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CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

Answers to the Questionnaire for the preparation of CCJE Opinion No. 18 (2015):

"The independence of the judiciary and its relations with the other powers in a modern democratic state"

Introduction

The following questionnaire aims at gathering essential information on constitutional provisions and other laws (whether statutory or otherwise) concerning the relations between the three powers of state: judicial on one side, and the executive and legislative powers on the other. Where appropriate, the answers to the questionnaire should also provide information on specific issues and concerns in the respondent country on this topic. Answers will provide important material for the CCJE Opinion No. 18 to be prepared in 2015 as well as for the CCJE's next Situation Report.

Questions

1) How does the Constitution, or the other laws of your country, if there is no written Constitutional document, regulate relations between the judicial power on one side, and the executive and legislative powers on the other side?

Article 6 of the Constitution of Ukraine (adopted in 1996) stipulates that state power in Ukraine is exercised on the principles of division into legislative, executive and judicial power.

Throughout years of its independence there has been a couple of constitutional reforms but none of them concerned this specified concept of separation of powers.

2) Is there now, or has there been in the last 10 years, any important discussion in your country on this topic, either in the political/legal field, in university/academic circles, by NGOs, or in the media?

Yes, during past 10 years there has been three "waves" of Constitutional reform. Throughout all this period of time numerous draft laws on amending Constitution has been drawn, working groups consisting of MP's, judges, lawyers, scholars has been created; problems

of formation of the constitutional law in Ukraine are subjects for academic research and a separate discipline at law schools.

3) Has there been any significant debate on the issue of "judicial restraint" or "judicial moderation" with regard to the exercise of the judicial function vis-a-vis the other powers of the state? In particular, are there examples where public opinion and/or the other powers of state have suggested that the judiciary (or an individual judge/court in a particular decision) has impermissibly interfered in the field of executive or legislative power or discretion?

A striking example of the intervention of the judiciary of which spoke at all levels - government officials, the media and the public, is the decision of the Constitutional Court of Ukraine of 30.09.2010 №20-rp / 2010 on the abolition of the constitutional reform of 2004. Content and reaction caused by this decision, described in the following answers.

4) a) In your country, in the last 10 years, have there been any changes in the constitution/law regarding the judiciary (in the widest sense: structure, courts, judges) which have, arguably, affected the relationship between the judiciary and the other powers of the state or the separation of powers in your country?

The first wave of amending the Constitution took place after "the Orange revolution" in 2004 by restructuring the form of governing of Ukraine into the Parliament-Presidential republic (instead of Presidential-Parliament republic as it drew on the previous edition of the Constitution). Specified amendments concerned separation of powers between executive and legislative powers, namely, the President lost some its authorities by giving it to the Parliament (The Verkhovna Rada). These amendments didn't have a direct impact on judiciary, but it have given rise to a couple of law suits over the legitimacy of such constitutional amendments.

The second wave was in 2010 at the beginning of the Presidential term of Viktor Yanukovich, when the Constitutional Court of Ukraine declared that the Law amending the Constitution in 2004 was inconsistent with the Constitution of Ukraine. Grounds for such a decision were numerous violations of the Regulations of the Verkhovna Rada while MP's have been adopting Constitution amendments in 2004. Again, this particular decision of the Constitutional Court of Ukraine №20-рп/2010 of September 30, 2010 gave rise to a public reaction and further political disputes. This decision actually revoked constitutional reform of 2004.

Afterwards some politicians published information that some judges of the Constitutional Court of Ukraine supposedly "made written statements" that the Administration of the President (Viktor Yanukovich) put them under undue pressure while making the decision on revoking Constitutional reform of 2004 (*statement of Arsenii Yaceniuk, the chairman of the political party "Bat'kivshchyna", back in December, 2013*).

At the height of the "Revolution of dignity" ("Euro Maidan", 2014) a few days after overthrowing of Viktor Yanukovich President's powers the Parliament of Ukraine though violating some procedural provisions adopted the Law which resumed Constitutional reform of 2004.

