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Strasbourg, 22/07/2022

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PART 2

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

Support for a better evaluation of the results of judicial reform efforts in the Eastern Partnership "Justice Dashboard EaP" Action

Data collection: 2020

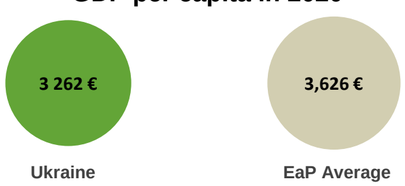
Report prepared by the CEPEJ for the attention of the European Commission

Part 2 (A) - Beneficiary profile - Ukraine

Executive Summary - Ukraine in 2020

Population in 2020

GDP per capita in 2020



Average annual salary in 2020

4 520 €

EaP Average: **4 261 €**

Budget

Given that some budgetary data was not available for 2020 in Ukraine, it is possible to present only the information on all courts and legal aid implemented budgets for this cycle. Thus, Ukraine spent as implemented **518 902 495€ for all courts**, which means 12,5€ per inhabitant, which is higher than the EaP median of 7,7 € per inhabitant. For **legal aid, it spent 20 599 935€,** which means 0,5€ per inhabitant and on a par with the EaP median for 2020.

The 33% increase in the courts budget in 2020 compared to 2018 is caused by inclusion of two more courts. Compared to 2018, Ukraine has spent 28,2% more for legal aid (please see the Indicator on Budget).

Legal aid

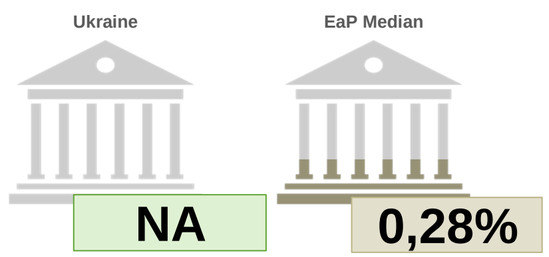
In 2020, the implemented budget for legal aid spent by Ukraine was 0,5€ per inhabitant (the same as the EaP median). In 2020, Ukraine spent 25,9% more compared to 2018 for legal aid. Important changes have been introduced in legal aid in Ukraine in 2020, including the establishment of a Supervisory Board of the Coordination Centre for Legal Aid. The scope of legal aid and the range of beneficiaries of legal aid have been broadened. Legal aid became also more accessible through digital tools and communication channels (for more, see Legal Aid).

In 2020 **legal aid was granted to a total of 656 207 cases**, 568 931 of which where other than criminal cases. Of the total, the legal aid was granted for 510 118 cases brought to court.

Budget of the Judiciary

Implemented Judicial System Budget per inhabitant in 2020

Implemented Judicial System Budget as % of GDP in 2020



Efficiency*

In 2020, some backlog was created for all types of cases in both first and second instance courts (Clearance rate - below 100%). Second instance administrative cases were resolved faster than other types of cases with a Disposition Time of 81 days. The highest Clearance Rate was in first instance civil and commercial cases (98%). However, it seems that Ukrainian courts were not able to deal as efficiently with the first instance administrative cases (CR of 80,9%).

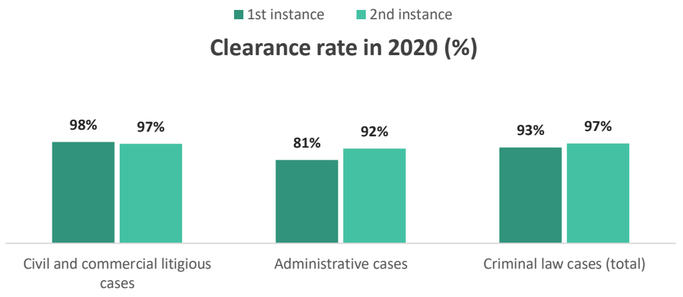
In 2020, the Clearance Rates are above the EaP medians in all cases and all instances, with the exception of administrative cases in first instance courts, where it was lower than the EaP median for 2020 (81%). The Disposition Time is lower than the EaP medians in all courts and all cases, except criminal law cases in both instances where is it is higher (298 days in first instance and 121 days in second instance, compared to the EaP medians of 242 days and 113 days respectively).

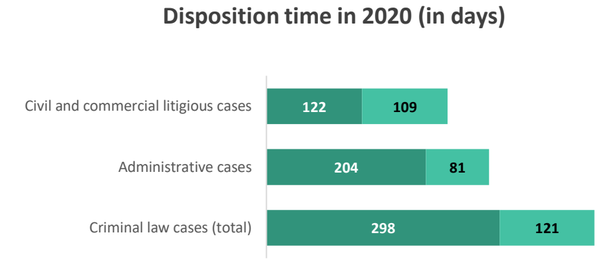
In Ukraine there are quality standards determined for the judicial system at national level. The monitoring of pending cases and backlog is done within the Court Performance Evaluation Framework developed by the working group on the development of court quality assurance systems approved by the Council of Judges of Ukraine.

* The CEPEJ has developed two indicators to measure court's performance: clearance rate and disposition time.

Clearance Rate, obtained by dividing the number of resolved cases by the number of incoming cases, is used to assess the ability of a judicial system to handle the inflow of judicial cases. Its key value is 100%. A value below 100% means that the courts weren't able to solve all the cases they received and, as a consequence, the number of pending cases will increase, while CR above 100% means that the courts have resolved more cases than they received (they have resolved all the incoming cases and part of pending cases) and, as a consequence, the number of pending cases will decrease.
Disposition Time is a proxy to estimate the lengths of proceedings in days. It is calculated as the ratio between the pending cases at the end of the period and the resolved cases (multiplied by 365). It estimates the time to resolve all pending cases based on the actual pace of work. This indicator is highly influenced by the number of pending cases: categories of cases with high backlog will have higher DT than categories of cases that do not have backlog. At the same time, it is affected by the number of resolved cases, and this is especially evident in 2020, when this number dropped.

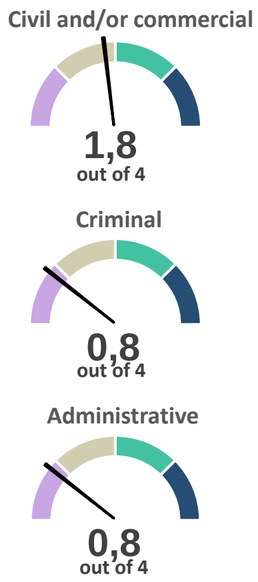
Efficiency





CMS index (scale 0-4)

The Case management system (CMS) Index is an index from 0 to 4 points calculated based on five questions on the features and deployment rate of the CMS of the courts of the respective beneficiary. The methodology for calculation provides one index point for each of the 5 questions for each case matter. The points regarding the four questions on the features of the CMS (status of cases online; centralised or interoperable database; early warning signals; status of integration with a statistical tool) are summarised while the deployment rate is multiplied as a weight. In this way, if the system is not fully deployed the value is decreased even if all features are included, to provide an adequate evaluation.



Electronic case management system and court activity statistics

In Ukraine, there is a case management system (CMS), eg software used for registering judicial proceedings and their management. The CMS index for Ukraine is lower than the EaP median (1,8 for civil and/or commercial cases versus EaP 2,4; 0,8 for each criminal and administrative cases versus EaP medians of 1,9 and 2,0 respectively).

In Ukraine, there is a centralised national database of court decisions in which judgements for all instances are collected, with anonymised data. The case-law database is available online for free in open data. There are no links therein with ECHR case-law (hyperlinks which reference to the ECHR judgements in HUDOC database).

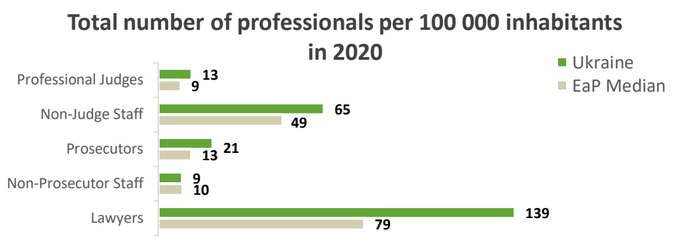
Trainings

In 2020, the total budget for training of judges and prosecutors in Ukraine was 11,5€ per 100 inhabitants, which is lower than the Eastern Partnership (EaP) median of 26,6€ per 100 inhabitants. The number of delivered in-person training days decreased between 2018 and 2020 (from 1178 days to 224 days). At the same time, the number of courses available online increased from 54 in 2018 to 382 in 2020. The Prosecutors' training system underwent a reform through the establishment of a new Training Centre (for more - see Training).

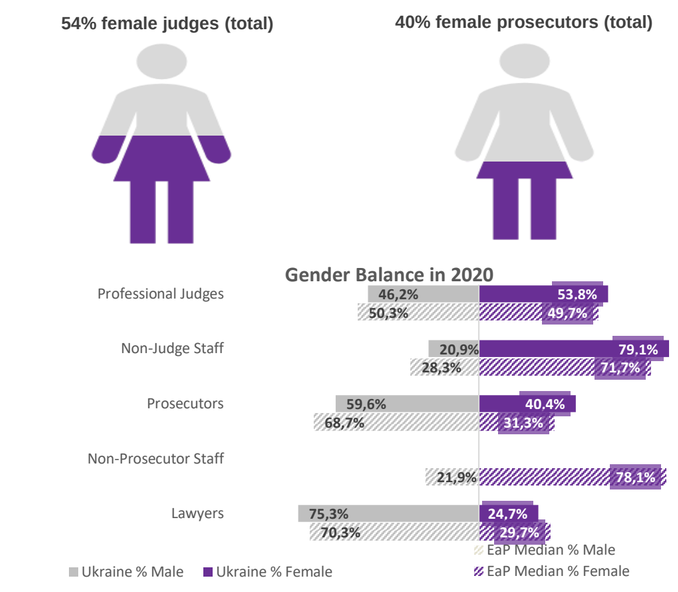
ADR (Alternative Dispute Resolution)

There was no court-related mediation in Ukraine in 2020. The authorities were working on a Strategy for the Development of the Justice and Constitutional Judiciary for 2021-2023, which envisaged to establish, among other things, a mandatory pre-trial procedure for settling disputes with the use of mediation for certain categories of cases. Some other forms of alternative dispute resolution were reported on, including arbitration, international commercial arbitration.

Professionals of Justice



Gender Balance



Professionals and Gender Balance

In 2020, Ukraine had **13,1 professional judges per 100 000 inhabitants** and **21,2 prosecutors per 100 000 inhabitants**. Both figures were above the Eastern Partnership (EaP) median of 8,8 and 12,9, respectively.

In 2020, the **number of lawyers was 139 per 100 000 inhabitants**, which was significantly higher than the EaP Median (79,4). The number of lawyers increased by 29,2% between 2018 and 2020, partly explained by the court representation monopoly of lawyers in Ukraine.

More than half of professional judges were women (EaP Median was 49,7); among **prosecutors - 40% were women** (the EaP Median was 31,3). The percentage of female non-judge staff was 79,1%. The percentage of **female lawyers was 24,7%,** which was lower than EaP Median (29,7%). Prosecutors and lawyers are the two categories where less than 50% of professionals are female.

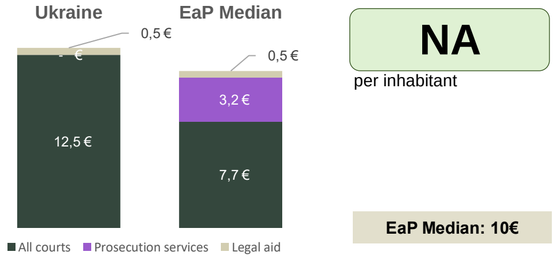
ECHR

In 2020, there were 4 271 applications pending before an ECtHR decision body for Ukraine. In 82 judgements at least one violation was found by the ECtHR for Ukraine. 108 cases were considered as closed after a judgement of the ECtHR and the execution of judgements process.

In Ukraine there is a possibility to review a case after a decision on violation of human rights by the ECtHR. There is a monitoring system for violations related to Article 6 of the European Convention of Human Rights for civil procedures (non-enforcement and timeframe) and for criminal procedures.

Budget of the judiciary in Ukraine in 2020 (Indicator 1)

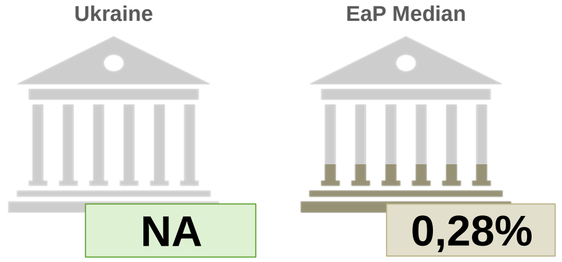
Implemented Judicial System Budget per inhabitant



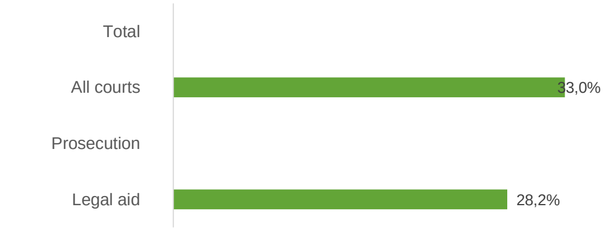
NA
per inhabitant

EaP Median: 10€

Implemented Judicial System Budget as % of GDP



% Variation of Implemented JSB per inhabitant between 2018 and 2020



JSB = Judicial System Budget

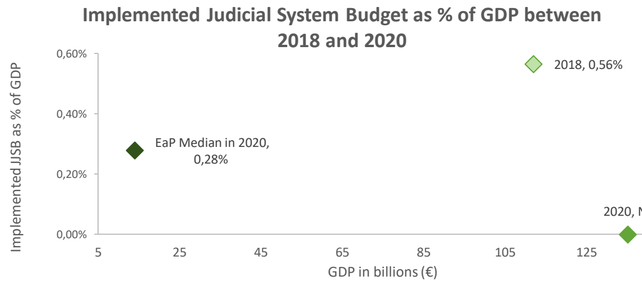
• Budget allocated to the judicial system (courts, prosecution services and legal aid)

For 2020 partial budget data was available for Ukraine. Thus, Ukraine spent as implemented 518 902 495€ for all courts, which means 12,5€ per inhabitant, which is higher than the EaP median of 7,7 € per inhabitant. For legal aid, it spent 20 599 935€, which means 0,5€ and this is on a par with the EaP median for 2020.

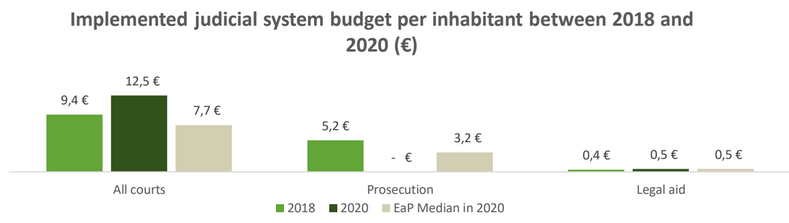
Compared to 2018, Ukraine has spent 28,2% more for legal aid, and the spending for the courts stayed mostly the same. The 33% increase in the courts budget in 2020 is caused by the inclusion of two more courts.

Judicial System Budget	Judicial System Budget in 2020		Implemented Judicial System Budget per inhabitant			Implemented Judicial System Budget as % of GDP		
	Approved	Implemented	Per inhabitant	EaP Median	% Variation 2018 - 2020	As % of GDP	EaP Median	Variation (in ppt) 2018 - 2020
Total	806 698 535 €	NA	NA	10,0 €	NA	NA	0,28%	NA
All courts	532 473 105 €	518 902 495 €	12,5 €	7,7 €	33,0%	0,38%	0,21%	0,03
Prosecution	252 254 173 €	NA	NA	3,2 €	NA	NA	0,09%	0,03
Legal aid	21 971 257 €	20 599 935 €	0,5 €	0,5 €	28,2%	0,02%	0,014%	0,001

PPT = Percentage points



This scatterplot shows the relation between the GDP in billions and the Implemented Judicial System Budget as %. A figure on the right (left) of the EaP Median means that the Beneficiary has a higher (lower) GDP than the EaP Median. A figure above (below) the EaP Median shows that the Beneficiary has a higher (lower) ratio of Implemented Judicial System Budget as % of GDP than the EaP Median in 2020.

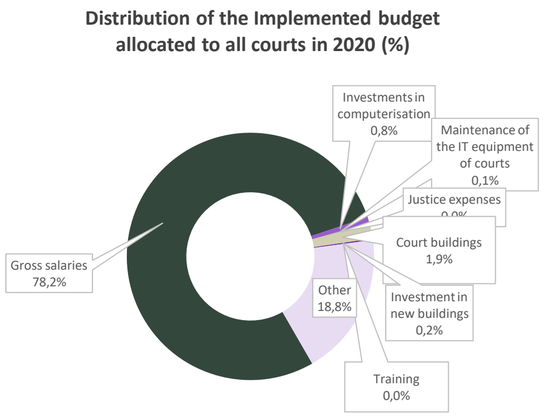


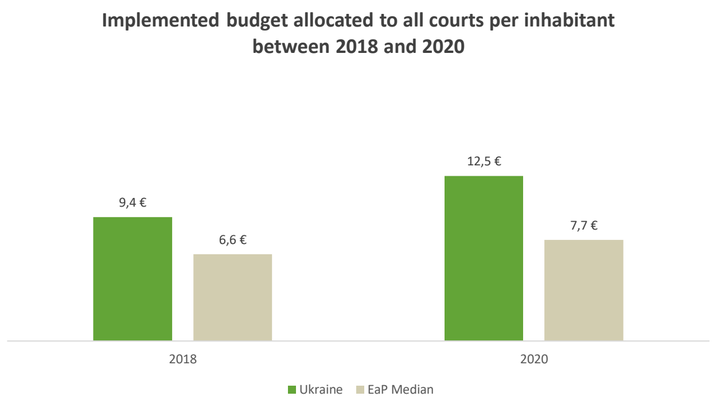
• Budget allocated to the functioning of all courts

In 2020, Ukraine spent 518 902 495€ as implemented budget for courts. 78,2% was spent for Gross salaries, 18,8% for Other, 1,9% for Court buildings, 0,8% for Computerisation (total), 0,2% for Investment in new buildings.

Compared to 2018, the implemented budget for courts has increased by 30,7%.

	2020		% Variation between 2018 and 2020	
	Approved budget	Implemented budget	Approved budget	Implemented budget
Total	532 473 105 €	518 902 495 €	20,8%	30,7%
Gross salaries	412 532 059 €	405 775 972 €	60,7%	58,4%
Investments in computerisation	4 213 796 €	4 113 934 €	-60,1%	-64,2%
Maintenance of the IT equipment of courts	663 057 €	434 279 €		
Justice expenses	168 121 €	151 699 €	83,5%	65,6%
Court buildings	11 113 049 €	9 923 683 €	26,9%	34,6%
Investment in new buildings	1 006 820 €	1 006 382 €	-75,4%	-36,5%
Training	20 975 €	15 415 €	-23,8%	-11,1%
Other	102 755 227 €	97 481 131 €	-36,0%	-18,9%

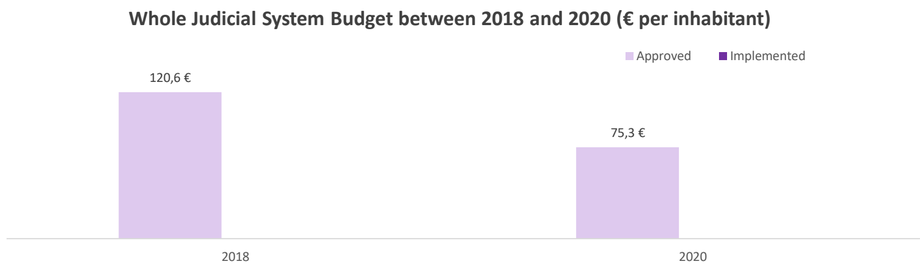




The variation in the total is explained by the inclusion of the Supreme Court and the High Anti-Corruption Court in the budget of all courts (which was not the case in 2018), while the increase of the 2020 salary budget is explained mainly by the raise of salaries of part of the judges as a planned measure approved in 2019.

• Budget allocated to the whole justice system

Whole Justice System	2020		% Variation of the Whole Justice System per inhabitant
	Absolute number	Per inhabitant	2018 - 2020
Approved	3 119 329 887 €	75,3 €	-37,5%
Implemented	NA	-	NA



The variation in the budget is a result of revision of the list of bodies included to the calculation with the purpose of compliance with the CEPEJ methodology, and not a cut in the spending for the whole justice system in 2020.

The whole justice system budget includes the following elements in 2020:

Court budget	✓	Council of the judiciary	✓	Enforcement services	✓	Refugees and asylum seekers service	✓
Legal aid budget	✓	High Prosecutorial Council	✓	Notariat	✓	Immigration services	✓
Public prosecution services budget	✓	Constitutional court	✓	Forensic services	✓	Some police services	✓
Prison system	✓	Judicial management body	✓	Judicial protection of juveniles	✓	Other services	✗
Probation services	✓	State advocacy	✗	Functioning of the Ministry of Justice	✓		

The decrease in the budget allocated to the whole justice system for 2020 compared to the 2018 was explained by the inclusion of the budgets of fewer authorities for the purposes of calculations for the 2020 cycle.

• Budget received from external donors

The percentages represent an estimate of the ratio between external donations and respective budget. The percentage is calculated in relation to the total implemented budget of each category. However, this does not mean that the external funds cover a percentage of the budget, since donations are not included in the judicial system budget.

