Co-funded by the European Union

EUROPEAN UNION

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Co-funded and implemented by the Council of Europe

cepej

European Commission for the Efficiency of Justice

Commission européenne pour l'efficacité de la justice

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Strasbourg, 18/07/2023

CEPEJ(2023)4REV2

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: 2021

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

Part 2 (A) - Beneficiary profile - Ukraine

Executive Summary - Ukraine in 2021

Population in 2021

GDP per capita in 2021

Average annual salary in 2021

6 540 €

EaP Average: 4 964 €

Budget

The Judicial System Budget (JSB) is composed of the budgets for courts, public prosecution services and legal aid. For 2021, it was possible to analyse only the data for courts and prosecution services, as the data on the budget for legal aid was not available.

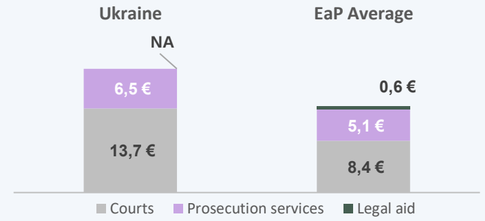
Thus, Ukraine spent as implemented **560 744 178€ for all courts**, which meant 13,7€ per inhabitant, which is higher than the EaP median of 8,4 € per inhabitant. For **prosecution services, it spent 265 722 100€,** which meant 6,5€ per inhabitant and above the EaP median of 5.1€ for 2021.

Legal aid

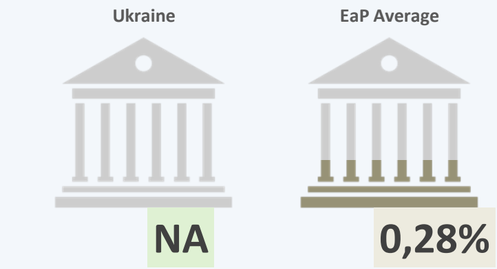
For 2021, no data was available for the implemented budget for legal aid for Ukraine. The Coordination Centre for Legal Aid Provision, primary legal aid providers, and secondary legal aid providers steers the implementation of the legal aid system through a network of 535 points of access to legal services: 23 regional, 84 local centres of free secondary legal aid and 428 legal aid bureaus in all regions of Ukraine. No data on the number of legal aid cases has been provided in 2021.

Budget of the Judicial System

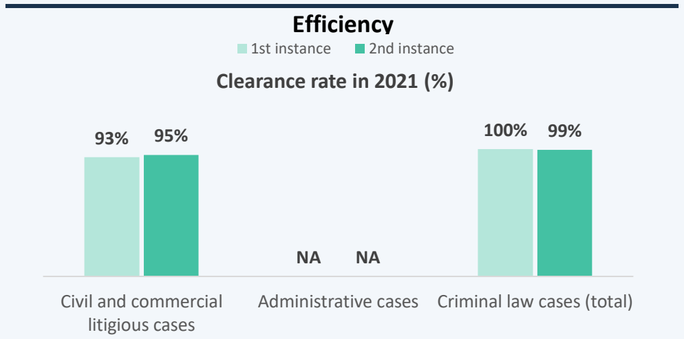
Implemented Judicial System Budget per inhabitant in 2021

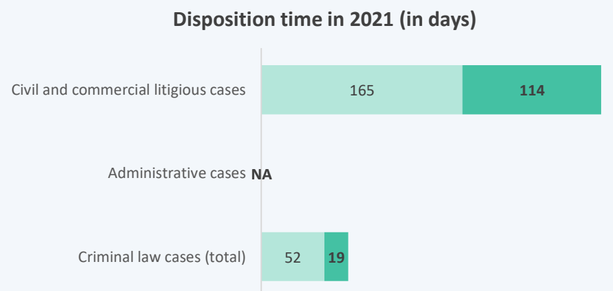


Implemented Judicial System Budget as % of GDP in 2021



Efficiency





Efficiency*

The data on **criminal cases** in both instances needs to be viewed in the light of a **change of methodology on data collection reported by authorities for 2021**. Due to this change, the data cannot be compared with the previous year and variations in numbers should not be accounted as increases/decreases in efficiency. The data on **administrative cases** had to be replaced by the Secretariat by NA for this cycle, in agreement with the correspondent, as it was not disaggregated and sufficiently explained according to CEPEJ methodology.

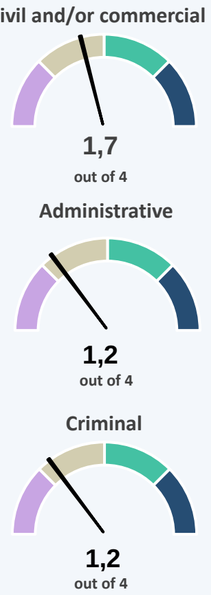
In 2021, some **increase in the number of pending civil and commercial litigious cases** was identified in both first and second instance courts. In 2021, civil and commercial litigious cases had a **Clearance Rate** slightly below the EaP Average in both first and second instance and it was below the 2018 levels in first instance courts, while it showed a CR above the 2018 level in second instance courts. The **Disposition Time** in civil and commercial litigious cases in first instance courts (165 days) was below the EaP Average (172 days) and above the EaP average in second instance courts (114 days in Ukraine vs 98 days EaP average).

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 (CR) is the ratio obtained by dividing the number of resolved cases by the number of incoming cases in a given period, expressed as a percentage. It demonstrates how the court or the judicial system is coping with the in-flow of cases and allows comparison between systems regardless of their differences and individual characteristics. Its key value is 100%. A value below 100% means that the courts were not able to solve all the cases they received and, as a consequence, the number of pending cases increases. A CR above 100% means that the courts have resolved more cases than they received (they have resolved all the incoming cases and part of the pending cases) and, as a consequence, the number of pending cases decreases.
Disposition Time (DT) is the indicator that calculates time necessary for a pending case to be resolved and estimates the lengths of proceedings in days. It is a ratio between the pending cases at the end of the period and the resolved cases within the same period, multiplied by 365 days. More pending than resolved cases will lead to a DT higher than 365 days (one year) and vice versa.

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 five 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 summarized 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 average (1.7 vs.2.5 EaP average for civil and/or commercial cases; 1.2 vs 2.4 in administrative cases and 1.2 vs 2.4 in criminal cases).

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. There are no links therein with ECHR case-law (hyperlinks which reference to the ECHR judgements in HUDOC database).

Trainings

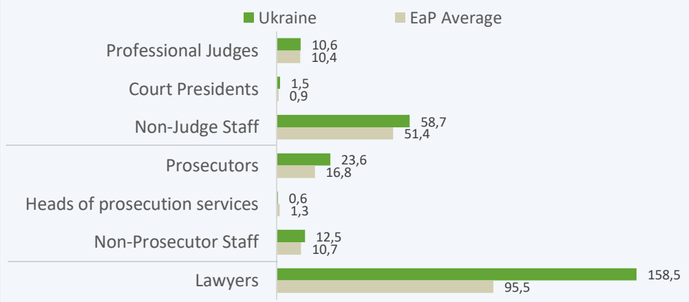
For 2021, The total budget for training of judges and prosecutors in Ukraine was 0,17€ per inhabitant, slightly lower than the EaP Average of 0,19€ per inhabitant. Given the availability of data, only a partial analysis for 2021 is possible. Thus, in 2021, 8 082 judges and 2 105 prosecutors were trained in live trainings (in-person, hybrid or video conferences). In Ukraine each judge participated on average in 1,9 live trainings in 2021, which was below the EaP Average (2,8) while each prosecutor participated in 0,2 live trainings, less than the EaP Average (1,5). In 2021, Ukraine gave priority to the trainings for judges; like the rest of the region where also the highest priority was given to train Judges (indeed, the EaP Average number of live training participations per judge was 2,8 same as for Ukraine).

ADR (Alternative Dispute Resolution)

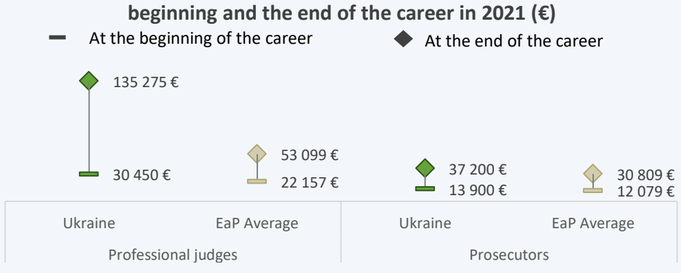
No information on whether the judicial system in Ukraine provides for court-related mediation procedures and other methods of ADR was received for 2021 for Ukraine. There was no reported follow-up to the works on the Strategy for the Development of the Justice and Constitutional Judiciary for 2021-2023, 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.

Professionals of Justice

Total number of professionals per 100 000 inhabitants in 2021



Gross annual salaries of professional judges and prosecutors at the beginning and the end of the career in 2021 (€)



Gender Balance

Professionals and Gender Balance

In 2021, Ukraine had **10,6 professional judges per 100 000 inhabitants** and **23,6 prosecutors per 100 000 inhabitants**. Both figures were above the EaP averages of 10,4 and 18,8, respectively.
In 2021, the **number of lawyers was 158,5 per 100 000 inhabitants**, which was significantly higher than the EaP Average (95,5).
More than half of professional judges were women (EaP Average was 41%); among **prosecutors - 37% were women** (the EaP Average was 25). However, a glass ceiling is noticeable at **management positions** in courts and in particular in prosecution (5% of women heads of prosecution offices). At the same time, the percentage of female non-judge staff was 82%.

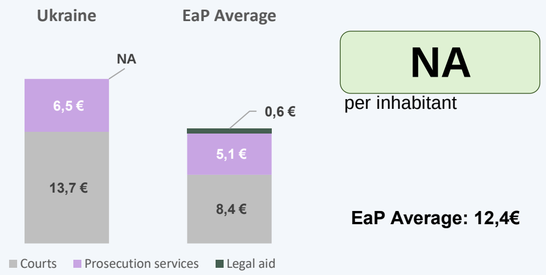
ECHR

In 2021, there were 210 applications allocated to a judicial formation for Ukraine (-4061 less than the previous year). The judgements by the ECHR finding at least one violation for Ukraine were 194; whereas they were 82 in 2020. The number of cases considered as closed after a judgement of the ECHR and the execution of judgements process was 126 in 2021; whereas they were 108 in 2020.

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 judicial system in Ukraine in 2021 (Indicator 1)

Implemented Judicial System Budget per inhabitant

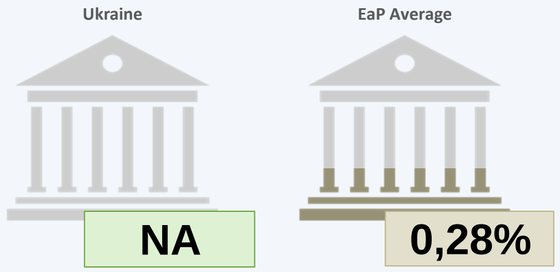


NA

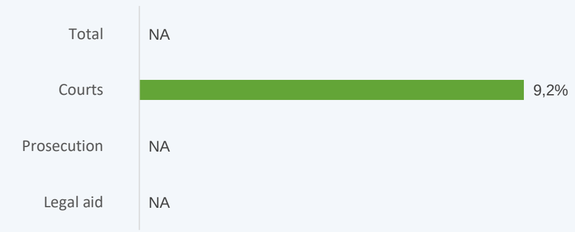
per inhabitant

EaP Average: 12,4€

Implemented Judicial System Budget as % of GDP



% Variation of the JSB per inhabitant between 2020 - 2021



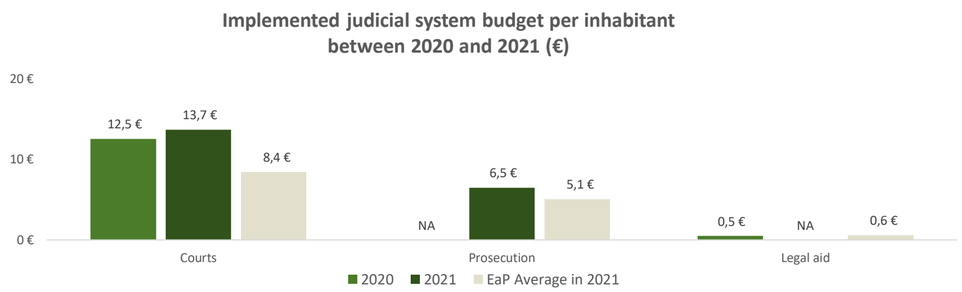
JSB = Judicial System Budget

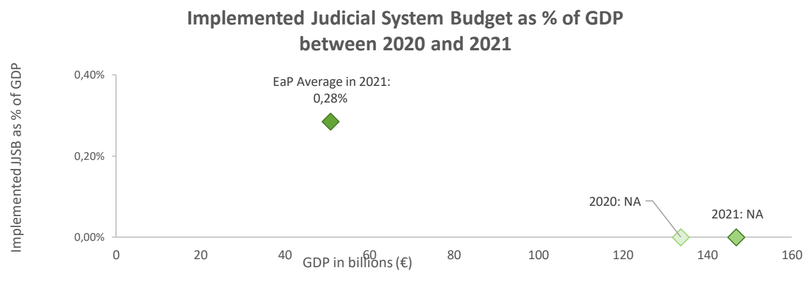
The Judicial System Budget (JSB) is composed of the budgets for courts, public prosecution services and legal aid. In 2021, it was not possible to calculate the implemented JSB for Ukraine per inhabitant due to unavailability of data on the budget for legal aid. The implemented budget per inhabitant for courts (13,7€) was higher than the EaP average (8.4€). The same is observed in respect of the implemented budget for prosecution services in Ukraine (6.5€) compared to the EaP average (5.1€).

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

Compared to 2020, Ukraine has spent in 2021 9,2% more for courts, per inhabitant. In 2021, 0.38% of GDP was spent on courts and 0,18% of GDP on prosecution services.

Judicial System Budget	Judicial System Budget in 2021		Implemented Judicial System Budget per inhabitant			Implemented Judicial System Budget as % of GDP		
	Approved	Implemented	Per inhabitant in 2021	EaP Average in 2021	% Variation between 2020 - 2021	As % of GDP	EaP Average in 2021	Variation (in ppt) 2020 - 2021
Total	-	-	-	12,4 €	NA	-	0,28%	NA
Courts	559 514 864 €	560 744 178 €	13,7 €	8,4 €	9,2%	0,38%	0,21%	-0,002
Prosecution	296 666 200 €	265 722 100 €	6,5 €	5,1 €	NA	0,18%	0,12%	NA
Legal aid	NA	NA	NA	0,6 €	NA	NA	0,013%	NA





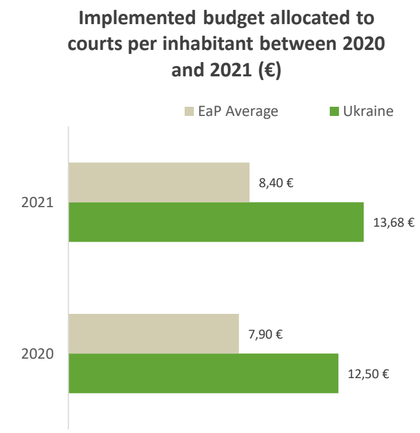
This scatterplot shows the relation between the GDP in billions and the Implemented Judicial System Budget as % of GDP. A figure on the right (left) of the average means that the Beneficiary has a higher (lower GDP than the average. A figure above (below) the average shows that the Beneficiary has a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

• Budget allocated to the functioning of courts

In 2021, Ukraine spent 560 744 178€ on the implemented budget for courts.

Compared to 2020, the implemented budget for courts has increased by 8,1%. In 2021 it was not possible to have the total by category accordingly to the methodology by sub-categories. In 2021, the implemented judicial system budget for courts in Ukraine continues to be above the EaP average per inhabitant.