Envisaged amendments to Constituion of Ukraine, which took place in 2004 – 2014 themselves haven't amended the Chapter "Justice", but it caused disbalance within judicial system, contradictions of the court practice, numerous law suits and gave serious grounds for purification and reformation of the judicial system.

b) In your country, are there any current proposals for changes in the law as referred to under a)? In each case, please indicate the "official" reason for the changes or proposed changes.

In May 2012 the President of Ukraine established the Constitutional Assembly in order to draw the conception of the judicial reform including amendments to the Constitution of Ukraine.

In July 2013 the President of Ukraine Viktor Yanukovich brought before the Parliament of Ukraine a draft law "On the amendments to the Constitution of Ukraine on the enhancement of the guarantee of the independence of judges" amending the Constitution.

Before bringing the draft law to the consideration of Verkhovna Rada The Venice Commission adopted the Opinion 722/2013 (June 13, 2013) concerning this draft law. The Opinion dealt with two separate texts: the draft Law "On the amendments to the Constitution of Ukraine on the enhancement of the guarantee of the independence of judges" and the proposed Changes made by the Constitutional Assembly, which have not taken the form of a legislative text. The draft law "On the amendments to the Constitution...." wery a product of the discussions in the Constitutional Assembly, but are based on a draft prepared by a working group of the Presidential Administration. This could raise doubts with respect to the inclusiveness of the Constitutional Assembly, which could have been avoided if the constitutional Assembly's work had been based on drafts produced by its own working parties.

According to the draft law prepared by the Presidential Administration the Parliament should be divested from electing judges on a lifetime term, instead it contained a provision that "appointment to the position of judge is done for unlimited term by the President of Ukraine upon and in accordance with a motion of the High Council of Justice". This provision stated a ceremonial role of the President in appointing of judges procedure.

Instead the draft law empowered the Parliament to determine the network, to establish, reorganise and abolish the courts of general jurisdiction upon the motion of the President of Ukraine. According to the Constitution all these powers are now in the authority of the President.

The Venice Commission welcomed such changes because "they are in line with the principle of the separation of powers abd affirm the balance and co-operation between legislative and executive branches, with the aim of ensuring the independence of the judiciary". (para 13 of the Opinion 722/2013 of June 13, 2013).

Also the draft law deleted the provision concerning probation period of judges which was criticised from outset.

Article 127 proposed to require newly appointed judges to be 30 years old as against the current 25 and to have give years rather than three years' experience.

The draft provided essential changes to the procedure of bringing judges to respnisibility. Thus, to arrest or detain a judge the consent of the High Council of Justice should be required instead of the Parliament's consent as it is required by the Constitution.

Also the draft proposed an entirely new composition of the High Council of Justice by total expulsion the representatives of the President and of the Parliament, which under effective Constitution have a right to appoint 3 members each.

For the most part, this draft law prepared by the Presidential Administration was welcomed by the Venice Commission, because it contained provisions in line with international standards and recommendations of the Council of Europe, the Venice Commission made in previous opinions on request of the Ukrainian authorities. Although the Venice Commission recommended to provide safeguards of transparent executing of powers by the High Council of Justice and the High Qualification Commission of Judges, it should contain a provision that the Prosecutor general should not have a vote on matters concerning the career or discipline of judges, that judges should be the subject to the functional immunity only.

The daft passed through the first reading in the Parliament and according to experts' views should have been adopted in February 2014, but MP's voted against it.

There was another draft law #3356-2 in 2013, signed by the leaders and MP's of the opposition (at the time) parties. As against the Presidential draft law it provided some expansion of powers of the Supreme Court of Ukraine, specifically the Supreme court was authorised to decide whether the case should have been brought before the Supreme Court. According to active legislation mentioned above is a competence of the High Specialised Court of Ukraine. But in the meantime this draft contained some doubtful provisions in the view of European standards such as vesting the Supreme Court with powers to give recommendations on applying the legislation.

It was one of the main demands proclaimed during the Revolution of Dignity, which took place in February 2014, to reform judicial system of Ukraine. Nowadays serious discussions, disputes concerning the main trends in judicial reform going on among professional actors: judges, politicians, academic researchers, and although in circles of mass media and society as a whole. The public demands an early reform of the judiciary by updating obsolete and ineffective, in their opinion, system that existed at the time of the previous President (Viktor Yanulovich).