No data on external donor funds contributing to the budget of courts, prosecution services, legal aid and/or the whole justice system was submitted within the 2020 data collection.

Professionals and Gender Balance in judiciary in Ukraine in 2020 (Indicators 2 and 12)

Judges

13,1

per 100 000 inhabitants

+2%
compared to 2018

EaP Median: 8,8

54% female judges (total)

Judges - Ratio with the annual gross salary at the beginning and the end of career in 2020

Prosecutors

21,2

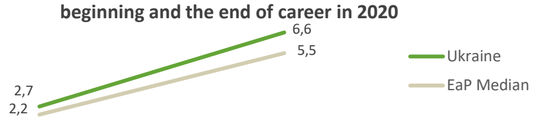
per 100 000 inhabitants

-15,2%
compared to 2018

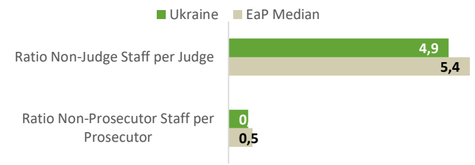
EaP Median: 12,9

40% female prosecutors (total)

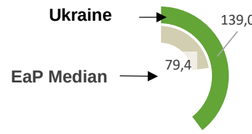
Prosecutors - Ratio with the annual gross salary at the beginning and the end of career in 2020



Non-Judge and Non-Prosecutor staff



Lawyers per 100 000 inhabitants



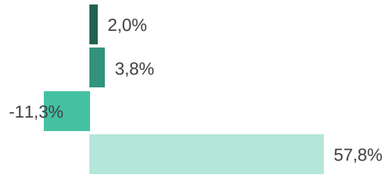
+29,2%
compared to 2018

In 2020, Ukraine had 13,1 professional judges per 100 000 inhabitants and 21,2 prosecutors per 100 000 inhabitants. Both figures were above the Eastern Partnership (EaP) median of 8,8 and 12,9, respectively. More than half of professional judges were women (EaP Median was 49,7); among prosecutors - 40% were women (the EaP Median was 31,3).

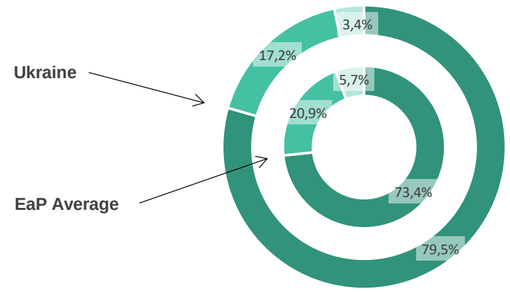
• Professional Judges

	Professional judges			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants
Total	5420	100,0%	13,1	8,8
1st instance courts	4307	79,5%	10,4	6,2
2nd instance courts	930	17,2%	2,2	2,2
Supreme Court	183	3,4%	0,4	0,5

% Variation of no. of professional judges per 100 000 inh. 2018 - 2020



Distribution of professional judges by instance in 2020 (%)



The absolute number of professional judges in Ukraine in 2020 was 5420, which was 13,1 per 100 000 inhabitants (higher than EaP Median of 8,8).

Compared to 2018, the number of professional judges increased by 2%. A significant change in the number of judges of the Supreme Court is explained by the fact that in the summer of 2018 the High Qualifications Commission of Judges announced the second competition for judges of the Courts of Cassation in the Supreme Court and it filed 78 recommendations on appointments to the High Council of Justice.

The figures show a difference of 6,1 percentage points between the percentage of judges in the first instance (79,5%) and the EaP Average (73,4%)

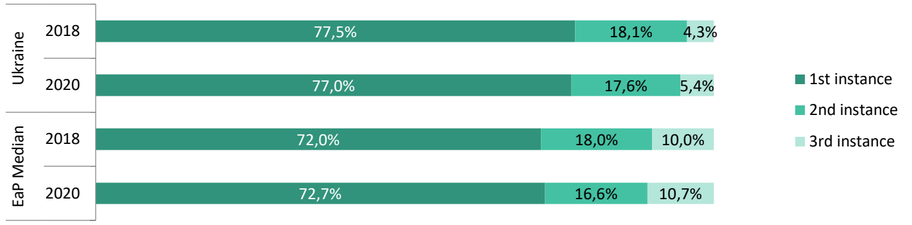
Distribution of professional judges per 100 000 inhabitants by instance in 2018 and 2020

• Non-judge staff

The total number of non-judge staff in Ukraine was 26777, which increased by 1,3% between 2018 and 2020. Thus, the number of non-judge staff per 100 000 inhabitants was 64,6, which was above EaP Median of 48,5.
Compared to 2018, there was no significant variation in the distribution of non-judge staff among instances in 2020.
The highest number of non-judge staff were in charge of administrative tasks and they represented 58% of the total.

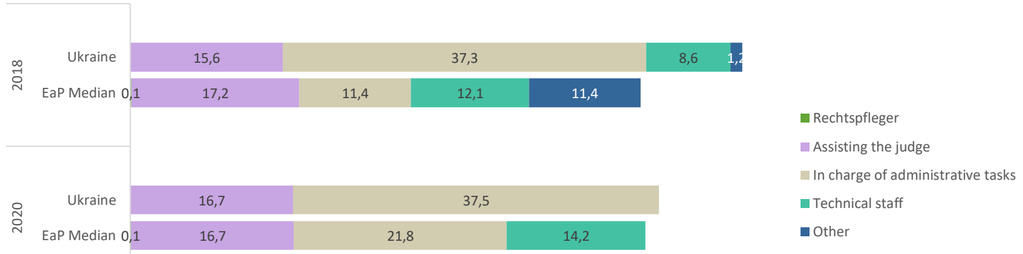
	Number of non-judge staff by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants
Total	26777	100,0%	64,6	48,5
1st instance courts	20606	77%	49,8	38,4
2nd instance courts	4724	18%	11,4	7,8
Supreme Court	1447	5%	3,49	3,49

Distribution of non-judge staff by instance in 2018 and 2020



	Number of non-judge staff by category			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants
Total	26777	100,0%	64,6	48,5
Rechtspfleger	NAP	-	NAP	0,1
Assisting the judge	6910	25,8%	16,7	16,7
In charge of administrative tasks	15534	58,0%	37,5	21,8
Technical staff	NA	-	NA	14,2
Other	NA	NA	NA	-

Number of non-judge staff per 100 000 inhabitants by category between 2018 and 2020

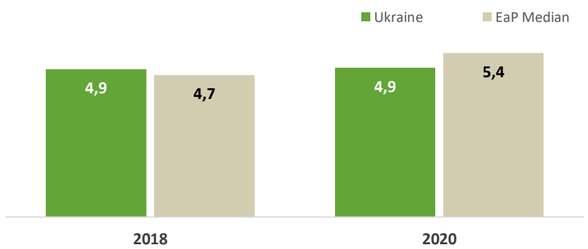


• Ratio between non-judge staff and professional judges

In Ukraine, the ratio of non-judge staff per professional judge was 4,9 in 2020, whereas the EaP median was 5,4. In 2020 this ratio in Ukraine stayed the same as in 2018.

	Ratio in 2020		% Variation between 2018 and 2020	
	Ukraine	EaP Median	Ukraine	EaP Median
Total	4,9	5,4	1,0%	15,4%
1st instance courts	4,8	5,8	-1,5%	20,1%
2nd instance courts	5,1	4,1	13,1%	11,0%
Supreme Court	7,9	7,1	-18,6%	14,0%

Ratio between non-judge staff and judges between 2018 and 2020



Prosecutors

	Number of prosecutors by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants
Total	8 800	100,0%	21,2	12,9
1st instance courts	NAP	NAP	NAP	-
2nd instance courts	NAP	NAP	NAP	-
Supreme Court	NAP	NAP	NAP	-

% Variation of no. of prosecutors per 100 000 inh. 2018 - 2020	
Total	-15,2%
1st instance courts	-
2nd instance courts	-
Supreme Court	-

In 2020, the absolute number of prosecutors in Ukraine was 8800, which was 21,2 per 100 000 inhabitants (significantly higher than EaP Median of 12,9).

The total number of prosecutors decreased by -15,2% between 2018 and 2020, as a result of a process of attestation implemented based "On Amendments to Certain Legislative Acts of Ukraine on Priority Measures to Reform the Prosecutor's Office", the Procedure for Prosecutors to pass attestation, approved by the Prosecutor General's Order nr. 221 of 3 October 2019.

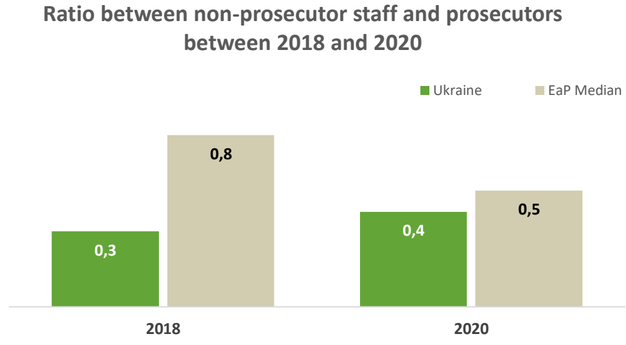
Total 1st instance courts 2nd instance courts Supreme Court

Ukrainian legislation does not attribute/classify prosecutors by instances.

Non-prosecutor staff and Ratio between non-prosecutor staff and prosecutors

	Non-prosecutor staff in 2020			Ratio between non-prosecutor staff and prosecutors in 2020		% Variation of the ratio between 2018 and 2020	
	Absolute number	Per 100 000 inhabitants	EaP Median per 100 000 inhab.	Ukraine	EaP Median	Ukraine	EaP Median
Total	3 864	9,3	9,5	0,4	0,5	25,9%	-32,2%

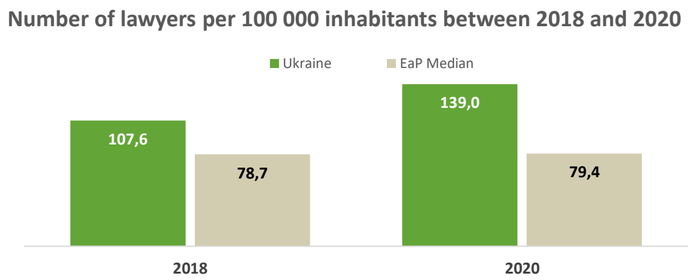
In 2020, the total number of non-prosecutor staff in Ukraine was 3864, which increased by 25,9% compared to 2018.
The number of non-prosecutor staff per 100 000 inhabitants was 9,3, which is slightly below EaP Median of 9,5.
The ratio of non-prosecutor staff per prosecutor was 0,44, which was lower than EaP Median of 0,5.



Lawyers

	Number of lawyers			% Variation between 2018 and 2020	
	Absolute number	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants	Ukraine	EaP Median
Total	57 591	139,0	79,4	29,2%	2,0%

In 2020, the number of lawyers was 139 per 100 000 inhabitants, which was significantly higher than the EaP Median (79,4). The number of lawyers increased by 29,2% between 2018 and 2020. One of the reasons for the increase in the number of lawyers relates to the monopoly of representing clients in court and the need to get an attorney's certificate for that.



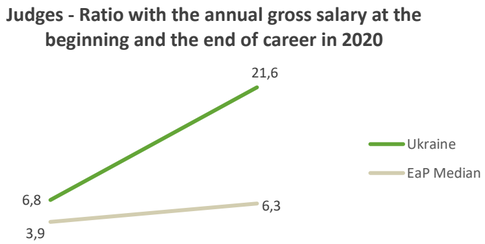
Salaries of professional judges and prosecutors

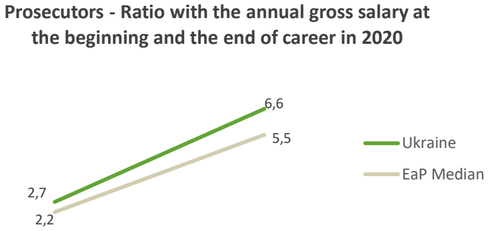
In 2020, the ratio between the salary of professional judges at the beginning of career with the annual gross average salary in Ukraine was 6,8, which was more than the EaP Median (3,9).
At the end of career, judges were paid more than at the beginning of career by 219,5%, which was more than the variation of EaP Median (+62,4%).
In 2020, the ratio between the salary of prosecutors at the beginning of career with the annual gross average salary in Ukraine was 2,7, which was more than the EaP Median (2,2).
At the end of career, prosecutors were paid more than at the beginning of career by 147,8%, which was slightly more than the variation of EaP Median (146,2%).

		Salaries in 2020				% Variation of Gross Salary between 2018 and 2020	
		Gross annual salary in €	Net annual salary in €	Ratio with the annual gross salary	EaP Median Ratio with the annual gross salary	Ukraine	EaP Median
Professional judge	At the beginning of his/her career	30 619	24 648	6,8	3,9	91,4%	9,1%
	Of the Supreme Court or the Highest Appellate Court	97 838	78 760	21,6	6,3	-7,4%	5,8%
Public prosecutor	At the beginning of his/her career	12 118	9 755	2,7	2,2	13,4%	-13,9%
	Of the Supreme Court or the Highest Appellate Court	30 023	24 168	6,6	5,5	72,6%	30,9%

Judges: The increase in salaries of the first instance judges results from the Law of Ukraine “On Amendments to the Law of Ukraine “On the Judiciary and the Status of Judges” and some laws of Ukraine on the activities of judicial authorities” № 193-IX (adopted on October 16, 2019), which evened out the salaries of judges who had not undergone the qualification evaluation with those who already successfully passed it. A decrease in salaries at the Supreme Court level presumably was a result of temporary measures during the COVID-19 lockdown period (starting from April 2020) on limitation of judicial and other public servants groups salaries, which mostly affected the judges of the higher instances.

Prosecutors: Salaries of the prosecutors increased as a result of the adoption of the Law of Ukraine "On amendments to certain legislative acts of Ukraine concerning priority measures to reform the prosecutor's office” № 113-IX (adopted by the Parliament on September 19, 2019).



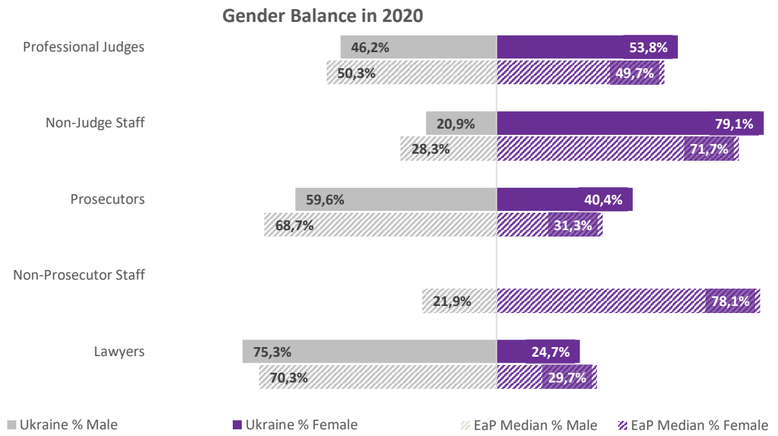


Additional benefits and bonuses for professional judges and prosecutors

	Reduced taxation	Special pension	Housing	Other financial benefit	Productivity bonuses for judges
Judges	✗	✓	✓	✗	✗
Prosecutors	✗	✓	✓	✗	

Gender Balance

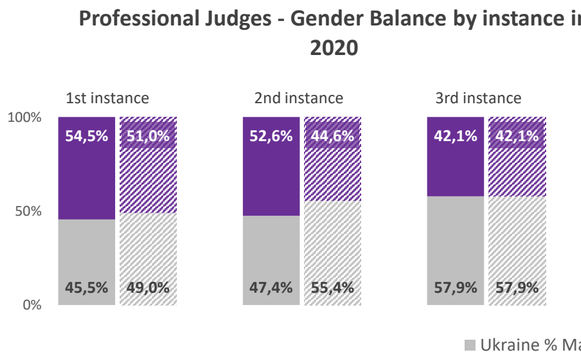
	Total number per 100 000 inh.	% Female	EaP Median	Variation of % females between 2018 and 2020 (percentage points)	
				Ukraine	EaP Median
Professional Judges	13,1	53,8%	49,7%	1,5	2,4
Non-Judge Staff	64,6	79,1%	71,7%	0,5	-6,9
Prosecutors	21,2	40,4%	31,3%	1,5	1,6
Non-Prosecutor Staff	9,3	NA	78,1%	NA	12,1
Lawyers	139,0	24,7%	29,7%	-11,8	-6,9

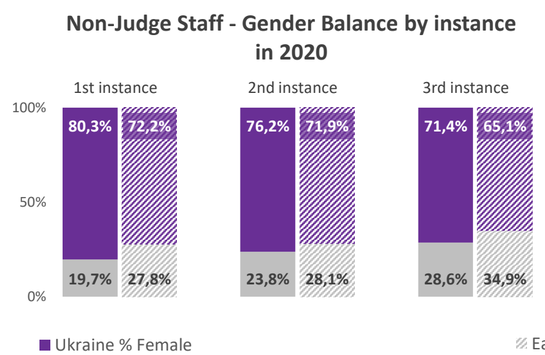


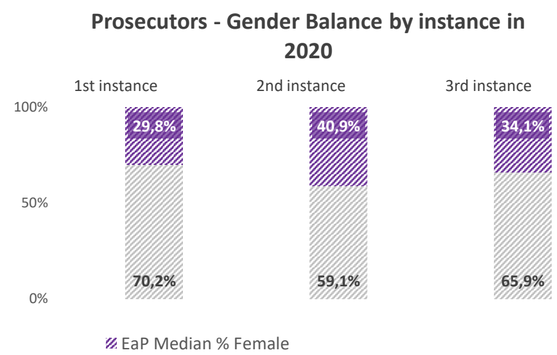
In 2020, the percentage of female judges was 53,8%, which was higher than EaP Median (49,7%). Moreover, the percentage of female non-judge staff was 79,1%.
The percentage of female prosecutors was 40,4%, which was higher the the EaP median (31,3%). Gender-disaggregated data for non-prosecutor staff for 2020 was not available.
The percentage of female lawyers was 24,7%, which was lower than EaP Median (29,7%).

Prosecutors and Lawyers are the two categories where less than 50% of professionals are female.

	% Female Professional Judges		% Female Non-Judge Staff		% Female Prosecutors	
	Ukraine	EaP Median	Ukraine	EaP Median	Ukraine	EaP Median
1st instance courts	54,5%	51,0%	80,3%	72,2%	NAP	29,8%
2nd instance courts	52,6%	44,6%	76,2%	71,9%	NAP	40,9%
Supreme Court	42,1%	42,1%	71,4%	65,1%	NAP	34,1%







Higher the court, less women judges are there (from 54,5% in first instance to 42,1% in the Supreme Court). The same descending trend is observed in respect of non-judges staff in courts.
Gender-disaggregated data for prosecutors was not available in 2020.

Gender Equality Policies

	Recruitment		Promotion		Person / institution specifically dedicated to ensure the respect of gender equality on institution level
	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	
Court president	⊗				
Head of prosecution services	⊗				
Judges	⊗	⊗	⊗	⊗	⊗
Prosecutors	⊗	⊗	⊗	⊗	⊗
Non-judge staff	⊗	⊗	⊗	⊗	⊗
Lawyers	⊗		⊗		
Notaries	⊗		⊗		
Enforcement agents	⊗		⊗		

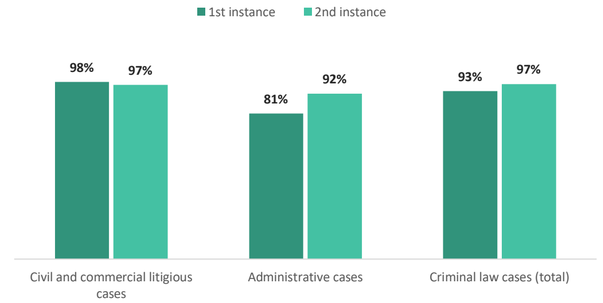
In Ukraine there is no overarching document (e.g. policy/strategy/action plan/program) on gender equality that applies specifically to the judiciary.
There are no other specific provisions for facilitating gender equality within the framework of the procedures for recruiting except the ones defined in the Constitution of Ukraine (according to article 24 of the Constitution men and women are equal in their rights) and the Law of Ukraine "On ensuring equal rights and opportunities for women and men". On April 11, 2018, the Cabinet of Ministers approved the State Social Program for Equal Rights and Opportunities for Women and Men for the period up to 2021, available at https://zakon.rada.gov.ua/laws/show/273-2018-%D0%BF#Text There were plans for a Gender Equality Strategy of the State Judicial Administration of Ukraine for 2021-2025.

At the national level, there is no specific person institution dealing with gender issues exactly in the justice system, alghouth there is Government Commissioner for Gender Policy, to help strengthen the coordination of the executive branch for the practical implementation of the principle of gender equality in all spheres of society. The main tasks of the Government Commissioner are to promote the implementation of a unified state policy aimed at achieving equal rights and opportunities for women and men in all areas of society; participation in accordance with the competence in coordinating the work of ministries, other central and local executive bodies on this issue; monitoring the consideration of the principle of gender equality during the adoption of regulations by the Cabinet of Ministers of Ukraine; cooperation and interaction with civil society, etc.

