

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES



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Date: 25/04/2018

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Meeting: 1318th meeting (June 2018) (DH)

Communication from the authorities (24/04/2018) concerning the cases of OLEKSANDR VOLKOV v. Ukraine and SALOV v. Ukraine (Applications No. 21722/11, 65518/01).

Information made available under Rule 8.2a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1318^e réunion (juin 2018) (DH)

Communication des autorités (24/04/2018) concernant les affaires OLEKSANDR VOLKOV c. Ukraine et SALOV c. Ukraine (requêtes n° 21722/11, 65518/01) (**anglais uniquement**)

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



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№ _____
На № _____
┌ _____ └ _____

*As to the execution of the Court's judgments
in the group of Oleksandr Volkov/Salov cases v. Ukraine*

Ms Geneviève Mayer
Head of Department
for the Execution of Judgments
of the European Court of Human Rights
Directorate General of Human rights and
Rule of Law – DG I

Council of Europe
F-67075 Strasbourg Cedex

DGI

24 AVR. 2018

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Dear Madam,

Herewith please find enclosed additional information for the execution of the Court's judgments in the group of Oleksandr Volkov/Salov cases (applications nos. 21722/11 and 65518/01).

This information has been also sent by e-mail.

Encl: on 14 pages.

Yours faithfully

**Acting Agent before
the European Court of Human Rights**

Olga Davydochuk

243547

УВ Міністерство юстиції України
4856/5.2.1/25-18 від 23.04.2018



зрк.1

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Annex to the letter of 23 April 2018

**Additional information
submitted by the Government of Ukraine as an addendum to the Updated Action Plan of
7 March 2018
in the group of cases *Oleksandr Volkov and Salov v. Ukraine***

I. Additional information submitted by the authorities

Attach please find additional detailed information to supplement the Action Plan of the authorities submitted in the group of cases *Oleksandr Volkov and Salov v. Ukraine*. The information below addresses the outstanding issues identified in the decision of the Committee of Ministers of 10 March 2017 and the H/Exec(2017)1 of 28 February 2017 on the same subject-matter. It is structured in the same order and reflects the same elements as those reflected in the decisions of the Committee of Ministers and the H/Exec memorandum to that effect prepared to the attention of the Committee of Ministers by the Department for the Execution of Judgments of the European Court of Human Rights.

The additional information below, should be read jointly, with information already presented by the Ukrainian authorities to the Committee of Ministers on 7 March 2018.

The information submitted by the authorities contains the following elements:

1. *Measures taken by the authorities to assure that the necessary regulations are in place for the election of the members of the High Council of Justice*
2. *Measures taken by the authorities to complete the procedure for filling judicial posts at the Supreme Court*
3. *Measures taken by the authorities with regard to limiting the role of and powers of prosecutors in the area of discipline and careers of judges*
4. *Measures taken by the authorities to ensure the necessary scope of review of a disciplinary case by the judicial instance following the decisions by the High Council of Justice*
5. *Measures taken by the authorities to ensure that the practice of application of the three-year limitation period is consistent and firmly upheld in the judicial practice*
6. *Measures taken by the authorities to develop clear guidelines on the application of disciplinary sanctions and to ensure consistent judicial practice on that subject, with introduction of an appropriate scale of sanctions for individual disciplinary offences and respect of the principle of proportionality*
7. *Measures taken by the authorities to align the disciplinary sanctions with other types of judicial liability*
8. *Measures taken by the authorities to ensure that objective criteria are applied to evaluate work of a judge (importance and scope of evaluation of the judicial dossier in career of a judge)*
9. *Measures to ensure the procedures for appeals against the decisions as to the careers or promotions of judges*
10. *Restitutio in integrum measures undertaken by the authorities on the basis of judgment in the case of Kulykov and Others v. Ukraine (Appendix A)*
11. *Additional information provided by the authorities as regards the dismissal of judges by Parliament on 29 September 2016 (Appendix B)*

II. Specific measures undertaken by the authorities to remedy violations established by the judgments of the European Court of Human Rights in the cases of *Oleksandr Volkov* and *Salov v. Ukraine* (in addition to information already submitted on 7 March 2018)

1. Measures taken by the authorities to assure that the necessary regulations are in place for the election of the members of the High Council of Justice

