

Ukraine: an important step towards judicial reform

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On 13 and 14 July the Verkhovna Rada of Ukraine adopted laws amending the rules of functioning of the High Qualifications Commission of Judges of Ukraine (HQC) and the High Council of Justice (HCJ) – two key authorities responsible for the selection and supervision of judicial personnel. The acts provide for the members of the HCJ and HQC to be vetted to ensure that they meet the impeccable track record requirement. This will be carried out by a committee which will include international experts who have the right of veto in order to ensure the transparency of the process. The adoption of the legislation has been welcomed by the EU, the US, the G7 countries and representatives of public anti-corruption organisations.

The most important task of the HQC is to evaluate the candidates for new judges and provide opinions on them to the HCJ. However, the commission has not been functioning since 2019, when its members resigned and new ones were not appointed. This has led to a situation where more than 2,000 judicial positions remain vacant. This despite the fact that the HCJ is a key body in the country's judicial system - among other things, it decides on judicial appointments, has the power to hold judges to disciplinary responsibility, and has the power to dismiss them.

Commentary

- According to anti-corruption activists, the HCJ in its current composition has in fact protected judges involved in corruption scandals and persecuted those exhibiting independence. According to the adopted law, an Ethics Council will be established to screen the members of this body for clean records and adherence to professional ethics. It will consist of six people, including three representatives of international organisations. To be valid, its decision must be supported by a minimum of two foreign experts. Should all votes be split equally, those of the foreign experts shall be considered more important. If violations are found, the council will recommend the resignation of HCJ members and evaluate new candidates. According to anti-corruption activists, these actions should, within a year or so, lead to the change in the composition of the HCJ and see members replaced by people who are independent and not susceptible to external pressures. In the long term, this could help clean up the Ukrainian judiciary, which is considered to be extremely corrupt. In turn, the HQC, elected according to the new rules, has a chance of becoming a kind of 'filter', which will exclude candidates for new judges who do not meet the requirements.
- The laws were adopted in the last week of the current session of the Verkhovna Rada, on the eve of Volodymyr Zelensky's planned visit to Washington in late July (the exact date

is still unknown). Earlier, on July 7, US Secretary of State Antony Blinken listed the reform of the HCJ and HQC as the most important of the five steps that Ukraine must take for further development. Judicial reform is also among the requirements for continued cooperation with the International Monetary Fund and support from the EU. The adopted solutions are another example of effective pressure from foreign donors and social activists aimed at forcing reforms in the country.