Efficiency in Ukraine in 2020 (Indicators 3.1 and 3.2)

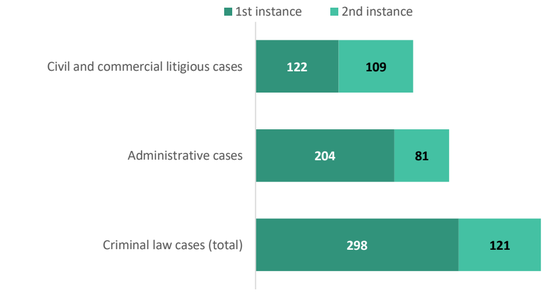
Clearance rate in 2020 (%)

The Clearance Rate (CR) shows the capacity of a judicial system to deal with the incoming cases.
A CR of 100% or higher does not generate backlog.

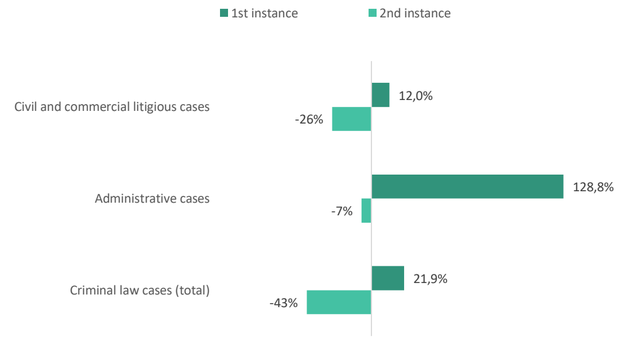


Disposition time in 2020 (in days)

The Disposition Time determines the maximum estimated number of days necessary for a pending case to be solved in a court.



Pending cases at the end of year - Variation between 2018 and 2020 (%)



For the purposes of this Profile, the data of only 1st and 2nd instance courts is analysed. In 2020, some backlog was created for all types of cases in both first and second instance courts and the Clearance Rates (CR) were below 100% for all. The first instance courts achieved the highest CR of 98% in civil and commercial litigious cases. Second instance administrative cases were resolved faster than other types of cases with a Disposition Time (DT) of 81 days. However, it seems that Ukrainian courts were not able to deal as efficiently with the first instance administrative cases (CR of 80,9%).

Com
pare

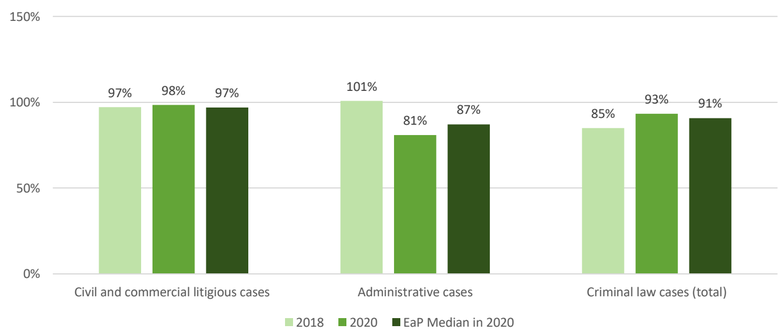
First instance cases

First instance cases:

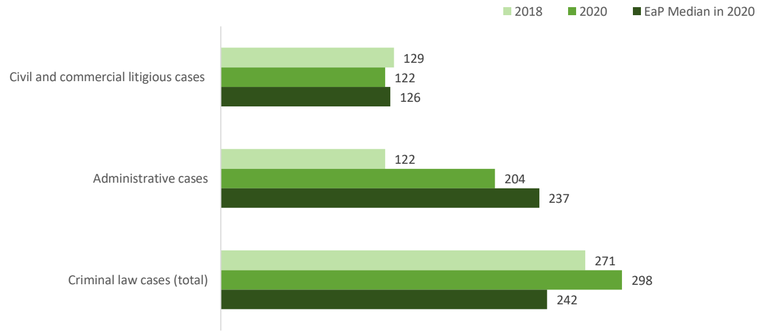
The CRs increased in 2020 compared to 2018 in civil and commercial cases as well as in criminal law cases in first instance courts and these are higher compared to the EaP median for 2020. CR in administrative cases is lower than the EaP median for 2020.

DT increased in 2020 compared to 2018 in administrative and in criminal law cases. DT is below the EaP median in administrative cases (204 versus 237) and in civil and commercial cases (122 versus 126). DT in criminal cases (298) is higher than the EaP median (242).

Clearance rate for first instance cases between 2018 and 2020 (%)



Disposition time for first instance cases between 2018 and 2020 (in days)



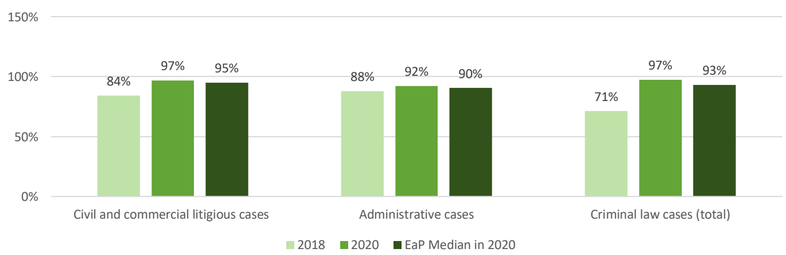
Second instance cases

Second instance cases

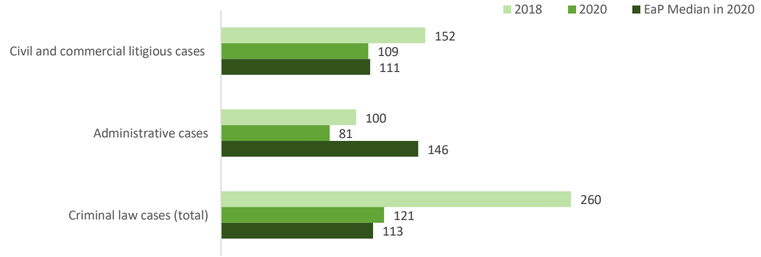
Compared to 2018 CR increased and are above the EaP median for 2020 in all categories of cases in second instance.

DT decreased in all categories of cases compared to 2018 and are lower compared to EaP median for 2020 in civil and commercial cases and administrative cases.

Clearance rate for second instance cases between 2018 and 2020 (%)



Disposition time for second instance cases between 2018 and 2020 (in days)



• First instance cases - Other than criminal law cases

1st instance		2020 Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	EaP Median CR (%)	DT (days)	EaP Median DT (days)	Per 100 inhabitants in 2020 Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	% Variation between 2018 and 2020 Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)		2 151 428	2 064 620	477 714	NA	96,0%	95,6%	84	133	5,19	4,98	1,15	NA	33,5%	30,7%	38,7%	NA	-2,1	6,1%
1	Civil and commercial litigious cases	821 099	808 004	270 281	NA	98,4%	97,0%	122	126	1,98	1,95	0,65	NA	16,5%	18,1%	12,0%	NA	1,3	-5,1%
2	Non-litigious cases**	234 435	228 537	18 342	NA	97,5%	97,5%	29	123	0,57	0,55	0,04	NA	NA	NA	NA	NA	NAP	NAP
3	Administrative cases	253 167	204 805	114 341	322	80,9%	87,2%	204	237	0,61	0,49	0,28	0,00	70,8%	37,1%	128,8%	-12,7%	-19,9	66,9%
4	Other cases	842 727	823 274	74 750	NA	97,7%	100,0%	33	97	2,03	1,99	0,18	NA	11,1%	10,3%	40,2%	NA	-0,7	27,1%

PPT = Percentage points

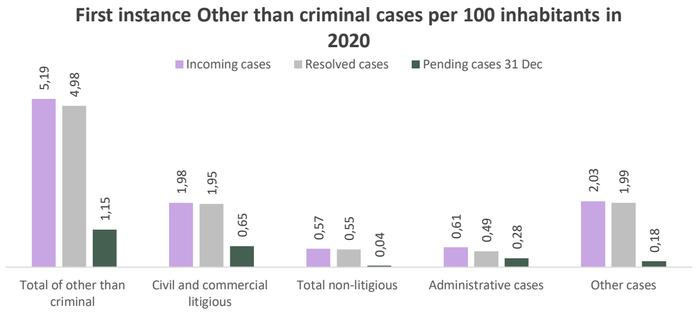
** Non-litigious cases include: General civil (and commercial) non-litigious cases, Registry cases and Other non-litigious cases.

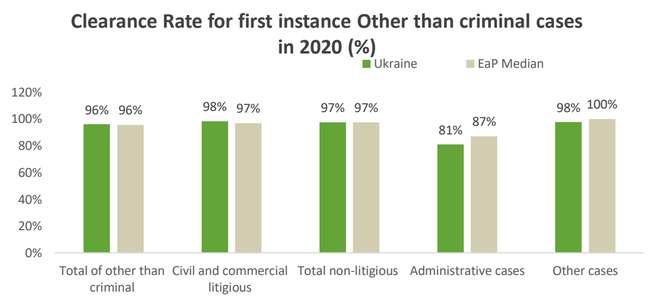
In 2020, there were 821 099 incoming civil and commercial litigious cases, which was 1,98 per 100 inhabitants and 16,5% more than in 2018. The courts resolved 808 004 cases, which was 1,95 per 100 inhabitants and 18,1% more than in 2018. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2020 were more than in 2018 and the CR for this type of cases was 98,4%. This increased by 1,3 percentage points compared to 2018 and was above the EaP median (97%).

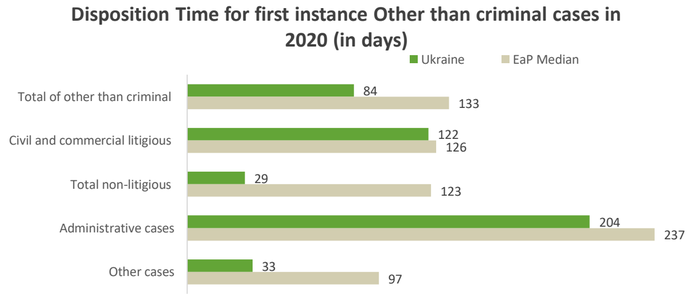
Finally, the DT for civil and commercial litigious cases was approximately 122 days in 2020. This has decreased by -5,1% compared to 2018 and it was below the EaP Median (126 days).

In 2020, there were 253 167 incoming administrative cases, which was 0,61 per 100 inhabitants and 70,8% more than in 2018. The courts resolved 204 805 cases, which was 0,49 per 100 inhabitants and 37,1% more than in 2018. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the administrative pending cases at the end of 2020 were more than in 2018 and the CR for this type of cases was 80,9%. This decreased by -19,9 percentage points compared to 2018 and was below the EaP Median (87%).

Finally, the DT for administrative cases was approximately 204 days in 2020. This has increased by 66,9% compared to 2018 and it was below the EaP Median (237 days).





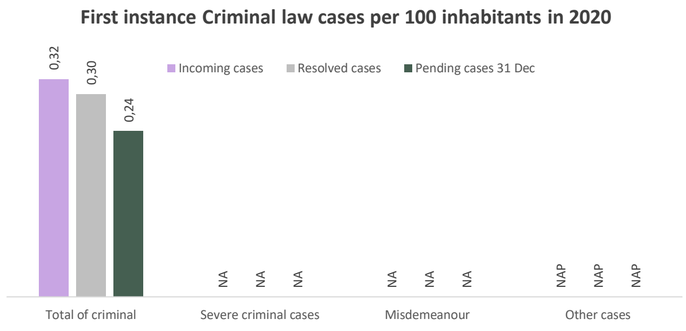


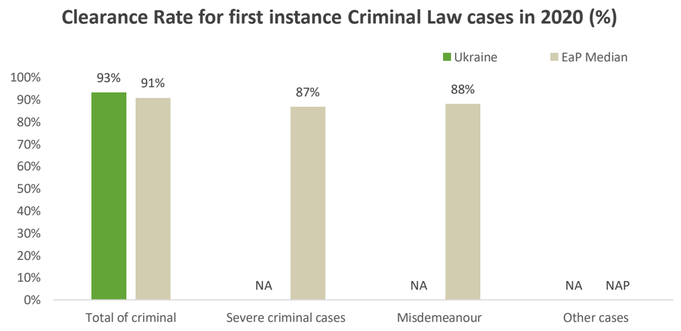
• First instance cases - Criminal law cases

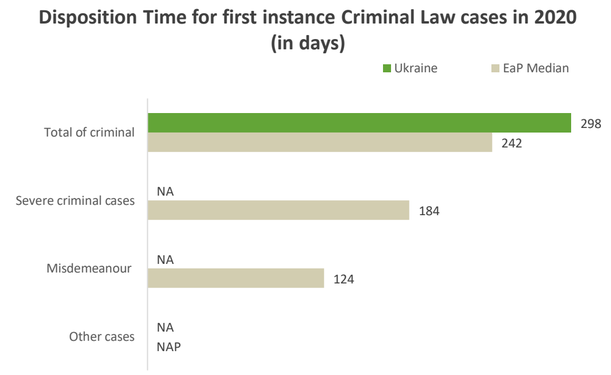
1st instance		2020								Per 100 inhabitants in 2020				% Variation between 2018 and 2020					
		Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	EaP Median CR (%)	DT (days)	EaP Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)		132 577	123 699	101 036	NA	93,3%	90,8%	298	242	0,32	0,30	0,24	NA	0,8%	10,7%	21,9%	NA	8,3	10,1%
1	Severe criminal cases	NA	NA	NA	NA	NA	86,7%	NA	184	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
2	Misdemeanour and / or minor criminal cases	NA	NA	NA	NA	NA	88,2%	NA	124	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3	Other cases	NAP	NAP	NAP	NAP	NAP	NA	NAP	NA	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP

PPT = Percentage points

In 2020, the incoming total criminal cases were 132 577, which was 0,32 per 100 inhabitants and 0,8% more than in 2018. The courts resolved 123 699 cases, which was 0,30 per 100 inhabitants and 10,7% more than in 2018. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the total criminal pending cases at the end of 2020 were more than in 2018 and the CR for this type of cases was 93,3%. This increased by 8,3 percentage points compared to 2018 and was above the EaP Median (90,8%).
Finally, the DT for total criminal cases was approximately 298 days in 2020. This has increased by 10,1% compared to 2018 and it was above the EaP Median (242 days).







• Second instance cases - Other than criminal law cases

2nd instance		2020								Per 100 inhabitants in 2020				% Variation between 2018 and 2020					
		Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	EaP Median CR (%)	DT (days)	EaP Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)		225 665	212 730	53 331	NA	94,3%	94,1%	92	115	0,54	0,51	0,13	NA	-1,7%	7,4%	18,9%	NA	8,0	-24,5%
1	Civil and commercial litigious cases	97 742	94 623	28 373	NA	96,8%	95,0%	109	111	0,24	0,23	0,07	NA	-11,0%	2,3%	-26,2%	NA	12,6	-27,9%
2	Non-litigious cases**	NAP	NAP	NAP	NAP	NAP	100,0%	NAP	NA	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
3	Administrative cases	105 156	96 788	21 403	NA	92,0%	90,5%	81	146	0,25	0,23	0,05	NA	10,5%	16,0%	-6,7%	NA	4,3	-19,5%
4	Other cases	22 767	21 319	3 555	NA	93,6%	99,1%	61	61	0,05	0,05	0,01	NA	-7,1%	-3,4%	-18,4%	NA	3,6	-15,5%

PPT = Percentage points

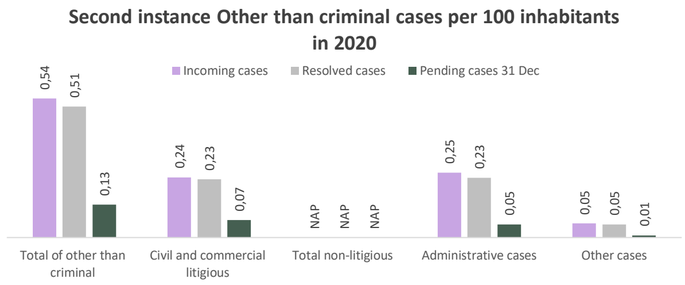
** Non-litigious cases include: General civil (and commercial) non-litigious cases, Registry cases and Other non-litigious cases.

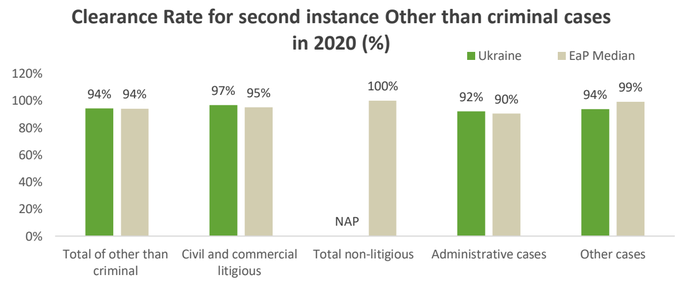
In 2020, there were 97 742 incoming civil and commercial litigious cases, which was 0,24 per 100 inhabitants and -11% less than in 2018. The courts resolved 94 623 cases, which was 0,23 per 100 inhabitants and 2,3% more than in 2018. Hence, the number of resolved cases was lower than the incoming cases. At the end of 2020 there were less civil and commercial litigious pending cases than in 2018 and the CR for this type of cases was 96,8%. This increased by 12,6 percentage points compared to 2018 and was above the EaP Median (95%).

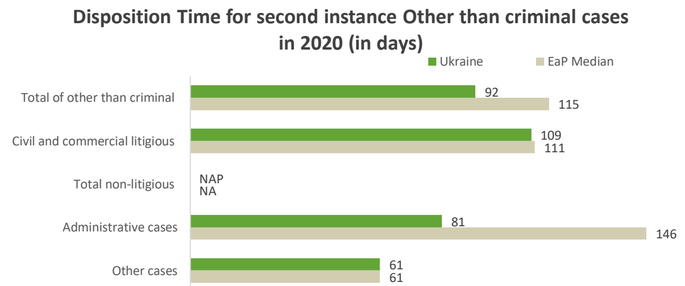
Finally, the DT for civil and commercial litigious cases was approximately 109 days in 2020. This has decreased by -27,9% compared to 2018 and it was below the EaP Median (111 days).

In 2020, there were 105 156 incoming administrative cases, which was 0,25 per 100 inhabitants and 10,5% more than in 2018. The courts resolved 96 788 cases, which was 0,23 per 100 inhabitants and 16% more than in 2018. Hence, the number of resolved cases was lower than the incoming cases. At the end of 2020 there were less administrative pending cases compared to 2018 and the CR for this type of cases was 92%. This increased by 4,3 percentage points compared to 2018 and was above the EaP Median (90%).

Finally, the DT for administrative cases was approximately 81 days in 2020. This has decreased by -19,5% compared to 2018 and it was below the EaP Median (146 days).







• Second instance cases - Criminal law cases

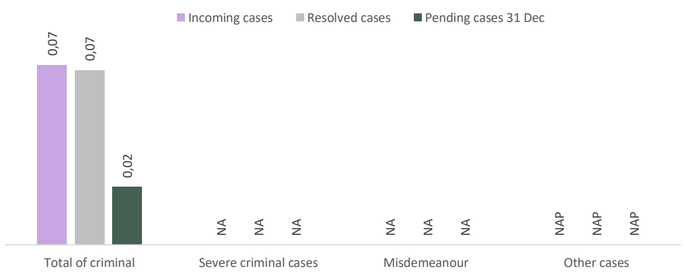
2nd instance		2020								Per 100 inhabitants in 2020				% Variation between 2018 and 2020					
		Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	EaP Median CR (%)	DT (days)	EaP Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)		27 861	27 104	9 001	NA	97,3%	93,2%	121	113	0,07	0,07	0,02	NA	-11,1%	21,5%	-43,4%	NA	26,1	-53,4%
1	Severe criminal cases	NA	NA	NA	NA	NA	83,6%	NA	218	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
2	Misdemeanour and / or minor criminal cases	NA	NA	NA	NA	NA	91,9%	NA	78	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3	Other cases	NAP	NAP	NAP	NAP	NAP	NA	NAP	NA	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP

PPT = Percentage points

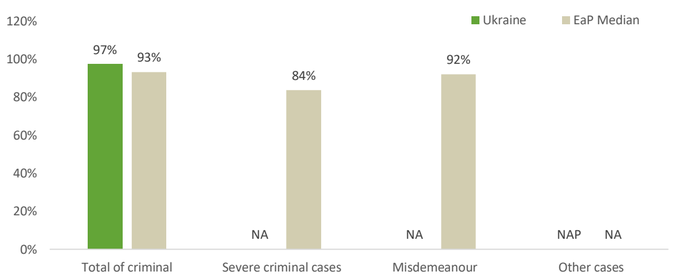
In 2020, there were 27 861 incoming total criminal cases, which was 0,07 per 100 inhabitants and -11,1% less than in 2018. The courts resolved 27 104 cases, which was 0,07 per 100 inhabitants and 21,5% more than in 2018. Hence, the number of resolved cases was lower than the incoming cases. The total criminal pending cases at the end of 2020 were less than in 2018 and the CR for this type of cases was 97,3%. This increased by 26,1 percentage points compared to 2018 and was above the EaP Median (93,2%).

Finally, the DT for total criminal cases was approximately 121 days in 2020. This has decreased by -53,4% compared to 2018 and it was above the EaP Median (113 days).