By providing the information below the Ukrainian authorities confirm that the necessary regulations are in place for the election of the members of the High Council of Judges, which establish independent of outside pressure selection procedures and assure that the selection process complies with the requirements of the judgment of the Court in the case of *Oleksandr Volkov v. Ukraine* (see pars. 109 and 112 of the judgment, with regard to specifically ensuring “strong indicators of impartiality” through that “at least half of the membership of a tribunal is composed of judges” and “reducing influence of the political organs of the government on the composition of the HCJ” as well as necessity to ensure requisite level of independence”):

a) On financing of the Congress of Judges of Ukraine

According to part three of Article 148 of the Law "On the Judiciary and Status of Judges", the State Judicial Administration of Ukraine ensures allocation of funds of the State Budget for the activities of the bodies of judicial self-government. The highest body of judicial self-government is the Congress of Judges of Ukraine, according to Article 129 of the Law “On the Judiciary and Status of Judges”. Thus, the funding of the Congress of Judges of Ukraine is carried out by the State Judicial Administration of Ukraine at the expense of the State Budget. This from the Ukrainian authorities’ point of view assures independent organization and conduct of the Congress of Judges of Ukraine, which in turn elects members of the High Council of Judges.

b) On the composition of the High Council of Judges

The Law of Ukraine "On the High Council of Judges", which came into force on 5 January 2017, after the introduction of amendments to the Constitution of Ukraine, stipulates that the High Council of Judges shall include not less than 11 judges elected by the judges. The transitional provisions of this law state that the members of the High Council of Judges who were appointed or elected in accordance with the Law of Ukraine "On Ensuring the Right to a Fair Trial" continue to exercise their respective powers until, but no later than, 30 April 2019. All candidates for the membership in the High Council of Judges are elected or appointed on a competitive basis. Candidates’ files for election by congresses are technically processed by the Secretariat of the High Council of Judges, which verifies technical compliance of these documents with requirements of the law, without examining the substance of these documents. As a result, after technical verification, the list of candidates is published on the official website of the High Council of Judges no later than the day after the expiration of the deadline for submission of documents, which may not be less than 45 days before the day of the respective congress. Refusal to accept documents is possible only in case of failure to comply with the time-limit for their submission. As of April 2018, the High Council of Justice has 18 members, 11 of which are judges or retired judges. The 12th judge is the Chairman of the Supreme Court who is a member of the High Council of Justice *ex officio*. Accordingly, the Government of Ukraine consider that the current composition of the High Council of Judges complies with the requirements of the relevant provisions of

the judgment in the case of *Oleksandr Volkov v. Ukraine* (par. 109), i.e. in that it assures the “need for substantial representation of judges on the relevant disciplinary body”, which is also recognized by the European Charter on the statute for judges and the relevant Council of Europe and Venice Commission’s recommendations.

c) As to the composition of the Disciplinary Chambers of the High Council of Justice

The Government of Ukraine inform the Committee of Ministers that the following compositions of the disciplinary chambers of the High Council of Judges also comply with the requisite requirements of the general measures in the case of *Oleksandr Volkov v. Ukraine*. In particular the High Council of Judges is composed of three disciplinary chambers, which act as a “first instance” panel of review of disciplinary complaints concerning specific disciplinary proceedings. Their composition is as follows:

- the First Disciplinary Chamber has five members, three of which are judges, two of which were elected by their peers.
- the Second Disciplinary Chamber has five members, three of which are judges, two of which were elected by their peers.
- the Third Disciplinary Chamber has six members, four of which are judges, three of which were elected by their peers.

Additionally to the information above, as well as information submitted in the Action Plan of 7 March 2018, all members of the High Council of Judges are employed there on a permanent basis. According to Article 6 of the Law “On the High Council of Justice” they are not permitted to be engaged in political activities or occupy posts in the other branches of power (legislative or executive) and receive their salaries from their main place of employment. Members of the High Council of Judges may only engage in paid academic activities. This excludes possible conflict of interest in their daily work. Organisation of the High Council of Justice and its Rules of Procedure establish rules for conflict of interest and provide for procedures to change composition hearing a disciplinary complaint in the event of such a conflict of interest. According to Article 33 of the Law “On the High Council of Justice” members of the High Council of Justice cannot participate in the review of an issue and are subject to recusal if he/she is personally interested, whether directly or indirectly, in the outcome of the case or has a family connection with the person whose case is under review or if there are any other proved circumstances giving rise to doubts as to the impartiality.

2. Measures taken by the authorities to complete the procedure for filling judicial posts at the Supreme Court

The Government of Ukraine consider that the following measures below address findings of the judgment of the European Court of Human Rights in the case of *Oleksandr Volkov* (pars. 130 and 156), by *inter alia* assuring that the judicial authority dealing with complaints against the decisions of the High Council of Judges satisfies the requirements of “tribunal established by law” as required by Article 6 paragraph 1 of the Convention.