	2021		% Variation between 2020 and 2021	
	Approved budget	Implemented budget	Approved budget	Implemented budget
Total (1 + 2 + 3 + 4 + 5 + 6 + 7)	559 514 864 €	560 744 178 €	5,1%	8,1%
1. Gross salaries	NA	NA	NA	NA
2. Computerisation (2.1 + 2.2)	NA	NA	NA	NA
2.1 Investment in computerisation	NA	NA	NA	NA
2.2 Maintenance of the IT equipment of courts	NA	NA	NA	NA
3. Justice expenses	NA	NA	NA	NA
4. Court buildings	NA	NA	NA	NA
5. Investment in new buildings	NA	NA	NA	NA
6. Training	NA	NA	NA	NA
7. Other	NA	NA	NA	NA



• Budget allocated to the whole justice system

Given the unavailability of data on and the elements of the budget for the whole justice system, no analysis for 2021 was possible.

Whole Justice System Budget	2021		% Variation of the Whole Justice System Budget per inhabitant
	Absolute number	Per inhabitant	2020 - 2021
Approved	NA	NA	NA
Implemented	NA	NA	NA

• Budget received from external donors

No data on these categories was available for Ukraine in 2021. However, some indications of external support is provided under some indicators (e.g. Efficiency).

	Absolute value	Calculated as %
Courts	NA	NA
Prosecution services	NA	NA
Legal aid	NA	NA
Whole justice system	NA	NA

Professionals and Gender Balance in judiciary in Ukraine in 2021 (Indicators 2 and 12)

Professional Judges

10,6

per 100 000 inhabitants

60% female judges (total)

-18,7%

compared to 2020

EaP Average: 10,4

Prosecutors

23,6

per 100 000 inhabitants

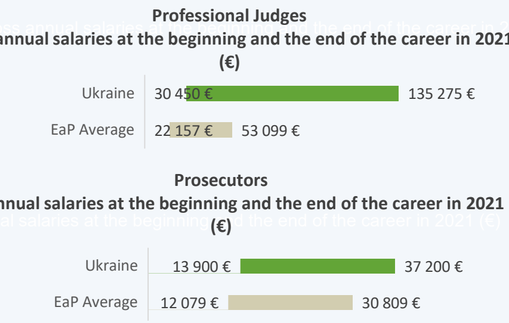
37% female prosecutors (total)

+11,2%

compared to 2020

EaP Average: 16,8

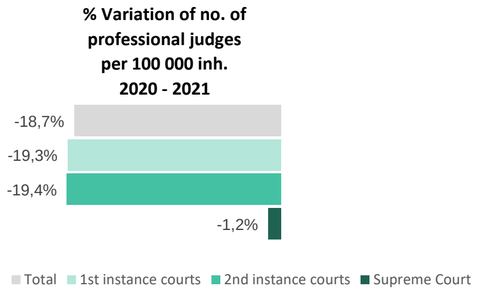
Salaries of judges and prosecutors

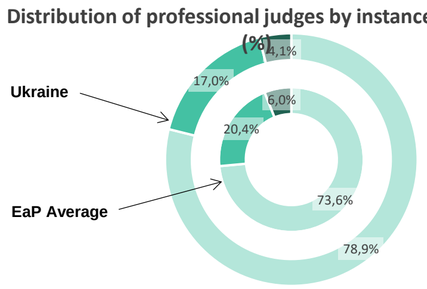


In 2021, Ukraine had 10,6 professional judges per 100 000 inhabitants and 23,6 prosecutors per 100 000 inhabitants. Both figures were above the EaP Average of 10,4 and 16,8, respectively. 60% of professional judges were women (EaP average 41,2 %), whereas the percentage of female prosecutors was 37% (the EaP Average was 25,3%). The salaries of judges in Ukraine are considerably above the EaP Average for 2021, in particular at the end of the career. The same is observed in respect of salaries for prosecutors, while to a slighter extent. The judges salaries augmented in Ukraine presumably as a follow of a 2019 legal framework change (see below).

• Professional Judges

	Professional judges in 2021			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants
Total	4 360	100,0%	10,6	10,4
1st instance courts	3 439	78,9%	8,4	7,7
2nd instance courts	742	17,0%	1,8	2,1
Supreme Court	179	4,1%	0,4	0,6





For reference only: the 2021 EU median is 24,1 judges per 100 000 inhabitants.

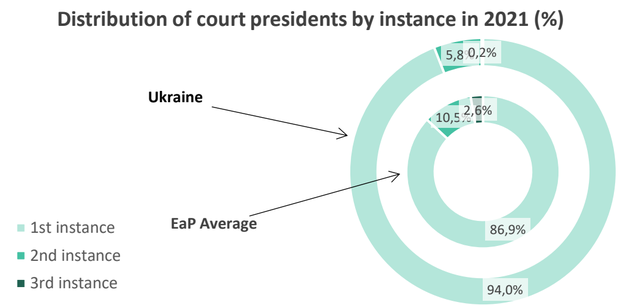
In 2021, the absolute number of professional judges in Ukraine was 4 360 (i.e. 10,6 per 100 000 inhabitants, which was close to the EaP Average of 10,4).

Compared to 2020, the total number of professional judges per 100 000 inhabitants decreased by -18,7%. The decrease was explained by judges resignations from first and second instance courts in 2021.
The figures show a difference of 5.3 percentage points between the percentage of judges in the first instance (78.9%) and the EaP Average (73.6%)

• Court presidents

	Court presidents in 2021			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants
Total	605	100,0%	1,5	0,9
1st instance courts	569	94,0%	1,4	0,8
2nd instance courts	35	5,8%	0,1	0,1
Supreme Court	1	0,2%	0,0	0,0

The absolute number of court presidents in Ukraine in 2021 was 605 (i.e. 1,5 per 100 000 inhabitants, which was above the EaP Average of 0,9).



• Non-judge staff

The absolute total number of non-judge staff in Ukraine was 24 047, which decreased by -10,2% between 2020 and 2021, on the account of resignations from the office. The number of non-judge staff per 100 000 inhabitants was 58,7, which was above the EaP Average of 51,4.

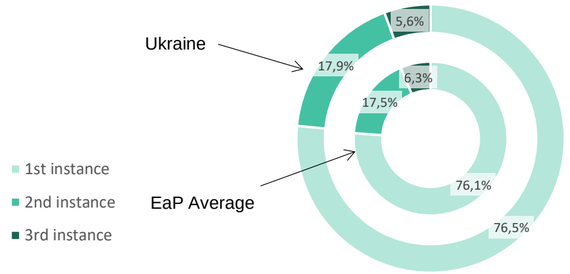
There was no significant variation compared to 2020 in the distribution of non-judge staff among instances in 2021.

The highest number of non-judge staff were assisting judges and represented 47,4% of the total.

	Number of non-judge staff by instance in 2021			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants
Total	24 047	100,0%	58,7	51,4
1st instance courts	19 488	81%	47,5	39,2
2nd instance courts	4 559	19%	11,1	8,7
Supreme Court	1 422	6%	3,47	4,18

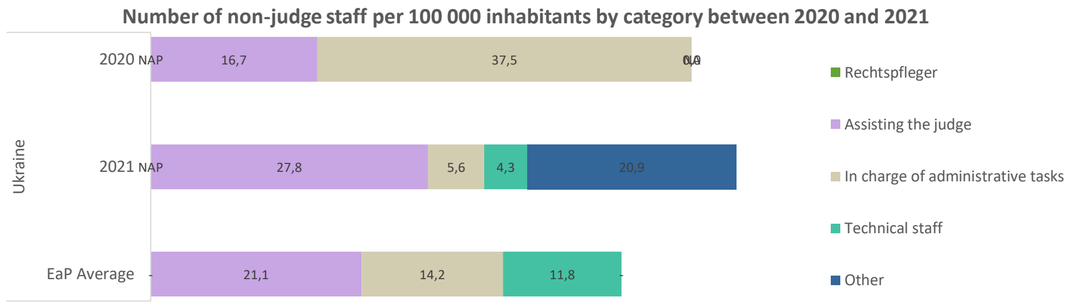
For reference only: the 2021 EU median is 58,5 non-judge staff per 100 000 inhabitants.

Distribution of non-judge staff by instance in 2021 (%)



	Number of non-judge staff by category in 2021			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants
Total	24 047	100,0%	58,7	51,4
Rechtspfleger	NAP	NAP	NAP	-
Assisting the judge	11 387	47,4%	27,8	21,1
In charge of administrative tasks	2 313	9,6%	5,6	14,2
Technical staff	1 763	7,3%	4,3	11,8
Other	8 584	35,7%	20,9	-

Number of non-judge staff per 100 000 inhabitants by category between 2020 and 2021



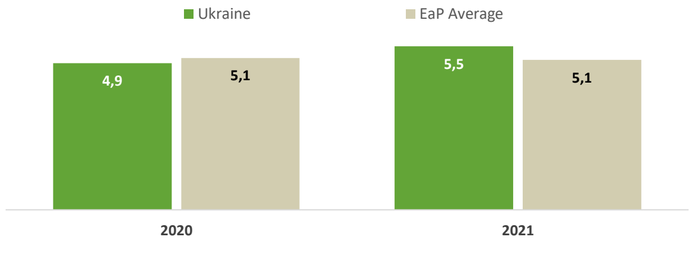
• Ratio between non-judge staff and professional judges

In Ukraine, the ratio of non-judge staff per professional judge was 5,5 in 2021, slightly higher than the EaP Average of 5,1. This increased compared to 2020 by 0.6 points.

	Ratio in 2021		% Variation between 2020 and 2021
	Ukraine	EaP Average	Ukraine
Total	5,5	5,1	11,6%
1st instance courts	5,7	5,3	18,4%
2nd instance courts	6,1	4,1	21,0%
Supreme Court	7,9	6,7	0,5%

For reference only: the 2021 EU median ratio of non-judge staff per judge is 3,1.

Ratio between non-judge staff and judges between 2020 and 2021



• Prosecutors

	Number of prosecutors by instance in 2021			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants
Total	9 683	100,0%	23,6	16,8
1st instance level	NAP	NAP	NAP	-
2nd instance level	NAP	NAP	NAP	-
Supreme Court level	NAP	NAP	NAP	-

For reference only: the 2021 EU median is 10,8 prosecutors per 100 000 inhabitants.

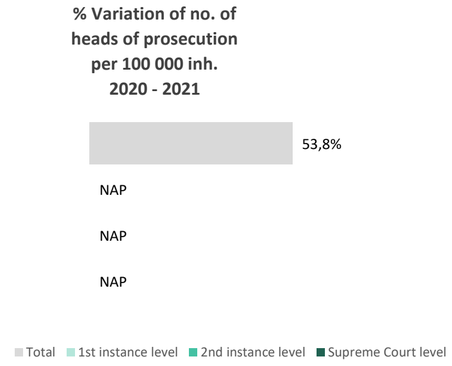
In 2021, the absolute number of prosecutors in Ukraine was 9683 (i.e. 23,6 per 100 000 inhabitants, which was higher than the EaP Average of 16,8).

The total number of prosecutors per 100 000 inhabitants increased by 11,2% between 2020 and 2021.

The Ukrainian legislation does not provide for prosecutors at the first instance, second instance, and at the supreme court level. They are rather distributed by regional, district, specialized anticorruption prosecution offices and prosecutors of the General Prosecutor's Office.

• Heads of prosecution services

	Heads of prosecution services in 2021			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants
Total	239	100,0%	0,6	1,3
1st instance level	NAP	NAP	NAP	-
2nd instance level	NAP	NAP	NAP	-
Supreme Court level	NAP	NAP	NAP	-



The number of heads of offices increased significantly as a result of the prosecutor's office reform and the related performance appraisal of prosecutors of regional and local prosecutor's offices, completed by March 2021, and which resulted in positions being filled up. Nevertheless, the absolute number of heads of prosecution services in Ukraine in 2021 was 239 (i.e. 0,6 per 100 000 inhabitants, which was remarkably lower than the EaP Average of 1,3).

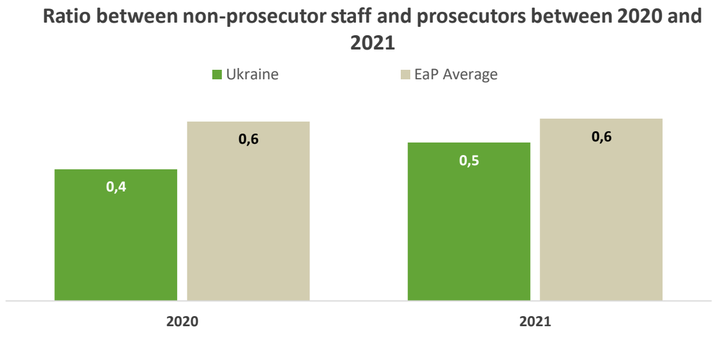
• Non-prosecutor staff and Ratio between non-prosecutor staff and prosecutors

	Non-prosecutor staff in 2021			Ratio between non-prosecutor staff and prosecutors in 2021		% Variation 2020 - 2021
	Absolute number	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants	Ukraine	EaP Average	Ukraine
Total	5 114	12,5	10,7	0,5	0,6	0%

For reference only: the 2021 EU median is 14,7 non-prosecutors staff per 100 000 inhabitants.

In 2021, the total number of non-prosecutor staff in Ukraine was 5114. Their number increased by 32,3% compared to 2020, which was explained by an increase of the number of staff after March 2021.

The number of non-prosecutor staff per 100 000 inhabitants was 12,5, which was above the EaP Average of 10,7.
The ratio of non-prosecutor staff per prosecutor in Ukraine (0.5) was slightly lower than the EaP Average of 0,6.

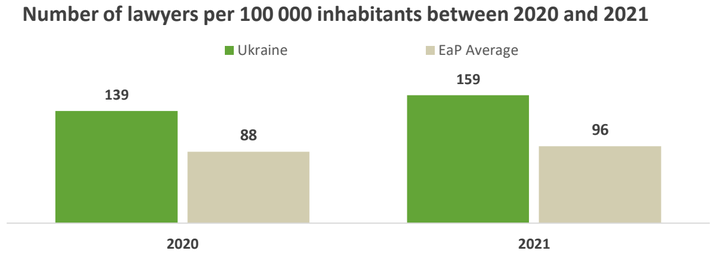


• Lawyers

	Number of lawyers in 2021			% Variation 2020 - 2021
	Absolute number	Per 100 000 inhabitants	EaP Average per 100 000 inhabitants	Ukraine
Total	65 000	158,5	95,5	14%

For reference only: the 2021 EU median is 122,4 lawyers per 100 000 inhabitants.

In 2021, the number of lawyers was 158,5 per 100 000 inhabitants, which was significantly higher than the EaP Average (95,5).
The number of lawyers per 100 000 inhabitants increased by 14% between 2020 and 2021.



• Salaries of professional judges and prosecutors

In 2021, the ratio between the salary of professional judges at the beginning of career with the annual gross average salary in Ukraine was 4,7, which was more than the EaP Average (4,5).

At the end of career, judges were paid more than at the beginning of career by 344,3%, which was more than the difference noted for the EaP Average(+120,2%).

In 2021, the ratio between the salary of prosecutors at the beginning of career with the annual gross average salary in Ukraine was 2,1, which was less than the EaP Average (2,5).

At the end of career, prosecutors were paid more than at the beginning of career by 167,6%, which was more than the difference noted for the EaP Average (146,7%).