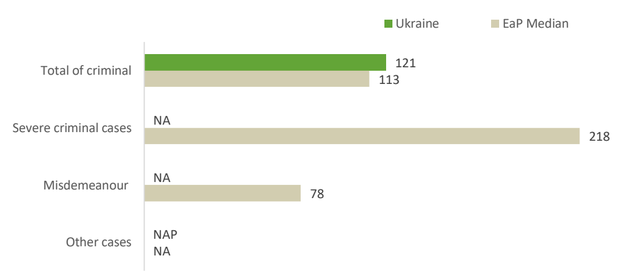
Second instance Criminal law cases per 100 inhabitants in 2020



Clearance Rate for second instance Criminal Law cases in 2020 (%)



Disposition Time for second instance Criminal Law cases in 2020 (in days)



• Average length of proceedings for specific category cases (in days - from the date the application for judicial review is lodged)

No information on the length of proceedings has been submitted within the 2020 data collection cycle.

• Quality standards and performance indicators in the judicial system

In Ukraine there are quality standards determined for the judicial system at national level.
Starting from 2015 the "Court Performance Evaluation Framework: Standards, Criteria, Indicators and Methods (CPEF)" is applied in Ukraine. This system aims at evaluating the work of the court for improving the organization of their work and increasing the productivity, efficiency, and quality of court procedures. CPEF consists of basic indicators (recommended to be applied by the courts every 6 months; the results of the evaluation shall be published on the websites of the courts) and 4 following modules: "Judicial Administration", "Timeliness of Trial" (optional), "Judicial Decision" (optional), "Satisfaction of the court users with the work of the court" (optional). By its decision the Council of Judges of Ukraine recommended to the courts of Ukraine to apply CPEF to evaluate the work of the court both in full or its individual modules, depending on the managerial purpose and the tasks aimed at improving the work of the court. CPEF was based on the instruments developed by the CEPEJ Working group on the quality of justice (Checklist for promoting the quality of justice and the courts (2008), Handbook for conducting satisfaction surveys aimed at Court users in Council of Europe's Member States (2010), Questionnaire for collecting information on the organization and accessibility of Court premises (2013) etc.)

Specialised personnel entrusted with implementation of these national level quality standards	
Within the courts	No
Within the prosecution services	No

There is no personnel entrusted with implementation of these national level quality standards.

• Performance and quality indicators and regular assessment in courts and prosecution offices

In Ukraine performance and quality indicators are defined for courts and prosecution offices as follows:

	Courts		Prosecution offices	
	Performance and quality indicators	Regular assessment	Performance and quality indicators	Regular assessment
Number of incoming cases	✓	✓	✗	✗
Length of proceedings (timeframes)	✓	✓	✗	✗
Number of resolved cases	✓	✓	✗	✗
Number of pending cases	✓	✓	✗	✗
Backlogs	✓	✓	✗	✗
Productivity of judges and court staff / prosecutors and prosecution staff	✓	✓	✗	✗
Satisfaction of court / prosecution staff	✓	✗	✗	✗
Satisfaction of users (regarding the services delivered by the courts / the public prosecutors)	✓	✗	✗	✗
Costs of the judicial procedures	✗	✗	✗	✗
Number of appeals	✗	✓		
Appeal ratio	✗	✗		
Clearance rate	✓	✓	✗	✗
Disposition time	✓	✓	✗	✗
Percentage of convictions and acquittals			✗	✗
Other	✗	✗	✓	✓

Monitoring of the number of pending cases and backlogs	
Civil law cases	Yes
Criminal law cases	Yes
Administrative law cases	Yes

The monitoring is done within the Court Performance Evaluation Framework developed by the working group on the development

of court quality assurance systems approved by the Council of Judges of Ukraine.

Monitoring of the waiting time during judicial proceedings	
Within the courts	Yes
Within the public prosecution services	No

For courts in Ukraine two kinds of evaluations are reported upon in 2020: obligatory - contains basic indicators that shall be applied on a regular basis (the report is to be published by courts every 6 months and every year on the websites) and complex evaluation - contains indicators in 4 Modules "Judicial Administration," "Timeliness of Trial", "Judicial Decision", "Satisfaction of the court users with the work of the court", applied optionally. The decision to conduct a complex evaluation is an internal choice of the court or a recommendation of the higher courts or judicial self-government bodies. The system was developed with the international technical assistance provided by the USAID.

For the Prosecution offices, the authorities reported under "Other" the following: for example, include but not limited to: the number of appeals to the prosecutor's office; the number of proceedings (cases) in which prosecutors took part in the courts; the number of considered requests for public information; the number of citizens received by prosecutors at a personal reception; the sum for which the interests of the state are protected by prosecutors in court; the number of documents of the prosecutor's response related to the executing of functions of the prosecutor's office to restrict the personal freedom of citizens; the number of processed appeals of foreign institutions for legal assistance; the number of appeals of Ukrainian institutions to the competent authorities of foreign countries for legal assistance.

• Quantitative targets for each judge and prosecutor

In Ukraine there are no quantitative targets for judges and prosecutors, hence no institution responsible for setting up these targets. No data for this cycle was provided in respect of consequences for not meeting the targets.

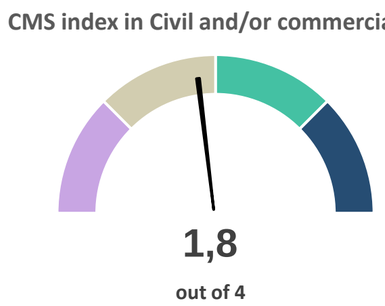
Responsible for setting up quantitative targets for judges	
Executive power (for example the Ministry of Justice)	NAP
Legislative power	NAP
Judicial power (for example the High Judicial Council, Supreme Court)	NAP
President of the court	NAP
Other:	NAP

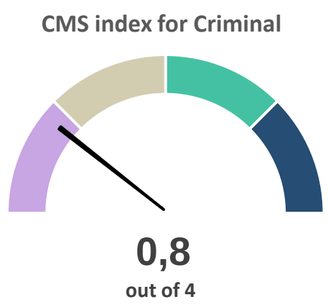
Responsible for setting up quantitative targets for public prosecutors	
Executive power (for example the Ministry of Justice)	NAP
Prosecutor General /State public prosecutor	NAP
Public prosecutorial Council	NAP
Head of the organisational unit or hierarchical superior public prosecutor	NAP
Other	NAP

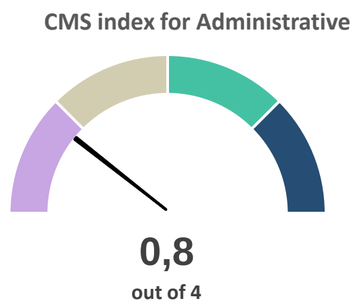
Consequences for not meeting the targets	Judges	Public prosecutors
Warning by court's president/ head of prosecution	-	-
Disciplinary procedure	-	-
Temporary salary reduction	-	-
Other	-	-
No consequences	-	-

Electronic case management system and court activity statistics in Ukraine in 2020 (Indicator 3.3)

The Case management system (CMS) Index is an index from 0 to 4 points calculated based on five questions on the features and deployment rate of the CMS of the courts of the respective beneficiary. The methodology for calculation provides one index point for each of the 5 questions for each case matter. The points regarding the four questions on the features of the CMS (status of cases online; centralised or interoperable database; early warning signals; status of integration with a statistical tool) are summarised while the deployment rate is multiplied as a weight. In this way, if the system is not fully deployed the value is decreased even if all features are included, to provide an adequate evaluation.







• Electronic case management system

No information about the existance of an IT Strategy for the judiciary was submitted within the 2020 data collection.

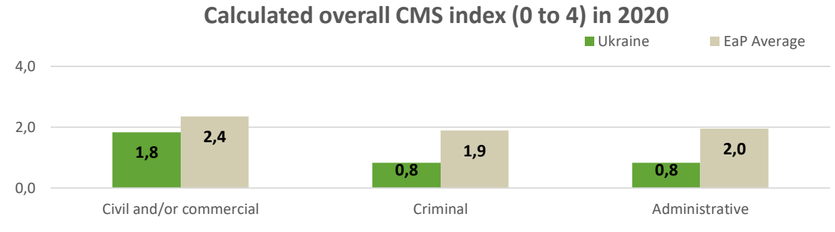
There is a case management system (CMS), eg software used for registering judicial proceedings and their management. No information as to when was the running CMS developed (or redesigned) was submitted within the 2020 data collection. Idem for plans for a significant change in the present IT system in the judiciary in the next year.

The CMS is developed in all courts (100% deployment rate) and the data is stored on a database consolidated at national level. The CMS index for Ukraine is lower than the EaP median (1,8 for civil and/or commercial cases versus EaP 2,4; 0,8 for each criminal and administrative cases versus EaP medians of 1,9 and 2,0 respectively).

	Case management system and its modalities				
	CMS deployment rate	Status of case online	Centralised or interoperable database	Early warning signals (for active case management)	Status of integration/ connection of a CMS with a statistical tool
Civil and/or commercial	100%	Publication of decision online	✓	✗	Not integrated but connected
Criminal	100%	Publication of decision online	✗	✗	Not integrated but connected
Administrative	100%	Publication of decision online	✗	✗	Not integrated but connected

Both: Accessible to parties
Publication of decision online

	Overall CMS Index in 2020	
	Ukraine	EaP Average
Civil and/or commercial	1,8	2,4
Criminal	0,8	1,9
Administrative	0,8	2,0



• Centralised national database of court decisions

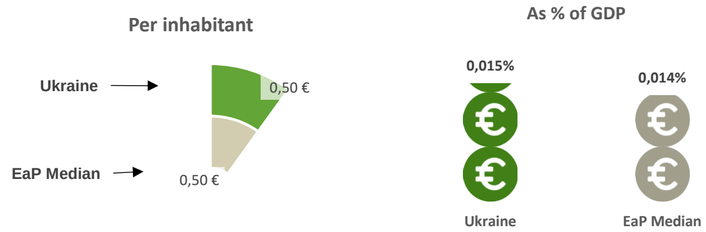
In Ukraine, there is a centralised national database of court decisions for all instances in which the following information is collected:

	For 1st instance decisions	For 2nd instance decisions	For 3rd instance decisions	Link with ECHR case law	Data anonymised	Case-law database available free online	Case-law database available in open data
Civil and/or commercial	Yes all judgements	Yes all judgements	Yes all judgements	✗	✓	✓	✓
Criminal	Yes all judgements	Yes all judgements	Yes all judgements	✗	✓	✓	✓
Administrative	Yes all judgements	Yes all judgements	Yes all judgements	✗	✓	✓	✓

The case-law database is available for free online and in open data. There are no links with ECHR case-law (hyperlinks which reference to the ECHR judgments in HUDOC database) in this database.

Legal Aid in Ukraine in 2020 (Indicator 4)

Total implemented budget for Legal Aid in 2020



In 2020, the implemented budget for legal aid spent by Ukraine was 0,5€ per inhabitant (the same as the EaP median). This was equal to 0,015% of the GDP, the same as the EaP Median.

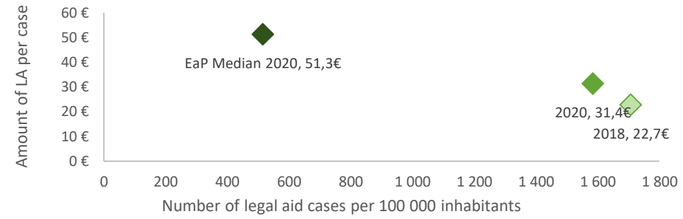
Number of LA cases

1 584,3

per 100 000 inhabitants

EaP Median: 515,9

Amount of implemented legal aid per case(in €) and total no. of legal aid cases per 100 000 inh. between 2018 and 2020



This scatterplot shows the relation between the number of legal aid (LA) cases per 100 000 inh. and the amount of LA per case. A figure on the right (left) of the EaP Median means that the Beneficiary has more (less) number of LA cases per 100 000 inh. than the EaP Median. A figure above (below) the EaP Median shows that the Beneficiary has spent per LA case more (less) than the EaP Median.

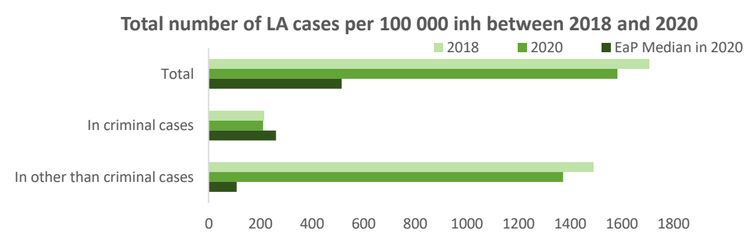
• Implemented budget for legal aid and number of cases for which legal aid has been granted

	Implemented budget for legal aid in €				Total implemented budget for legal aid Per inhabitant		Total implemented budget for legal aid as % of GDP	
	Total	% Variation (2019 - 2020)	Cases brought to court	Cases not brought to court	Ukraine	EaP Median	Ukraine	EaP Median
Total	20 599 935 €	25,9%	15 295 485 €	5 304 450 €	0,50 €	0,50 €	0,015%	0,014%
In criminal cases	9 958 103 €	29,9%	9 958 103 €	NAP				
In other than criminal cases	10 641 832 €	22,4%	5 337 382 €	5 304 450 €				

In 2020, the total implemented budget for legal aid was 20 599 935€, which was 25,9% more compared to 2018. For criminal cases, Ukraine spent 9 958 103€ while for other than criminal cases, it spent 10 641 832€.

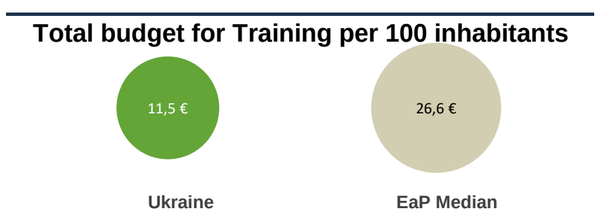
2020 became a year of important changes for the legal aid in Ukraine. The issue of access to free legal aid has always been important, but in the context of the COVID-19 pandemic, it has become even more relevant. Ukrainian free legal aid system quickly adapted to new challenges, in particular through the active use of digital technologies for the provision of free legal aid. To accelerate the changes, a Supervisory Board of the Coordination Centre for Legal Aid was established, the categories of persons entitled to secondary free legal aid were expanded. Requests for legal information, consultations, and clarifications to the free legal aid system remotely through various communication channels - e-mail, Viber, Telegram, Facebook, mobile application “Free Legal Aid”, through the feedback form on the official website of the free legal aid systems. There is also "WikiLegalAid" webpage (a Legal Advice Reference and Information Platform).

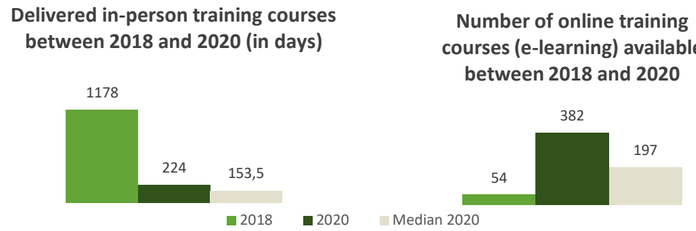
	Number of cases for which legal aid has been granted					Amount of LA granted per case (€)		
	Total			Cases brought to court	Cases not brought to court	Total	Cases brought to court	Cases not brought to court
	Absolute number	Per 100 000 inh.	% Variation (2019 - 2020)					
Total	656 207	1 584	-7,2%	146 089	510 118	31,4 €	104,7 €	10,4 €
In criminal cases	87 276	211	-2,5%	87 276	NAP	114,1 €	114,1 €	NA
In other than criminal cases	568 931	1 374	-7,9%	58 813	510 118	18,7 €	90,8 €	10,4 €



In 2020, the number of cases for which legal aid was granted was 656 207, which was -7,2% less compared to 2018.The number of criminal cases were 87276, and the other than criminal cases were 568931.The total cases brought to court were 146089, while the total cases not brought to court were 510118. On average, Ukraine spent 31,39€ per case, which is below the EaP Median of 51,32€.

Training of judges and prosecutors in Ukraine in 2020 (Indicator 7)





The total budget for training of judges and prosecutors (budgets spent by the training institutions, the courts and the public prosecution services on training) in Ukraine was 11,5€ per 100 inhabitants, lower than the Eastern Partnership (EaP) median of 26,6€ per 100 inhabitants. The number of delivered in-person training courses in days decreased between 2018 and 2020 (from 1178 days to 224 days). On the other hand, the online available courses increased to 382 in 2020 (from 54 in 2018).

• Budget for Trainings

	Budget of the training institution(s) (1)	Budget of the courts/prosecution allocated to training (2)	Total (1)+(2)			
			Absolute Number	Per 100 inhabitants	Per 100 inhabitants % variation 2018 - 2020	EaP Median per 100 inhabitants
Total	4 756 284 €	15 415 €	4 771 699 €	11,5 €	-37,7%	26,6 €
Judges	3 801 718 €	15 415 €				
Prosecutors	954 566 €	NAP				
One single institution for both judges and prosecutors	NAP					

Ukraine spent in total 4 771 699€ for training for judges and prosecutors in 2020, which is 11,5€ per 100 inhabitants (below the EaP Median of 26,6€ per 100 inhabitants).

In 2020, Ukraine spent for training for judges and prosecutors -37,7% less than in 2018.

• Type and frequency of trainings

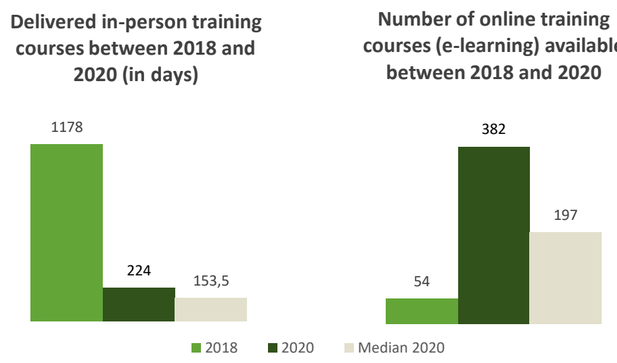
		Judges		Prosecutors	
		Compulsory/ Optional or No training	Frequency	Compulsory/ Optional or No training	Frequency
	Initial training	Compulsory		Compulsory	
In-service training	General	Compulsory	Regularly	Compulsory	Regularly
	Specialised judicial functions	Optional	Regularly & Occasional	Optional	Occasional
	Management functions of the court	Optional	Regularly & Occasional	No training proposed	No training proposed
	Use of computer facilities in courts	Optional	Occasional	No training proposed	No training proposed
	On ethics	Compulsory	Regularly	No training proposed	No training proposed

Judges: Each judge is required by law to undergo 5 days of training to maintain his/her qualifications at least once every three years. The National School of Judges of Ukraine regularly conducts offline (and during a pandemic - online) 1-3 day thematic training for judges of different specializations, which a judge has the right to choose depending on their needs. Judges can also choose and train in 23 online learning programs. In-service training for management functions of the court: Court president and their deputies take 3-day in-service training at least once for the term of office. Also, the presidents of the courts, like all judges, can, if necessary, choose the appropriate training course that is offered. In-service training on ethics: such training part of the standardized training programs for judges of each specialization. In-service training for the use of computer facilities in courts (training on cybersecurity of judges) and In-service training on child-friendly justice are held as needed.

Prosecutors: The prosecutors' training system underwent a reform after the launch of the Prosecutor's Training Centre of Ukraine in March 2020 (see below for details).

• Number of in-service trainings and participants

	In-person training courses				Online training courses (e-learning)		
	Available (number)	Delivered (in days)		Number of participants	Available (number)		Number of participants
		In 2020	% Variation 2018 - 2020		In 2020	% Variation 2018 - 2020	
Total	94	224	-81%	3098	382	607%	18434
Judges	35	95	-65%	1179	175	629%	5636
Prosecutors	1	3	-99%	13	2	-92%	54
Non-judge staff	41	101	-79%	1561	201	4925%	12482
Non-prosecutor staff	7	15	-17%	124	0	NA	0
Other professionals	10	10	-	221	14	-	262



The effects of the Government's pandemic related measures are seen in the number and formats of trainings. Thus, the number of delivered in-person trainings decreased between 2018 and 2020 (from 1178 days to 224 days).On the other hand, the online available courses increased to 382 in 2020 (from 54 in 2018).

The **Prosecutors Training** Centre of Ukraine was established in accordance with the order nr.130 of the Prosecutor General of Ukraine of 05.03.2020 on the basis of the liquidated National Academy of the Prosecutor's Office of Ukraine. The new Center was in the process of establishing itself in 2020, while facing the challenges related to operating under a pandemic. Nevertheless, the Centre managed to deliver in 2020 the following courses: "Effective public prosecution" , "Effective investigation of legalization (laundering) of proceeds from crime; Child-friendly justice. More trainings were announced to be made available for 2021, according to the official website of the Training Centre - https://ptcu.gp.gov.ua/en/category/trainings/

The training for **other professionals** includes training for the Judicial Security Service staff and joint activities with a non-judge staff of the courts held by the National School of Judges of Ukraine.

No information on eventual sanction if judges and prosecutors do not attend the compulsory training sessions was submitted for the 2020 cycle.

• Number of EU law training courses and participants

No information on training courses in EU Law and European Convention on Human Rights was submitted for 2020.

Alternative Dispute Resolution in Ukraine in 2020 (Indicator 9)

Legal aid for court-related mediation or related mediation provided free of charge	NAP
Court-related mediation procedures	No
Mandatory informative sessions with a mediator	No
Mandatory mediation with a mediator	No

Mediators

-

per 100 000 inhabitants

EaP Median: 1,9

There was no court-related mediation in Ukraine, hence the absence of data for 2020.

• Mediation procedures

There was no court-related mediation in Ukraine. Authorities were working on a Strategy for the Development of the Justice and Constitutional Judiciary for 2021-2023 which envisaged to establish a mandatory pre-trial procedure for settling disputes with the use of mediation and other practices for certain categories of cases.