In particular, in accordance with Article 37.1 of the Law of Ukraine "On the Judiciary and Status of Judges", the Supreme Court includes up to 200 judges. Based on Article 19.6 of the Law, the State Judicial Administration of Ukraine, in agreement with the High Council of Judges, established the need, based on the potential judicial workload, of having 120 positions of judges of the Supreme Court. Following the competition to the Supreme Court, the Higher Qualification Commission of the Judges of

submitted recommendations to the Higher Council of Judges for the appointment of 120 candidates for the positions of judges of the Supreme Court.

As of 19 April 2018:

- two recommendations were rejected by the High Council of Judges;
- one recommendation is pending before the High Council of Judges;
- two recommendations of the High Council of Judges are pending before the President of Ukraine;
- 115 judges were appointed by the President of Ukraine.

In accordance with Section XII of the Law "On the Judiciary and Status of Judges", the Supreme Court began its work, provided that at least sixty-five judges of the Supreme Court were appointed. On 15 December 2017, the Supreme Court commenced its work and its composition currently includes 115 judges.

The openness and transparency of the competition procedure was ensured in view of the following:

- all procedures followed by the competition were announced in advance on the website of the Higher Qualification Commission of the Judges of Ukraine;
- the constituent part of the competition is the assessment of the candidates on the criteria of competence, professional ethics and integrity. The evaluation criteria were defined in advance in the normative documents that were published on the website of the Higher Qualification Commission of Judges;
- a dossier for a candidate for a judge of the Supreme Court has been introduced. All judicial dossiers were publicly available on the Commission's website;
- candidates for a position of the judge of the Supreme Court took part in the competitive examinations, which included practical tasks, the examination being open to public scrutiny. For instance, all procedures were broadcast live on the Internet. The competitive examination program and questions were made public in advance;
- interviews with candidates took place publicly and were broadcast live on the Internet;
- the Public Integrity Council, composed of NGO representatives, was established and contributed to the evaluation of candidates for compliance with the criteria of professional ethics and integrity.

3. Measures taken by the authorities with regard to limiting the role of and powers of prosecutors in the area of discipline and careers of judges

The Ukrainian authorities refer to the Action Plan of 7 March 2018, in which they fully explain that prosecutors are no longer engaged in the proceedings concerning disciplinary liability and careers of judges.

4. Measures taken by the authorities to ensure the necessary scope of review of a disciplinary case by the judicial instance following the decisions by the High Council of Justice

The Ukrainian authorities submit that they have undertaken measures to assure necessary scope of review of the case by the judicial instance following decisions of the disciplinary panels of the High Council of Judges. In particular, they submit that the new legislation on disciplinary liability of judges provides for a twofold review: complete review by a full composition of the High Council of Judges and review by the Grand Chamber of the Supreme Court on grounds indicated for by law.

In particular, as to the scope of review by the Supreme Court, the provisions of the Law “On the High Council of Judges”, namely Article 52.1, provide that a decision of the High Council of Judges following the “full review” by an entire High Council of Judges, on an appeal against the decision of the Disciplinary Chamber, may be further appealed and annulled only for the following reasons:

- 1) the composition of the High Council of Judges that adopted the corresponding decision did not have the powers to do so;
- 2) the decision was not signed by any of the members of the High Council of Judges who approved it;
- 3) the judge was not duly notified of the session of the High Council of Judges if any of the decisions referred to in items 2 - 5 of paragraph ten of Article 51 of this Law is taken;
- 4) the decision does not refer to the grounds specified in the law for disciplinary sanctions against the judge and does not define the reasons on the basis of which the High Council of Judges reached its findings.

Thus, according to the legislation, the scope of review by the Supreme Court is limited to formal grounds and does not provide for a review of the decision of the High Council of Judges on the above issues regarding the failure to ensure independent and impartial examination of the case, failure to comply with the principle of legal certainty and other grounds not expressly specified in Article 52.

At the same time, according to the case-law of the Grand Chamber of the Supreme Court (see two decisions referred to below)¹, when considering such cases, the Supreme Court applies the legal position in the judgment of the European Court of Human Rights found in the judgment in the case of *Oleksandr Volkov v. Ukraine*, stating:

"(...) From the analysis of the case-law of the European Court of Human Rights, it can be ensued that in the event a decision on the merits of the dispute is delivered by an adjudicatory body, Article 6 § 1 of the Convention is applicable and such a decision should be subjected to subsequent control by a judicial body that has full jurisdiction (judgment of the European Court of Human Rights of 9 January 2013 in the case of *Oleksandr Volkov v. Ukraine*) (...)."

A similar position is reflected in the judgment of the Grand Chamber of Ukraine of 28 March 2018², which, in the context being analysed, states, *inter alia*, that:

" (...) the possibility of challenging a decision on the merits is an important safeguard for the judicial independence and independence of the judiciary as a whole. The Grand Chamber of the Supreme Court ensures applicability of guarantees under Article 6 § 1 of the Convention, which is defined in Article 266 of the Code of Administrative Justice of Ukraine, as a judicial body that has full jurisdiction over the complaints against the decisions of the High Council of Justice (...)."