		Salaries in 2021 (absolute values)			Ratio with the annual gross salary	
		Gross annual salary in €	% Variation 2020 - 2021	Net annual salary in €	Ukraine	EaP Average ratio
Professional judge	At the beginning of the career	30 450	-0,6%	24 512	4,7	4,5
	Of the Supreme Court or the Highest Appellate Court	135 275	0,0%	108 896	20,7	9,9
Public prosecutor	At the beginning of the career	13 900	14,7%	11 100	2,1	2,5
	Of the Supreme Court or the Highest Appellate Court	37 200	23,9%	30 000	5,7	6,1

For reference only: the 2021 EU median for the ratio of judges and prosecutors' salaries with average gross annual national salary is:

- professional judges' salary at the beginning of career: 1,9

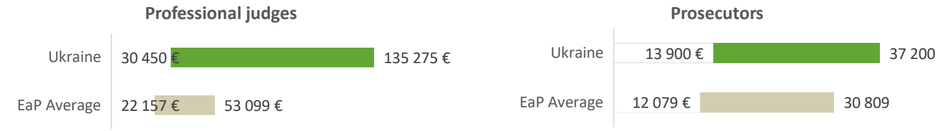
- professional judges' salary at the end of career: 4,1

- prosecutors' salary at the beginning of career: 1,7

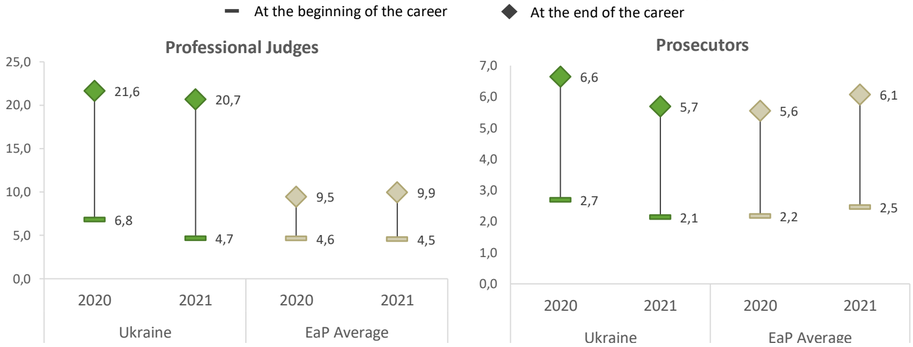
- prosecutors' salary at the end of career: 3,4

Judges are paid considerably more than prosecutors at both beginning and end of career in Ukraine and the gap is even more prominent at the end of the career. The salaries of judges in Ukraine are considerably above the EaP Average for 2021, in particular at the end of the career. The same is observed in respect of salaries for prosecutors, although to a slighter extent. In Ukraine, judges' salaries seem to be in place since assumably the adoption of 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” of 2019.

Gross annual salaries of professional judges and prosecutors at the beginning and the end of the career in 2021 (€)



Ratio of the gross annual salaries of judges and prosecutors with the average annual gross salary at the beginning and the end of career in 2020 and 2021 (€)

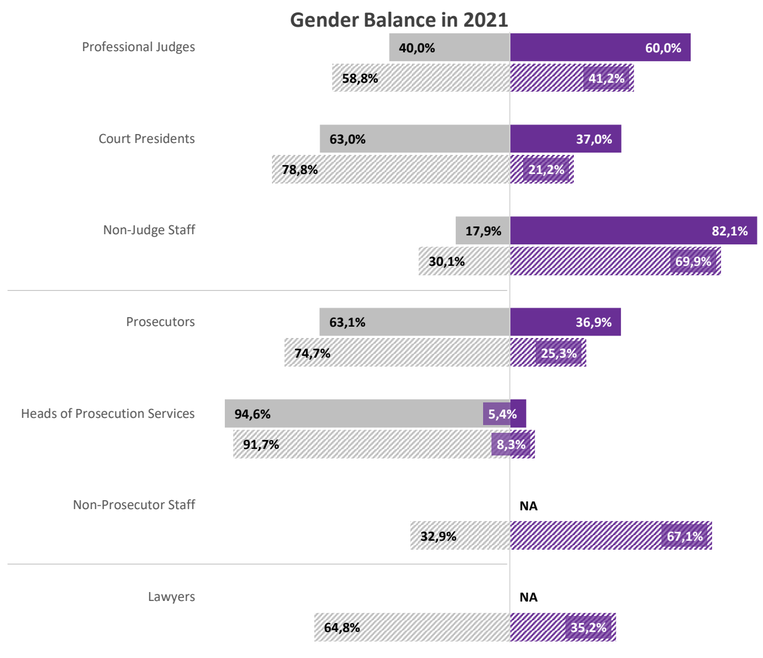


Additional benefits and bonuses for professional judges and prosecutors

No data was provided for 2021 in respect of additional bonuses and benefits.

Gender Balance

	% Female per category in 2021		% Variation 2020 - 2021
	Ukraine	EaP Average	Ukraine
Professional Judges	60%	41,2%	6,2
Court Presidents	37%	21,2%	-1,1
Non-Judge Staff	82,1%	69,9%	2,9
Prosecutors	36,9%	25,3%	-3,5
Heads of Prosecution Services	5,4%	8,3%	1
Non-Prosecutor Staff	NA	67,1%	NA
Lawyers	NA	35,2%	NA



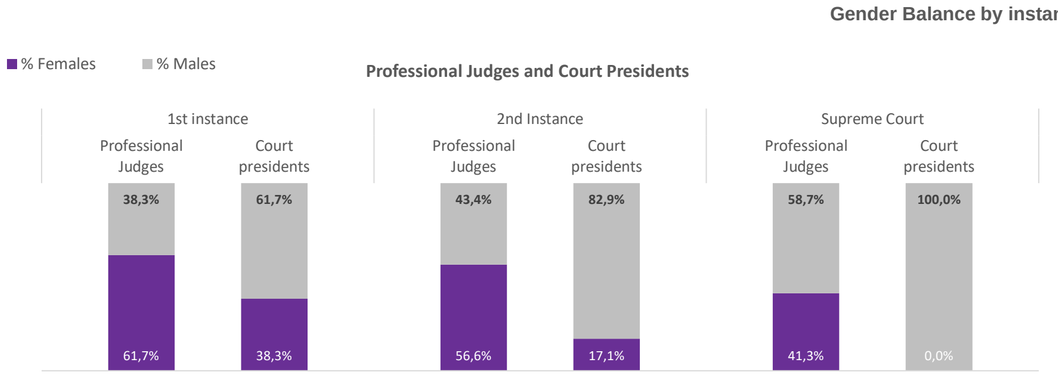
For reference only: 2021 EU medians on gender among professionals are as follows: 62% women judges; 76% women non-judge staff; 60% women prosecutors; 74% women non-prosecutor staff; and 47% women lawyers.

In 2021, the percentage of female professional judges was 60%, which was higher than EaP Average (41,2%). With a presence of 37%, the number of female court presidents in Ukraine was higher than the EaP Average of 21,2%. Moreover, the percentage of female non-judge staff was 82,1%.

The Court Presidents, Prosecutors and Heads of Prosecution Services were the categories with less than 50% of female presence.

No gender-disaggregated data on female non-prosecution staff and lawyers was provided for 2021.

	Professional Judges % Female		Court presidents % Female		Prosecutors % Female		Heads of Prosecution Services % Female	
	Ukraine	EaP Average	Ukraine	EaP Average	Ukraine	EaP Average	Ukraine	EaP Average
1st instance courts	61,7%	42,9%	38,3%	22,7%	NAP	-	NAP	-
2nd instance courts	56,6%	37,3%	17,1%	3,4%	NAP	-	NAP	-
Supreme Court	41,3%	33,7%	0%	40%	NAP	-	NAP	-



For judges, a diminution of the percentage of female can be observed from first to third instance, while the percentage of male court presidents increases from first instance to the Supreme Court, which could be indicative of a glass ceiling.

Gender Equality Policies

	Recruitment		Appointment	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	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	
Court Presidents			✗			
Heads of Prosecution Services			✗			
Judges	✗	✗		✗	✗	✗
Prosecutors	✗	✗		✗	✗	✗
Non-judge staff	✗	✗		✗	✗	✗
Lawyers	✗			✗		
Notaries	✗			✗		
Enforcement agents	✗			✗		

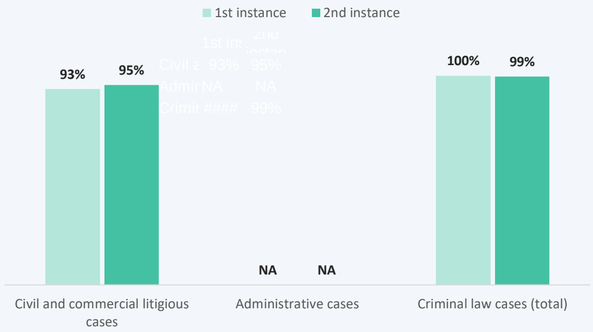
In Ukraine there is an overarching document (e.g. policy/strategy/action plan/program) on gender equality that applies specifically to the judiciary. The Gender Equality Strategy of the State Judicial Administration of Ukraine for 2021-2025 was approved by the Order of the SJA of Ukraine No. 194 dated June 04, 2021. All documents are available on the SJA website at the link: https://dsa.court.gov.ua/dsa/inshe/gender/

The procedure for appointment of judges is defined by the Law of Ukraine "On the Judiciary and Status of Judges", according to which he criteria for appointment do not depend on the gender of the candidate for the position of judge.
The procedure for appointment to the positions of court staff is defined by the Law of Ukraine "On Civil Service" taking into account the peculiarities of legal regulation of civil service in the justice system defined by the Law of Ukraine "On the Judiciary and Status of Judges" and other normative legal acts, according to which the appointment criteria do not depend on the gender of the candidate for the position of a court staff member.

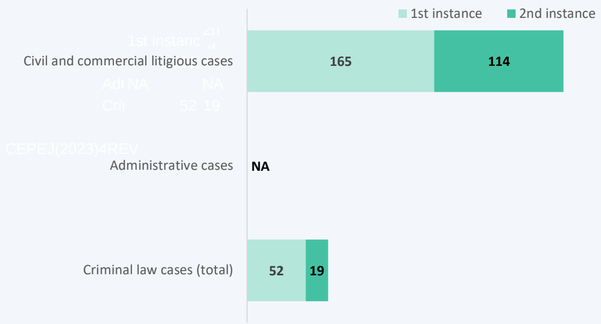
It was explained that the Law of Ukraine "On the Prosecutor's Office" does not provide for any privileges or restrictions based on gender.

Efficiency in Ukraine in 2021 (Indicators 3.1 and 3.2)

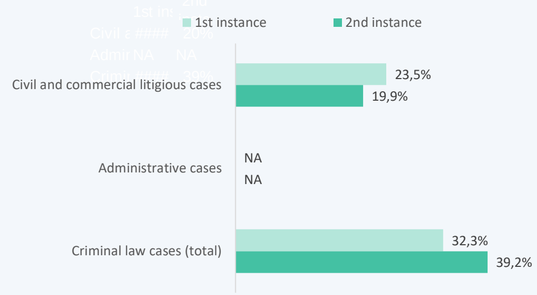
Clearance Rate in 2021



Disposition Time in 2021 (in days)



% Variation of pending cases at the end of year between 2020 and 2021



In 2021, the Clearance Rates below 100% resulted in an increase in the number of cases pending at the end of the year, which might lead to formation of backlog. In 2021, the highest Clearance rate (CR) for Ukraine is for the first instance total Criminal law cases, with a CR of 100%. However, it seems that Ukraine was not able to deal as efficiently with the first instance Civil and commercial litigious cases (CR of 93%). With a Disposition Time of approximately 19 days, the second instance total Criminal law cases were resolved faster than the other type of cases.

The data on criminal cases in both instances needs to be viewed in the light of a change of methodology on data collection reported by authorities for 2021. Due to this change, the data cannot be compared with the previous year and variations in numbers should not be accounted as increases/decreases in efficiency.

For methodological considerations, the administrative law cases data had to be replaced by the Secretariat by NA for this cycle, in agreement with the correspondent, as it was not possible to disaggregate it and sufficiently explain it, according to CEPEJ methodology.

First instance cases

Clearance rate (%) and Disposition Time (days) for first instance cases from 2018 to 2021

Second instance cases

Clearance rate (%) and Disposition Time (days) for second instance cases from 2018 to 2021

First Instance

The CR in 2021 decreased compared to 2020 in civil and commercial litigious cases (93%) and did not yet approach the 2018 levels.

The DT increased in civil and commercial litigious cases (165 days) compared to 2020 and is still below the EaP Average. Nevertheless, if the CR remains low and although the current DT level is not high, a risk of accumulation of pending cases and generating backlogs exists over time.

Second instance

The CR decreased slightly compared to 2020 in civil and commercial litigious cases (95%). It is still above the 2018 levels.

The DT increased slightly in civil and commercial litigious cases to 114 days and is above the EaP Average.

• First instance cases - Other than criminal law cases

1st instance cases in 2021 (absolute values)		Ukraine (2021)				% Variation between 2020 and 2021			
		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
Total of other than criminal law cases (1+2+3+4)		NA	NA	NA	NA	NA	NA	NA	NA
1	Civil and commercial litigious cases	791 899	739 990	333 734	NA	-3,6%	-8,4%	23,5%	NA
2	Non-litigious cases**	520 169	511 119	38 356	NA	121,9%	123,6%	109,1%	NA
3	Administrative cases	NA	NA	NA	NA	NA	NA	NA	NA
4	Other cases	NA	NA	NA	NA	NA	NA	NA	NA

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

In 2021, there were 791 899 incoming civil and commercial litigious cases (1,93 per 100 inhabitants vs the EaP Average of 3,07). They decreased by -3,6% between 2020 and 2021. There were 739 990 resolved cases (1,8 per 100 inhabitants). Between 2020 and 2021, they decreased by -8,4%. The number of resolved cases was thus lower than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2021 were more than in 2020. Indeed, the 2021 Clearance rate for this type of cases was 93,4% (below the EaP Average of 94,9%). This decreased by -5 percentage points compared to 2020.

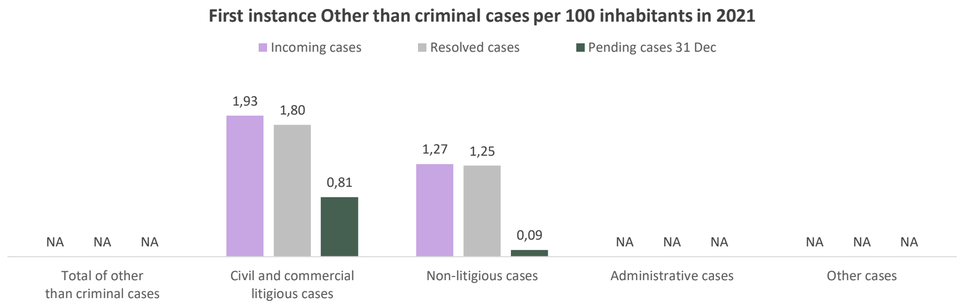
The Disposition Time for civil and commercial litigious cases was approximately 165 days in 2021 (below the EaP Average of 172 days). This increased by 34,8% over the 2020-2021 period.

Both efficiency indicators, CR and DT, show a negative tendency in 2021. The drop in the number of resolved cases (-8,4% compared to 2020) and CR (-5 percentage point), resulted in an evident increase in the number of pending cases at the end of 2021 and longer Disposition Time. If situation does not improve, this might lead to formation of backlog and prolonged trials in the near future.

1st instance cases in 2021 (per 100 inhabitants)		Incoming cases			Resolved cases			Pending cases 31 Dec			Pending cases over 2 years	
		Ukraine		EaP Average	Ukraine		EaP Average	Ukraine		EaP Average	Ukraine	EaP Average
Total of other than criminal law cases (1+2+3+4)		NA		3,27	NA		3,20	NA		1,45	NA	0,32
1	Civil and commercial litigious cases	1,93	<	3,07	1,80	<	2,87	0,81	<	1,33	NA	0,28
2	Non-litigious cases**	1,27	>	0,66	1,25	>	0,67	0,09	<	0,11	NA	-
3	Administrative cases	NA		0,31	NA		0,28	NA		0,21	NA	0,04
4	Other cases	NA		-	NA		-	NA		-	NA	-

For reference only: the 2021 EU Median was as follows:
- Incoming first instance Civil and Commercial litigious cases per 100 inhabitants: 1,8;
- incoming first instance Administrative cases per 100 inhabitants: 0,3.