• Other ADR methods

Mediation other than court-related mediation	Arbitration	Conciliation (if different from mediation)	Other ADR
✗	✓	✗	✓

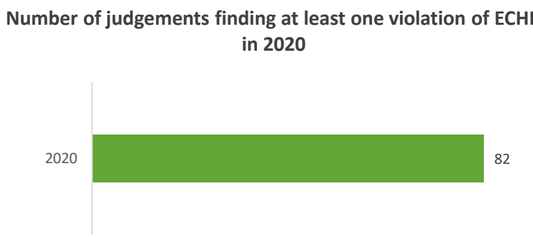
• Mediators and court-related mediations

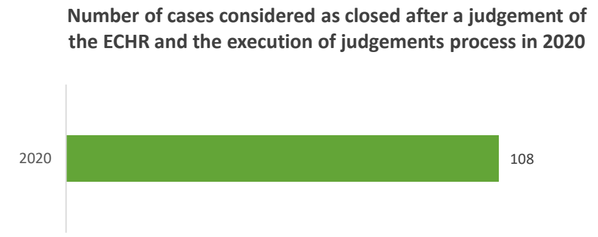
There was no court-related mediation in Ukraine in 2020, hence the absence of data on the number of mediators and number of court-related mediations.

European Convention on Human Rights in Ukraine in 2020 (Indicator 10)

European Convention on Human Rights – Article 6 – Right to a fair trial:

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.





ECHR

The Government Agent of Ukraine before the European Court of Human Rights is tasked inter alia with identifying the reasons of violations of the European Convention on Human Rights, developing proposals for taking measures aimed at eliminating the imperfection of a systemic nature, stated in the decisions of the ECtHR; preparing and submitting to the Committee of Ministers of the Council of Europe information and reports on the progress of Ukraine's enforcement of the ECtHR 's decisions; submitting to the Ministry of Justice proposals on the methods of examination of draft laws and regulations, as well as legislative acts, for compliance with the Convention and the case-law of the ECtHR; developing proposals to the curriculum for the study of the Convention and the case-law of the ECtHR; submitting proposals to the public authorities and local self-government bodies on possible ways of preventing human rights violations in Ukraine.

Monitoring system for violations related to Article 6 of ECHR		
Civil procedures (non-enforcement)	Civil procedures (timeframe)	Criminal procedures (timeframe)
✓	✓	✓

Possibility to review a case after a decision on violation of human rights by the ECHR

Yes

According to Ukrainian legislation, one of the additional measures of individual character in respect of the enforcement of the ECHR decisions is restoration, as far as possible, of the previous legal status of the Claimant having place prior to the violation of the Convention (restitutio in integrum). The previous legal status of the Claimant shall be restored, in particular, by reviewing the case by a court, including through reopening proceedings on the case and/or reconsideration of the case by an administrative body.

In 2020, there were 4271 applications pending before an ECHR decision body for Ukraine. There were 82 judgements by the ECHR finding at least one violation for Ukraine.

108 cases were considered as closed after a judgement of the ECHR and the execution of judgements process.

	2020
Number of applications allocated to a judicial formation of the Court **	4271
Judgements finding at least one violation**	82

** Source: ECHR

	2020
Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***	108

*** Source: Department of Execution of sanctions of the Council of Europe

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

Support for a better evaluation of the results of judicial reform efforts in the Eastern Partnership "Justice Dashboard EaP" Project

Data collection 2020

Part 2 (B) - Beneficiary Profile – Ukraine

This analysis has been prepared on the basis of the replies from the beneficiary (Dashboard correspondent) to the CEPEJ Questionnaire for the Justice Dashboard Eastern Partnership, and relevant GRECO reports from the Fourth GRECO Evaluation Round on Prevention of corruption in respect of members of parliament, judges and prosecutors.

The level of implementation of GRECO recommendations as of December 2019:

	JUDGES	PROSECUTORS
Implemented	33,30%	10,00%
partially implemented	33,30%	50,00%
not implemented	33,30%	40,00%

Selection and recruitment of judges and prosecutors

Procedure of recruitment of judges

The recruitment and career of judges is regulated by the Constitution and the Law on Judiciary and the Status of Judges (LJSJ). Following the Constitutional changes concerning the judiciary in 2016, new requirements for judicial candidates were introduced in Ukraine and the procedure for selecting the judges was changed.

Judges are appointed for life by the President of Ukraine on the recommendation of the High Council of Justice (HCJ). They are guaranteed irremovability until they reach the age of 65, except in the case of dismissal or termination of their powers in accordance with the Constitution and the LJSJ (Articles 80 and 53) (the Evaluation Report, para. 128).

No probation period is envisaged in the law for judges before being appointed “for life”.

Criteria for being eligible to be considered for appointment as a judge are determined in the LJSJ (Article 69) and are: 1. an Ukrainian citizen; 2. at least thirty years old and not older than sixty-five years old; 3. with a higher legal education; 4. having at least five years of working experience in the field of law; 5. is competent, honest; and 6. having the command of the official language in accordance with the level determined by the National Commission on the Standards of the State Language (changes to the article 69 as of 25 April 2019). Exceptions may be made with regard to persons with at least three years of record of service as judge’s assistant – their selection is conducted via competition, with specific features determined by the High Qualification Commission of Judges of Ukraine (HQCJU).

The law sets out additional requirements for appointment as a judge of the Supreme Court – at least ten years of experience as a judge, lawyer or scientist (Article 38, LJSJ), as a judge of the courts of appeal – at least five years of experience as a judge (Article 28, LJSJ), and of a High Specialised Court (Article 33, LJSJ).

Certain persons are excluded, e.g. those who have been convicted or are serving a sentence. Moreover, a person may not be a candidate for the position of judge if s/he was previously dismissed from a judicial position as a result of the qualifications evaluation or for committing a substantial disciplinary offence, gross or systematic neglect of duties which is incompatible with the status of judge or which has revealed his/her incompatibility with the office, violation of incompatibility requirements, violation of a duty to certify the legality of the source of property or in connection with entry into force of a conviction regarding such persons.

The selection procedure starts with a decision of the HQCJU on announcing the selection of candidate to the position of a judge, with an account to the estimated number of vacant judicial positions. Then the following stages are: 1. public announcement of the selection procedure by the HQCJU. The announcement shall specify the final term for submission of documents to the HQCJU which may not be less than 30 days from the date of placement of the announcement as well as the estimated number of judicial vacancies for the next year; 2. submission of

applications with supporting documents specified in Article 71 of the LJSJ; 3. on the basis of the application, candidates are verified by the HQCJU as to ascertain whether they meet the criteria; 4. candidates who qualified to participate in the selection procedure take admission exam; 5. results of the admission exam are determined and made public on the HQCJU's website; 6. a background check of candidates is performed on the basis of the Anti-Corruption Law and based on Article 74 of the LJSJ; 7. completion of the initial training for candidates who passed the admission exam and the background check; 8. qualification exam to be taken by the candidates who participated in the initial training; 9. based on the results, the candidates are rated and accordingly put on the reserve list for filling the vacancies; the lists is published; 10. announcement of a competition for filling vacant positions by the HQCJU; 11. the competition is held by the HQCJU and recommendations made with regard to appointment of a candidates for a position of a judge to the HCJ; 12. the HCJ considers recommendations and approves a decision regarding a candidate for a position of a judge; 13. the President of Ukraine issues a decree on appointing a candidates to a judicial position on the basis of the HCJ's proposal within 30 days of the receipt of the HCJ's proposal.

Lawyers (non-judges) may also enter the profession of judge straight in the appellate courts, 2 high specialized courts (High Anti-Corruption Court and the High Court on Intellectual Property) and the Supreme Court. Criteria are the same as for judicial candidates and, in addition, confirmed his/her capability to administer justice in the court of appeal based on results of qualification evaluation and meeting one of the following requirements: 1. having at least 5 years of experience as a judge; 2. having an academic degree in the field of law and at least 7 years of scientific work experience in the field of law; 3. having at least 7 years of professional experience as an attorney representing clients in court and/or defending against criminal charges; or 4. having at least 7 years of mixed experience (professional activity) according to the requirements set forth in the preceding points 1-3 .

Similar requirement as above are required for a judge of the High Anti-Corruption Court. In addition, s/he must possess knowledge and practical skills necessary for performing judicial functions in corruption-related cases (Law on High Anti-Corruption court).

For filling vacant position of judges in appellate courts, High Court on Intellectual Property (and its Appellate Chamber), High Anti-Corruption Court (and its Appellate Chamber), and Supreme Court the selection procedure is the same until the stage of submission of applications. After that, the candidates take a written exam and a psychological testing, and a special background check is performed by different state bodies on the request of the HQCJU. In case of appellate courts, High Court on Intellectual Property (and its Appellate Chamber) and Supreme Court competitions, the Public Integrity Council assists the HQCJU in determining the eligibility of a judicial candidate in terms of the criteria of professional ethics and integrity for the purpose of qualification evaluation and may render information or negative opinion on a judicial candidate. If the negative opinion of the PIC rendered, the HQCJU shall have 11 votes to overrule it and admit the judicial candidate to the interview stage. In the case of the High Anti-Corruption Court (and its Appellate Chamber), the Public Council of International Experts (PCIE) assists the HQCJU in the establishment of compliance of the candidates for the positions of judges of the High Anti-Corruption Court with the criteria of integrity (moral, honesty) for the purposes of qualification evaluation, namely in terms of legal origins of the candidate's property, correspondence of the standard of life of the candidate or his or her family members with the declared income, correspondence of the candidate's lifestyle to his or her status, knowledge and practical skills that the candidate possesses for consideration of cases under the

jurisdiction of the High Anti-Corruption Court. The competition procedure for High Anti-Corruption Court also includes the Special Joint Meetings of the PCIE and the HQCJU, which is held before the interview stage. Only candidates forming a doubt regarding their integrity, knowledge and practical skills upon decision of the PCIE may be considered at such meetings. The next stage in the selection procedure is the examination of the judicial dossier and the interview with the HQCJU members (which is live broadcasted). Based on this, the HQCJU rates candidates and publishes the ratings on the website. Then it sends the recommendations on appointments of candidates to judicial positions to the HCJ. The HCJ considers recommendations and may submit proposals to the President of Ukraine to appoint candidates to the positions of judges by a decree within 30 days of the receipt of the HCJ's proposal. The President cannot refuse to appoint the candidates proposed by the HCJ.

GRECO recommendation xv. GRECO recommended (i) reviewing the need to reduce the number of bodies involved in the appointment of judges; (ii) defining more precisely the tasks and powers of the Public Council of Integrity, further ensuring that its composition reflects the diversity of society, and strengthening the rules on conflicts of interest – including through the provision of an effective control mechanism.

In the Evaluation Report (see para. 140, 141), GRECO noted that given that the HCJ has been recently reformed and established as a central body of judicial self-governance, the GET encourages the authorities to examine the need for maintaining additional bodies such as the HQCJU and the Public Council of Integrity in the long run – if the reshaped HCJ proves its independence, impartiality and efficiency in practice. It is vital that the functioning of the appointment system – and the activity of the HCJ in particular – is followed closely, to ascertain the possibility and advisability of further streamlining the procedures and simplifying the architecture of judicial self-government bodies. Regarding more specifically the Public Council of Integrity, several of the GET's interlocutors pointed to the fact that the involvement of such a body in judges' appointment may generate risks of conflicts of interest. Even if the LJSJ provides rules on incompatibilities (e.g. judges and prosecutors are excluded) and self-recusal, the possible membership e.g. of practicing attorneys – which is explicitly permitted by the law – appears questionable; moreover, the lack of a control mechanism with respect to conflicts of interest is highly unsatisfactory. In addition to those concerns, the GET also sees a need for more precise rules to ensure the representation of various groups of society in the Council, in order to achieve the objective of including the knowledge and judgment of civil society at large and of increasing citizens' trust in the judiciary. Given the preceding paragraphs, GRECO issued recommendation xv.

In the compliance procedure, authorities reported on adoption of the law reforming judicial self-governance and bringing the High Qualification Commission of Judges of Ukraine (HQCJU) within the structure of the High Judicial Council (HJC) which had been viewed as positive developments by GRECO. However, the overhaul of the judicial system was still on-going. The second part of this recommendation had not been addressed at the time (the Compliance Report , para. 85-93).

A candidate judge can appeal the decisions taken by the HQCJU regarding his/her qualification assessment on substantial and procedural grounds in the manner prescribed by the Code of Administrative Legal Proceedings of Ukraine. The LJSJ defines the grounds for appealing decisions taken by the HQCJU after the qualification assessment of candidate judges. These grounds concern in particular failure to mention

the relevant legal grounds/provisions or non-motivated decisions by the Commission (Article 88). The decisions of the HCJ concerning appointments can be appealed to the Supreme Court on procedural and substantive grounds.

Integrity checks are performed in the selection procedure, by various bodies upon request of the HQCJU to verify the respective information about the candidates. HQCJU then prepares a report on the results; private individuals and legal entities may also submit information on candidates to the HQCJU. Any information received that may indicate that a candidate does not meet the legal requirements for holding the position of judge is considered by the HQCJU in the presence of the candidate. The latter has the right to access the relevant information, provide appropriate explanations, refute and deny it. The HQCJU then takes a motivated decision on whether to terminate further participation of the candidate in the selection procedure. This decision can be appealed to court. In addition to the "special verification procedure", judicial candidates have to submit their asset declarations – which are subject to a complete check by the competent authority i.e. the NACP – as well as the declarations of family members which are published on the HQCJU website (Articles 75, 76, LJSJ).

According to paragraph 2 of section II "Final and transitional provisions" of the Law of Ukraine "On Amendments to the Law of Ukraine "On the Judiciary and Status of Judges" and Some Laws of Ukraine on the Activity of Judicial Governance Bodies" No.193–IX dated October 16, 2019, the powers of members of the HQCJU were terminated on 7thNovember 2019. That made it impossible for the HQCJ as a collegial body to exercise its powers stipulated by the legislation of Ukraine in the field of a judicial career. At the date of finalisation of the data collection for the project, the HQCJU was reported as inactive for 2020.

Procedure of recruitment of prosecutors

The recruitment of prosecutors has been significantly changed with adoption of the Law the "On Amendments to Certain Legislative Acts of Ukraine on Priority Measures to Reform the Prosecutor's Office" dated September 19, 2019, 113-IX (Law 113-IX) which suspended certain provisions of the Law on the Prosecutor's Office (LPO) which regulated recruitment and career of prosecutors.

Previously, prosecutors were appointed by the head of the relevant prosecution office on the recommendation of the Qualification and Disciplinary Commission (QDC) which had powers over recruitment process. The Law 113-IX suspended the work of the QDC from 25th September 2019 until 1st September 2021 (when the QDC is to resume its powers) and in the meantime Personnel Commissions are formed in the Office of the Prosecutor General and in each regional prosecutor's office entrusted with a mandate to ensure recruitment and career of prosecutors in a more expeditious way.

The Personnel Commissions consists of six persons, at least three of which are persons delegated by international and non-governmental organizations, international technical assistance projects, and diplomatic missions. Pursuant to sub-items 1, 8 of item 22 of Section II "Final and Transitional Provisions" of the Law № 113– IX, the Prosecutor General is to: 1) approve the procedure for selection by Personnel Commissions to fill the vacant position of prosecutor; 2) determine the procedure for filling temporarily vacant positions of prosecutors in the prosecutor's office; 3) appoint persons to administrative positions in the Prosecutor General' Office and to the position of the head of the regional

prosecutor's office (upon the approval of the Commission for the selection of the management of the prosecutor's office); 4) determine the procedure for consideration by Personnel Commissions of disciplinary complaints on disciplinary misconduct by a prosecutor and holding the disciplinary proceedings; 5) determine the procedure for decision-making by Personnel Commissions based on the results of disciplinary proceedings and if there are grounds provided by the Law of Ukraine "On the Prosecutor's Office," the procedure of bringing prosecutor to disciplinary liability.

Prosecutors are appointed for an indefinite period; their powers of office may be terminated only on the grounds and in the manner prescribed by the Law on the Prosecutor's Office (LPO) (Article 16). No probation period is envisaged in the law for prosecutors before being appointed "for life". However, due to adoption of the Law "On Amendments to Certain Legislative Acts of Ukraine on Priority Measures to Reform the Prosecutor's Office" dated September 19, 2019, 113-IX (Law 113-IX) the re-qualification ("attestation") of prosecutors with life tenure on a competitive basis has been introduced. The attestation of prosecutors is carried out by Personnel Commissions.

The attestation includes assessing the professional competence of prosecutors, their professional ethics, and integrity. Apart from knowledge and skills of the prosecutors also data on complaints received against them, disciplinary proceedings, indicators of their declarations, materials of secret integrity checks, and other information characterizing the integrity of the prosecutor and their observance of ethics are taken into account. Any person has the right to submit information that could indicate that the prosecutor did not meet the criteria of competence, professional ethics, and integrity to the relevant Personnel Commission. Persons who did not hold the position of the prosecutor at the time of entry into force of this law had the right to participate in an open competition for vacant positions of the prosecutor if they had higher legal education and sufficient working experience in the field of law. In case of unsuccessful attestation, the prosecutor was dismissed.

The Prosecutor General is appointed and dismissed by the President of Ukraine with the consent of Parliament (Article 131-1 of the Constitution). The Parliament can initiate a vote of no confidence in the Prosecutor General, leading to his/her resignation (Article 85 of the Constitution). LPO specifies the grounds for dismissal of the Prosecutor General. LPO provides for a requirement for the Prosecutor General to have a law degree and a requirement of work experience in the legal field of at least 10 years (the Evaluation Report, para. 204, 205; the Compliance Report, para. 124, 125).

The integrity of candidate prosecutors is checked during the attestation on the basis of the Law 113-IX (see above).

Promotion of judges and prosecutors

Promotion of judges

The authorities responsible for judges' recruitment are also responsible for their promotion. The promotion of a judge can be made only via competition procedure to vacant judicial positions in courts of higher instance. The core part of the competition procedure is the qualification evaluation.

Qualification evaluation shall be conducted by the HQCJU in order to establish whether a judge (judicial candidate) is capable of administering justice in a relevant court according to criteria determined by law.

The criteria for qualification evaluation include: 1. competence (professional, personal, social, etc.); 2. professional ethics; and 3. integrity.

Qualification evaluation consists of the following stages: 1. taking examination; and 2. review of the judicial dossier and interview.

A decision on the sequence of the stages of qualification evaluation is approved by the HQCJU which also approves the procedure of holding the examination and a methodology for determining results thereof.

The examination is the main method for determining whether a judge (judicial candidate) meets the criterion of professional competence and shall be conducted by taking a written anonymous test and doing a practical task to identify the level of knowledge and practical skills in the application of law and ability to administer justice in a relevant court with relevant specialization.

Tests and practical tasks for the examination shall be developed having regard to the principles of instance hierarchy and specialization.

The HQCJU shall ensure the transparency of the examination.

The full procedure of competition to the appellate courts, High Court on Intellectual Property (and its Appellate Chamber), High Anti-Corruption Court (and its Appellate Chamber) and Supreme Court competitions is described above in the chapter on Selection and recruitment of judges.

According to paragraph 2 of section II "Final and transitional provisions" of the Law of Ukraine On Amendments to the Law of Ukraine "On the Judiciary and Status of Judges" and Some Laws of Ukraine on the Activity of Judicial Governance Bodies" No.193–IX dated October 16, 2019, the powers of members of the HQCJU were terminated on November 7, 2019. The Commission was inactive in 2020.

GRECO recommendation xvii. GRECO recommended that periodic performance evaluation of judges is carried out by judges on the basis of pre-established, uniform and objective criteria in relation to their daily work.

In the Evaluation Report (para. 145-147), GRECO noted that judges must follow on-going training at the National School of Judges, for at least 40 academic hours every three years. They are subject to regular evaluation (Article 90, LJSJ) which is aimed at identifying the judges' individual needs for improvement and incentives for maintaining their qualification at the proper level and for professional growth. Evaluation is conducted by lecturers at the National School of Judges based on the results of training and replies to a questionnaire and, as an optional addition, by other judges of the court concerned filling in a questionnaire, by the judge himself/herself filling in a self-appraisal questionnaire and by public associations carrying out an independent evaluation of the judge's work during court sessions. The judge concerned can object to the evaluation results presented by the National School of Judges which may complete a new questionnaire. The judge's evaluation questionnaire, upon completion of each training course, any possible objections to the evaluation results and revised evaluation questionnaire are included in the judge's dossier. The results of regular evaluations are to be taken into consideration in connection with the competition for filling a vacancy in the relevant court. The GET was quite puzzled about this rather unusual evaluation system. It clearly shares the concerns expressed by some practitioners that evaluation by lecturers of the National School of Judges hardly guarantees objectivity and equal treatment of judges, since it will depend on short-term impressions and on the particular training attended by them and not on their daily work. Some interlocutors stated that the consequences of such evaluations were rather limited, but the GET noted that they are to be taken into account in competitions for court positions (Article 91, LJSJ). Moreover, the LJSJ does not ensure that evaluations are conducted peer to peer, by judges; this is clearly unsatisfactory, even though the GET was told that in practice a majority of lecturers at the National School of Judges are judges. According to Council of Europe standards and reference texts, evaluation of individual judges – which is "necessary to fulfil two key requirements of any judicial system, namely justice of the highest quality and proper accountability in a democratic society" – "should be based on objective criteria"; and "in order to safeguard judicial independence, individual evaluations should be undertaken primarily by judges." Given the above, GRECO issued recommendation xvii.