Thus, based on the position of the Grand Chamber of the Supreme Court, the decisions of the High Council of Judges are subject to review by a judicial body with full jurisdiction. This approach is fully reflecting the requirements of the judgment of the European Court in the case of *Oleksandr Volkov v. Ukraine* (par. 123), whereas both the full composition of the High Council of Judges and the Grand Chamber of the Supreme Court ensure “sufficiency of review”.

¹ Judgment of the Grand Chamber of the Supreme Court of 15 March 2018 in the case № 11-66can18

² Judgment of the Grand Chamber of the Supreme Court of 28 March 2018 in the case № 11-24can18

5. *Measures taken by the authorities to ensure that the practice of application of the three-year limitation period is consistent and firmly upheld in the judicial practice*

The Government of Ukraine consider that the three-year limitation period for application of the disciplinary sanctions against a judge is firmly upheld not only in law, but also in the practice of the Supreme Court of Ukraine, thus assuring compliance with the requirements of the principles of “rule of law” and “legal certainty”. In particular, by its judgment of 12 April 2016 the Supreme Court of Ukraine quashed the ruling of the Higher Administrative Court of 1 February 2016 and remitted the case No. P/800/485/15 for a retrial, based on the complaint by D.I. Kravets, a former judge dismissed by the Presidential decree for breach of judicial oath. The Supreme Court pointed out the need to ensure that the three-year term is applied correctly. Similar conclusions were reached by the Supreme Court in cases on claims of A.V. Levchenko and S.Y. Volkova.

6. *Measures taken by the authorities to develop clear guidelines on the application of disciplinary sanctions and to ensure consistent judicial practice on that subject, with introduction of an appropriate scale of sanctions for individual disciplinary offences and respect of the principle of proportionality*

The Government of Ukraine submit that development of clear guidelines on the application of disciplinary sanctions and establishment of consistent judicial practice on that subject, with an appropriate scale of sanctions for individual disciplinary offences and respect of the principle of proportionality, had been one of the measures undertaken by the authorities to assure that the principle of “legal certainty” is an inherent part of process of application of the disciplinary sanctions, an issue addressed in the judgment of the European Court of Human Rights in the case of *Oleksandr Volkov v. Ukraine* (par. 137).

a) *General statistical data on applicable disciplinary sanctions*

In particular, in 2017 the Disciplinary Chambers of the High Council of Judges brought to disciplinary responsibility 96 judges and imposed a disciplinary sanction in the form of:

- warning - 17 judges;
- reprimand - 8 judges;
- strict reprimand - 8 judges;
- a motion to the High Council of Justice on temporary suspension of a judge from the office - 7 judges.
- a motion to the High Council of Justice on the dismissal of a judge from office - 56 judges.

b) *Practice of the High Council of Justice*

The following are examples of the case-law of the High Council of Judges, which are aimed at consolidating and ensuring coherence of the judicial practice of the Disciplinary Chambers:

- By the decision of 12 May 2017 the High Council of Judges amended the decision of the Disciplinary Chamber and imposed a disciplinary sanction in a form of temporary suspension from the office, instead of the dismissal from the office, previously chosen by the Disciplinary Chamber ([No. 4234/0 / 15-17](#));
- By the decision of 17 October 2017 the High Council of Judges amended the decision of the Disciplinary Chamber and imposed a disciplinary sanction in a form of strict reprimand, instead

of the suspension from the office, previously chosen by the Disciplinary Chamber ([No. 3307/0 / 15-17](#));

- By the decision of 14 December 2017 the High Council of Judges amended the decision of the Disciplinary Chamber and imposed a disciplinary sanction in a form of a warning, instead of the reprimand, previously chosen by the Disciplinary Chamber ([No. 4112/0 / 15-17](#)).

c) Practice of the Supreme Court

By the judgment of the Grand Chamber of the Supreme Court of 29 March 2018, in the case number 800/405/17, the former judge's against the High Council of Justice on his dismissal from the office was rejected. In that ruling, the Grand Chamber concluded that the sanction chosen by the High Council of Judges was proportionate and justified, taking into account the time elapsed since the commission of the offense. Similar conclusion was reached by the Grand Chamber in the judgment of 12 July 2016 in the case No. 800/482/15.

The above statistics and examples of case-law confirm that the disciplinary sanctions are applied coherently and that there are procedural tool (appeals to the full composition of the High Council of Judges and to the Grand Chamber of the Supreme Court), to assure that the practice of Disciplinary Chamber is synchronized and that disciplinary sanctions are applied proportionately, with a view to particular circumstances of the case (judgment in the case of *Oleksandr Volkov*, par. 182).

