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“transparent and efficient justice”
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SPEECH

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Unofficial translation

In order to provide the existence of the impartial and transparent justice system, that will ensure effective access of citizens to justice, constitute prevention and fighting against corruption as well as protection of human rights at all levels, in Ukraine has been made most important and most long-expected reform – reform of the judicial system.

This relevant and important step was made on July 7, 2010 when the Parliament of Ukraine adopted Law "On the Judiciary and Status of Judges".

The provisions of this Law takes into consideration the conclusions the Venice Commission, provided both for draft laws on the judiciary, previously considered by the Verkhovna Rada of Ukraine, and similar draft laws of other Council of Europe member-states.

In the Venice Commission Conclusions regarding the Law of Ukraine "On the Judiciary and Status of Judges", approved on its meeting October, 15-16 this year, most of the provisions were considered by the Commission corresponding to the recognized European standards in the sphere of the right to a fair trial guarantee.

Among the innovations and progressive provisions, aimed at the establishment of an independent and at the same time transparent justice system in Ukraine that will provide qualified legal protection of the rights and interests of each individual applying to the court, should be noted the following:

1) Improved court system

Unfortunately, before the adoption of this law in Ukraine existed the system in which the cassation decision reviews were carried out by the higher specialized courts and after that in order of reappeal by the Supreme Court.

The Law has established in Ukraine the unified system of appeal institutions, headed by the respective higher courts, that should contribute to the unity of the trial and the appeal courts judgments, as required by the European Convention on Human Rights and Fundamental Freedoms and the European Court of Human Rights practices.

Besides, the Law has eliminated the military courts, the existence of which contradicted the European standards and the European Court of Human Rights practices.

2) Improved procedure for judges appointment

The provisions of the Law introduce a new mechanism for judges selection, built on the principles of competition and transparency. Under this provisions the authority to select candidates for judicial appointment was first granted to the Higher Qualification Commission of Judges of Ukraine, as a permanent body in the judicial system, consisted mostly of judges.

The procedure for appointing judges to the position for the first time, among other, will include special training for candidates, passing the qualifying examination (by anonymous testing), formation of candidates' rate and including them to the working balance of filling vacant judge posts; the recommendation for the judge appointment according to the candidate's rank position.

The proposed Law procedure will enable the formation of the judiciary exclusively from the professionally trained people for the job, in the same period of time reducing the possible corruption risks.

The law takes into consideration the Council of Europe Recommendations and the conclusions of the Venice Commission, requiring the creation of the judges appointing procedure independent from the political interference.

Thus, the provisions of the Law has removed the political component of the judges appointing process for the first time by the President of Ukraine and permanently by the Parliament, because these decisions of the above-mentioned bodies have rather ceremonial character.

In particular, the Law does not provide the right of the President of Ukraine to reject the representation, made in the prescribed manner by the Supreme Council of Justice for the candidate's judicial appointment and the right of the Verkhovna Rada of Ukraine – to consider the issue of permanent judge selection on the parliamentary committee meeting and to conduct preliminary inspection.

3) Reformation the mechanism for bringing judges to disciplinary responsibility

The Law improves the procedure for bringing judges to disciplinary responsibility. The power to identify the law violations by judges has received the Higher Qualification Commission of Judges of Ukraine.

For prompt and efficient examination of the issues concerning the judges responsibility under this Commission will operate the service of disciplinary inspectors, who under the instructions of the members of the Commission will preliminary analyze the statements and reports on judges' misconduct.

The law has defined the precise list of reasons for bringing judges to disciplinary responsibility. Everybody has the right to appeal the judge's behavior directly to the Higher Qualification Commission of Judges of Ukraine, which should exam such kind of complain.

The established by the Law mechanism for bringing judges to disciplinary responsibility will ensure efficient and transparent reaction on the law violations by the judges. At the same time the Law takes into consideration the European standards, according to which the function of investigation and taking the decision on bringing a judge to responsibility are not combined in the same institution.

4) The change of court administration order

The law takes into consideration the preliminary conclusions of the Venice Commission and has changed the status of the State Court Administration of Ukraine that previously was the authority of executive power and after the judicial reform transfered to the judicial branch.

This body will provide organizational support of the judiciary within the power, established by the Law. The direction of the State Court Administration of Ukraine will be appointed and dismissed by the judicial selfgovernment body – the Council of Judges of Ukraine.

5) Reviewed judges guarantees

The Law abolishes the privileges of judges and establishes the adequate cash allowance for judges, prescribed by law, as required by the Constitution of Ukraine and the European standards in the field of judicial independence.

The judicial fee will consist of the official salary, related additional payments and depend on the amount of the minimum salary.

6) Establishment of the new mechanisms to ensure the independence of judges

The Law has introduced the automatic system of documents circulation and the distribution of cases in all courts of general jurisdiction.

The courts chairmen are deprived of the possibility to influence the logistics of the judges of the appropriate court and of any procedural influence leverage over the legal investigation.

The Law has settled the new issues of criminal responsibility of judges. The right to initiate the criminal case against the judge has only the Prosecutor General of Ukraine or his deputies that makes it impossible to influence on judges by other authorities, in particular by law enforcement authorities.

These and other innovations of the Law are aimed to ensure the independence of courts as a whole and judges in particular.

In this case, I hope, that the realization of this law will allow to fulfill the main task we have set – to increase the confidence of the judicial system of Ukraine that will guarantee the protection of the rights and freedoms of citizens, prescribed in the Constitution of Ukraine.

In conclusion, I would like to mention that – the colleagues, gathered here, will understand me as no one else – an effective justice system is impossible without justice, i.e. fairness.

And, despite the fact that we fully understand the long way we still have to pass in order to talk about the real human rights protection in Ukraine, today I can state that we have made the most important step to an effective justice system.