In the compliance procedure no progress was made in respect of its implementation (the Compliance Report, para. 97-100).

Promotion of Prosecutors

The promotion of the prosecutors is made via the procedure of selection of prosecutors for vacant positions by transfer to a higher-level prosecutor's office. It is carried out by Personnel Commissions, formed by orders of the Prosecutor General consisting of at least seven prosecutors holding administrative positions in the relevant prosecutor's office.

The selection consists of two stages: 1. a practical task and 2. an interview.

Variants of practical tasks with answers were developed by the Prosecutor`s Training Center of Ukraine and approved by the Prosecutor General. The passing score (the minimum number of points that could be scored) for the successful completion of the practical task is 50 points. Candidates who scored the minimum allowable score based on the results of the practical task are admitted to the interview.

The interview is conducted by the Personnel Commission with the candidates orally in the state language and consists of assessing their readiness to exercise their powers in the higher-level prosecutor's office according to certain criteria, including taking into account the results of the practical task.

The interview consists of the following stages: the study of materials of an electronic dossier of the candidate; discussion with the candidate of relevant materials about him/her, including in the form of questions and answers, as well as the results of the practical task; evaluation of the candidate.

Each candidate is evaluated according to the following criteria: 1. professional competence and readiness to exercise the powers of a prosecutor in a higher-level prosecutor's office; 2. efficiency of work as a prosecutor; 3. experience in the field of the position for which the application is submitted (may take into account the performance of duties in the position for which the selection and a working trip to this unit is announced); and 4. moral qualities, observance of rules of prosecutorial ethics.

Following the discussion of the results of the practical task and the interview, each member of the Personnel Commission awards a candidate from 0 to 25 points for each criterion.

The list of candidates with their total scores based on the results of each stage of selection is published on the official website of the relevant prosecutor's office.

After reviewing the complaints according to the rules, the Personnel Commission approves the rating of candidates by its decision, which is published no later than the next working day on the official website of the relevant prosecutor's office.

Candidates who successfully passed the selection were considered to be those who scored the highest number of total points according to the rating for the relevant vacant position according to the results of the interview.

Based on the results of the selection by the Personnel Commission, the Personnel Commission’s decision on the candidate who successfully passed the selection is to be sent to the head of the relevant prosecutor's office within 3 working days.

If there are circumstances that have not been investigated by the Commission during the candidate's passing of any stage of selection and could affect the number of total points scored by him, such points at the end of each stage of selection could be challenged.

GRECO recommendation xxiv. GRECO recommended regulating in more detail the promotion/career advancement of prosecutors so as to provide for uniform, transparent procedures based on precise, objective criteria, notably merit, and ensuring that any decisions on promotion/career advancement are reasoned and subject to appeal

In the Evaluation Report (see para. 222, 223), the GET’s misgivings about the absence of specific rules on prosecutors’ promotion, unless it involves transfer to a higher level prosecution office, were noted. In line with GRECO’s previous pronouncements on this issue, the GET was of

the firm opinion that clear, precise and uniform procedures and criteria, notably merit, need to be enshrined in the law, not only for the first appointment of prosecutors but also for promotion and career advancement; procedures need to be transparent and decisions taken to be reasoned. In this connection, the GET again referred to Council of Europe standards and reference texts according to which "the careers of public prosecutors, their promotions and their mobility must be governed by known and objective criteria, such as competence and experience" and "should be regulated by law and governed by transparent and objective criteria, in accordance with impartial procedures, excluding any discrimination and allowing for the possibility of impartial review." This leads to another matter of concern, namely the insufficient regulation of appeals against decisions on prosecutors' careers. At present, no such regulations exist for decisions on promotion and career advancement. The GET referred to the preference given by GRECO on several occasions for clear regulations requiring that any decisions in appointment and promotion procedures are reasoned and can be appealed to a court, by (any) unsuccessful candidates. To conclude, the GET wished to stress that the further amendments advocated for in the preceding paragraphs will be conducive to strengthening the independence and impartiality of the prosecution service – as well as public trust in this institution – in line with the intentions underlying the recent reforms. Consequently, GRECO issued recommendation xxiv.

In the Compliance Report (see para. 136-142), the authorities reported on approved rules for running a competition and updated the rules on appointing candidates to the posts of prosecutors and approved methodology for assessing the professional level, experience and qualities of candidates (with a set of tests, practical tasks and specific indicators) by the QDC. The Prosecutor General approved a procedure for the verification of the integrity of prosecutors and an integrity questionnaire periodically filled in by each prosecutor. Following the adoption of the new Law on the Reform of the Prosecutor's Office, a new model for the promotion/career advancement of prosecutors is being developed with the participation of international experts. GRECO assessed the recommendation as partly implemented.

Confidence and satisfaction of the public with their justice system

Every person is guaranteed protection of their rights, freedoms and interests within reasonable time frames by an independent, impartial and fair trial (Article 7, LSJS). Violation by a judge of these principles – including unreasonable delay or failure to take action on considering an application, complaints or case within a timeline established by law, delays in drafting a motivated court decision, untimely submission of a copy of a court decision by a judge to be entered into the register – result in disciplinary liability (Article 106, LSJS).

No information has been provided by the authorities with regard to citizens' right to seek compensation in case they have suffered damages for excessive length of proceedings, non-execution of court decisions, wrongful arrest or conviction.

There is a procedure for filing complaints about the functioning of the judicial system in place. Depending on the issue, complaints are to be filed with the HCJ within the disciplinary system, to the Ombudsman or to the anti-corruption bodies (e.g. the High Anti-Corruption Bureau of Ukraine, the State Bureau of Investigations, or the National Agency on Prevention of Corruption). All competent bodies have time limits prescribed in which they have to deal with the complaints. On the basis of the Law on the Judiciary and the Status of Judges (LJSJ), disciplinary proceedings against judges are carried out by the Disciplinary Chamber of the HCJ, in accordance with the procedure as set out in the Law on the HCJ. A template of a disciplinary complaint which has been approved by the HCJ is posted on the HCJ's website. Disciplinary proceedings are to be carried out within reasonable time.

The following data for complaints were provided for 2020:

	2020	
	Number of complaints	Compensation amount granted
Court concerned	NAP	NAP
Higher court	NAP	NAP
Ministry of Justice	NAP	NAP
High Judicial Council	NA	NA
Other external bodies (e.g. Ombudsman)	NA	NA

There is a procedure in place to effectively challenge a judge in case a party considers the judge is not impartial. Data on the ratio between the total number of initiated procedures of challenges and total number of finalised challenges is reported on as not available.

The Law on Prosecutor's Office (LPO) prevents specific instructions to be made to public prosecutors to prosecute or not through a principle of independence of prosecutors. Article 16 emphasises that when performing prosecutorial functions, a public prosecutor is independent of any illegitimate influence, pressure, interference, and is guided in their operation exclusively by the Constitution and the laws of Ukraine. Central and local government authorities, other public institutions, their officials and officers, as well as individuals and legal entities and their associations are obliged to respect independence of the public prosecutor and refrain from exercising influence of any form on a public prosecutor in order to prevent the execution of his duties or taking illegal decision. The independence of prosecutors is also ensured by: 1. special appointment and dismissal procedure, special procedure for bringing prosecutors to disciplinary responsibility; 2. procedure for exercising powers determined in the procedural and other laws; 3. prohibition of illegal influence, pressure or interference in the exercise of his/her powers; 4. the procedure for financing and organizational support of the prosecutor's office established by law; 5. adequate material, social and pension provision of the prosecutor; 6. functioning of prosecutorial self-government bodies; 7. the means of ensuring the personal security of the prosecutor, members of his family, property, as well as other means of their legal protection determined by law.

The following favourable arrangements to be applied, during judicial proceedings, to various categories of vulnerable persons were reported for 2020:

- free of charge and personalised information mechanism operated by the police for victims of a criminal offence to obtain information on the follow-up to complaints filed;
- special arrangements in hearings (e.g. 1. judicial proceedings conducted via videoconference to enable remote court proceedings due to health or other reasons; ensuring safety of persons; interrogation of a minor or juvenile witness, victim; measures to ensure efficiency of court proceedings – Article 366, part 1 of the Criminal Procedure Code; 2. Possibility to conduct interrogation outside a courtroom via videoconference in order to protect rights of a minor or juvenile witness and/or when objective clarification of facts needed – Article 354, part 4 of the Criminal Procedure Code; 3. In case of a need to obtain testimony of a witness or a victim during the pre-trial investigation, if due to danger to life and health of the witness or victim, their serious illness, in case of other circumstances preventing their interrogation in court or affecting the completeness or accuracy of the testimony, the party to the criminal proceedings, the representative of the legal entity subject to the proceedings, have the right to ask the investigating judge to interrogate such a witness or victim in court, including simultaneous interrogation two or more persons already interrogated. In such case the interrogation may be conducted at the location of the court or where the sick witness or victim is situated.; 4. Testimony of minors under 16 made without taking an oath – Article 232, part 2 of the Civil Procedure Code);
- other specific arrangements: The investigating judge, court, prosecutor, the investigator shall provide the participants in criminal proceedings – who have no knowledge/have insufficient knowledge of official language - the right to testify, petition, and file complaints, to speak in court in their native language or another language they speak, using the services of an interpreter in the manner prescribed by this Code (Article 29 of the Criminal Procedural Code of Ukraine).

Promotion of integrity and prevention of corruption

Independence of judges

In accordance with article 126 of the Constitution, the independence of judges is guaranteed by the Constitution and laws of Ukraine, and any influence on judges is prohibited (see also Article 129 of the Constitution and Articles 6 and 48 of the LSJS). Courts are to exercise justice on the basis of the Constitution, the laws and the rule of law (the Evaluation Report, para. 126).

According to Article 126 of the LSJS, judicial self-government is one of the guarantees of judges' independence. According to the law, the Congress of Judges is the supreme body of judicial self-governance. Its decisions are binding on the other self-governance bodies and on all judges. It is composed of delegates of all courts elected by the meetings of judges (at court level) and, inter alia, it elects the Constitutional Court Justices and members of the Council of Judges, the High Council of Justice and the High Qualifications Commission of Judges. The Council of Judges is composed of judges of different court levels and is tasked with ensuring the implementation of decisions of the Congress of Judges (the Evaluation Report, para. 122).

The High Council of Justice (HCJ) has a prominent role in the appointment and dismissal of judges, supervision of incompatibility requirements on judges (and prosecutors) and in disciplinary proceedings. It also gives consent to the detention or taking into custody of a judge, takes measures to ensure the independence of judges, decides on the transfer of judges from one court to another, etc. (the Evaluation Report, para. 123). It also provides its agreement on the reallocation of budget expenditures between courts (except the Supreme Court).

Organisational and financial support to the judiciary is provided by the State Judicial Administration. It is a State body accountable to the HCJ. It has a variety of functions including representing the courts in their relations with the Cabinet of Ministers and Parliament during the preparation of the annual State Budget, ensuring proper conditions for the activity of courts and other bodies of the judiciary, collection and analysis of court statistics, the management of the Unified Judicial Informational Telecommunication System etc. Its chair is appointed and dismissed from by the HCJ on a competitive basis.

Independence of prosecutors

Article 3 LPO sets forth the principles of operation of the prosecution service, which include the "independence of prosecutors, which implies the existence of safeguards against illegal political, financial or other influence on a prosecutor in connection with his/her decision-making when performing official duties". Article 16, LPO contains a list of such safeguards, including special procedures for appointment, dismissal and disciplinary sanctions, the functioning of prosecutorial self-governance institutions, etc. (the Evaluation Report, para. 201).

The LPO provides for extensive powers vested in the Prosecutor General, in particular, regarding structural and personnel matters, as well as disciplinary proceedings.

The All-Ukrainian Conference of Prosecution Employees (AUCEP) is the highest body of prosecutorial self-governance (Article 67 *et seqq.* LPO). Its decisions are binding on the Council of Prosecutors and on all prosecutors. The AUCEP is competent, inter alia, to appoint members of the HCJ, the Council of Prosecutors and the Qualifications and Disciplinary Commission. Its delegates are elected at the meetings of prosecutors from the different levels of prosecution offices. The AUCEP elects the presidium by secret ballot. Its decisions are adopted by a majority of all delegates (the Evaluation Report, para. 212).

The Qualifications and Disciplinary Commission (QDC) is a collegial body empowered to establish the level of professional requirements for candidate prosecutors, decide on disciplinary liability, transfer and dismissal of prosecutors (Article 73 et seqq., LPO). It consists of 11 members including five prosecutors appointed by the AUCEP, two scholars appointed by the Congress of law schools and scientific institutions, one defence lawyer appointed by the congress of defence lawyers and three individuals appointed by the Parliamentary Commissioner for Human Rights following approval by the competent parliamentary committee. They serve three-year terms and may not be reappointed for two consecutive terms. However, due to entry into force of Law 113-IX on 25th September 2019, the provisions of the Law of Ukraine "On the Prosecutor's Office" which determined the legal status of the Qualification and Disciplinary Commission of Prosecutors, were suspended and the powers of the chairman and members of this commission were terminated.

GRECO recommendation xxiii. GRECO recommended amending the statutory composition of the Qualifications and Disciplinary Commission to ensure an absolute majority of prosecutorial practitioners elected by their peers.

In the Evaluation Report (see para. 214-216), the GET acknowledged the recent positive reforms aimed at strengthening prosecutorial self-governance and thereby the autonomy of the prosecution service and its independence from political influence. It wished to emphasise how important it is that the self-governing bodies credibly represent – and are also seen to do so – the whole prosecutorial corpus. It also drew attention to the fact that in Ukraine, those bodies are endowed with core responsibilities including in personnel matters (QDC). It is therefore of prime importance that their activity is assessed carefully in order to ascertain whether they assume their role as independent and pro-active self-governing bodies. One specific area where there is room for further improvement is the composition of the QDC. While the GET agreed that the involvement in such a body of experts from outside the prosecution service may in principle contribute to unbiased decision-making, it was on the other hand concerned that the current legislation does not secure a majority of prosecutors in the QDC. This contrasts with the situation in virtually all member States which have put in place similar bodies. As GRECO has pointed out on previous occasions, ensuring a majority of prosecutors elected by their peers in prosecutorial self-governing bodies is an appropriate means to help them to fully assert their legitimacy and credibility and to strengthen their role as guarantors of the independence of prosecutors their legitimacy and credibility and to strengthen their role as guarantors of the independence of prosecutors and the autonomy of the prosecution service. Consequently, GRECO issued recommendation xxiii.

In the compliance procedure no progress has been noted (see para. 130-135, the Compliance Report).

Breaches of integrity for judges

Provisions which describe different possible breaches of integrity of judges are contained in the Constitution (Article 131) – grounds for dismissal of judges are failure to exercise his/her powers for health reasons; violation of the incompatibility regulations; commission of a substantial disciplinary offence, gross or systematic neglect of duties which is incompatible with the status of judge or which has revealed his/her incompatibility with the office; resignation or voluntary termination of service; refusal to be transferred to another court in case of dissolution or reorganisation of a court; breach of the obligation to prove the legality of the sources of his/her assets. The HCJ is competent to decide on the dismissal of judges (Article 131 of the Constitution). Furthermore, they are contained in the Code of Judicial Ethics which is composed of the three chapters "general provisions", "judicial conduct in the administration of justice" and "judicial conduct off-the-bench" (altogether 20 articles). Judges are also subject to provisions of the LPC on prevention of corruption, conflicts of interest, gifts and obligations with regard to asset declarations. Rules on incompatibilities (apart from the once contained in Article 127 of the Constitution - judges may not belong to any political party or trade union, engage in any political activity, hold a representative mandate, occupy any other paid position, or perform other remunerated work except of a scientific, educational or creative nature) are contained in the LJSJ. Some rules on incompatibilities are contained also in the LPC, including restriction on other part-time activities and on joint work with close persons. Recusal and conditions for it are specified in the procedural laws (Civil Procedure Code, Criminal Procedure Code, Commercial Procedural Code and Code of Administrative Procedure). The Criminal Code criminalizes presenting deliberately incomplete or incorrect data in the asset declaration by a public official (Article 366(1)) (the Evaluation Report, para. 147, 155, 156, 159, 160, 162, 36).

Breaches of integrity for prosecutors

Provisions which describe different possible breaches of integrity of prosecutors are contained in the Law on Prosecutor's Office (LPO) according to which prosecutors are to abide by the rules of prosecutorial ethics, in particular not behave in a way that may compromise them as prosecutors or damage the reputation of the prosecution service (Article 19). A regular (two or more times within one year) or one-off gross violation of prosecutorial ethics results in disciplinary liability, as well as any actions which discredit the prosecutor and may raise doubts about his/her objectivity, impartiality and independence and about the integrity and incorruptibility of prosecution offices (Article 43, LPO). Moreover, prosecutors are to take the prosecutor's oath, the text of which is signed by the prosecutor and kept in his/her personal file (Articles 19 and 36). They are to be held liable for a breach of oath as established by law. The "Code of professional ethics and rules of professional conduct for the office of the prosecutor" defines the basic moral norms and principles to be followed by the prosecutors when exercising their official duties and when off duty. Prosecutors are to be held liable for violations of the code of ethics in accordance with applicable legislation. Prosecutors are subject to the relevant LPC provisions on prevention of corruption, conflicts of interest, gifts and obligations regarding declarations of assets. Recusal of prosecutors and conditions for it are specified in the Criminal Procedure Code. The Criminal Code criminalizes deliberately presenting incomplete or incorrect data in the asset declaration by a public official (Article 366(1)) (the Evaluation Report, para. 236, 237, 36 and 244).

No provisions and/or references which describe different possible breaches of integrity of **staff of the court** have been provided.

No data on the number (absolute and per 100 judges/prosecutors) of criminal cases initiated and completed against judges and prosecutors and sanctions pronounced were provided for 2020.

Existence of specific measures to prevent corruption

Specific measures to prevent corruption are in place, namely gift rules (the Evaluation Report, para. 168-169 and para. 246-247) and specific training. The training on ethics is part of the standardized training programs for judges. A compulsory in-service training is occasionally available to judges. Conversely, no training on ethics was offered to prosecutors in 2020, due to the reform of the training institution for prosecutors although in-service trainings on ethics are occasionally provided to prosecutors. Both judges and prosecutors are not obliged to undergo any compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest.

No information on other specific measures has been provided.

Codes of ethics for judges and prosecutors

Matters of judicial ethics are defined by the Code of Judicial Ethics, which was approved by the Council of Judges in December 2012 and adopted by the Congress of Judges on 22nd February 2013. During the preparation of the code, international standards of professional judicial ethics were taken into consideration. The code is composed of the three chapters “general provisions”, “judicial conduct in the administration of justice” and “judicial conduct off-the-bench” (altogether 20 articles). The Code of Judicial Ethics has been disseminated to all judges. It is also made available to the general public on the Internet. In addition, in 2016 the Council of Judges issued a “Commentary to the Code of Judicial Ethics” which is also published on the Internet, and online training on judicial ethical has been introduced (the Evaluation Report, para. 155).

Responsible institution for ethics matters in respect of judges is the HCJ. It’s sub-council is the Committee on Ethics, Prevention of Corruption and Conflict of Interest within the HCJ composed only of judges. Its tasks inter alia include preparation of draft explanations, recommendations and advisory opinions of the HCJ on the application and interpretation of the rules of judicial ethics. Decisions on ethical matters and other documents such as the Commentary to the Code of Judicial Ethics are publicly available.

The “Code of professional ethics and rules of professional conduct for the office of the prosecutor” was adopted by the AUCEP on 27th April 2017 and amended in 2018. It defines the basic moral norms and principles to be followed by the prosecutors when exercising their official duties and when off duty. Prosecutors are to be held liable for violations of the code of ethics in accordance with applicable legislation.(the Evaluation Report, para. 237).

The institution responsible for issues on ethics in respect of prosecutors was the QDC. However, with the adoption of the Law 113-IX on 19th September 2019 which entered into force on 25th September 2019, provisions of the LPO which determined the status and powers of the QDC,

which included also providing opinion on ethical questions of the conduct of prosecutors, were suspended until 1st September 2021 and the members of the QDC were considered dismissed.

GRECO recommendation xxvii. GRECO recommended (i) that the new code of ethics for prosecutors be complemented by illustrative guidelines (e.g. concerning conflicts of interest, gifts and other integrity-related matters) and (ii) that those documents be brought to the attention of all prosecutors and made public.

In the Evaluation Report (see para. 238), the GET acknowledged that following the constitution of the new self-governing bodies, a new code of ethics has now been adopted. In terms of content, it builds on the previous code of 2012 but is more specific, e.g. on conflicts of interest and the principle of presumption of innocence. It is also to be welcomed that the 2017 version contains new provisions on respect for the independence of judges and on the prevention of corruption. On the other hand, the GET saw a need for supplementing the rather general ethical standards with further written illustrative guidance, explanatory comments or practical examples (e.g. with regard to risks of corruption and conflicts of interest). It was interested to hear, after the visit, that such guidance was under preparation. The GET wished to stress that clear guidance must also be provided on the acceptance of gifts, which is regrettably not addressed by the code of ethics itself. Finally, it is crucial that the code and further guidance are brought to the attention of all prosecutors and made public. In view of the foregoing, GRECO issued recommendation xxvii.