Key: > Higher than the EaP Average; = Equal to the EaP Average; < Lower than the EaP Average

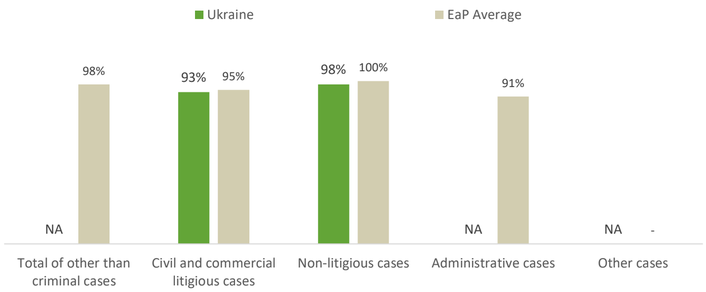


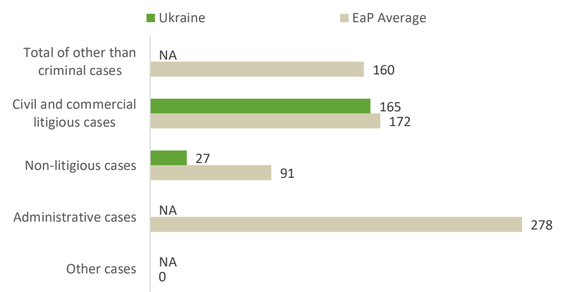
1st instance cases Clearance Rate (CR) and Disposition Time (DT) in 2021		CR (%)		DT (days)		% Variation 2020 - 2021	
		Ukraine	EaP Average	Ukraine	EaP Average	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)		NA	98%	NA	160	NA	NA
1	Civil and commercial litigious cases	93%	95%	165	172	-5,0	34,8%
2	Non-litigious cases**	98%	100%	27	91	0,8	-6,5%
3	Administrative cases	NA	91%	NA	278	NA	NA
4	Other cases	NA	-	NA	-	NA	NA

PPT = Percentage points

For reference only: the 2021 EU Median for the first instance Civil and Commercial litigious cases was as follows:
- Clearance rate: 102,5%; - Disposition time: 234 days.

For reference only: the 2021 EU Median for the first instance Administrative cases was as follows:
- Clearance rate: 101,7%; - Disposition time: 296 days.





• First instance cases - Criminal law cases

1st instance cases in 2021 (absolute values)		Ukraine (2021)				% Variation between 2020 and 2021			
		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
Total of criminal law cases (1+2+3)		947 148	945 395	133 718	10 479	614,4%	664,3%	32,3%	NA
1	Severe criminal cases	35 003	32 122	53 453	NA	NA	NA	NA	NA
2	Misdemeanour and / or minor criminal cases	50 189	50 637	17 502	NA	NA	NA	NA	NA
3	Other cases	861 956	862 636	62 763	NA	NAP	NAP	NAP	NA

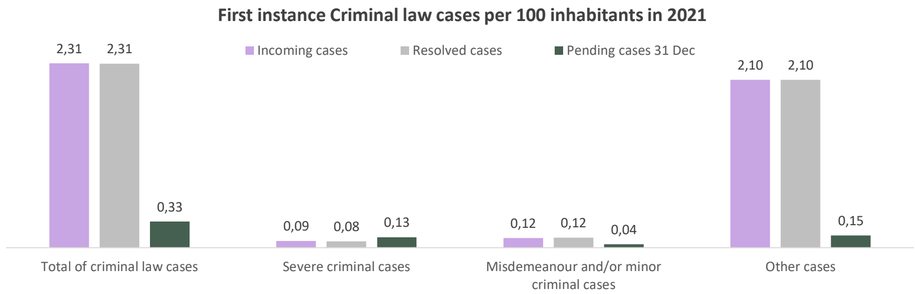
The increase in the total number of incoming and resolved criminal cases compared to the previous reference period was explained by the authorities by a change in the methodology for aggregating the national data for this indicator, aiming at including all cases examined under criminal procedure in Ukraine. A revision of 2020 data based on same methodology was not possible for the correspondent for this cycle and the data will be revisited, to the extent possible, for the 2022 data collection cycle, hence the analysis needs to be read with these considerations in mind. In 2021, there were 947 148 incoming total criminal cases (2,31 per 100 inhabitants vs the EaP Average of 0,9). The resolved cases were 945 395 (2,31 per 100 inhabitants). Indeed, the 2021 Clearance rate for this type of cases was 99,8% (above the EaP Average of 92,7%).

Due to the above-mentioned changes in methodology, it is not feasible to analyse other efficiency indicators nor to make a comparison with 2020 data.

1st instance cases in 2021 (per 100 inhabitants)		Incoming cases			Resolved cases			Pending cases 31 Dec			Pending cases over 2 years		
		Ukraine		EaP Average	Ukraine		EaP Average	Ukraine		EaP Average	Ukraine		EaP Average
Total of criminal law cases (1+2+3)		2,31	>	0,90	2,31	>	0,87	0,33	>	0,29	0,03	<	0,04
1	Severe criminal cases	0,09	=	0,09	0,08	=	0,08	0,13	>	0,07	NA		0,003
2	Misdemeanour and / or minor criminal cases	0,12	<	0,34	0,12	<	0,34	0,04	<	0,05	NA		0,003
3	Other cases	2,10		-	2,10		-	0,15		-	NA		-

For reference only: for the first instance Total Criminal law cases, the 2021 EU Median was as follows:
- Incoming cases per 100 inhabitants: 1,6.

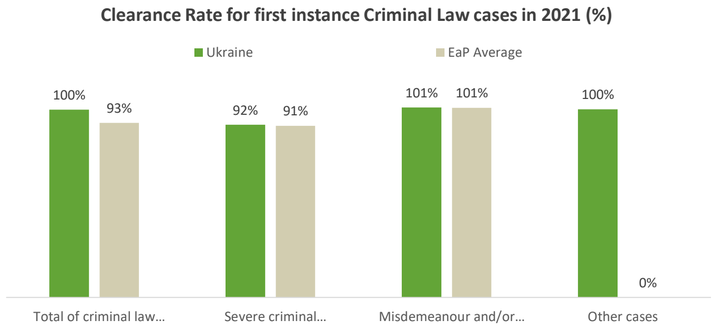
Key: > Higher than the EaP Average
= Equal to the EaP Average
< Lower than the EaP Average

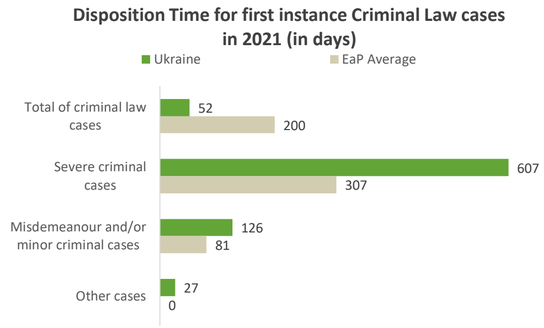


1st instance cases Clearance Rate (CR) and Disposition Time (DT) in 2021		CR (%)		DT (days)		% Variation 2020 - 2021	
		Ukraine	EaP Average	Ukraine	EaP Average	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)		100%	93%	52	200	6,5	-82,7%
1	Severe criminal cases	92%	91%	607	307	NA	NA
2	Misdemeanour and / or minor criminal cases	101%	101%	126	81	NA	NA
3	Other cases	100%	-	27	-	NAP	NAP

PPT = Percentage points

For reference only: for the first instance Total Criminal law cases, the 2021 EU Median was as follows:
- Clearance rate: 100%; - Disposition time: 134 days.





• Second instance cases - Other than criminal law cases

2nd instance cases in 2021 (absolute values)		Ukraine (2021)				% Variation between 2020 and 2021			
		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
Total of other than criminal law cases (1+2+3+4)		NA	NA	NA	NA	NA	NA	NA	NA
1	Civil and commercial litigious cases	114 594	109 232	34 011	NA	17,2%	15,4%	19,9%	NA
2	Non-litigious cases**	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
3	Administrative cases	NA	NA	NA	NA	NA	NA	NA	NA
4	Other cases	27 944	27 597	3 903	18	22,7%	29,4%	9,8%	NA

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

2nd instance cases in 2021 (per 100 inhabitants)		Incoming cases			Resolved cases			Pending cases 31 Dec			Pending cases over 2 years	
		Ukraine		EaP Average	Ukraine		EaP Average	Ukraine		EaP Average	Ukraine	EaP Average
Total of other than criminal law cases (1+2+3+4)		NA		0,39	NA		0,40	NA		0,11	NA	0,01
1	Civil and commercial litigious cases	0,28	>	0,27	0,27	=	0,27	0,08	>	0,07	NA	0,003
2	Non-litigious cases**	NAP		-	NAP		-	NAP		-	NAP	-
3	Administrative cases	NA		0,11	NA		0,10	NA		0,05	NA	0,003
4	Other cases	0,07		-	0,07		-	0,010		-	0,00004	-

Key: > Higher than the EaP Average; = Equal to the EaP Average; < Lower than the EaP Average

For reference only: the 2021 EU Median was as follows:
- Incoming Second instance Civil and Commercial litigious cases per 100 inhabitants: 1,8;
- incoming Second instance Administrative cases per 100 inhabitants: 0,3.

2nd instance cases Clearance Rate (CR) and Disposition Time (DT) in 2021		CR (%)		DT (days)		% Variation 2020 - 2021	
		Ukraine	EaP Average	Ukraine	EaP Average	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)		NA	104%	NA	104	NA	NA
1	Civil and commercial litigious cases	95%	102%	114	98	-1,5	3,8%
2	Non-litigious cases**	NAP	-	NAP	-	NAP	NAP
3	Administrative cases	NA	99%	NA	169	NA	NA
4	Other cases	99%	-	52	-	5,1	-15,2%

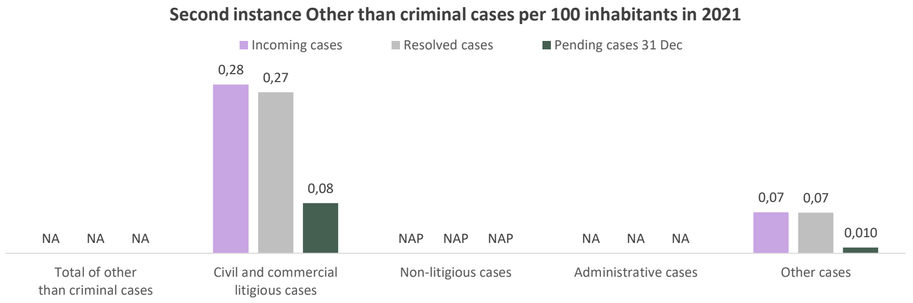
PPT = Percentage points

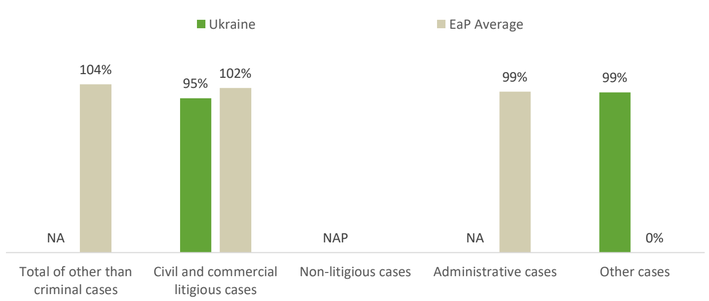
For reference only: the 2021 EU Median for the Second instance Civil and Commercial litigious cases was as follows:
- Clearance rate: 102,5%; - Disposition time: 234 days.

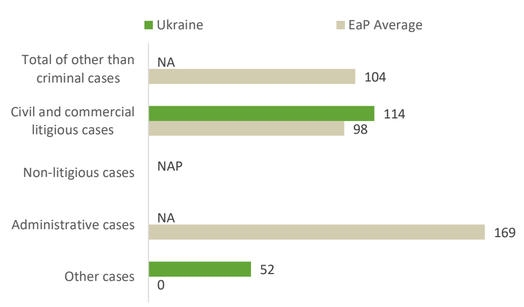
For reference only: the 2021 EU Median for the Second instance Administrative cases was as follows:
- Clearance rate: 101,7%; - Disposition time: 296 days.

In 2021, there were 114 594 incoming civil and commercial litigious cases (0,28 per 100 inhabitants vs the EaP Average of 0,27).They increased by 17,2% between 2020 and 2021. There were 109 232 resolved cases (0,27 per 100 inhabitants). Between 2020 and 2021, they increased by 15,4%. The number of resolved cases was thus lower than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2021 were more than in 2020. Indeed, the 2021 Clearance rate for this type of cases was 95,3% (below the EaP Average of 101,6%). This decreased by -1,5 percentage points compared to 2020.
The Disposition Time for civil and commercial litigious cases was approximately 114 days in 2021 (above the EaP Average of 98 days). This increased by 3,8% over the 2020-2021 period.

By observing both Clearance Rate and Disposition Time, it could be concluded that these indicators showed less favourable levels compared to 2020. Although the current situation does not seem worrying, if this trend continues it might lead to accumulation of pending cases and potential increase of the Disposition Time in the future.







• Second instance cases - Criminal law cases

2nd instance cases in 2021 (absolute values)		Ukraine (2021)				% Variation between 2020 and 2021			
		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
Total of criminal law cases (1+2+3)		236 117	234 692	12 532	552	747,5%	765,9%	39,2%	NA
1	Severe criminal cases	NA	NA	NA	NA	NA	NA	NA	NA
2	Misdemeanour and / or minor criminal cases	NA	NA	NA	NA	NA	NA	NA	NA
3	Other cases	NAP	NAP	NAP	NAP	NA	NA	NA	NA

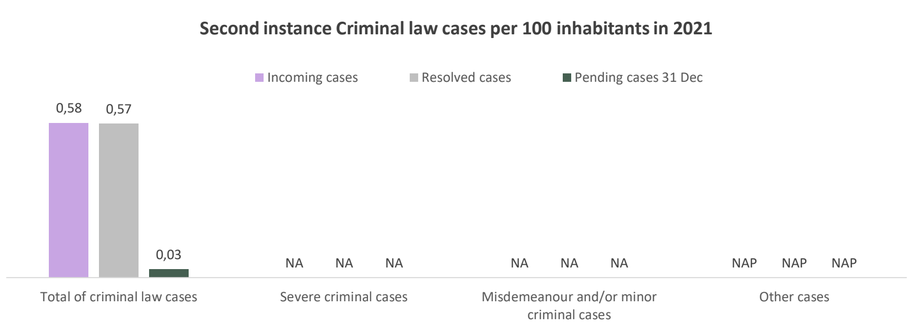
The same considerations regarding the changed methodology of collecting data on the number of criminal cases for first instance courts by authorities (see above) apply for second instance courts. In 2021, there were 236 117 incoming total criminal cases (0,58 per 100 inhabitants vs the EaP Average of 0,28). The resolved cases were 234 692 (0,57 per 100 inhabitants). The 2021 Clearance rate for this type of cases was 99,4% (slightly above the EaP Average of 98,2%).

Due to the mentioned changes in the national data collection methodology, it is not feasible to analyse other efficiency indicators nor to make a comparison with 2020 data.

2nd instance cases in 2021 (per 100 inhabitants)		Incoming cases			Resolved cases			Pending cases 31 Dec			Pending cases over 2 years		
		Ukraine		EaP Average	Ukraine		EaP Average	Ukraine		EaP Average	Ukraine		EaP Average
Total of criminal law cases (1+2+3)		0,58	>	0,28	0,57	>	0,26	0,03	<	0,06	0,00	<	0,02
1	Severe criminal cases	NA		-	NA		-	NA		-	NA		-
2	Misdemeanour and / or minor criminal cases	NA		-	NA		-	NA		-	NA		-
3	Other cases	NAP		-	NAP		-	NAP		-	NAP		-

For reference only: for the second instance Total Criminal law cases, the 2021 EU Median was as follows:
- Incoming cases per 100 inhabitants: 1,6.

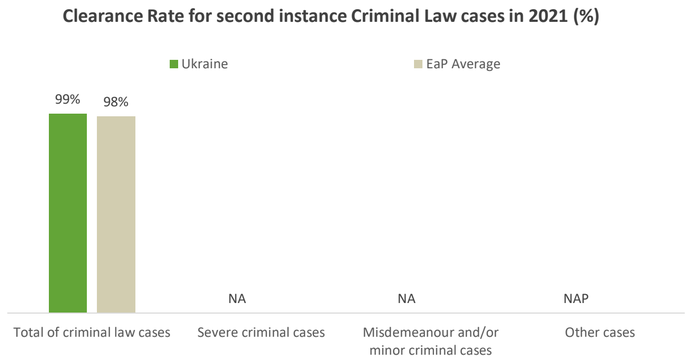
Key: > Higher than the EaP Average; = Equal to the EaP Average; < Lower than the EaP Average

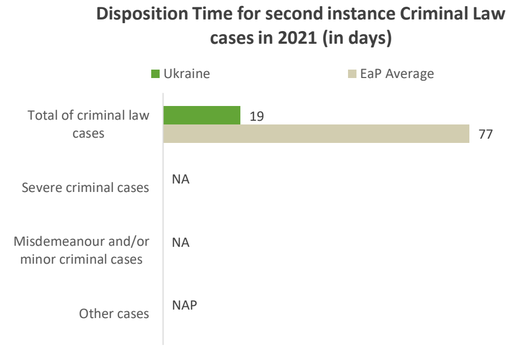


2nd instance cases Clearance Rate (CR) and Disposition Time (DT) in 2021		CR (%)		DT (days)		% Variation 2020 - 2021	
		Ukraine	EaP Average	Ukraine	EaP Average	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)		99%	98%	19	77	2,1	-83,9%
1	Severe criminal cases	NA	-	NA	-	NA	NA
2	Misdemeanour and / or minor criminal cases	NA	-	NA	-	NA	NA
3	Other cases	NAP	-	NAP	-	NAP	NAP

PPT = Percentage points

For reference only: for the second instance Total Criminal law cases, the 2021 EU Median was as follows:
- Clearance rate: 100%; - Disposition time: 134 days.