7. Measures taken by the authorities to align the disciplinary sanctions with other types of judicial liability

a) Measures introduced in law with regard to the judicial liability

Legislation clearly delineates the grounds and procedure for bringing judges both to disciplinary liability and to other types of legal liability, including criminal liability. Thus, law clearly addresses the concerns identified in the judgment in the case of *Oleksandr Volkov v. Ukraine* (pars. 93, 182 – 183).

Thus, the grounds for disciplinary liability of a judge are provided for in Article 106 of the Law of Ukraine "On the Judiciary and Status of Judges". The disciplinary procedure against a judge is determined both by the said Law (Section VI) and by the Law of Ukraine "On the High Council of Justice" (chapters 1, 4 of Section II).

The legislation contains no restrictions regarding the possibility of bringing judges to different types of legal liability for the offenses committed if there are relevant statutory grounds. Article 61 of the Constitution of Ukraine contains a double jeopardy limitation, confirmed by the principle that no-one should be brought to legal liability for the same offence twice.

The practice of the Disciplinary Chambers of the High Council of Judges shows that the facts established by court decisions in cases on administrative offences involving the judge may be grounds for bringing the latter to a disciplinary liability.

In addition, commitment by a judge of a corruption offense is an independent basis for the disciplinary responsibility of a judge under paragraph 15 of Article 106 of the Law of Ukraine "On the Judiciary and Status of Judges". Additionally, criminal liability of a judge, based on the provisions of Article 375 of the Criminal Code, is undergoing review in view of the amendments to be introduced to the

law on Misdemeanors currently undergoing review by the domestic authorities, with the assistance of the expertise of the Council of Europe.³

b) Practice of the Disciplinary Chambers of the High Council of Judges

In the cases [№ 3075/2дп/15-17](#) and [№ 1079/2дп/15-18](#) the Disciplinary Chambers imposed on judges disciplinary sanctions in a form of dismissal from the office due to facts established by judicial decisions in the cases concerning administrative offences. It should be noted that the sole fact of finding a judge guilty of committing an administrative offense, including the corruption-related ones, does not necessarily entail bringing a judge to disciplinary responsibility, since the disciplinary body of the High Council of Judges is obliged to independently establish the existence of a disciplinary offense in the actions of a judge (see for example, decision in the case [№713/3дп/15-18](#))

8. Measures taken by the authorities to ensure that objective criteria are applied to evaluate work of a judge (importance and scope of evaluation of the judicial dossier in career of a judge)

As indicated in the H/Exec(2017)1 of 28 February 2017 the Department for the Execution of Judgments already indicated that in their communication to the Committee of 23 January 2017, the authorities indicated that the Presidiums of the courts no longer exist and that the Presidents of the courts no longer have powers in the matters of discipline and careers of judges. They further stated that some elements criticised in the judgment in the case of *Salov* have been addressed through the reforms of the system of discipline and careers of judges undertaken in the case of *Oleksandr Volkov v. Ukraine*. Furthermore, the authorities underlined that issues related to careers of judges are now within the authority of the reformed High Council of Judges, which is operating on a full-time basis and is composed of a majority of judges.

The Department's memorandum underlined that "while the issues of disciplinary liability of judges have been comprehensively and extensively dealt with in the new amendments to the Constitution and the Law on Judiciary and the Status of Judges, the elements and factual grounds for the judicial career or promotion of judges remain unclear. Additionally, the Memorandum mentioned that "one of the objective elements of assessment of work of the judge is the "judicial dossier" and the information contained in it. It appears that the "judicial dossier" contains *inter alia* information as to efficiency and delays in the administration of justice, as well as information as to the number of decisions quashed or amended by the higher judicial instances.

The Memorandum identified a need to receive more information from the authorities as to the practical implications related to existence of the "judicial dossier", collection of information to it, as well as influence of the "negative" statistical data on administration of justice by a particular judge on his judicial career. It is the quality, not the quantity that should be the focus of judges' evaluation. Furthermore, according to the recommendations contained in the European Charter on the statute for judges, decisions relating to promotions and careers of judges taken by the HCJ should be susceptible to appeal and review. The authorities were invited to provide more information in this respect and the measures they intend to take to regularise the situation.

In reply to these indications and the previous decision of the Committee of Ministers, the authorities reiterate that requirements of the *Salov* judgment (pars. 83 and 86) with regard to the assessment of work

³ Draft law No. 2897 "On Amendments to the Legislative Acts of Ukraine Introducing the Provisions on Criminal Misdemeanour Offences of 19/05/2015

of the judge and influence of the President of the regional court over promotions and disciplinary procedures against judge have been fully remedied by the measures taken by the authorities. The judges and presidents of the higher courts, their presidiums, no longer have any role in the procedures for promotion or disciplinary liability of judges.