In the compliance procedure, the authorities reported on amendments to the code made in 2018. Moreover, the Prosecutor General's Office has approved and published the recommendations to prevent and resolve conflicts of interest. The recommendations are accompanied by detailed and visual (including graphic) materials, including a self-assessment test, guidelines for employees and their superiors as well as examples and sample documents. In 2018, it issued an order on acceptance of gifts and later approved and published recommendations regarding restrictions on gifts. It has published other guidelines, in particular, regarding e-declaration of assets, interests and liabilities and financial control. Awareness raising activities and trainings were also reported. GRECO noted this information but at the same time observed no guidelines were reported with respect to other integrity related matters (such as incompatibilities, etc). Moreover, the available guidelines are scattered in various regulatory documents. The National Academy has elaborated a manual covering ethics for prosecutors. The reported training and awareness raising activities have been enhanced. GRECO looked forward to a genuinely systemic approach in this respect, in particular by the future Training Centre of Prosecutors (which is to replace the National Academy). As a consequence, GRECO concluded this recommendation to be partly implemented (the Compliance Report, para. 154-160)..

The authorities have reported that there was no body providing opinions to prosecutors on ethical matters.

No information has been provided on established mechanisms to report attempts on influence/corruption on judges and prosecutors.

Transparency in distribution of court cases

Pursuant to Article 15 LJSJ, the assignment of a judge/of judges to consider a specific case is carried out by the automated case management system in the manner determined by procedural law. The criteria for case allocation are the specialisation of judges, the caseload of each judge, bans on participating in the review of decisions for a judge who participated in rendering the court decision in question (except for the review of newly discovered circumstances), judges' leave, absence due to temporary incapacity to work, business trips and in other cases provided for by law when a judge may not render justice or participate in a case. The automated system is not used only if there are circumstances that objectively render its functioning impossible and which last for more than five working days, in which case the distribution of cases is determined by the Regulations on the Unified Court Information (Automated) System adopted in 2010 and frequently amended in subsequent years. "Unlawful interference with the work of the automated workflow system of court" entails criminal liability under article 376-1 CC (the Evaluation Report, para. 149). No information on cases' reassignment have been provided.

A judge may be removed from a specific case only for the reasons set out by law. The grounds and procedure for rejecting a judge are specified by the procedural laws. The rules on disqualification of a judge under the procedural laws are described further below.

Declaration of assets for judges and for prosecutors

Law on Prevention of Corruption (hereinafter: LPC) regulates obligations pertaining to judges and prosecutors with regard to asset declarations. Furthermore, according to provisions of the Law on Judicial System and Status of Judges (LJSJ) judges are obliged to submit annual asset declarations to the NACP in accordance with the provisions of the LPC (the Evaluation Report, para. 173).

The rules on asset declarations are rather comprehensive; they provide for an online declaration system which is mandatory for all public officials and publicity of declarations (some information is not disclosed to the public for privacy and security purposes: address, ID, other personal identification data) (the Evaluation Report, para. 32).

The declaration requirement applies on an annual basis during the term of office, by 1st April every year, as well as within one year upon termination of office. It is also extended to the public official's family members (the Evaluation Report, para. 35).

Registrable interests include real estate, movable property, commercial interests, intangible assets (including property rights), income, gifts, monetary assets, debts, loans, expenditure and financial transactions, secondary positions or jobs, participation in management, supervisory bodies of non-commercial firms and non-financial interests (the Evaluation Report, para. 34 – see the Table of Registrable Interests and Threshold).

Applicable to both judges and prosecutors, non-submission, untimely submission of an asset declaration or submission of knowingly inaccurate (including incomplete) information constitutes a disciplinary offence. Moreover, administrative and criminal liability is provided for by the Administrative Offences Code and the Criminal Code (the Evaluation Report, para. 173).

Disciplinary penalties applicable to judges include admonishment; reprimand – with deprivation of the right to receive bonuses to the salary of a judge for one month; strict reprimand – with deprivation of the right to receive bonuses for three months; proposal on temporary (one to six months) suspension from the administration of justice – with deprivation of the right to receive bonuses, and mandatory training and subsequent qualification evaluation for confirmation of the judge's ability to administer justice in the relevant court; proposal on transfer of the judge to a lower-level court; and proposal on dismissal of the judge. A proposal to dismiss a judge can be made if the judge violated the duty to prove the legality of the sources of his/her assets (the Evaluation Report, para. 184 and 147).

Disciplinary sanctions applicable to prosecutors include: reprimand; ban for up to one year on a transfer to a higher prosecution office or on appointment to a higher position (except for the Prosecutor General); dismissal from office (the Evaluation Report, para. 258).

Authority competent to receive asset declarations of judges and prosecutors is the National Agency on Corruption Prevention (NACP) (the Evaluation Report, para. 173 and 250).

According to the LPC, the NACP is to carry out a complete examination of asset declarations, within 90 days of their filing; more particularly, it is to ascertain the reliability of the declared data, the accuracy in the evaluation of the declared assets, as well as the presence of a conflict of interest and signs of illicit enrichment (so-called "lifestyle monitoring"). When results of the complete examination of the declaration show false information included in the declaration, the NACP shall notify in writing the head of the relevant authority, where the respective declarant works, and other specialised bodies in the field of combating corruption. The NACP is empowered to access other authorities' databases (e.g. tax authorities, real estate registry, etc.), as necessary while performing its verification task. If the NACP detects minor violations of the rules (failure to submit an asset declaration within the time limit), it is itself responsible for imposing rather significant fines ranging from 50 to 100 gross minimum wages depending on the seriousness of the infringement (2 500 to 5 000 €), as well as a professional ban of up to one year. In more serious cases, i.e. where it was found that an official presented deliberately incomplete or incorrect data, as punishable under Article 366(1) of the Criminal Code, or where there are signs of illicit enrichment, as punishable by Article 368(2) of the Criminal Code), it refers the cases to the National Anti-Corruption Bureau (NABU). Criminal sanctions consisting of imprisonment, fines and/or professional bans are applicable in such cases (the Evaluation Report, para. 176, 177 and 178 to be read in conjunction with para. 36).

GRECO recommendation ii. GRECO recommended that appropriate regulatory, institutional and operational measures be taken to ensure effective supervision of the existing financial declaration requirements, including, but not limited to the enactment of by-laws allowing the NACP to perform its verification tasks; the adoption of an objective lifestyle monitoring procedure; the introduction, without delay, of automated cross-checks of data and interoperability of databases, with due regard for privacy rights; and the institution of appeal channels for sanctions imposed.

In the Evaluation Report (para. 37-44), GRECO noted it was clear that the monitoring work by the NACP is of prime importance for the declaration system to operate properly given that, as described above, it is the main entry point for checking the information and possibly detecting irregularities. Accordingly, the GET deemed it crucial that a range of measures follow to ensure effective scrutiny of asset declarations, as established in the LPC. Firstly, it is indispensable that every effort be made to equip the relevant division of the NACP with adequate personnel and material resources. In this connection, the recruitment process of staff (with civil servant status) is an on-going process: the NACP should have 311 employees, but it currently functions with 186 (60% of its statutorily fixed resources). It was foreseen that a total of 56 officials would be performing asset declaration verification; currently, there are 36 officials who have been recruited to this aim. Material and technical shortages were also reported on-site (office premises, equipment, office furniture either lacking or in unusable condition, electricity black-outs). The GET considered that the issue of personnel means of the NACP needs to be framed in a broader context as to its technical resources, including through the development of automated databases and appropriate back-up software for those. The GET noted that, since its establishment, staff recruitment of the NACP has proceeded at a reasonable pace, and various interlocutors, raised the concern that rather than a shortage in resources, what the NACP was mostly lacking at present was proactivity and determination in pursuing its role. The budget of the NACP in 2016 amounted to approximately €828,000 (74% of which is devoted to party funding monitoring). Secondly, the GET noted that, at the time of the on-site visit, the NACP had not been in a position to start verification of asset declarations given that it lacked the requisite internal regulations for doing so. This was signalled as a most troubling situation by all interlocutors met. Moreover, the United Nations Development Programme (UNDP) offer to provide the software required for undertaking automated verification of e-declarations met

with reluctance from the NACP, which, in turn, has opted for hand-picking manual verification of “first wave” declarations, and subsequently tendering out, in the future, the development of software for automated verification. Such an option departs from objective verification means and can only contribute to spreading suspicions of bias in the process. It is clear that the use of technology could better allow for comparability across time of asset and income variations could well facilitate early detection of potential anomalies and irregularities. The GET was firmly convinced that, for the verification process to be considered transparent, fair and balanced, it is essential that clear criteria, deadlines and order of inspections are laid down in regulation, and that appeal channels are in place for non-compliance decisions. Likewise, decisions of the NACP must be fully justified and public; both criteria which the GET was told were missing at present when looking into the way in which the NACP is operating (see also misgivings noted above, in paragraph 29 of the report). Another outstanding issue relates to the requisite access of the NACP to the registries held by other authorities, and the actual interoperability of databases - safe respect for privacy rights, a process that is currently under development, but yet needs to be concluded. The GET understood the advantage of forming new specialised bodies, particularly, in a context where former structures were tainted by corruption; however, it is important to ensure that mandates do not overlap and that they all coordinate efficiently and swiftly with one another to get things done. The GET was worried to hear repeated criticism regarding the inefficiency and irresponsibility of the NACP in this particularly sensitive matter; several interlocutors went further in stressing that these were all deliberate delays and that the NACP inconclusive attitude was obstructing de facto the effective operability of the e-declaration system. The GET could only be perplexed as to the current state of affairs and the inability of the NACP to conduct this matter in a more expeditious manner. Consequently, GRECO issued recommendation ii.

In the Compliance Report (see para. 17-24), GRECO noted legal and regulatory measures that had been taken to improve control of financial declarations and to provide for appeal channels, but an objective “lifestyle monitoring procedure” had still been lacking. Several novelties had been introduced (such as direct access of NACP to state registers and databases, automated processing of declarations, filling gaps in the scope of the reporting categories covered and expanding the reporting data), but reservations had remained concerning the effective operation of the system in practice (in particular, the risk for hand-picking and manual processing of declarations remained high; malfunctioning and technical problems occasionally experienced by the e-declaration system continued to draw criticism, and allegations had been made regarding unlawful interference and limited interoperability with other databases). To sum up, improvements made in legislation needed to be coupled with practical measures addressing the deficiencies of the operation of the system of declarations and their supervision in practice. Recommendation was thus assessed as partly implemented.

GRECO recommendation iii. GRECO recommended ensuring that in practice, the NABU is granted proper and unhindered access a) to the complete asset declarations received by the NACP and b) in the framework of criminal proceedings started on the basis of such declarations, to all national and regional databases necessary for the proper scrutiny of asset declarations

Thirdly, it must be noted that the National Anti-Corruption Bureau (NABU) – which is competent for the prevention, detection, suppression, investigation and solving of corruption offences committed by senior officials – has enforcement responsibilities in the implementation of the asset disclosure system. Notably, it is entrusted with determining investigative and sanctioning attributions in the event of suspicions of criminal

activity, tax evasion or illicit enrichment. Since its establishment in 2016, the NABU has proven to be an efficient institution in countering corruption in Ukraine, as evidenced by its strong track record of investigations. There have been some worrying signs going in the direction of curtailing NABU's remit; such moves could put in question the actual political will to tackle corruption, not only with words, but also in practice. It is crucial that the NABU is further supported by the Ukrainian authorities, and shielded from improper influence or pressure, for it to continue its work as determinedly and efficiently as it has done to date. The NABU has also been fairly proactive in verifying the veracity of the financial disclosure forms available online for public consultation. At the time of the on-site visit, it had opened 10 criminal proceedings, a number of which concern MPs and judges. Pursuant to Article 17(3) of the Law on the National Anti-Corruption Bureau, the NABU has the right to obtain information on asset declarations; however, the NACP had refused to give full access to the registry of declarations (including information which is not publicly available, i.e. personal identification data) to the NABU. This refusal by the NACP raises doubts as to its willingness to swiftly cooperate with a natural partner in implementation of the law; the provisions of the LPC clearly aim at the NACP and the NABU mutually reinforcing their roles and effectiveness. After the visit, the GET heard that on 13 January 2017, the NABU and the NACP had signed a Memorandum of cooperation and exchange of information providing, among other things, the NABU with full access to the register of e-declarations, once the required technical arrangements have been made. The GET welcomed this step; it is of prime importance that full and unhindered access is now swiftly ensured in practice. It is equally important for the NABU's work to have proper access to relevant national and regional databases necessary for further investigations, once criminal proceedings have been initiated on the basis of the information contained in the asset declarations. While article 17(3) of the Law on the NABU sets a legal basis for such access to relevant information, it would appear that the practice does not always follow. For example, the GET heard shortly after the visit that the Prosecutor General's Office (PGO) had blocked the access by NABU to the unified register of pre-trial investigations. It is for those reasons that GRECO issued recommendation iii.

This recommendation was partly implemented in the Compliance Report (para. 25-31). New legal provisions had been adopted to allow NABU's full access to state registries containing asset declarations, specific bank account operations etc. Further, the NACP Guidelines preventing NABU from starting pre-trial investigations in cases of false declarations and illicit enrichment had been abolished. However, the system was new at the time, and GRECO had wished to re-assess the situation in light of the implementation of new provisions in practice.

No data on the number (absolute and per 100 judges/prosecutors) of proceedings against judges/prosecutors for violations or discrepancies in declaration of assets in 2020 has been provided.

Conflict of interest for judges and for prosecutors

Procedures and mechanisms for managing potential conflict of interest

The legal framework concerning conflicts of interest of judges includes: 1. the Constitution; 2. the Law on Prevention of Corruption (LPC); 3. the Law on the Judicial System and Status of Judges (LJSJ); 4. the Criminal Procedure Code, the Civil Procedure Code, the Commercial Procedure Code, and the Code of Administrative Procedure.

The general rules on the prevention and management of conflicts of interest contained in chapter V of the LPC. The LPC defines and regulates conflicts of interests for public officials, including judges. In particular, a conflict of interest is a (real/potential) contradiction between the private interest of a person and his/her official or representative activities which affects the objectivity or impartiality of his/her decisions and commitment or non-commitment of actions in the exercise of such activities. The following course of action is to be taken when a conflict of interest emerges/may emerge: (i) taking measures to prevent the occurrence of real or potential conflict of interest; (ii) reporting - no later than the next business day from the date when the person found out or should have found out about having a real or potential conflict of interest – to the immediate supervisor, and if the person holds the position that does not provide for having an immediate supervisor or the position in a collective body – to report to the NACP or other authority or a collective body determined by the law, where the conflict of interest occurred while exercising authority, respectively; (iii) refraining from taking actions/decisions when exposed to a situation of a real conflict of interest; and (iv) taking measures to address a real or potential conflict of interest. In particular, no later than the next business day after the date when a judge was aware or should have been aware of a real or potential conflict of interests, s/he must submit a report to the Council of Judges. Further details are regulated in a Decision by the Council of Judges of 9th February 2016 (No. 2) (the Evaluation Report, para. 156 to be read in conjunction with para. 74 and 75).

Possibility for judges and prosecutors to perform additional activities

Under Article 127 of the Constitution, judges may not belong to any political party or trade union, engage in any political activity, hold a representative mandate, occupy any other paid position, or perform other remunerated work except of a scientific, educational or creative nature (the Evaluation Report, para. 159).

More detailed regulations on judges' incompatibilities are contained in the LJSJ (Article 54). Requirements regarding incompatibility prohibit judges: 1. to hold a position in any other body of state power, the body of local self-government, and a representative mandate; 2. to combine his/her activities with entrepreneurial activities, legal practice, hold any other paid positions, perform other paid work (except for teaching, research, or creative activities), or be a member of the governing body or a supervisory board in a company or organization that is aimed at making a profit. If judges are owners of shares or own other corporate rights or have other proprietary rights or other proprietary interests in the functioning of any legal entity aimed at making profit are obligated to transfer such shares (corporate rights) or other relevant rights into the

management of an independent third party (without a right of giving instructions to such person regarding the disposition of such shares, corporate or other rights or regarding the exercise of rights which arise therefrom) for the term of judicial office. A judge may receive interest, dividends, and other unearned income from the property he/she owns.; 3. from being members of a political party or a trade union, demonstrate affiliation with them and participate in political campaigns, rallies, strikes. While in office, a judge may not be a candidate for elective positions in bodies of the state power (other than judicial) and bodies of local self-government, as well as participate in the election campaigning. 4. In case of appointment of as a member of the High Council of Justice, the High Qualification Commission of Judges of Ukraine, they shall be seconded to work with those bodies on a permanent basis. Judges who are members of those bodies retain guarantees of material, social, and household support envisaged by law for judges. 5. A judge, upon their application, may be seconded for work at the National School of Judges of Ukraine, and a judge elected as Chairperson or Deputy Chairperson of the Council of Judges of Ukraine – at the Council of Judges of Ukraine, with the preservation of the amount of judicial remuneration at the main job and of any bonuses envisaged by law. 6. A judge shall comply with the requirements regarding incompatibility stipulated by anti-corruption legislation. Secondment for work at the High Council of Justice, the High Qualification Commission of Judges of Ukraine, the National School of Judges of Ukraine, and Council of Judges of Ukraine shall not be regarded as a compatibility of jobs.

The general rules on incompatibilities contained in the Law on Prevention of Corruption (LPC) are to be taken into account, including the restrictions on other part-time activities and on joint work with close persons (Article 25 *et seqq*.) (the Evaluation Report, para. 162 to be read in conjunction with para. 82).

Judges are obliged to report the allowed activities they are engaged in and related income to the NACP in their annual e-declarations and income tax declarations (the Evaluation Report, para. 163). No information has been provided as to whether judges need authorisation to perform accessory activities.

The conditions for disqualification of a judge are specified in the procedural laws (Article 75 *et seqq.* of the Criminal Procedure Code, Articles 20 and 32 of the Civil Procedure Code, Article 20 of the Commercial Procedure Code, Articles 27 and 29-32 of the Code of Administrative Procedure). A judge cannot participate in the trial if s/he was previously involved in the case, if s/he is directly or indirectly interested in the outcome of the case, if s/he is a family member or close relative (i.e. husband, wife, father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, brother, sister, grandfather, grandmother, grandson, granddaughter, adopter or adopted, guardian or trustee, a family member or a close relative of the person) of the party or other persons involved in the case, if there are other circumstances that raise doubts about the judge's objectivity and impartiality, and if the procedure for allocating the case to a judge has been violated. In the presence of such reasons, the judge must withdraw from the case. Parties to the case or the prosecutor involved in the trial may also challenge the judge's participation (the Evaluation Report, para. 165).

GRECO recommendation xviii. GRECO recommended ensuring that in all court proceedings any decisions on disqualification of a judge are taken without his/her participation and can be appealed.

In the Evaluation Report (see para. 166 and 167), the GET noted with concern that under the different procedural laws, the judge whose participation has been challenged is – in certain situations – involved in the consideration of the motion; the only exception being administrative law proceedings, where the challenged judge is clearly always excluded. For instance, when in criminal proceedings one or several judges of a panel are challenged, the motion is considered by the panel and the decision is taken by simple majority. In other words, in such cases a judge who is challenged participates in the consideration of the motion and may have a decisive vote. A judge who might have a conflict of interest would thus be the judge of his/her own case, which is highly unsatisfactory. The situation is similar – or even more disturbing – when it comes to civil and commercial law proceedings: a motion to disqualify a judge is, as a rule, decided "by the same composition of the court" which is to try the case itself. During the interviews conducted on site it was explained to the GET that in practice therefore even single judges decide on motions for their own disqualification in such proceedings. The GET clearly shared the view expressed by the practitioners interviewed that challenged judges should always be excluded from the decision regarding their disqualification or removal from particular proceedings in order to ensure objectivity and impartiality in the decision-making process. For the same reasons, possibilities to appeal decisions on disqualification motions need to be introduced. Currently, they can be appealed only together with the judgment on the merits of the case. Consequently, GRECO issued recommendation xviii.

In the compliance procedure, the authorities reported on the Law on Amendments to the Commercial Procedural Code of Ukraine, the Civil Procedural Code of Ukraine, the Code of Administrative Legal Proceedings of Ukraine and other legislative acts (n° 2147-VIII), adopted on 3rd October 2017 and enacted on 15th December 2017 which introduced a new approach to the procedure for the recusal of a judge (part three of Article 39 of the Commercial Procedural Code of Ukraine, part three of Article 40 of the Civil Procedural Code of Ukraine, part four of Article 40 the Code of Administrative Proceedings of Ukraine). In particular, if the court comes to the conclusion that the alleged recusal is unjustified, it shall suspend the proceedings. In this situation, a judge who is not part of the court hearing the case, and who is selected by the Single Judicial Information and Telecommunication System (randomly, considering specialisation, workload, chronological order etc.), will decide on disqualification. GRECO noted that the amended procedure for recusal of a judge provides that the court trying the case decides on recusal of a judge. When this is impossible, the closest court of the same instance decides on the matter. In courts with less than three judges, the judge dealing with the case decides on recusal. This is not different from the situation described at the time of the Evaluation Report, as the judge whose recusal is decided, participates in the decision on his/her own recusal. However, the new procedure provides that when the court decides that the recusal is not grounded, the decision on recusal is then to be taken by a judge from another court, selected randomly. This additional guarantee goes in the sense of the present recommendation. However, nothing has been said specifically as to appeal channels for recusal decisions. GRECO thus concluded this recommendation to be partly implemented (see para. 101-103, the Compliance Report).