• Specific category cases

	Ukraine (2021)						% Variation between 2020 and 2021					
	Decisions subject to appeal (%)	Average length of proceedings (in days)				% of cases pending for more than 3 years for all instances	Decisions subject to appeal (PPT)	Average length of proceedings (in days)				Cases pending for more than 3 years for all instances (PPT)
		First instance	Second instance	Third instance	Total			First instance	Second instance	Third instance	Total	
Civil and commercial litigious cases	NA	91	94	NA	NA	NA	NA	NA	NA	NA	NA	NA
Litigious divorce cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Employment dismissal cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Insolvency cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Robbery cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Intentional homicide cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Bribery cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Trading in influence	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

The average length of cases corresponds to the average length of resolved cases at a certain instance within the reference year. Only data on the length of proceedings for civil and commercial litigious cases in 1st and 2nd instance courts was provided for 2021 for Ukraine. Thus, no analysis was possible for this cycle.

• Quality standards and performance indicators in the judicial system

In Ukraine there are quality standards determined for the judicial system at national level. Also, public prosecution services have specialised personnel entrusted with implementation of these national level quality standards.

Starting from 2015 the "Court Performance Evaluation Framework: Standards, Criteria, Indicators and Methods (CPEF)" is applied in Ukraine. This system is aimed to evaluate the work of the court for improving the organization of their work, namely to increase 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.)
By decision of April 26, 2016, No. 26, the Council of Judges of Ukraine approved the methodological guide "Application of the Court Evaluation System" and the list of basic court performance indicators.
Also, the order of the State Judicial Administration of Ukraine dated June 28, 2018 No. 286 approved the Methodology for analysing the activity of courts. The SJA of Ukraine is analysing the activity of the courts to be used in making objective management decisions to improve the state of litigation and the rational use of budgetary funds. In the process of analysing the activities of the courts, two main aspects that characterize the activities of the court are examined, namely: (1) effectiveness of litigation; and (2) efficient use of resources.

Furthermore, the Strategy for the Development of the Justice System and Constitutional Justice for 2021-2023, approved by the Decree of the President of Ukraine dated June 11, 2021 No. 231/2021. According to this Strategy, a detailed list of tasks, measures, expected results and indicators for further implementation of the reform of the judiciary, justice system and other legal institutions is reflected in the Action Plan for the implementation of the Strategy, which is approved by the Legal Reform Commission. Development and implementation of the Action Plan should be accompanied by comprehensive discussions involving the public and expert environment; the monitoring the effectiveness of the implementation of the provisions of the Strategy should be determined on the basis of objective, relevant and measurable indicators, according to authorities.

• Regular monitoring of courts and prosecution offices' activities

In Ukraine, a system to regularly evaluate court performance based on the monitored indicators listed below (more frequently than once a year) is reported to be in place. This evaluation of the court activities is then presumably used for the allocation of resources within the courts by reallocating resources (human/financial resources based on performance).

	Regular assessment	
	Courts	Prosecution offices
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 SJA of Ukraine collects statistical information and monitors the indicators of local and appellate courts on the number of cases and materials that were in proceedings, considered and remained unexamined at the end of the reporting period, including those not considered for more than 1 year.

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

For courts, two kinds of evaluations were reported for 2021: 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.
Basic indicators contain the following: Data from the automated record-keeping system:
1) Number of cases and materials pending at the beginning of the reporting period; 2) Number of cases and materials received during the reporting period; 3) Number of cases and materials reviewed during the reporting period; 4) Number of cases and materials pending at the end of the reporting period; 5) Number of cases and materials pending for more than one year at the end of the reporting period; 6) Actual number of judges.
Data according to basic indicators: 1) Number and percentage of cases and materials with a total duration of more than one year; 2) Percentage of cases considered; 3) Average number of cases and materials reviewed per judge; 4) Average number of cases and materials pending during the reporting period per one judge; 5) Average trial time (days); 6) Conducting surveys among citizens participating in court proceedings; 7)Publication of the results of surveys of citizens participating in court proceedings on the court's website; 8) The level of satisfaction with the work of the court by the participants of the trial based on the survey results. Uniform scale from 1 (very bad) to 5 (excellent); 9) Percentage of citizens participating in court proceedings assessing court performance as “good” (4) and “excellent” (5).
The system was developed with the international technical assistance provided by the USAID.
Furthermore, according to Article 1311 of the Constitution of Ukraine and the Law of Ukraine "On the Prosecutor's Office", the assessment of the quality and performance of the court's activity does not fall within the competence of the prosecutor's office. At the same time, the prosecutor's office monitors the data on the number of appeals and other indicators in cases in which the participation of the prosecutor is provided by law. According to the first part of Article 152 of the Law of Ukraine "On the Judiciary and the Status of Judges", the State Judicial Administration of Ukraine, in particular, shall ensure appropriate working conditions for courts, the High Qualification Commission of Judges of Ukraine, the National School of Judges of Ukraine and judicial self-government bodies within the scope defined by this Law; examine how courts are organised, and thereafter draft and duly submit proposals with the purpose of enhancing the same; organise activities related to court statistics, paperwork and archives; oversee the status of paperwork in courts. According to Article 151-1 of the Law of Ukraine "On the Judiciary and the Status of Judges", analytical and statistical processing of information is carried out through the Unified Judiciary Informational Telecommunication System. Evaluation of the efficiency of court staff is entrusted to the respective presidents of courts (para. 3 part 1 of Art. 24, para. 3 part 1 of Art. 29, para. 3 part 1 of Art. 34, para. 4 part 2 of Art. 39 of the Law of Ukraine "On the Judicial System and Status of Judges". According to paragraph 7 of part 1 of Article 93 of the aforementioned Law of Ukraine, the High Qualification Commission of Judges of Ukraine conducts qualification assessment of judges.

Between February and April 2021, the USAID New Justice Sector Reform Program conducted national surveys on trust in the judiciary, other branches of government and public institutions, independence and accountability of judges, perception of corruption in the judiciary, and reporting of corruption cases. According to the survey results, 10% of the general public indicated that they have full or strong trust in the judiciary; 40% of legal professionals with experience of interacting with the courts and other branches of government in Ukraine reported that they trusted the courts in which they were represented, and 27% indicated that they generally trust the judiciary as a branch of government. Judges demonstrated a very high level of trust in all judicial institutions, in particular, 86% in the judiciary in general, 79% in the High Council of Justice, 75% in the Supreme Court. The results of the surveys are published at the link: https://newjustice.org.ua/uk/lib/doslidzhennya-ta-zviti/ According to a survey conducted by the Azimov Centre sociological service from July 29 to August 4, 2021, 2.8% of respondents fully trust the judiciary in general (12.7% rather trust); 2.8% of respondents fully trust the local court (17.3% rather trust); The Supreme Court is fully trusted by 3.8% of respondents (rather trusted - 17.6%); the Constitutional Court of Ukraine is fully trusted by 4.8% of respondents (rather trusted - 16.5%); the High Anti-Corruption Court is fully trusted by 2.7% of respondents (rather trusted - 12.6%). The results of the polls are published by the link: https://razumkov.org.ua/napriamky/sotsiologichni-doslidzhennia/dovira-do-instytutiv-suspilstva-ta-politykiv-elektoralni-oriientatsii-gromadian-ukrainy By the decision of the Council of Judges of Ukraine dated 02.04.2015 № 28 the framework system of court performance evaluation in Ukraine was approved with the final title: "Court Performance Evaluation System: Standards, Criteria, Indicators and Methods" (CPES). In particular, the mentioned decision recommended the courts of Ukraine to apply the CPES to evaluate the work of the court both in full and individual modules of the CPES, depending on the management goals and objectives aimed at improving the work of the court, with a frequency of once every three years.
Additionally, dynamics and share of receipt and consideration of cases and materials on administration of justice by the Supreme Court (by type of proceedings, by respondents and by categories of court cases).

The evaluation of court performance based on the monitored indicators is reportedly done on a weekly, semi-annual and annual basis.

The performance indicators regarding the **work of the public prosecution** are determined in the passports of the budget programs of the Prosecutor's General Office. Budget program passport is a document defining the purpose, objectives, directions of use of budget funds, responsible executors, performance indicators and other characteristics of the budget program in accordance with the budget purpose established by the law on the State Budget of Ukraine and the goals of state policy, which is provided by the chief administrator.
These performance indicators within budget program passports, 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.

The report on the implementation of budget program passports is submitted (annually) to the Ministry of Finance of Ukraine within the deadlines set for the submission of consolidated annual budget reports, according to the form approved by the order of the Ministry of Finance of Ukraine dated 29.12.2002 № 1098 'On budget program passports', in paper and electronic form.
The Chief Administrator annually publishes the results of the evaluation of the effectiveness of budget programs for the reporting budget period by posting them on its official website within two weeks after the submission of the annual budget reports.
The monitoring of prosecution activity is made on the basis of the general system of reporting. In accordance with the requirements of Article 6 of the Law of Ukraine 'On Prosecutor's Office', prosecutors' offices inform the society about their activities at least twice a year by means of mass media reports.
The Prosecutor General personally, at least once a year, must report to the Verhovna Rada of Ukraine on the activities of the prosecutor's office at a plenary meeting, by providing aggregate statistical and analytical data.
The heads of regional and local public prosecutors at an open plenary session of the relevant council, which are invited by media representatives, inform the population of the relevant administrative unit about the results of their activities in this territory by providing aggregate statistical and analytical data at least twice a year.
Information on the activities of the prosecutor's office is also made public in the national and local print media and on official web sites of the prosecutor's office.
Furthermore, according to part 1 of Article 8 of the Law of Ukraine "On Prosecutor's Office", the Office of the Prosecutor General ensures proper functioning of the Unified Register of Pre-trial Investigations and its maintenance by pre-trial investigation bodies, determines the unified procedure for reporting on the state of criminal unlawfulness and the work of the prosecutor in order to ensure the effective performance of the prosecutor's functions. According to Part 2 of Article 28 of the CPC of Ukraine, conducting pre-trial investigation within a reasonable time shall be ensured by public prosecutor.

• Quantitative targets for each judge and prosecutor

Existence of quantitative targets for:	Judges	✗	Prosecutors	✗

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

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

Consequences for not meeting the targets	For judges	For public prosecutors
Warning by court's president/ head of prosecution	✗	✗
Disciplinary procedure	✗	✗
Temporary salary reduction	✗	✗
Reflected in the individual assessment	✗	✗
Other	✗	✗
No consequences	✗	✗

There were no reported quantitative targets for judges in 2021. However, according to authorities, the quantitative aspects of their work are taken into account within the qualification assessment of judges, when the record of a judge is studied. According to the Law of Ukraine On the Judiciary and Status of Judges, the record of a judge shall include information on the effectiveness of judicial proceedings, in particular: a) the total number of cases considered; b) the number of cancelled court decisions and the grounds for their cancellation; c) the number of decisions that became the basis for making decisions by international judicial institutions and other international organizations, which established the violation of Ukraine's international legal obligations; d) the number of amended court decisions and the reasons for their change; e) observance of terms of consideration of cases; e) average length of the text of the motivated decision; e) judicial burden compared with other judges in the relevant court, region, taking into account the nature of the instance, the specialization of the court and the judge.

• Qualitative targets for each judge and prosecutor

Existence of qualitative targets for:	Judges	✓	Prosecutors	✓

Responsibility for setting up the criteria qualitative targets for judges	
Executive power (for example the Ministry of Justice)	✗
Legislative power	✗
Judicial power (for example the High Judicial Council, Supreme Court)	✗
President of the court	✗
Other	✓

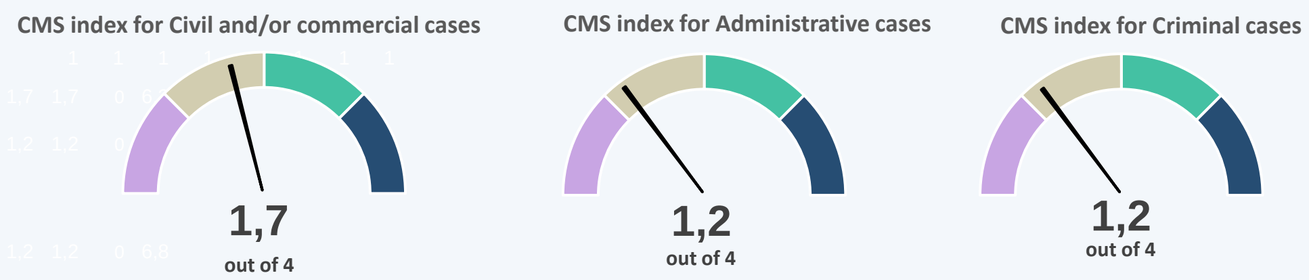
Responsibility for setting up the criteria for the qualitative assessment of the public prosecutors' work	
Executive power (for example the Ministry of Justice)	✗
Prosecutor General /State public prosecutor	✓
Public prosecutorial Council	✗
Head of the organisational unit or hierarchical superior public prosecutor	✓
Other	✗

Frequency of this assessment	For judges	For public prosecutors
Annual	✗	✓
Less frequent	✓	✗
More frequent	✗	✗

The qualitative individual assessment can be part of the qualification evaluation of judges in Ukraine (see also above). By Other the High Qualification Commission of Judges was meant.

Electronic case management system and court activity statistics in Ukraine in 2021 (Indicator 3.3)

The Case Management System (CMS) Index is an index ranging from 0 to 4 points. It is 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 five 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 summarized 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. This methodology provides an adequate evaluation.



• Electronic case management system

CEPEJ(2023)4REV

In Ukraine, there was a Concept of Building the Unified Judicial Information and Telecommunication System of 2021, laying out the basis for an IT Strategy in the judiciary. This paved the way for the Order of the State Judicial Administration of Ukraine "On Approval of the Sectoral Program of Informatization of Local and Appellate Courts and the Project for the Construction of the Unified Judicial Information and Telecommunication System for 2022-2024".

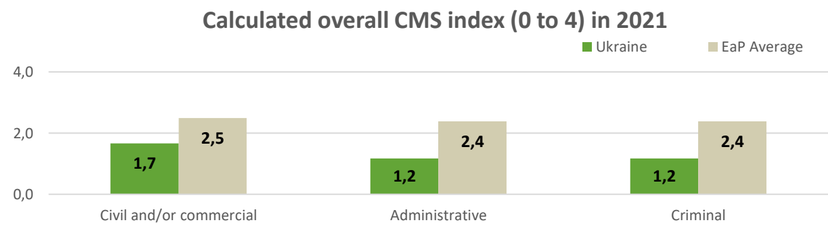
There is a case management system (CMS), eg software used for registering judicial proceedings and their management. This has been developed more than 10 years.

The CMS is developed in all courts (100% deployment rate) and the data is reportedly not stored on a database consolidated at national level. The CMS index for Ukraine is lower than the EaP average (1.7 vs.2.5 EaP average for civil and/or commercial cases; 1.2 vs 2.4 in administrative cases and 1.2 vs 2.4 in criminal cases).