In particular Ukrainian authorities inform the Committee that the Council of Judges of Ukraine adopted regulations on the maintenance of the judicial dossier on 5 June 2015 (Decision No. 57 of the Council of Judges of Ukraine). The judicial dossier contains a number of elements, including the number of judgments quashed or annulled, as a part of the statistical data provided as to cases examined by a particular judge. As regards to the appointments, promotions and disciplinary liability the information in the judicial dossier can be assessed, for instance at the moment of transfer of a judge, as follows:

a) Transfer of a judge to another court

The transfer of a judge to another court is carried out on the basis and within the limits of the recommendation of the High Qualification Commission of Judges of Ukraine, made on the basis of the results of the competition. Within the framework of the competition, the Commission conducts a qualification assessment in order to determine the ability of a judge (candidate for a judge's position) to administer justice in a relevant court according to certain criteria.

The qualification criteria are:

- 1) competence (professional, personal, social, etc.);
- 2) professional ethics;
- 3) integrity.

Assessment is carried out on the basis of the system of points. The maximum number of points is 1,000. The evaluation of the criteria is as follows:

- 1) competency criteria: *professional competence* (according to the results obtained during the examination) - 500 points, of which: level of knowledge in the field of law - 90 points; level of practical skills and abilities in law application - 120 points; the efficiency of the administration of justice – 80 points; activities for enhancement of the professional level - 10 points; personal competence - 100 points; social competence - 100 points;
- 2) criterion of professional ethics - 250 points.
- 3) the criterion of integrity - 250 points.

Thus, information contained in a judicial dossier is being referred to when assessing the following criteria:

- the efficiency of the administration of justice;
- activities for enhancement of the professional level
- personal competence
- social competence
- criterion of professional ethics
- criterion of integrity

b) Use of the judicial dossier in other procedures

Assessment of information, as presented in the judicial dossier, had been applied in the course of selection of judges for the new composition of the Supreme Court. The information on the number of

judgments quashed or annulled had not been conclusive to determine whether a particular candidate could occupy a position of a judge of the Supreme Court. Additionally, the judicial dossier and its constituent elements are being used and analysed in the course of disciplinary proceedings concerning acting judges and would also be used in the course the attestation procedures for judges of the appeal and first instance courts. However, the element of judgments quashed or amended would not serve as a primary element for assessment in the course of promotions, transfers or disciplinary liability of judges.

c) Conclusions as to the influence of information on the number of quashed and altered judgments on a judicial career

Information on the number of quashed, altered court decisions affect only the indicator of efficiency of the administration of justice when assessing the judge's compliance with the criterion of professional competence. However, it is not the only conclusive criteria and it cannot be used against a judge to justify disciplinary sanctions against him or question a possibility of his / her promotion. The criteria of a number of judgments quashed or amended could only be seen, jointly with other criteria, related to professional

9. Measures to ensure the procedures for appeals against the decisions as to the careers or promotions of judges

a) The procedure for selection or appointment of a judge for a position

The selection and appointment of a judge to a position is conducted in accordance with the procedure established by the Law of Ukraine "On the Judiciary and Status of Judges". It includes several stages, in particular, the admission of persons to participate in the selection, the qualification examination and establishment of its results.

The Higher Qualification Commission of Judges may review decisions made by its Chamber or Board regarding admission to the selection process. In accordance with Article 78.18 of the Law, a violation of the procedure for conducting a qualification examination regarding a candidate for a judicial position can be appealed in accordance with the procedure established by the Code of Administrative Justice.

In case of refusal to submit a motion to the President on the appointment of a judge, the High Council of Judges shall adopt a motivated decision, which may be appealed to the Supreme Court in accordance with the procedure established by part two of Article 79 of the Law. The decision of the High Council of Judges on refusal to submit a motion to the President of Ukraine on the appointment of a judge can be appealed and quashed solely on the following grounds:

- 1) the composition of the High Council of Judges, which adopted the relevant decision, did not have the authority to do so;
- 2) the decision was not signed by a member of the High Council of Judges who participated in its adoption;
- 3) the decision does not contain references to the specified in the law grounds for refusal to submit a motion to the President of Ukraine or reasons on the basis of which the High Council of Judges reached its findings.

b) On contesting the procedure and results of the competition

The Commission may review the decisions made by its Chamber or the Board regarding admission to the competition.

According to part one of Article 88 of the Law, the Higher Qualification Commission of Judges of Ukraine adopts a motivated decision on the ability of a judge (candidate for a position of judge) to administer justice in a relevant court.