The first thing to look at in the reformation process of judicial system is whether to amend the Constitution of Ukraine or just submit amendments to the law "On the Judicial System and Status of Judges".

April 4, 2014 the Verkhovna Rada of Ukraine has established the Interim Commission for the Preparation of the draft law on amendments to the Constitution of Ukraine. Currently, the Commission has prepared a draft law on decentralization of power, without affecting the judiciary. However, considering the need for the implementation of judicial reform, by the Commission has been receiving proposals to reform the judiciary.

Thus, April 11, the Supreme Court of Ukraine submitted to the Commission its proposals for reforming the judicial system at the constitutional level. The main proposals of the Supreme Court may be distinguished:

• *provide a provision that "Courts have jurisdiction over all legal relations arising in the country."* This will enable the development of mediation institutions, expansion of the categories of cases to be resolved by arbitration courts and retain legal control by the courts over decisions made by these bodies;

• *Restoration of three links system of courts of general jurisdiction, to consist of the Supreme Court, appeal and local courts; withdrawal provisions for construction of general jurisdiction court system on the basis of specialization.* Proposed system tends to be more efficient, promotes consideration of cases within reasonable time, and is based on the conclusions of the Venice Commission (paragraphs 45 and 63 of the Opinion of June 15, 2013 № 722/2013);

• *To depute powers to sanction the detention or arrest of judges from Parliament to the High Council of Justice*. This will limit the political influence of the legislature to the judiciary.

• *To establish that appointment of judges for the lifetime term os proceeded only by the President upon the motion of the High Council of Justice*. President gets only a ceremonial role.

• *Abolishment of the five-year appointment of judges for the first time.* The Supreme Court refers to the Opinion CCJE №1 (2001), which emphasized that the practice of most European countries provides for the appointment to full-time until retirement age. It shall also limit the interference of the legislative and executive authorities, members of the High Council of Justice, the High Qualifications Commission, with career development of judges.

• *Providing the participation of the judiciary in the setting the state budget of Ukraine.* This proposal is also based on the provisions o the para 5 Opinion CCJE №2 (2001).

• *Abolishing of the High Qualification Commission of Judges and transferring its authority to the High Council of Justice; exclusion from the High Council of Justice members who are appointed by the president and parliament.*

• *Vesting the Supreme Court of Ukraine with authorires of legislative initiative is considered as inreasoned*. This position is grounded by the fact that in this case the Supreme Court will be involved in the political process, which itself violates the principle of independence of the judiciary;

• *Vesting the Parliament with powers to establish, reorganise and abolish courts of general jurisdiction.* The provision has also been repeatedly recommended by international institutions, the courts should be established by laws which in the hierarchy of norms are higher than the decrees of the President of Ukraine. As to the present Constitution it is the President of Ukraine who deals with establishment, reorganization and abolishment of courts.

c) In your country, are there any serious discussions or debates (in political circles, by the public generally or in the media) with a view of introducing changes in the law as referred to under a)?

Alongwith mentioned draft laws and proposals it should be cited the examples of initiatives that received less support in professional circles. Thus, in 2012, a member of the Constitutional Assembly Mykola Melnik, along with proposed amendments by Presidential Administration, set alternative ways of judicial reform, namely:

• Abolishing of the Constitutional Court of Ukraine and vesting the Supreme Court of Ukraine with the constitutional jurisdiction;

• appointment of judges to administrative positions (for chairman and deputy chairmen of courts) shall be the competence of judicial self-government bodies, namely, the Council of Judges of Ukraine;

• implementation of the Peace Justice;

• to enshtine the provisions in the Constitution that no one has the right to require the judge to report on the specific case.