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%	Both	✗	✗	Integrated
Administrative	100%	Accessible to parties	✗	✗	Integrated
Criminal	100%	Accessible to parties	✗	✗	Integrated

Both = Accessible to parties & Publication of decision online

	Overall CMS Index in 2021	
	Ukraine	EaP Average
Civil and/or commercial	1,7	2,5
Administrative	1,2	2,4
Criminal	1,2	2,4



• Centralised national database of court decisions

In Ukraine, there is a centralised national database of court decisions with the following particularity. The Unified State Register of Court Decisions (hereinafter - the Register) is an automated system of collection, storage, protection, accounting, search and provision of electronic copies of court decisions (part two of Article 3 of the Law of Ukraine "On Access to Court Decisions"). It was reported that courts have document management systems that use local databases. Part of the information from these databases is replicated to the central database of the automated court document management system. In this case, the central database is auxiliary, and all information is generated and stored in local court databases. A single centralized court document management system set out in the Concept of the Unified Judicial Information and Telecommunication System was apparently an objective to be achieved.

	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	✗	✓	✓	✓
Administrative	Yes all judgements	Yes all judgements	Yes all judgements	✗	✓	✓	✓
Criminal	Yes all judgements	Yes all judgements	Yes all judgements	✗	✓	✓	✓

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

Access to justice and Legal Aid in Ukraine in 2021 (Indicator 4)

Total implemented budget for Legal Aid in 2021

2020 2021

Number of cases for which LA has been granted

No data on the budget for legal aid, the number of cases of which LA has been granted was provided in 2021, hence the absence of the analysis.

Organisation of the legal aid system

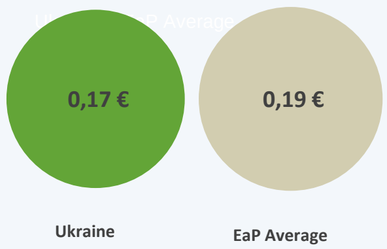
In order to ensure access to free legal aid in Ukraine, a system consisting of the Coordination Centre for Legal Aid Provision, primary legal aid providers, and secondary legal aid providers has been created. The subjects of free secondary legal aid are executive authorities, local self-government bodies, individuals and legal entities of private law, specialized institutions. The subjects of free secondary legal aid are the centres for the provision of free secondary legal aid and advocates included in the Register of advocates providing free secondary legal aid.
Free legal aid is guaranteed by the state and is fully or partially provided at the expense of the State Budget of Ukraine, local budgets and other sources.
The system of free legal aid in Ukraine is a network of 535 points of access to legal services: 23 regional, 84 local centres of free secondary legal aid and 428 legal aid bureaus in all regions of Ukraine

Legal aid is applied to:

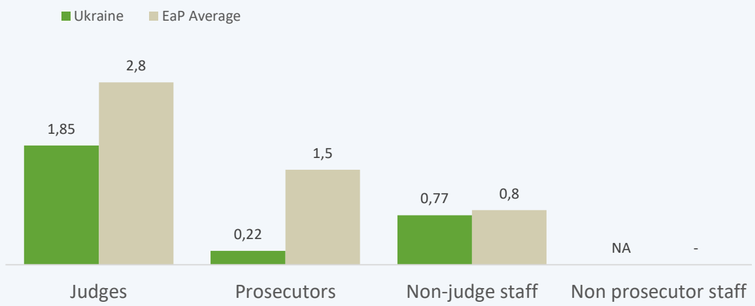
	Criminal cases	Other than criminal cases
Representation in court	✓	✓
Legal advice, ADR and other legal services	✓	✓

Training of judges and prosecutors in Ukraine in 2021 (Indicator 7)

Total budget for Training per inhabitant



Average number of live training participations per professional



Average number of participants per delivered training

The total budget for training of judges and prosecutors in Ukraine was 0,17€ per inhabitant, slightly lower than the EaP Average of 0,19€ per inhabitant.

As partial data is available for these categories, only a partial analysis for 2021 is possible. Thus, in 2021, 8 082 judges and 2 105 prosecutors were trained in live trainings (in-person, hybrid or video conferences).

In online trainings, there were reported 440 judges and 1206 non-judge staff. In Ukraine each judge participated on average in 1,9 live trainings in 2021, which was below the EaP Average (2,8) while each prosecutor participated in 0,2 live trainings, less than the EaP Average (1,5).

In Ukraine, both judges and prosecutors are required to attend a minimum number of days of in-service compulsory training.

• Budget for Trainings

	Budget of the training institution(s) (1)	Budget of the courts/prosecution allocated to training (2)	Total (1)+(2)				EaP Average per inhabitant
			Absolute Number	Evolution of training budget per inhabitant		% Variation 2020 - 2021	
				2020	2021		
Total	5 219 095 €	1 928 213 €	7 147 308 €	0,17 €	0,17 €		0,19 €
Judges	3 226 598 €	20 213 €	3 246 811 €				
Prosecutors	1 992 497 €	1 908 000 €	3 900 497 €				
One single institution for both judges and prosecutors	NAP		NAP				

The training budget per inhabitant appears to have stayed at the level of 2020.

• Number of in-service live trainings and participants

Organisation of the trainings (number, duration and average number of participants on trainings)

	Live (in-person, hybrid, video conference) trainings (2021)							
	Number of available trainings	Number of delivered trainings	Delivered trainings in days	Number of participants	Average duration of trainings in days		Average number of participants per delivered training	
					Ukraine	EaP Average	Ukraine	EaP Average
Total	NA	NA	NA	NA	NA	1,8	NA	15,2
Judges	227	227	NA	8 082	NA	1,4	35,6 >	15,2
Prosecutors	156	259	259	2 105	1,0 <	1,8	8,1 <	12,9
Non-judge staff	223	223	NA	18 536	NA	1,3	83,1 >	39,2
Non-prosecutor staff	34	105	105	NA	1,0 <	3,0	NA	13,7

CEPEJ distinguish these types of trainings:
"A live" training shall be understood as a training conducted in real time. This means that both trainers and participants are physically present in one location or several locations assisted with information technology (digital tools).
"Internet-based" trainings are all trainings that take place over internet, irrespective of the format of the training (such as trainings via specifically designed LMS - Learning Management System platforms, webinars, podcasts and other forms of downloadable lectures and self-learning digital tools). The internet-based training shall be understood as e-training that is implemented according to participant own pace and time of training.

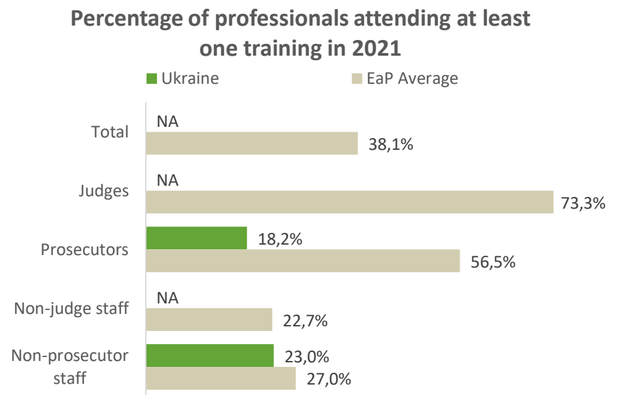
Key: > Higher than the EaP Average
= Equal to the EaP Average
< Lower than the EaP Average

For Ukraine, the calculation of the average duration of trainings in days was possible for prosecutors and non-prosecutors' staff for 2021.

The employees of the State Bureau of Investigation and the National Anti-Corruption Bureau of Ukraine periodically participate in trainings of the Prosecutor's Training Centre of Ukraine, however their number was not available for 2021.

Indicators on training participation: Number of training participations per professional and unique participants

	Average number of live training participations per professional		Professionals attending at least one training (unique participants)		
			Number	% of total professionals per category	
	Ukraine	EaP Average		Ukraine	EaP Average
Total	NA	1,2	NA	NA	38,1%
Judges	1,9 <	2,8	NA	NA	73,3%
Prosecutors	0,2 <	1,5	1 763	18,2% <	56,5%
Non-judge staff	0,8 <	0,8	NA	NA	22,7%
Non-prosecutor staff	NA	-	1 177	23,0% <	27,0%



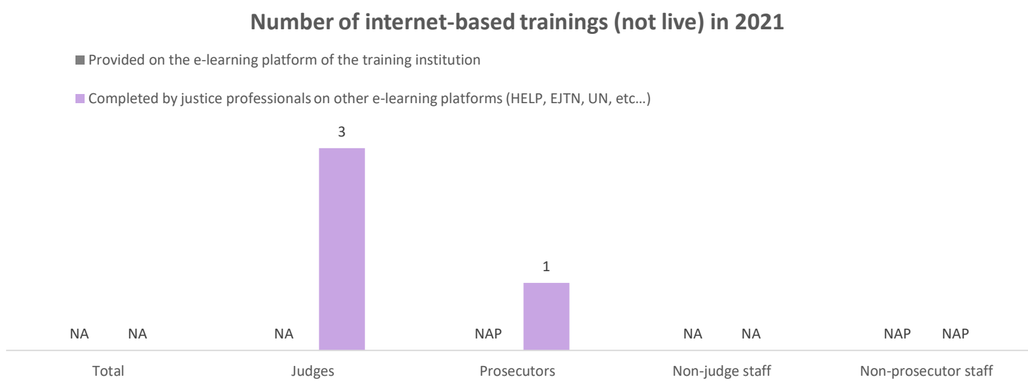
Average number of live training participations per professional

This indicator is calculated as follows: the number of participants in live trainings is divided by the number of professionals for that category. For example, the EaP Average for judges is 2,8. This means that, on average, each judge in the region participated to 2,8 live trainings. This indicator should also be analysed together with the indicator on percentage of professionals attending training, shown in the table as well. Indeed, this analysis allows to better understand how long a professional was trained on average and if all were trained.

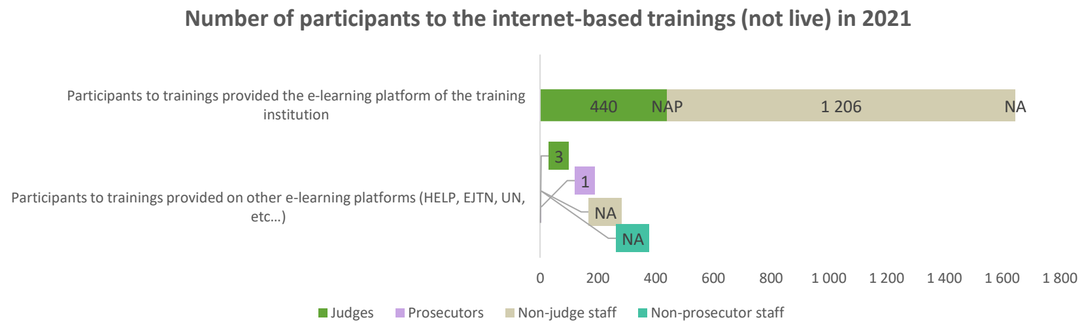
In Ukraine the highest number of training delivered was for judges (1,9 live training participations per judge). Hence, compared to the other professionals, Ukraine gave priority to the trainings for judges; like the rest of the region where also the highest priority was given to train Judges (indeed, the EaP Average number of live training participations per judge was 2,8).

• Number of in-service internet-based trainings and participants

	Internet-based trainings (not live) in 2021			
	Provided on the e-learning platform of the training institution		Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc…)	
	Number of trainings	Number of participants	Number of trainings	Number of participants
Total	NA	NA	NA	NA
Judges	NA	440	3	3
Prosecutors	NAP	NAP	1	1
Non-judge staff	NA	1 206	NA	NA
Non-prosecutor staff	NAP	NA	NAP	NA



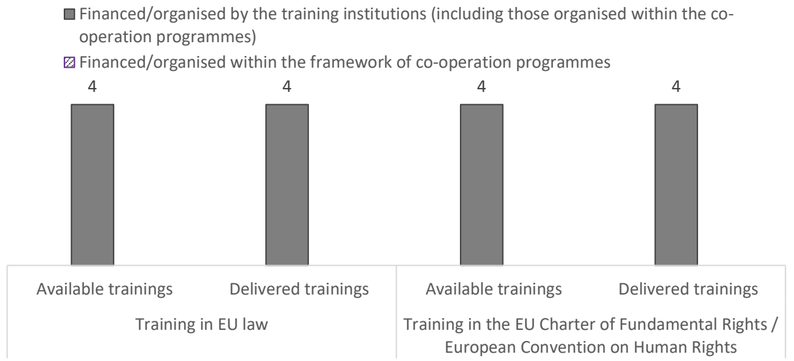
Data on participants in online trainings was available for the number judges and non-judge participants who were trained on e-learning platforms of the training institutions of Ukraine.



• Number of EU law training courses and participants

	Training in EU law organised/financed:		Training in the EU Charter of Fundamental Rights / European Convention on Human Rights organised/financed:	
Live trainings (2021)	**By the training institutions for judges and prosecutors**	**Within the framework of co-operation programmes**	**By the training institutions for judges and prosecutors**	**Within the framework of co-operation programmes**
Number of available live trainings	4	NAP	4	NAP
Number of delivered live trainings	4	NAP	4	NAP
Number of delivered live training in days	NAP	NAP	NAP	NAP
Internet-based trainings(2021)				
Provided on the e-learning platform of the training institution (not live)	4	NAP	4	NAP
Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc…)	3	NAP	4	NAP

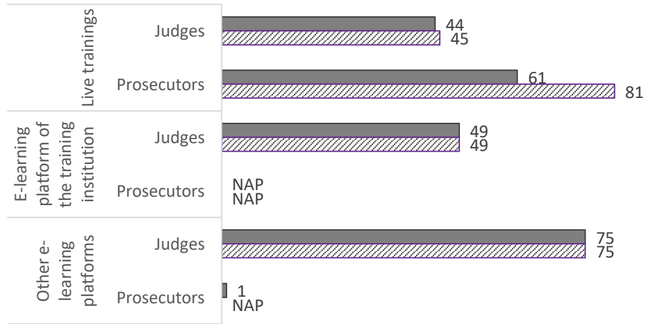
Number of live trainings in EU law and the EU Charter of Fundamental Rights / European Convention on Human Rights in 2021



In Ukraine, all trainings on EU law and ECHR were organised by the national institutions in 2021.

	Live (in-person, hybrid, video conference) trainings				Internet-based trainings (not live)			
Training in EU law and EU Charter of Fundamental Rights / European Convention on Human Right organised/financed:	**Number**		**Unique participants**		**Provided on the e-learning platform of the training institution**		**Completed by justice professionals on other e-learning platforms (HELP, EJTN, UN, etc…)**	
	Judges	**Prosecutors**	**Judges**	**Prosecutors**	**Judges**	**Prosecutors**	**Judges**	**Prosecutors**
By the training institutions for judges and prosecutors	44	61	NA	61	49	NAP	75	1
Within the framework of co-operation programmes	45	81	NA	81	49	NAP	75	NAP

Number of participants to live and internet trainings in EU law and the EU Charter of Fundamental Rights / European Convention on Human Rights in 2021



The Prosecutors' Training Centre organized 2 trainings on the European Convention on Human Rights, which were attended by: 36 and 25 unique participants, respectively, the provided number in the columns "Number of participants in training programs" and "Number of unique participants in training sessions" is the same.

Furthermore, the Training Centre reported on 4 trainings "Common Vision-New Prosecutor's Office" for heads of district and regional prosecutor's offices, each of which involved unique participants, the provided number in the column "Number of participants in training programs" and "Number of unique participants in training sessions" is the same.
No data on unique participants Judges was available in 2021.

• Type and frequency of trainings

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

In Ukraine, sanctions are foreseen if prosecutors do not attend the compulsory training sessions and this is reportedly a subject for consideration during the annual evaluation.

In Ukraine, judges have to undergo compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. This training lasts up to 1 day and they need to participate to it more than once on a regular basis. In Ukraine, prosecutors have to undergo compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. This training lasts up to 1 day.