A judge (candidate for a position of judge) who does not agree with the decision of the Higher Qualification Commission of Judges of Ukraine regarding his qualification assessment may appeal against this decision in accordance with the procedure provided for by the Code of Administrative Justice of Ukraine.

The decision of the Higher Qualification Commission of Judges, adopted on the basis of the results of the qualification evaluation, may be appealed and quashed solely on the following grounds:

1) the composition of the members of the Higher Qualification Commission of Judges, who conducted the qualification assessment, did not have the authority to conduct it;

2) the decision was not signed by a member of the Higher Qualification Commission of Judges, who conducted the qualification assessment;

3) the judge (candidate for the position of a judge) was not properly informed about the qualification assessment - if the decision was made due to non-appearance of the judge (candidate for the position of a judge) at qualification assessment;

4) the decision does not contain references to the grounds for its adoption, or reasons on the basis of which the Commission reached its findings.

c) On the practice of contesting the procedure/results of the competition

There are currently 23 cases pending before the Supreme Court concerning the the competition for the judicial positions at the Supreme Court:

- concerning the non-admission to the qualification assessment - 1 case;
- concerning the suspension of the qualification assessment - 1 case;
- concerning the termination of the competition - 6 cases;
- concerning the non-confirmation of the ability to administer justice - 13 cases;
- concerning the number of points received by the candidate as a result of the qualification evaluation - 2 cases.

10. Restitutio in integrum measures undertaken by the authorities on the basis of judgment in the case of Kulykov and Others v. Ukraine (Appendix A)

11. Additional information provided by the authorities as regards the dismissal of judges by Parliament on 29 September 2016 (Appendix B)

III. State of execution of judgment

The Government will keep the Committee of Ministers informed about further developments and measures taken.

Appendix A

Application no. and the applicant's name	Status of proceedings
5114/09 Andriy Volodymyrovych KULYKOV	The proceedings are <i>pending before the Supreme Court</i> - 2 applicant's claims – on acknowledgment of the resolution of the Verkhovna Rada as illegal (in part), and on the annulment of the decision of the High Council of Judges of his dismissal, were joined in one administrative proceeding. The applicant challenged the judges.
4588/11 Volodymyr Mykolayovych KORZACHENKO	On 29/03/2018, the Supreme Court found in part for the applicant – the decision of the High Council of Judges of 7/06/2010 and the Decree of the President of 6/07/2010 on applicant's dismissal were repealed; the applicant's claim on the annulment of the order of the Nosivskyy District Court of 30/08/2010 on his dismissal was rejected.
9740/11 Oleg Volodymyrovych BACHUN	The proceedings are <i>pending before the Supreme Court</i> . The applicant submitted an appeal on the decision of the Higher Administrative Court of Ukraine found of 7/12/2017, by which it found in part for the applicant - the decision of the High Council of Judges of 17/05/2010, and the Resolution of the Verkhovna Rada of 3/06/2012 on the dismissal of the applicant for the violation of oath, were found illegal and repealed.
12812/11 Sergiy Mykhaylovych KONYAKIN	The proceedings are <i>pending before the High Council of Justice</i> . Following the decision of the Supreme Court of 3/04/2018 by which it found in part for the applicant by quashing the Resolution of the Verkhovna Rada of 3/06/2010 on the applicant's dismissal, the issue on the applicant's disciplinary responsibility was transmitted for <i>the retrial</i> to the High Council of Justice.
20554/11 Lyudmyla Ivanivna STASOVSKA	The proceedings are <i>pending before the Supreme Court</i> . The Grand Chamber of the Supreme Court by its decision of 15/02/2018 found in part for the applicant. The decision of the High Administrative Court of Ukraine of 23/09/2010, which refused to acknowledge the decision of the High Council of Judges of 26/05/2010 and of the Verkhovna Rada of 17/06/2010 as illegal, was quashed, the case was sent for <i>fresh consideration</i> to the Supreme Court.
35336/11 Petro Olegovych KOVZEL	By the decision of the Supreme Court of Ukraine of 11/09/2017, the applicant was <i>reinstated</i> in his post as a judge of the County Administrative Court of the city of Kyiv from 18/06/2010. The decision of the High Council of Judges of 7/06/2010 was quashed, and the Decree of the President on the applicant's dismissal for the violation of oath of 18/06/2010 was found illegal.
68443/11 Kyrlo Oleksandrovych KORMUSHYN	The proceedings are <i>pending before the High Council of Judges</i> . Following the decision of the Supreme Court of 2/03/2018 by which it found in part for the applicant and quashed the decision of the High Council of Justice of 6/12/2010 and the resolution of the Verkhovna Rada of 23/12/2010 on the applicant's dismissal for the violation of oath; the issue on the applicant's disciplinary responsibility was transmitted for <i>the retrial</i> to the High Council of Justice.