Also in June 2014 political party "Freedom" proposed anendments to the Constitution concerning the judiciary:

• prviding that the judicial power was vested in the Supreme Court and lower courts established under the Constitution of Ukraine. Delegating the court functions to other bodies or officials is prohibited;

• Creation of two panels of judges who carry out justice in private law and public law relations in appeal courts and in the Supreme Court and;

• election of local judges by citizens of Ukraine;

• appointment of judges to a specified (limited) period of time;

• deleting the provision of the Constitution: "independence and integrity of judges is guaranteed by the Constitution and laws of Ukraine."

With regard to recent developments in the field of judicial reform, it should be noted that October 27, the President established the Council for Judicial Reform, composed of the heads of courts, experienced lawyers, researchers, representatives of NGOs and international experts.

Autumn 2014, Olexander Volkov, the Head of the Department of Judiciary and Legal Policy of the Presidential Administration of Ukraine, former Supreme Court judge, said: "The Council on Judicial Reform is trying to draw principles that are necessary to comply with for Ukraine to achieve by 2020 the EU standards and be able to enter the EU. The objective of the Council is to find instruments by which we can achieve this goal in the judicial system. Not only by correcting some provisions of the current Constitution, but also by understanding what changes we have to introduce to the Basic Law and what result we want to get. "

As the President Petro Poroshenko noted in December 2014: "For a complete reboot of the judicial system, appropriate changes to the Constitution are needed. Let's speed up these positions. "

Similar views the Deputy Speaker of the Parliament of Ukraine Oksana Syroiid shares: "Accomplishment of a full upgrading of the state powe - the judiciary and local authorities - is possible only by amending the Constitution of Ukraine. The country can not wait for constitutional changes to autumn next year. ".

January 13th, 2015 the Parliament of Ukraine in the first reading at once adopted the two bills to be the basis of the future law on judiciary – one prepared by the Cabinet of Ministers (the Government) and the other by the President (prepared by the Council on Judicial Reform), but these bills do not provide the amendments to the Constitution of Ukraine.

Regarding recent legislative intentions, January 16, 2015, the Parliament was introduced with a bill on amendments to the Constitution of Ukraine concerning the abolition of immunity of MPs and judges. This draft lawl provides that a judge can not be arrestedand detained without the consent of the High Council of prior to indictment by the court, except for the arrest at the moment of commission of an offence or immediately after committing a serious or especially serious crime against life and health (under current legislation the Parliament givesfor permission detention or arrest of a judge); bringing judges to legal liability is carried out on general grounds under common procedure. Judges may not be held legally responsible for acts committed in connection with the administration of justice, except when a judge delivers a knowingly wrongful judgment, breaches the oath or commit a disciplinary offense.

5) In your country, have there been any significant comments by politicians or other relevant groups with respect to the role of the judiciary/courts in their capacity as the third power of the state? If so, please briefly identify their nature and content and indicate the reaction of the public or media reporting of "public opinion".

It should be mentioned that in Ukraine the issue of respect for the judiciary in the context of the commenting and assessing decisions of judges and courts by the officials of the executive and the legislature, the media and the public in cases that are still pending is a severe issue.

Unfortunately, examples of incorrect coverage of court performance are widely met. There are some recent statements made by politicians and the media.

In January 2015, the President of the National Security and Defense Council of Ukraine (from February 2014 to May 2014 he has been acting for the President of Ukraine) Oleksandr Turchynov noted that "courts must put an end to the issue of delivering verdicts against corrupt officials, but since the courts are not actually updated and the old troubled corrupt system remained, they cannot do so."

Commenting on the critical importance of amending the Constitution on the functioning of the judiciary, the Deputy Speaker of the Parliament of Ukraine, Oksana Syroiid said: "No less tension in society creates yet uncompleted judicial reform. The problem lies not entirely in corrupted judiciary. Considerable number of the judges still retains its loyalty to the Kremlin. The expulsion such judges of the judiciary is a matter of national security for Ukraine. "

As stated in the answer to question 2, the decision of the Constitutional Court of Ukraine in 2010 for annulment of the constitutional reform of 2004 caused a great resonance in society. During the coup in February 2014 the Parliament by its resolution of 24 February 2014, which restored the Constitution in its edition of 2004, in fact, found that in 2010 the Constitutional Court of Ukraine by its decision to return the Constitution of 1996 changed the constitutional order, and that judges who took this decision breached the oath. The Verkhovna Rada removed from the office five judges of the Constitutional Court, who was elected by the Parliament according to the procedure of composing the Constitutional Court. The Parliament also called on Acting President and Congress of Judges to dismiss judges of the Constitutional Court by these bodies for breach of the oath.