In respect of prosecutors:
1) training "Professional ethics of prosecutor". In accordance with part 2 of Article 19 of the Law of Ukraine "On Prosecution", each prosecutor periodically undergoes training at the Prosecutor's Training Centre of Ukraine (hereinafter - the PTCU), which includes the study of the rules of prosecutor's ethics, the components of which are the prevention of conflicts of interest and corruption.
2) remote course "Compliance with the requirements of anti-corruption legislation". The PTCU, together with the General Inspectorate, developed and implemented this remote course to ensure continuous professional development of prosecutors and, above all, to increase their professional level in the application and implementation of the provisions of legislation in the field of corruption prevention, in particular in terms of financial control (annual declaration), restrictions on receiving gifts, outside employment and overlapping with other activities, prevention of other corruption and corruption-related offenses, as well as conflict of interest.
The purpose of the training is to increase the professional competence of prosecutors in compliance with the requirements of anti-corruption legislation and detection of corruption. Objectives of the training: to work out the requirements of anti-corruption legislation, to study the mechanisms of prevention of conflict of interest and corruption by prosecutors. The training is aimed at: consolidating and deepening knowledge of the legislation on the prevention of corruption in the activities of the prosecutor; mastering the mechanisms for preventing and resolving conflicts of interest in the activities of the prosecutor, preventing any manifestations that may create the impression of corruption; compliance with restrictions on gifts; deepening knowledge of declaration.
Prosecution offices have prosecutors specially trained in domestic violence. Moreover, they have prosecutors specially trained in prosecuting sexual violence involving minor victims.

• Minimum number of compulsory trainings

	Initial compulsory training		In-service compulsory trainings	
	Minimum number of trainings	Minimum number of days	Minimum number of trainings	Minimum number of days
Judges	1	5	NA	NA
Prosecutors	NA	NA	NA	NA

• Quality of judicial training

Ukraine identifies (collects information about) future in-service training needs via:

Target audience itself	✓	Relevant judicial institutions	✓
Previous participants in trainings	✓	Ministry of Justice	✗
Trainers	✓	Other	✗
Courts/prosecutor's offices	✓		

The frequency of the assessment is annual.

In Ukraine, in-service trainings are evaluated immediately after the training is delivered, using a Kirkpatrick training evaluation model.

The feedback of the training evaluation process is used:

To prepare a training evaluation report with recommendations	✓	To suppress a training course	✗
To improve the training course which, according to the report, needed improvements	✓	To introduce a new course	✓
To replace the trainers that failed to meet expected learning outcomes/were negatively evaluated	✓	Other	✗

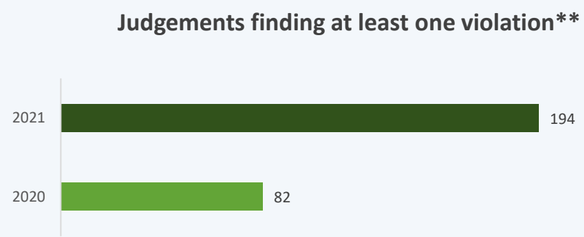
Alternative Dispute Resolution in Ukraine in 2021 (Indicator 9)

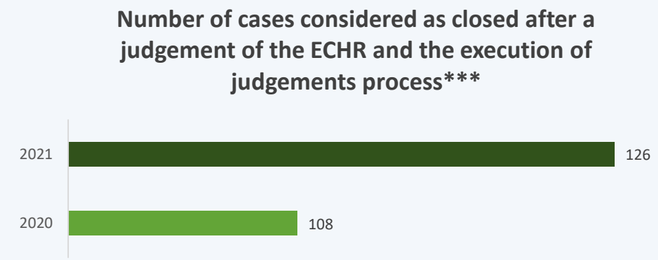
No information on whether the judicial system in Ukraine provides for court-related mediation procedures and other methods of ADR was provided for 2021 for Ukraine.

European Convention on Human Rights in Ukraine in 2021 (Indicator 10)

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

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

It is the task of the Government Agent of Ukraine before the European Court of Human Rights, inter alia, to identify the reasons of violations of the European Convention on Human Rights (hereinafter the Convention), to develop proposals for taking measures aimed at eliminating the imperfection of a systemic nature, stated in the decisions of the ECtHR; to prepare and submit 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; to submit 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; to develop proposals to the curriculum for the study of the Convention and the case-law of the ECtHR; to submit 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

✓

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; via reconsideration of the case by administrative body.

In 2021, the applications allocated to a judicial formation** for Ukraine were 210 (-4061 less than the previous year). The judgements by the ECHR finding at least one violation for Ukraine were 194; whereas they were 82 in 2020.

The number of cases considered as closed after a judgement of the ECHR and the execution of judgements process was 126 in 2021; whereas they were 108 in 2020.

		2020	2021
Applications allocated to a judicial formation of the Court**		4 271	210
Judgements finding at least one violation**		82	194
Judgements finding at least one violation of the Article 6 of the ECHR	Right to a fair trial (1)	10	19
	Length of proceedings	16	59
	Non-enforcement	2	0

** Source: ECHR

(1) Figures in this line may include conditional violations.

	2020	2021
Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***	108	126

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

Reforms in Ukraine in 2021

No consolidated data on reforms (planned and/or adopted and/or implemented in 2021) were provided for this cycle. Some elements of reforms are reflected in some Indicators (see Efficiency, for example).

	Yes (planned)	Yes (adopted)	Yes (implemented during 2022)	Comment
(Comprehensive) reform plans	NA	NA	NA	-
Budget	NA	NA	NA	-
Courts and public prosecution services	NA	NA	NA	-
Access to justice and legal aid	NA	NA	NA	-
High Judicial Council and High Prosecutorial Council	NA	NA	NA	-
Legal professionals	NA	NA	NA	-
Gender equality	NA	NA	NA	-
Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities	NA	NA	NA	-
Mediation and other ADR	NA	NA	NA	-
Fight against corruption and accountability mechanisms	NA	NA	NA	-
Domestic violence	NA	NA	NA	-
New information and communication technologies	NA	NA	NA	-

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 2021

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 2021 (adoption of the Second Compliance Report):

	JUDGES	PROSECUTORS
Implemented	45,00%	20,00%
partially implemented	33,30%	40,00%
not implemented	22,00%	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). In the Second Compliance Report (see para. 85-90), GRECO noted that with respect to the first part of the recommendation, that the need to reduce the number of bodies involved in judicial appointments has apparently been reviewed by the relevant authorities in the context of legislative amendments relating to various judicial bodies, and a possibility of bringing the HQC into the structure of the HJC has been envisaged in a policy document. Thus, the formal requirement of the first part of the recommendation has been met. The recent adoption of legal amendments with the purpose of enabling self-governing judicial bodies to resume functioning are also to be welcomed. That said, GRECO remains concerned over the persisting deadlock as regards the resuming of functioning of most of the

judicial self-governing bodies, entailing risks to institutional set-up guarantees and undue influences. It is of paramount importance that these bodies are formed in a manner providing solid guarantees of independence to the judiciary. The second part of the recommendation has still not been addressed. GRECO concluded that recommendation remained partly implemented.

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”, on the basis of the Law “On the Judiciary and the Status of Judges” (Article 71) 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 7th November 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 Dashboard, the HQCJU was reported as inactive in 2020 and 2021.

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 was supposed to resume its powers) and in the meantime Personnel Commissions were 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 consisted 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 was 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.

Starting from 1st September 2021, pursuant to Article 28(1), Article 29(1), Article 77(1)(2) of the Law of Ukraine "On the Prosecutor's Office", the selection of candidates for the position of a prosecutor in accordance with the procedure established by this Law shall be within the powers of the relevant body conducting disciplinary proceedings. Pursuant to the provisions of Part 1 of Article 73 of the Law of Ukraine "On the Prosecutor's Office", the relevant body conducting disciplinary proceedings is a collegial body that, in accordance with the powers provided for by this Law, determines the level of professional training of persons who have expressed their intention to hold the position of a prosecutor and decides on disciplinary liability, transfer and dismissal of prosecutors. The status and procedure of the relevant body conducting disciplinary proceedings are determined by Articles 73-79 of the Law.

After submission of applications from candidates, verification of compliance of the candidates with the requirements set for taking up a position of a prosecutor on the basis of submitted documents, publication of the list of candidates who have successfully passed the qualification exam, conducting a special inspection of these candidates, ranking the candidates from among those who have successfully passed the qualification exam and who have been subjected to the special inspection, the candidates for the position of a prosecutor shall undergo special training at the Prosecutor's Training Centre of Ukraine for one year in order to acquire knowledge and skills of practical activity as a prosecutor, drafting procedural documents, studying the rules of prosecutorial ethics. Based on the results of the special training, the Prosecutor's Training Centre of Ukraine makes a motivated decision on successful or unsuccessful completion of the training, a copy of which is handed to the candidate for the position of prosecutor.

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 on the basis of the Law "On Prevention of Corruption". The relevant body conducting disciplinary proceedings organises a background check of candidates for a position of a prosecutor who have successfully passed the qualification exam. The candidate should consent to the background check and the background check is then conducted within 25 days from the day of the consent. If the candidate does not consent to the background check, his/her application is not considered. The procedure for the background check and the consent form are approved by the Cabinet of Ministers of Ukraine with the Resolution No. 171 "On Approval of the Procedure for Conducting a Background Check of Persons Applying for Positions of Responsibility or Highly Responsible Positions and Positions with Increased Corruption Risk and Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine" dated 25.03.2015). Together with the consent the candidate shall submit his/her autobiography, copy of passport, copies of documents on education, academic titles and scientific degrees, medical certificate, a copy of the military registration document and a certificate of access to state secrets (if any). To the National Agency on Corruption Prevention the candidate shall submit a declaration of a person to perform the duties of the state or local self-government. Upon receipt of the written consent, the authority where the candidate is applying for a position shall send to relevant state authorities a request for verification of the data submitted together with the consent. The background check is then performed by the: 1. The National Police and the State Judicial Administration (criminal liability, existence of conviction, revocation thereof); the Ministry of Justice and the National Securities and stock Market Commission (existence of individual equity rights of the candidate); the National Agency (registration in the Unified State Register of Perpetrators of Corruption or Corruption-related Offences); the central executive authorities implementing state healthcare policy (health issues such as registration of the candidate with psychiatric or drug rehabilitation health care institutions); the Security Service (on the candidate's access to state secrets, his/her

relation to military duty); the Ministry of Defence (regarding the candidate's relation to military duty); the Foreign Intelligence Service (on the relation of the candidate to the fulfilment of military duty).

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 in which the capability of the candidate (judicial candidate) of administering justice is determined. Qualification evaluation shall be conducted by the HQCJU.

In addition, the candidate must also meet at least one of the following requirements:

- for the position of the court of appeals judge:1. has served for at least five years as a judge; 2. has a degree in the field of law and at least seven years of experience of research work in the field of law; 3. has at least seven years of professional experience as a lawyer, including court representation and/or criminal defence; 4. has a total length of service (professional experience) in accordance with the requirements specified in clauses 1–3 of this part of at least seven years (Article 28, LJSJ).
- for the position of the Supreme Court Justice: 1. has served for at least ten years as a judge; 2. has a degree in the field of law and at least ten years of experience of research work in the field of law; 3. has at least ten years of professional experience as a lawyer, including court representation and/or criminal defence; 4. has a total length of service (professional experience) in accordance with the requirements specified in clauses 1–3 of this part of at least ten years (Article 38, LJSJ).

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 and 2021.

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, the Second Compliance Report, para. 91-95).

Promotion of Prosecutors

As already mentioned above (under Recruitment), the procedure for promotion of prosecutors has been significantly changed since the relevant provisions regulating (recruitment and) career of prosecutors were suspended with the 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).

Previously, prosecutors were promoted by the head of the relevant prosecution office on the recommendation of the Qualification and Disciplinary Commission (QDC) which had powers over career process. The Law 113-IX suspended the work of the QDC from 25th September 2019 until 1st September 2021 (when the QDC was to resume its powers) and in the meantime Personnel Commissions were 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 were formed by orders of the Prosecutor General consisting of at least seven prosecutors holding administrative positions in the relevant prosecutor's office.

As of 1st September 2021, the procedure for transfer of a prosecutor to a higher-level prosecutor’s office has been restored and the Prosecutor General issues Order No. 168 of 31st May 2021 (as amended by Order No. 195 of 14th June 2021) which approved regulations of the commission for the selection of senior staff of prosecutor’s offices. The procedure is regulated in the Procedure for conducting a competition for a vacant or temporarily vacant position of a prosecutor in the procedure of transfer to a higher-level prosecutor's office, approved by the decision of the relevant body conducting disciplinary proceedings dated 26th October 2021. QDCs have become operational on 3rd November 2021 (GRECO Second Compliance Report, para. 118). First deputies, deputies of the Prosecutor General, heads of regional prosecutor’s offices, their first deputies and deputies, and heads of district prosecutor’s offices are also appointed on the recommendation of the Council of Prosecutors. Prosecutors of the Prosecutor General’s Office are appointed by the Prosecutor General, prosecutors of the Specialized Anti-Corruption Prosecutor’s Office of the Prosecutor General’s Office – by the Deputy Prosecutor General who is the Head of the Specialized Anti-Corruption Prosecutor’s Office, and prosecutors of regional and district prosecutor’s offices – by the heads of the respective regional prosecutor’s offices.]

The competition for promotion of prosecutors is based on the assessment of the professional level, experience, moral and professional qualities of the candidate and his/her readiness to exercise powers in another body of the prosecutor's office, including at higher levels. The Procedure for competition for a vacant or temporarily vacant position in the prosecutor’s office was approved on 26 October 2021 and consists of such stages as law-testing and an interview, including a practical task. Section VI of the Procedure is said to set out a mechanism for determining the results of the competition.

The selection consists of three stages: 1. a practical task; 2. an integrity check; and 2. an interview.

Variants of practical tasks with answers were developed by the Prosecutor`s Training Centre 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 QDC with the candidates orally in the state language and consists of examination of the candidates' professional level, experience, "moral and business qualities"[1] (taking into account the results of the integrity check) and other criteria[2] and 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, materials of the assessment of the candidate's performance for the year preceding the submission of the application for participation in the competition which are previously requested by the secretariat of the QDC from the relevant prosecution body.

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 (questions are of the same level of complexity based on the criteria set forth), as well as the results of the practical task; evaluation of the candidate.

Paragraph 5.12. of this Procedure defines the criteria for evaluating candidates based on the results of the interview, as follows: 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 (the performance of duties in the position for which the competition may be taken into account); 4. moral character, observance of rules of prosecutorial ethics (GRECO Second Compliance Report, para. 115).

Following the discussion of the information contained in the candidate's application for participation in the competition, taking into account the answers given during the interview, the results of the integrity check and the results of the practical task, each member of the QDC 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 QDC 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.

[1] The part of translated document on procedure for holding a competition for a vacant or temporarily vacant position of a prosecutor in the order of transfer to a high-level prosecutor's office uses two different terms, namely moral and business qualities as well as ethical and professional qualities as a criteria of a candidate. The difference has not been explained, however, it seems that this is merely inconsistency in using the terms.

[2] According to the English version of the "PROCEDURE for holding a competition for a vacant or temporarily vacant position of a prosecutor in the order of transfer to a higher-level prosecutor's office" provided by the authorities in May 2023.

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 QDC, the QDC'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 QDC 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.

Pursuant to the Procedure above, decisions of the relevant body regarding transfers and promotions may be appealed before this body on several grounds. Ultimately, Article 130 of the Regulations of the relevant disciplinary body stipulates that these decisions may also be appealed before a court (as per Articles 5 and 19 of the Code of Administrative Procedure). The authorities suggest that such appeals have been submitted regularly and have in many cases been resolved in favour of complainants.

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. In the Second Compliance Report (see para. 112-119), GRECO noted new information provided by the authorities regarding the re-entry into force the relevant provisions of the LPO which discontinued the personnel commission in charge of transfers and promotions. It also noted the adoption of new procedures to regulate transfers and promotions of prosecutors, which include specific criteria to be applied in selection procedures, and noted it also as a step forward. Further, GRECO noted with satisfaction that decisions on promotion can now be appealed, which has been supported by examples from practice. However, the new system has just become operational, and some further measures are still in the pipeline. It is also not clear whether all decisions on promotions and career advancement of prosecutors must be reasoned. In view of the above, GRECO considered this recommendation as implemented only partly.

Confidence and satisfaction of the public with their justice system

Compensation of users of the judicial 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 data regarding complaints and compensations granted by type of circumstances was not available for 2021.

Procedure to challenge a judge

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 is not available.