The general rules on gifts contained in Articles 23 *et seqq*. LPC are applicable to judges. In particular, they are prohibited from demanding, asking for, receiving gifts for themselves or close persons from legal entities or individuals in connection with their activity as a judge or from subordinate persons. Otherwise, they may accept gifts which correspond to generally accepted notions of hospitality, if their value does not exceed approximately 52€ and the aggregate value of individual gifts received from the same person, or group of persons, within a year does not exceed approximately 97€. If a judge is offered an unlawful gift or benefit, s/he must reject it, try to identify the person who made the offer,

involve witnesses, if possible, and notify in writing the court chair and the NACP about the proposal. In cases of doubt, advice can be sought from the NACP (the Evaluation Report, para. 168 and 169).

GRECO recommendation iv. GRECO recommended (i) further developing the rules applicable to the acceptance of gifts by judges and prosecutors, in particular, by lowering the threshold of acceptable gifts; providing for more precise definitions to ensure that they cover any benefits including those in kind; clarifying the concept of hospitalities which may be accepted; (ii) establishing internal procedures for the valuation and reporting of gifts, and return of those that are unacceptable.

In the Evaluation Report (see para. 45-47), GRECO noted gifts rules contained in the LPC as grey area. In this connection, the LPC establishes a general ban on gifts, with two exceptions: gifts which meet "generally accepted notions" of hospitality and gifts below a certain threshold. The maximum threshold of "acceptable gifts", other than hospitality, applies as follows: (i) individual gifts must not exceed one minimum monthly salary, as determined on the day such gift was accepted (52€); and (ii) the aggregate value of individual gifts received from the same person, or group of persons, within a year must not be more than twice the rate of the cost of living (97€), as determined for an able-bodied person as of 1st January of the year in which the respective gifts were accepted (Article 23, LPC). The notion of gift is broad and encompasses cash or other property, advantages, privileges, services, intangibles, given/received free of charge or at a price below the minimum market price (Article 1, definitions of LPC). The LPC also establishes a procedure for reporting unlawful gifts (Article 24, LPC), which consists of the following steps: rejecting the proposal, identifying the offer or and involving witnesses whenever possible, and finally, notifying in writing the immediate superior, within one business day of the irregularity taking place. The GET could not gather satisfactory explanations as to how this reporting process is being channelled for any of the professions under the scope of the Fourth Evaluation Round, or whether such a process has ever been set in motion. The GET acknowledged the steps taken by the authorities to further regulate gifts, limit their acceptance and increase transparency of the system. None of the interlocutors met (from either governmental or non-governmental sectors) raised any particular concern as to the issue of gifts. That said, the GET had specific misgivings about the current system. Firstly, the maximum permissible thresholds per individual gift, as well as the aggregated value of gifts per year, are tied to salary/cost of living scales which in the GET's view, may raise doubts as to the actual appropriateness of the gifts received. It may also convey a wrong signal to the general public as to the level of tolerance within the categories of professionals covered in this report concerning gifts. While the thresholds may not seem high today, they are prone to increase in the future as they are tied to salary levels. Secondly, it is unclear what really constitutes hospitality in practice; the law is quite vague in this respect as it refers to "generally accepted notions". Thirdly, there is no valuation system for in-kind benefits. Fourthly, reporting mechanisms still need to be developed in practice. Consequently, GRECO issued recommendation iv.

The Compliance Report (see para. 32-37) contained some information on the progress made, namely that the thresholds for permissible individual gifts and their permissible aggregated annual value remained too high and was still tied to the cost of living. While some clarifications on the acceptance of gifts were developed, rules on in-kind benefits and the concept of hospitality were still not clarified. Further, it was noted that a requirement to report gifts applicable across the public service was in place, but its practical implementation in respect of judges was lacking.

Breaches of rules on conflict of interest

Proceedings for breaches of rules on conflicts of interest in respect of **judges** are regulated in the LJSJ (disciplinary proceedings, Articles 106 and 133), the LPC (disciplinary proceedings – Article 28), the Criminal Procedure Code, the Administrative Offences Code (Article 172-7) (the Evaluation Report, para. 152, 156, 181). LJSJ regulates the procedure to sanction breaches of the rules of on conflicts of interest in respect of judges.

Legal framework concerning conflicts of interest of **prosecutors** includes: 1. the Constitution; 2. the Law on Prevention of Corruption (LPC); 3. the Law on Prosecutor's Office (LPO); 4. the Criminal Procedure Code.

Pursuant to Article 18 LPO, a prosecutor may not hold offices at any State authority, other State body, local government authority or having a representative mandate in public elective positions. Prosecutors have the right to be seconded to the Qualifications and Disciplinary Commission (QDC), the National Academy of Prosecutors or other institutions as prescribed by law. Prosecutors may not be members of a political party or take part in political actions, rallies or strikes. In addition, the general rules on incompatibilities as contained in the LPC are to be taken into account, including the restrictions on other part-time activities (such as paid activities other than teaching, research and creative activity, medical practice, being a sports instructor or judge) and on joint work with close persons (Article 25 *et seqq.,* LPC) (the Evaluation Report, para. 240 and 241).

Prosecutors are obliged to report the allowed activities they are engaged in and related income to the NACP in their annual declarations and income tax declarations (the Evaluation Report, para. 242). No information has been provided as to whether prosecutors need authorisation to perform accessory activities.

Article 77 Criminal Procedure Code (CPC) provides the reasons for disqualification of the prosecutor. In particular, a prosecutor has no right to participate in a criminal proceeding if s/he is an applicant, victim, civil plaintiff, civil defendant, a family member or close relative of a party, applicant, victim, civil plaintiff or civil defendant; if s/he participated in the same proceeding as investigating judge, judge, defence counsel or representative, witness, expert, specialist, interpreter; if s/he him/herself, his/her close relatives or family members have an interest in the outcome of criminal proceedings or there are other circumstances that cause reasonable doubts as to his/her impartiality (the Evaluation Report, para. 244).

In the Evaluation Report (see para. 245), GRECO noted that in such situations, prosecutors are required to recuse themselves, and they may be challenged by individuals who participate in criminal proceedings. Challenges filed during pre-trial investigation are considered by the investigating judge or, if filed during court proceedings, the court trying the case. The CPC does not provide the possibility to appeal the decision concerning disqualification of a prosecutor during criminal proceedings. The GET found this situation – especially as a prosecutor's decision not to recuse him/herself cannot be appealed – unsatisfactory. In the situation of Ukraine where citizens' trust in State institutions including the judiciary and the prosecution service is particularly low, it is all the more important to provide for effective control mechanisms to

prevent conflicts of interest and ensure objectivity and impartiality in criminal proceedings. For the same reasons, it is imperative that prosecutors are regularly made aware of their duty to recuse themselves from a case wherever there may be reasonable doubts as to their impartiality. After the discussions held on site, the GET had the impression that practitioners quite rarely recuse themselves and that awareness about risks of bias needs to be strengthened. Consequently, GRECO recommended (i) encouraging prosecutors in suitable ways to recuse themselves from a case whenever a potential bias appears; (ii) ensuring that any decisions on disqualification of a prosecutor can be appealed.

In the Compliance Report (see para. 161-166), GRECO noted some measures taken to improve prosecutors' awareness on the requirements of disqualification/self-recusal. However, it noted that the legal basis for appeal of recusal decisions remained unchanged and that no relevant information was provided with respect to the second part of the recommendation. GRECO this concluded this recommendation to be partly implemented. The general rules on gifts contained in Articles 23 *et seqq*. LPC (see above under judges) are applicable also to prosecutors. GRECO's concerns with regard to gifts regime expressed above regarding judges are applicable also to prosecutors (the Evaluation Report, para. 246 and 247). Proceedings for breaches of rules on conflicts of interest in respect of prosecutors are regulated in the LPO (disciplinary liability, Article 43), the LPC (disciplinary proceedings – Article 43), the Criminal Procedure Code, the Administrative Offences Code (administrative liability, Article 172-7) (the Evaluation Report, para. 235, 249, 264). LPO regulates the procedure to sanction breaches of the rules on conflicts of interest in respect of prosecutors.

Judges and prosecutors may combine their work with the following other functions/activities:

		With remuneration		Without remuneration	
		Judges	Prosecutors	Judges	Prosecutors
Combine work with other functions/activities	Teaching	√	√	√	√
	Research and publication	√	√	√	√
	Arbitrator				
	Consultant				
	Cultural function	√	√	√	√
	Political function				
	Mediator				
	Other function		√		√

No data on the number (absolute and per 100 judges/prosecutors) of procedures for breaches of rules on conflict of interest for judges and prosecutors in 2020 has been provided.

Discipline against judges and prosecutors

Description of the disciplinary procedure against judges

Disciplinary liability of judges is regulated in the LJSJ.

According to article 107, LJSJ, any person shall have the right to submit a complaint on the disciplinary offense of a judge (disciplinary complaint). Citizens shall exercise this right in person or via a lawyer, legal entities via a lawyer and state bodies and local self-government bodies via their Chairpersons or representatives. A lawyer shall be obligated to verify the facts which may result in disciplinary liability of a judge before submitting a relevant disciplinary complaint.

According to the amendments to the LJSJ made in 2016, disciplinary proceedings are conducted by the disciplinary chambers of the HCJ, within the procedure established by the LHCJ. Each chamber is composed of – at least four – HCJ members; at least half or a substantial part of chamber members must be judges or retired judges (the Evaluation Report, para. 186).

Disciplinary proceedings may be initiated on the basis of a written complaint by any person or on the initiative of the disciplinary chambers of the HCJ or of the HQCJU in cases specified by law. They include a preliminary review by a member of the HCJ (rapporteur), the opening of a disciplinary case by a disciplinary chamber, the hearing of the complaint and the adoption of a decision to discipline a judge or not. Complaints may be dismissed by the rapporteur for specified formal grounds or by the disciplinary chamber. As a rule, chamber hearings are open to the public. Decisions are adopted by simple majority of votes. Decisions on dismissal of a judge are taken by in a full complement session of the HCJ, following a recommendation by the disciplinary chamber (the Evaluation Report, para. 186).

Disciplinary penalties include admonishment; reprimand – with deprivation of the right to receive bonuses to the salary of a judge for one month; strict reprimand – with deprivation of the right to receive bonuses for three months; proposal on temporary (one to six months) suspension from the administration of justice – with deprivation of the right to receive bonuses, and mandatory training and subsequent qualification evaluation for confirmation of the judge's ability to administer justice in the relevant court; proposal on transfer of the judge to a lower-level court; and proposal on dismissal of the judge (Article 109, LJSJ) (the Evaluation Report, para. 184).

When selecting the type of disciplinary sanction against a judge, the nature of the disciplinary offence, its implications, personality of the judge, the extent of his/her guilt, availability of other disciplinary sanctions, other circumstances which influence the possibility of disciplining a judge, as well as the principle of proportionality are to be taken into account. A proposal to dismiss a judge can be made if the judge violated the duty to prove the legality of the sources of his/her assets, or if s/he committed a substantial disciplinary offence, gross or systematic neglect of duties which is incompatible with the status of judge or which has revealed his/her incompatibility with the office (the Evaluation Report, para. 185).

The HCJ is responsible for the transfer of judges from one court to another (Articles 53 and 82, LJSJ). As a rule, judges are irremovable and may not be transferred to another court without their consent, except a transfer following reorganisation, liquidation or termination of the court, as a disciplinary measure or in connection with deprivation of the minimum rank that is required for a court of the respective level. Apart from those exceptions, judges may be transferred to another court only on the recommendation of the HQCJU on the grounds of the results of a competition for vacant judge positions (Articles 53, 82, LJSJ) (the Evaluation Report, para. 144).

Description of the disciplinary procedure against prosecutors

LPO regulates disciplinary proceedings against prosecutors.

According to law, everyone who is aware of such facts has the right to apply to the Qualification and Disciplinary Commission of Prosecutors (QDC) with a disciplinary complaint about the prosecutor's commission of a disciplinary offence. The QDC shall publish on its website a recommended sample of a disciplinary complaint (para. 2 art. 45 of the LPO).

On 25th September 2019, with the entry into force of Law № 113-IX, the provisions of the Law of Ukraine “On the Prosecutor's Office”, which determined the legal status of the QDC, were suspended and the powers of the chairman and members of this commission were terminated.

For the relevant transitional period, the authority to conduct disciplinary proceedings against prosecutors, including during 2020, to comply with the requirements of subparagraphs 7, 8 of paragraph 22 of Section II of Law № 113-IX, was transferred to the Personnel Commission to consider disciplinary complaints about the prosecutor's disciplinary misconduct and the conduct of disciplinary proceedings against prosecutors (hereinafter the Personnel Commission), which was established by the order of the Prosecutor General of 9th January 2020, № 9.

In the disciplinary proceedings, the Personnel Commission must take into account the nature of the offence, its consequences, the personality of the prosecutor, the degree of guilt, and the circumstances affecting the choice of the type of the disciplinary action. Information on disciplining a prosecutor is published on the website (the Evaluation Report, para. 258).

Under article 43 LPO, the following give rise to disciplinary liability: failure to perform, or the improper performance by the prosecutor of official duties; unreasonable delay in consideration of an application; disclosure of secrets protected by law; violation of the legal procedures for the submission of asset declarations (including the submission of incorrect or incomplete information); actions which discredit the prosecutor and may raise doubts on his/her objectivity, impartiality and independence and on integrity and incorruptibility of prosecution offices; a regular or one-off gross violation of prosecutorial ethics; violation of internal service regulations; intervention or other influence in cases in a manner other than that established by the law (the Evaluation Report, para. 256).

Disciplinary sanctions include: reprimand; ban for up to one year on a transfer to a higher prosecution office or on appointment to a higher position (except for the Prosecutor General); dismissal from office (the Evaluation Report, para. 258).

GRECO recommendation xxix. GRECO recommended (i) defining disciplinary offences relating to prosecutors' conduct and compliance with ethical norms more precisely; (ii) extending the range of disciplinary sanctions available to ensure better proportionality and effectiveness.

In the Evaluation Report (para. 259, 260), the GET welcomed the recent amendments to the rules on prosecutors' disciplinary liability but saw some room for further improvements. First, it was concerned that, as is the case with respect to judges, the catalogue of specific disciplinary offences still includes some quite vague concepts such as "actions which discredit the prosecutor (…)" and regular or one-off "gross violation of prosecutorial ethics". Such terms appear insufficient to ensure effective enforcement of the rules, to provide for legal certainty and to prevent possible misuse of disciplinary proceedings. The authorities indicate that the term "prosecutorial ethics" is to be understood by reference to the code of ethics. In this connection, the GET wished to stress that such a general reference has been repeatedly criticised by GRECO as too vague. It is crucial that specific disciplinary offences are defined precisely and comprehensively directly in the law. The GET was also concerned to hear from practitioners that "breach of oath" might result in criminal or disciplinary liability, based on article 19 LPO, although that provision merely states that breach of oath leads to liability "as established by law". In order to remove any ambiguities in the law and to ensure that no sanctions are issued on the basis of the vague concept of breach of oath, the reference in the LPO to that concept should be deleted. Second, the GET noted that the range of disciplinary sanctions is quite limited. What is more, only the lightest and harshest sanctions available, reprimand and dismissal, appear to be relevant in practice. The only intermediate sanction available, the ban on transfer to a higher prosecution office or on appointment to a higher position, is only very rarely applied. GRECO has repeatedly stressed the importance of a sufficiently broad range of sanctions, in order to ensure proportionality and effectiveness. In the view of the GET, such sanctions may include, for example, reprimands of different degrees, temporary salary reduction, temporary suspension from office, etc. In view of the above, GRECO issued recommendation xxix.

This recommendation has not been implemented in the compliance procedure (the Compliance Report, para. 167-171).

GRECO recommendation xxx. GRECO recommended enhancing the efficiency of disciplinary proceedings by extending the limitation period, ensuring that proceedings can be launched also by the relevant self-governing bodies (which are not entrusted with decision-making in disciplinary proceedings) and heads of prosecution offices, and providing that appeals against disciplinary decisions can ultimately (after a possible internal procedure within the prosecution service) only be made to a court, both on substantive and procedural grounds.

A prosecutor has a choice to challenge a disciplinary decision either before the administrative court or the HCJ - an appeal against disciplinary decisions to the HCJ is provided for by the Constitution (the Evaluation Report, para. 263; the Compliance Report, para. 174).

The GET furthermore identified several shortcomings in the relevant procedural rules. Namely, disciplinary liability of prosecutors terminates if one year has passed from the date of committing disciplinary misconduct, regardless of the time of the prosecutor's temporary disability or vacation. Such a short limitation period is a great source of concern: not all cases can be disclosed in such a timely manner, and attempts could be made to delay the commencement of proceedings until the limitation period has expired. Thus, appropriate amendments to the statute of limitations – in particular, an adequate extension of the limitation period – would constitute a further deterrent to misconduct which could be

potentially linked to corruption. Moreover, the GET had misgivings about the fact that disciplinary proceedings against prosecutors can be launched only on the basis of citizens' complaints which must not be anonymous and must fulfil certain criteria such as the indication of specific facts underlying allegations of misconduct. The GET understood that some kind of filter may be necessary to prevent the QDC from being overloaded with unsubstantiated charges. At the same time, the complaints mechanism must not hamper the start of disciplinary proceedings for purely formal reasons. In the view of the GET, this could be prevented by giving the relevant prosecutorial self-governing bodies (which are not entrusted with decision-making in disciplinary proceedings) and heads of prosecution offices the right to start a disciplinary case, e.g. on the basis of anonymous complaints received or any other sources of information. This is currently not clearly provided for in the law. The authorities see no need for such regulation as the General Inspectorate can conduct internal investigations based on anonymous complaints received through helplines set up at the General Inspectorate and at prosecution offices of all levels. However, the GET was convinced that giving the above bodies/persons the right to act ex officio would be a further asset for effectively fighting corruption within the prosecution service. The GET also noted that a prosecutor has the choice to challenge a disciplinary decision either before the administrative court or the HCJ. Such a choice seems unnecessary and unfortunate, since it may lead to inconsistent decision-making. Moreover, in light of the creation of new prosecutorial self-governing bodies, the link to the HCJ does not appear justified any longer. By contrast, according to Council of Europe reference texts "an appeal to a court against disciplinary sanctions should be available." Given the preceding paragraphs, GRECO issued recommendation xxx.

This recommendation has not been implemented in the compliance procedure (the Compliance Report, para. 172-176).

No data on disciplinary proceedings in respect of judges and prosecutors was provided in 2020.

Council for the Judiciary/ Prosecutorial Council

Council for the Judiciary

The Constitution and the Law on the High Council of Justice regulate competence, organisation and activity of the High Council of Justice (hereinafter: HCJ).

According to the Constitution (Article 131), the HCJ has a prominent role in the appointment and dismissal of judges, supervision of incompatibility requirements on judges (and prosecutors), all disciplinary proceedings against judges, giving consent to the detention or taking into custody of a judge, taking measures to ensure the independence of judges, deciding on the transfer of judges from one court to another, etc (the Evaluation Report, para. 123).

The HCJ has 21 members who serve a four-year term full-time (at least judge members) and cannot hold two consecutive terms. Ten members are elected by the Congress of Judges from among judges or retired judges, two are appointed by the President of Ukraine, and two each are elected by Parliament, by the Congress of Advocates, by the All-Ukrainian Conference of Prosecution Employees (AUCEP) and by the Congress of law schools and scientific institutions. The chair of the Supreme Court is a member *ex officio* (the Evaluation Report, para. 124).

HCJ members must belong to the legal profession and meet the criterion of political neutrality, they cannot belong to political parties, trade unions, engage in any political activity, hold a representative mandate, occupy any other paid positions – with a few exceptions. The chair of the HCJ and his/her deputy are elected by secret ballot from among its members for a two-year term (the Evaluation Report, para. 124).

No information has been provided on the procedure for appointment of HCJ's members, on selection criteria for non-judge members (if any in addition to the ones described above), on whether the office of members is a full-time position or not, what operational arrangements are in place to avoid an over-concentration of powers and what accountability measures regarding the HCJ's activities are in place.

Prosecutorial Council

According to the provisions of the Law on the Prosecutor's Office (hereinafter: LPO), the Council of Prosecutors (CoP) is competent e.g. to make recommendations to the Prosecutor General on the appointment and dismissal of prosecutors from administrative positions (such as head or deputy head of a prosecution office), make recommendations to the Prosecutor General on the appointment of his/her candidates deputies, oversee measures to ensure the independence of prosecutors, receive reports made by prosecutors on threats to their independence due to an order or instruction issued by a higher prosecutor etc. (Article 71, LPO) (the Evaluation Report, para. 213).

It consists of 13 members, including 11 prosecutors representing prosecution offices of different levels and two scholars appointed by the Congress of law schools and scientific institutions. They serve five-year, non-renewable terms. The CoP elects the chair, vice-chair and

secretary from among its members. In accordance with the LPO provisions, CoP members were elected from among prosecutors by the All-Ukrainian Conference of Prosecution Employees (AUCEP) on 26th April 2017 (the Evaluation Report, para. 213).

The AUCEP is the highest body of prosecutorial self-governance and its decisions are binding on the CoP and on all prosecutors. It is competent to appoint members of the HCJ, the CoP and the Qualifications and Disciplinary Commission. Its delegated are elected at the meetings of prosecutors from different levels of prosecution offices (the Evaluation Report, para. 212).

No information has been provided on the procedure for appointment of CoP's members, on selection criteria for non-prosecutor members, on whether the office of members is a full-time position or not, what operational arrangements are in place to avoid an over-concentration of powers and what accountability measures regarding the CoP's activities are in place.