Representative of Ukraine during the year has repeatedly informed CCJE about the situation that was developing in Ukrainian judicial system, in particular, concerning the Law "On restoration of trust in the judiciary of Ukraine" and the Law "On purification of government." As at December 10, 2014 according to the first law the Interim Special Commission that provides vetting for judges, since August 2014 has initiated 172 vettings concerning judges, adopted 8 opinions on breach of the oath and directed them to the High Council of Justice, adopted 2 conclusions on presence of disciplinary offences and forwarded the materials to the High Qualifications Commission of Judges of Ukraine.

According to the Law "On purification of government" officials and officers are subject to verification whether there are grounds for their dismissal under this Law. The stage of undergoing vetting judges has started on December 2014 and has to be completed by December 2015. This law has caused considerable debates among the public, including on its compliance with the provisions of the Constitution of Ukraine.

In November 2014 the Supreme Court of Ukraine filed a constitutional petition for verification of certain provisions of the Law "On purification of government" in compliance with the Constitution. Judges believe that provision for removing from the office their colleagues who during Euromaidan rendered decisions on opting the measures of restraint against activists or passed any politically motivated decisions to arrest political activists is unconstitutional. The Supreme Court considers that the lustration without review the legality of court rulings is a violation of the Constitution of Ukraine. In addition, the same judges to be dismissed in accordance with previously adopted law "On Restoring confidence in the judicial system." are the subject of vetting and then dismissal under the Law “On purification of government”. That is, they suffer double punishment for their actions.

The Plenum of the Supreme Court also decided that simultaneous lustration of members of the High Qualification Commission of Judges and of the High Council of Justice and the front office of the State Judicial Administration only because they have been working during Euromaidan and haven’t quitted, is a violation of the principle of individual responsibility.

Regarding these initiatives some politicians expressed some concerns that the judiciary "put the brakes on" the process of purification of government.

Also in the local courts there are pending cases on reinstatement of officials who had been dismissed under the Law "On purification of government". Currently there are 2 decisions made by local courts on sustaining the claim and the reinstatement of officers. The Ministry of Justice of Ukraine has sharply reacted to the imposition of such a judgment. The Ministry of Justice has addressed the High Qualification Commission of Judges of Ukraine with a demand to bring a judge of the Kharkiv District Administrative Court Valentina Samoilova, who rendered a decision on reinstatement a prosecutor, dismissed under the Law "On cleaning power”, to disciplinary responsibility. Pavlo Petrenko, Minister of Justice of Ukraine, said he would forward the materials on this fact to the Prosecutor General of Ukraine to conduct an investigation for signs of crime in this decision made by the Judge Samoilova. Mr. Petrnko emphasized that the Ministry of Justice would respond to every fact of delivering similar judgments. "In all these cases the Ministry of Justice is going to challenge judgments in higher instance court and to intervene in proceedings. If the actions of judges seem to have signs of disciplinary or criminal offenses, we will address the investigative bodies, and as a member of the High Council of Justice I will initiate proceedings against these judges to bring them to responsibility, "- he said. The Ministry of Justice of Ukraine has also approached the Supreme Court of Ukraine and the Supreme Administrative Court of Ukraine with an initiative to clarify the application of the Law "On purification of government" by judicial bodies.

The Head of the Department on lustration procedures of the Ministry of Justice Tetiana Kozachenko said that judge Samoilova hasn’t not figured out the vetting procedures and

confused the rule of law. She also noted that, along with three members of Parliament she came to Kharkov to "talk with the judge Samoilova."

The case got extraordinary public reaction and comments of the Ministry of Justice in respect of a judgment which is not enacted, only exacerbate the tension.