Application no. and the applicant's name	Status of proceedings
75790/11 Liliya Anatoliyivna VASINA	On 1/03/2018, the Supreme Court found in part for the applicant – the decision of the High Council of Justice of 1/03/2011 and the Resolution of the Verkhovna Rada of 3/11/2011 on applicant's dismissal for the violation of oath were repealed, other claims of the applicant were rejected.
78241/11 Igor Ivanovych BARANENKO	The proceedings are <i>pending before the Supreme Court</i> . On 14/02/2018 the Supreme Court reopened the proceedings following the request of the Verkhovna Rada to reconsider the decision of the Higher Administrative Court of 13/11/2017 by which the resolution of the Verkhovna Rada of 23/12/2010, which led to the dismissal of the applicant for the violation of oath, was found illegal.
5678/12 Igor Anatoliyovych BONDARENKO	On 19/02/2018 the Supreme Court found for the applicant. It quashed the Resolution of the Verkhovna Rada of 21/04/2011 on dismissal of the applicant for the violation of oath, and obliged the Verkhovna Rada to <i>transmit to the High Council of Justice</i> the relevant materials on the applicant's dismissal for <i>reconsideration</i> .
11775/12 Nina Dmytrivna BABYCH	The proceedings are <i>pending before the Supreme Court</i> - 2 applicant's claims – on acknowledgment of the resolution of the Verkhovna Rada of 17/06/2010 as illegal, and on the annulment of the decision of the High Council of Judges of 26/05/2010 on her dismissal for the violation of oath, were joined in one administrative proceeding.
21546/12 Oleksandr Mykolayovych ROZDOBUDKO	The proceedings are <i>pending before the Grand Chamber of the Supreme Court</i> . On 10/04/2018 the Grand Chamber of the Supreme Court commenced the appeal proceedings following the claim of the High Council of Justice on the decision of the Supreme Court of 15/03/2018 which found in part for the applicant and quashed the decision of the High Council of Justice of 14/06/2011 on the dismissal of the applicant.
54135/12 Lidiya Volodymyrivna TOKAR	The proceedings are <i>pending before the High Council of Justice</i> . Following the decision of the Supreme Court of 22/03/2018 by which it found in part for the applicant and quashed the decision of the High Council of Justice of 21/02/2007 and the resolution of the Verkhovna Rada of 5/06/2008 on the applicant's dismissal, the issue on the applicant's disciplinary responsibility was transmitted for <i>the retrial</i> to the High Council of Justice.
65207/12 Oleksandr Anatoliyovych SHKINDER	On 13/02/2018, the Supreme Court found in part for the applicant – the resolution of the Verkhovna Rada of 12/05/2012 on applicant's dismissal for the violation of oath was repealed; other claims of the applicant were rejected.
77810/12 Aleksandr Ivanovich VOLVENKO	On 6/03/2018, the Supreme Court found in part for the applicant – the resolution of the Verkhovna Rada of 12/04/2012 on applicant's dismissal for the violation of oath was repealed; other claims of the applicant were rejected.
242/13	On 19/03/2018, the Supreme Court found for the applicant – the resolution of the Verkhovna

Application no. and the applicant's name	Status of proceedings
Yuriy Oleksiyovych STREBKOV	Rada of 12/04/2012 on applicant's dismissal for the violation of oath was repealed.
15073/13 Gennadiy Leonidovych NEMYNUSHCHIY	The proceedings are pending before the Grand Chamber of the Supreme Court. On 29/03/2018 the Grand Chamber of the Supreme Court commenced the appeal proceedings following the claim of the Verkhovna Rada on the decision of the Supreme Court of 1/02/2018 which found in part for the applicant and quashed the decision of the Verkhovna Rada of 5/07/2012 on the dismissal of the applicant.
57154/13 Nataliya Grygorivha SEREDNYA	On 28/03/2018, the Supreme Court found in part for the applicant – the decision of the High Council of Justice of 16/10/2012 on applicant's dismissal for the violation of oath was repealed; other claims of the applicant were rejected.

Appendix B
Information on dismissal of judges on 29 September 2016

32 judges were dismissed by the Verkhovna Rada/President of Ukraine on this date, among these in three cases the Higher Administrative Court or Supreme Court ruled in favour of the claimants quashing the dismissal by the Verkhovna Rada. One judge as a result was reinstated in his position. Proceedings are pending before the Supreme Court since January 2018 in 28 cases. The Supreme Court rejected the applicants claims in 14 cases.