 of Article 33, Part 1 of Article 38 of this Law, respectively";

(5) To add "at an Appellate Court" after "candidate of the judicial position" in Items 1 through 4;

(6) To replace "for a vacant judge position" with "for a vacant judge position at an Appellate Court" in Part 6;

(7) To replace "on appointing a candidate to judicial position in" with "on appointing a candidate to judicial position in an Appellate Court" in Part 7.

9. In Article 84:

(1) To supplement Part 3 with the following Paragraph 2:

"3. A judge (candidate for a judge position) may file with the High Qualifications Commission of Judges of Ukraine a relevant request for qualifications evaluation of him/her no sooner than one year after the day on which the Commission approved a decision based on results of the last qualifications evaluation except for cases when such individual requests for evaluation for the purpose of taking up a vacant judge position at a court of a lower instance or another specialization.

A procedure for making allowance for results of the last qualifications evaluation of a judge (candidate for a judge position) will be defined by decision of the High Qualifications Commission of Judges of Ukraine";

(2) To amend Part 7 to read:

"7. In case of delivering to a judge (candidate for a judge position) a notice of suspicion in committing a criminal offence, the High Qualifications Commission of Judges of Ukraine may suspend the process of qualifications evaluation of this judge (candidate for a judge position) until such time as a court verdict comes into force or criminal proceedings are terminated".

10. In Article 87:

(1) To supplement Part 6 with the following Item 6:

"6) Take measures to protect personal data and information with a limited access which became known to the Public Integrity Council and its members because of exercising its/their powers";

(2) To supplement Part 8 with the following Paragraphs 5 through 7:

"In addition, a member of the Public Integrity Council is bound:

1) To take part in its meetings in person without a right to delegate his/her powers with regard to participation in the Public Integrity Council meetings and the right of vote at such meetings to other individuals including other members of the Public Integrity Council;

2) Not to use personal data and other information which has become known to him/her because of participation in the Public Integrity Council activities for purposes other than discharging his/her duties as the Council member";

(3) To supplement Part 19 with the following Paragraph 2:

"The Public Integrity Council will make decisions by majority vote of its composition defined by Part5 2 of this Article".

11. In part twenty-four of Article 95 the words “secretaries of court chambers” substitute with the words “secretaries and chairpersons of court chambers”.

12. In part four of Article 109 add paragraph two which reads as follows:

“Disciplinary sanction determined by point 5 of part one of this Article shall not be applied to a judge of the High Anticorruption Court. Also, within the procedure of imposition of a disciplinary sanction determined by 5 of part one of this Article, transfer of a judge to the High Anticorruption Court shall not be allowed”.

13. To add "(and in cases envisaged by this Law – the Appellate Chamber of a High Specialized Court") after "High Specialized Court" in Article 127 Part 2 Item 1.

14. To supplement Article 128 with the following Part 13:

"13. Provisions of Parts 1 through 9, 11, 12 of this Article will apply to meetings of judges of the Appellate Chamber of a High Specialized Court".

15. To add "(in case of establishment)" after "territorial offices" in Article 133, Part 8, Item 3.

16. To remove "and its territorial offices" in Article 134 Part 1.

17. In part six of the Article 135 the words “secretaries of court chambers” substitute with the words “secretaries and chairpersons of court chambers”.

18. In part one of Article 138 after the words “determined by the Cabinet of Ministers of Ukraine” add the words “unless another procedure of provision with corporate housing is provided for by law”;

19. In Article 148:

1) in part three add point 1-1 which reads as follows:

“1-1) high specialized court – with regards to financial support to its operations”;

2) To remove Part 4;

3) in part five after the words “the High Council of Justice” add the words “appellate chamber of the high specialized court”; and delete the words “and high specialized courts”.

4) in part six delete the words “the high specialized court”.

20. In part eight of Article 150 after the words “the High Council of Justice” add the words “high specialized courts”;

21. To amend the first sentence of Part 3 in Article 151 to read: "The State Judicial Administration of Ukraine may set up territorial offices as structural units of the State Judicial Administration of Ukraine".

22. In Article 153:

(1) In Part 4:

* To remove "including its territorial offices" in Item 3;
* To replace "Regulation on Structural Units" with "Regulation on Other Structural Units" in Item 8;
* To remove "and its territorial offices" in Item 12;

(2) To remove "including its territorial offices" in Part 8.

23. To remove Article 154.

24. In Article 155:

(1) To amend Part 4 to read:

"4. "Chiefs of staff of local courts, appellate courts, High Specialized Courts, the Supreme Court and their deputies will be appointed by the Head of the State Judicial Administration of Ukraine upon agreeing on with the Chief Judge of a relevant court and will be dismissed by the Head of the State Judicial Administration of Ukraine";

(2) To amend Part 7 to read:

"7. The structure and staffing plan of local courts, appellate courts, and high specialized courts will be approved by the State Judicial Administration of Ukraine upon agreeing on with the Chief Judge of a relevant court within the funds allocated for a relevant court. The temporary structure and temporary staffing plan of a newly created court will be approved by the acting Chief of Staff of this court subject to approval by the Head of the State Judicial Administration of Ukraine";'

(3) in part eight add paragraph two which reads as follows:

“A self-dependent structural division is established within the staff of the high specialized court to provide organizational support of the operations of the appellate chamber of this court the operations of which is controlled and the head of which is subordinated to the head of the appellate chamber of the high specialized court. This division on the issue of ensuring the operations o the appellate chamber is not subordinated o the head of the secretariat of the high specialized court”.

II. This law comes into force from the following day after its publication.

**Chairman of the
Verkhovna Rada of Ukraine**