Regarding this situation, January 22, 2015 judges of Kharkiv Administrative Court of Appeal addressed the Council of Judges of Ukraine and the Prosecutor General of Ukraine on taking immediate steps to ensure judicial independence at both the administration of justice and after that.

Here are some excerpts from the judges' appeal:

"Later cases of undue pressure on judges has become systematic and frightening, including some cases where representatives of the executive bodies and MPs take part. There is a tendency, when the actions of specified subjects are beyond the powers granted them by law, it results in improper attempt to exercise control over the examination of cases by courts, to cause negative attitude of public to the judiciary of Ukraine and sometimes includes open threats of physical violence. "

"An example of interference in the administration of justice is a message of the MP, Chairman of the Anti-Corruption Committee of Verkhovna Rada of Ukraine Yegor Sobolev made in network" Facebook "on the announcement to visit with another MP Semen Semenchenko and soldiers of battalion "Donbass" Judge Samoilova and judges of Kharkov administrative Court of Appeal. Yegor Sobolev characterizes the court's decision on reinstatement of a prosecutor as a disgusting event that must be stopped, and gives judges of appeal court a "chance" to deliver the lawful, in his opinion, decision. The proceedings in the Court of Appeal on this case was delayed, and Yegor Sobolev in an interview to the national channel said: "Unless the case is won - the judge will be thrown out of the windows." Similar expressions of threatening with the gibbet law has published another MP Simon Semenchenko on January 20 2015. "

"These actions and expressions of MPs, who are representatives of legislative power in Ukraine, appeal to be a direct interference with the administration of justice, the pressure on court and judges."

In their appeal to the General Prosecutor of Ukraine judges of the Kharkiv Administrative Court of Appeal asked to give proper legal assessment of the actions of listed persons concerning the unlawful influence on courts and judges.

It should be noted that in recent years, cases of pressure on judges by holding rallies, meetings, mass actions of citizens before or at the courthouse has increased. Of course, freedom of speech and the right to hold peaceful rallies are strongly maintained in Ukraine, the rights of individuals to open court hearings are respected, but often during these meetings citizens fall outside the scope of rights granted them.

In late December 2014 the judges of Rivne Commercial Court of Appeal addressed the Council of Judges of Ukraine on the matter of resistance in proper administration of justice. Thus, the day of a particular case hearing in front of the court were about 50 people who then chose to attend the court hearing. Throughout the court hearing (3, 5 hours) in front of the court powerful sound equipment was turned on loud music. After the announcement of the judgment the panel of judges, assistant of judges, court session secretary and registrar have been locked in a courtroom by the protesters, who, in addition, addressed threats and insults. Blocking of judges and court staff stopped only after production and transfer of technical record of court hearing to the representative of a party (which supported the protesters).

This extraordinary and threatening situation should get proper legal assessment by the Prosecutor General, Ministry of Internal Affairs of Ukraine; the necessary measures to ensure the safety of judges and judicial apparatus should be taken.

Also, January 19, 2015 Kremenetskiy District Court Ternopil region informed the Council of Judges of Ukraine on some cases of interference in court's and judges' performance. In January, a judge of the court Mrs. L.Varnevych by its judgment released ex-mayor of a town from criminal responsibility. In response to this decision January 16, 2015 a group of people set fire at the entrance to the courthouse using tires, shouted abusive remarks to the judge, and later broke into her office, threatened with physical violence, forced her to write a letter of resignation. Then the "protesters" grabbed Judge L.Varnevych and the President of the court and put them into the trash skip. Law enforcement agencies have not provided adequate protection for judges and court staff, only three employees of the judicial police tried to protect the judges and got injured..

This incredibly blatant case of disrespect for the judges and emplouying physical violence should have no place in civilised country. Unfortunately, there are some concerns that such situations tend to be repeated, so that the level of tension and discontent in society is very high, and the statements of some politicians, journalists only promote distrust and contempt for court system.

6) To what extent, if at all, is the proper administration of justice affected by the influence of the other state powers (e.g. the ministry of finance with respect to administering budgets, the relevant ministry with respect to information technology in courts, the cour de compte, parliamentary investigations etc. or any other external influence by other powers of the state)?

The problem of proper and adequate funding of courts has existed since Ukraine's independence, but due to recent events (external political disputes, armed conflict in the east), the situation deteriorated.

According to the Constitution of Ukraine (article 130) the State Budget of Ukraine separately sets out expenditures for the maintenance of the courts. According to the Law of Ukraine "On the Judicial System and status of judges" expenditures on the courts in the State Budget of Ukraine shall not be reduced during the current fiscal year.

When making a budget for next year the Constitutional Court of Ukraine, general jurisdiction courts prepare the budget requests for adequate funding for the upcoming year. In case the Ministry of Finance of Ukraine believes that budget requests are not justified, it includes them in the draft State Budget of Ukraine and submit to the Cabinet of Ministers of Ukraine accompanying reasoned conclusions indicating obstacles to meeting these needs.

In practice, courts are sometimes without adequate funding by 30%.

The bill to reform the judiciary pays special attention to the issue of funding the judicial system, many of them proposed involvement of the Council of Judges of Ukraine to the budgeting process.

Also in 2014 against the background of crisis in the country the Verkhovna Rada of Ukraine limited the maximum of judges' remuneration to 15 minimum wages. This act provoked considerable discussion as the Law "On the Judicial System and status of judges" provides that judicial independence is ensured, including material and social security, and the adoption of new laws or amendments to existing laws shall not be diminished content and scope defined by the Constitution guarantees the independence judge.

State Budget for 2015 limits the maximum amount of remuneration of a judge to 7 minimum wage.

These laws "On restoration of trust in judiciary of Ukraine" and the Law "On purification of government" and the position of the executive and the legislative bodies about the "lustration" of judges show a significant influence and pressure on the judiciary.

7) Do you have any other comments to make with regard to the relations between the judiciary and the other powers of state in your country?

As stated above, in November 2014, the Supreme Court of Ukraine forwarded a motion to the Constitutional Court of Ukraine to make an opinion on compliance of certain provisions of the Law of Ukraine "On purification of government" with the Constitution of Ukraine. According to the President of the Supreme Court of Ukraine, Judge Yaroslav Romaniuk, this law has shown the political will of dismissal of judges with violation of the constitutional procedure only because these judges has rendered decisions regarding people who participated in the rallies. This will open the way to the European Court of Human Rights for dissmissed judges and certainly they shuold win these cases. Judges are not against of lustration, but the process must comply with European standards, have to be cautious and must not violate fundamental human rights, and must not be an instrument of political will of jigh authorities and individual officials.

With regard to the ways of reforming of the judiciary, Mr. Y.Romaniuk sustained position of the Supreme Court of Ukraine and of a considerable part of legal professionals that political circles should not take part in the formation of the judiciary, as it does now (Parliament appoints judges for permanent term, decides whether to arrest, dismiss them, etc.). The High Council of Justice should also be restructured, the majority of which should be composed of judges. However, changes to legislation and by-laws would not help the situation, it is the Constitution that has to be amended. As showed data monitoring "Level of trust in the judiciary" carried out by independent agencies, the level of trust in the judiciary among those who at least once has been involved in court proceedings (parties, lawyers, etc.) is much higher than the level of trust of citizens who have never faced the judiciary and their opinion of the judicial system is influenced by politicians and statements in the media.

As mentioned above inadequate funding of the judiciary and recent legal initiatives to cut salaries of judges also threatens the proper administartion of justice in Ukraine and it directly contradicts the Ukrainian and European legislation.

In my personal opinionm, Ukraine met the urgent need to reform the judiciary, as some elements of the existing judicial system are outdated, inefficient, and therefore can not meet the standards of an independent and fair trial. It is insufficient to amend current or to adopt new laws, the constitutional reform has to be introdused, but only according to well-considered draft laws on amending the Constituion having regard the opinion of the judiciary The main fear of the judges concerning future judicial reform in Ukraine is not that it would change an accustomed system, but the fact that it could be carried out hastily, lacking sustainable and efficient provisions, and that it can result in dissmissal of all the judges of Ukraine or its majority, and that this destroy the pillars of independence of the judiciary.