Instructions to prosecute or not addressed to public prosecutors

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. According to Article 17, lower-level prosecutors are subordinated to higher-level prosecutors who have a right to give instructions, to approve certain decisions and to perform other actions directly related to the exercise of prosecutorial functions by that prosecutor, solely within the limits and in

the manner prescribed by the law. The Prosecutor General has the right to give instructions to any prosecutor. Orders of administrative nature, as well as instructions directly related to the exercise by the prosecutor of the prosecution functions, issued (given) in writing within the powers defined by law, shall be binding on the respective prosecutor. The prosecutor, who was given an order or instruction orally, shall be provided with a written confirmation of such order or instruction. The prosecutor shall not be obliged to execute orders and instructions of a higher-level prosecutor, which raise doubts as to their legality, if he/she has not received them in writing, as well as obviously criminal orders or instructions. The prosecutor shall have the right to apply to the Council of Prosecutors of Ukraine with a report on the threat to his/her independence in connection with the issuance (giving) of an order or instruction by a higher-level prosecutor. Issuing (giving) an unlawful order or instruction or its execution, as well as issuing (giving) or execution of an obviously criminal order or instruction shall entail liability as provided by law.

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 – i.e. prohibition of interference with the administration of justice, influence on the court or judges in any way, contempt of court or judges, collection, storage, use and dissemination of information in any form to harm the authority of judges or influence the impartiality of the court). Courts are to exercise justice on the basis of the Constitution, the laws and the rule of law (the Evaluation Report, para. 126).

Judicial independence shall be ensured by a special procedure for his/her appointment, prosecution dismissal and termination of his/her powers; the legal immunity of the judge; the irremovability of the judge; the procedure for the administration of justice which is determined by the procedural law, the secrecy of judge's chambers; the prohibition of interference in the administration of justice; the sanctions for contempt of court or judge; a special procedure for financing and organisational support of the courts which is established by law; the proper compensation and social security of the judge; operation of judicial administration and self-government bodies; the means of ensuring the personal security of the judge, his/her family and assets, as well as other means of ensuring the personal protection as determined by the law; the right of the judge to resign. (Part 5 of Article 48 of the Law of Ukraine "On the Judiciary and the status of Judges").

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).

According to Article 73 of the Law of Ukraine "On the High Council of Justice", in order to guarantee the independence of judges and the authority of justice, the High Council of Justice on its official website holds and publishes the register of statements of judges concerning the interference in the functioning of a judge regarding the administration of justice, checks such statements, publishes the findings and adopts the respective decisions. According to the fourth part of article 48 of the Law of Ukraine "On the Judiciary and the status of Judges", the judges shall be obliged to notify the High Council of Justice and the Prosecutor General of any interference with his/her administration of justice as a judge. As of December 31, 2021, the register of reports of statements of judges concerning the interference in the functioning of a judge regarding the administration of justice, which is published on the official website of the High Council of Justice, contained 1,846 reports of interference by judges, of which: in 2016 – 23 statements; in 2017 – 312 statements; in 2018 – 435 statements; in 2019 – 449 statements; in 2020 – 344 statements; in 2021 – 283 statements.

In addition, in accordance with paragraph 7 of the first part of Article 73 of the Law of Ukraine "On the High Council of Justice", in order to guarantee the independence of judges and the authority of justice, the High Council of Justice, in cooperation with bodies of the judicial self-governance, other bodies and agencies of the justice system, non-governmental organisations prepares and publishes the annual report on the statement of guaranteeing the independence of judges in Ukraine.

By the decision of the High Council of Justice dated May 30, 2017 No. 1333/0/15-17, a Standing Commission was established to prepare an annual report on the state of guaranteeing the independence of judges in Ukraine (hereinafter referred to as the Standing Commission). By decision of the High Council of Justice of October 16, 2018 No. 3140/0/15-18, of May 16, 2019 No. 1335/0/15-19, of December 3, 2019 No. 3299/0/15-1of May 11, 2021 No. 993 /0/ 15-21, changes were made to the composition of the Standing Commission. Decision No. 3475/0/15-20 of December 10, 2020 approved the structure of the report. To implement the powers to guarantee the independence of judges and the authority of justice, the High Council of Justice prepared and published four such annual reports – for 2017, 2018, 2019 and 2020.

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

According to Article 71 of the Law of Ukraine "On the Prosecutor's Office", the Council of Prosecutors of Ukraine, inter alia, shall organise the implementation of measures to ensure the independence of prosecutors, to improve the state of organisational support for the activities of

prosecutor's offices; consider appeals from prosecutors and other reports about a threat to the independence of prosecutors and shall take appropriate measures based on the results of consideration (informs the relevant authorities about the grounds for bringing to criminal, disciplinary or other liability; initiate consideration of the issue of taking measures to ensure the safety of prosecutors; publish statements on behalf of the prosecutorial corps on facts of violation of the prosecutor's independence; apply to international organisations with relevant reports, etc.).

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). In the Second Compliance Report (see para. 106-111) GRECO noted that the composition of the relevant disciplinary body falls short of the requirement of the recommendation. GRECO also noted that draft legislation appears to be in preparation to address the core of this recommendation – to ensure that an absolute majority of its members are prosecutors, elected by their peers. However, since the draft has not yet reached Parliament, the recommendation cannot be considered partly implemented.

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 among judges and prosecutors are in place, namely gift rules, specific training, internal controls and safe complaints mechanisms.

In-service training on ethics

There are optional in-service trainings occasionally available to judges. However, for prosecutors such training is compulsory, but no such training has been proposed. Both judges and prosecutors have to undergo compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. They need to participate on this training more than once, yet no information has been provided on the length of this training in 2021.

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 contains a set of rules on adherence to judicial values (independence, integrity, impartiality), judges' relationship with institution, citizens and users, extrajudicial and political activities, information disclosure and relationship with press agencies, association membership and institutional positions. 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). There is no legal requirement to update the Code of Judicial Ethics, however the authorities report that it is regularly updated and that the Code from 2013 is in fact an updated version of the Code from 2002.

Responsible institution for ethics matters in respect of judges is the HCJ. Its 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. In 2021, no opinions have been reported as approved.

The "Code of professional ethics and rules of professional conduct of prosecutors" was adopted by the AUCEP on 27th April 2017 and amended in 2018 and 2021. It defines the basic moral norms and principles to be followed by the prosecutors when exercising their official duties and when off duty. The code contains a set of rules on adherence to judicial values (independence, integrity, impartiality), judges' relationship with institution, citizens and users, judges' competence and continuing education, extrajudicial and political activities, conflict of interest, information disclosure and relationship with press agencies, association membership and institutional positions and gifts. Prosecutors are to be held liable for violations of the code of ethics in accordance with applicable legislation (the Evaluation Report, para. 237). The Commentary to the Code of professional ethics and rules of professional conduct of prosecutors has been approved by the decision of the Council of Prosecutors in November 2022. In order to bring it to attention of the prosecutors, all prosecutors have been notified of it and it is used during mandatory training on professional ethics of prosecutors at the Training Centre of Prosecutors. The Commentary contains explanations of the provisions of the Code of Professional Ethics and Conduct of Prosecutors, situational (illustrative) examples, taking into account the results of its practical application, the activities of the Qualification and Disciplinary Commission of Prosecutors, the relevant body conducting disciplinary proceedings, and judicial practice.

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). In the Second Compliance Report (see para. 132-136) the authorities have not reported any new measures and GRECO concluded recommendation remains partly implemented.

The authorities have reported that there was a body composed only by prosecutors providing opinions to prosecutors on ethical matters.

Established mechanisms to report influence/corruption on judges and prosecutors

With regard to established mechanisms to report influence/corruption on judges and prosecutors, the authorities refer to the Law "On Amendments to the Law of Ukraine "On Prevention of Corruption" on streamlining certain issues of whistle-blower protection" adopted on 1st June 2021. Before the planned launch of the Unified Whistle-blower Reporting Portal in accordance with the mentioned law, reports are accepted through channels

and considered in the manner as prescribed by law. Thus, in accordance with Part 4 of Art. 53 of the Law of Ukraine "On Prevention of Corruption" (as amended until 26.06.2021) (hereinafter - the Law), the National Anti-Corruption Bureau of Ukraine, the National Agency, other specially authorised counter-corruption entities, state authorities, authorities of the Autonomous Republic of Crimea, local governments, legal entities of public law and legal entities specified in part 2, Article 62 have been obliged to establish protected anonymous communication channels (online communication channels, anonymous hotlines, electronic mailboxes, etc.), through which a whistle-blower was able to provide a report with guaranteed anonymity. According to the law, the State was obliged to encourage and assist whistle-blowers to report possible facts of corruption or corruption-related offences or other violations specified in the law orally and in writing, in particular through special telephone lines, official websites, electronic means of communication, by contacting mass media, journalists, public associations and trade unions.

Whistle-blowers are to be provided with conditions for reporting of possible facts of corruption or corruption-related offences, other violations of this Law by mandatory establishing and functioning of internal* and regular** channels for reporting of possible facts of corruption or corruption-related offences, other violations of this Law. Thus, the National Agency on Corruption Prevention, has created and ensured the functioning of the relevant regular channels for reporting possible facts of corruption or corruption-related offenses, other violations of the Law, including attempts to influence/corrupt judges and prosecutors.

In particular, the main page of the official website of the National Agency on Corruption Prevention offers information on regular reporting channels where it is possible to report corruption, including attempts to influence/corrupt judges and prosecutors, to the National Agency on Corruption Prevention. Reporting may be done also via phone or by email or web-form.

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. Random allocation method is applied. 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. All interventions on the system are irreversibly logged/registered. 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 Regulation 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). Reassignment of court cases among judges is done in cases as envisaged by the law due to conflict of interest declared by the judges or by the parties, recusal of the judge or requested by the parties and for physical unavailability (illness, longer absence) and it is done on the basis of the Regulation on the Unified Court Information (Automated) System. Random allocation method is applied. All interventions on the system are irreversibly logged/registered.

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). Information on assets are entered directly into the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Government in electronic form and published on the official website of the National Agency for the Prevention of Corruption. The declaration form is prescribed by Order of the National Agency dated 23.07.2021 No. 449/21 "On Approval of the Form of Declaration of a Person Authorized to Perform the Functions of the State or Local Self-Government and the Procedure for Filling out and Submitting a Declaration of a Person Authorized to Perform the Functions of the State or Local Self-Government" and is valid since 01.12.2021.

The declaration requirement applies on an annual basis during the term of office, by 1st April every year, as well as within 30 days upon termination of office and one year upon termination of office. Declaration should be submitted also when there is a significant change in certain assets that are to be declared (i.e. receipt of income, acquisition of property or expenditure in the amount exceeding 50 subsistence minimum incomes – Article 52 of the Law “On Prevention of Corruption”). In respect of prosecutors, they are also obliged to submit their declarations at the beginning of the term in office.

Obligation to report assets is also extended to the public official’s family members (spouse, children under legal age, and any other person (including partners, adult children) who, as of the last day of the reporting period or cumulatively for at least 183 days during the year preceding the year of submission of the declaration, cohabited, resided in the same household or had mutual rights and obligations with the declarant (except for persons whose mutual rights and obligations are not of a family nature), including persons who cohabited with the declarant but were not married).. The same declaration form is used by these persons.

Registrable interests include real estate (including objects being in the process of construction), valuable movable property, vehicles, commercial interests, securities (incl. shares, bonds, checks, certificates), corporate rights, intangible assets (including intellectual property rights, cryptocurrency), income and its sources, gifts, monetary assets (cash, funds on bank accounts, funds lent to third parties), liabilities(incl, received credits, loans), legal entities, trusts or similar legal entities, of which the ultimate beneficial owner is the declarant, expenditure and financial transactions, secondary positions or jobs (also those performed part-time), participation in management, audit or 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: fine, withdrawal from cases, other criminal sanction (in case of declaration of false information) and disciplinary sanction. 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: fine, other criminal sanction (in case of declaring false information) and disciplinary sanctions (as per Article 49 of the LPO) 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) which keeps a register of declarations.

According to the LPC, the NACP conducts control of timeliness of submission, accuracy and completeness of the declarations as well as logical and arithmetic control. The NACP carries 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.

In the Second Compliance Report (see para. 17-24), GRECO noted the information submitted by the authorities on the updated regulations from 2020 by NACP regarding full inspections of declarations and automated distribution of declarations for verification to the NACP staff. However, following the Constitutional Court Decision No. 13-R/202014 of 27 October 2020, the NACP has been deprived of some of its functions regarding collecting and supervising asset declarations. To remedy the consequences brought about by the Constitutional Court Decision No. 13-R/2020, amendments were adopted to the LPC by Parliament in 2021, following which the NACP approved new procedures for verification of declarations, which is said to be analogous to the one approved in 2020, that is, the responsibility for full verification of declarations remains assigned to NACP officials, still based of random allocation. According to the authorities, from January to October 2021, the NAPC has initiated verifications of 1,220 declarations, of which a full verification has been completed in respect of 606 declarations. In addition, to regulate the automated data verification, in 2020 the NACP updated a dedicated programme entitled "Logical and arithmetic control system" (LAC), which scans data contained in all declarations. Since its launch on 1 September 2020, the LAC analysed two thousand declarations per week, reaching a 100 000 declarations per month capacity by the end of November 2020. The authorities report that by May 2021, some 950 000 declarations have been scanned through the LAC. Moreover, the practical experience gathered from the operation of the LAC led to updating, in 2021, the assessment indicators and checklists. Finally, the authorities report that following updating the declarations register in 2020, the data contained in the register has been transferred to NACP's own servers, located in the dedicated data protection centre, providing an improved data security and a smoother operation of the system. The authorities also confirm that the NACP has been given with full access to all 16 electronic registers and databases for crosschecking declarations in automated mode. GRECO takes note of the information provided. The regulatory and practical measures taken by the authorities during the reporting period represent tangible progress in the implementation of this recommendation. GRECO notes that the adverse consequences for the effectiveness of the anti-corruption system in Ukraine, brought about by the Decision No.13-R of the Constitutional Court of 27 October 2020, have been remedied to some extent by legal amendments to the Law on Prevention of Corruption, adopted in December 2020, notably by restoring the essential part of the NACP's remit and functions relating to the prevention of corruption18. That said, the competences of the specialised anti-corruption bodies have been subject to several substantial revisions in the last two years, and the system of

verifications of asset declarations in its current form has been established only very recently. The efficiency of this system is yet to be tested through well-established practice. Further, no information has been provided concerning the appeal channels for sanctions imposed. GRECO therefore concluded this recommendation remains 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. In the Second Compliance

Report (see para. 25-30), GRECO noted that several working meetings were conducted between the NACP and NABU to strengthen financial control over public officials. Following the legislative amendments enabling NABU's access to the Unified State Register of declarations, the Joint NACP and NABU Order No. 134/19/130 of 1 November 2020 approved the procedure for access of NABU to the Register. As regards ensuring NABU's access to national and regional databases and specific information about bank account operations, such possibility has been provided following amendments to several legal acts adopted in October 2019. However, the NABU draws attention to the fact that the recipient's account number is still not being shared with it by the National Bank. The authorities report that a unified register of bank accounts of individuals and legal entities which, in their view, would increase overall transparency of the financial system and facilitate financial investigations for identifying assets obtained through criminal offences, has still not been established. To sum up, the authorities take the view that at present NABU has effective access to all databases at national and regional levels, necessary for the proper verification of declarations. GRECO concluded that it would appear that practical impediments to cooperation between the NACP and NABU regarding checks of asset declarations and follow up to be given in cases of violations have been removed, and that interaction between the two anti-corruption bodies has improved. GRECO also noted that NABU has been provided with access to national and regional databases necessary for the proper scrutiny of asset declarations. However, some difficulties remain in place, notably, regarding NABU's direct access to National Bank's database in respect of recipients' account numbers. Such access could be instrumental, for instance, to cross-check the accuracy of account information provided in declarations. It follows that the second part of this recommendation has not been fully addressed and the recommendation remains partly implemented.

The data on the number (absolute/Abs and per 100 judges) of proceedings for violations or discrepancies in declaration of assets against judges was not available for 2021. For prosecutors, 20 cases were reported as initiated, 18 as completed and 10 sanctions pronounced (Table below):

	Judges						Prosecutors					
	Number of initiated cases		Number of completed cases		Number of sanctions pronounced		Number of initiated cases		Number of completed cases		Number of sanctions pronounced	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
2021	**NA**	**NA**	NA	**NA**	NA	**NA**	**20**	**0,21**	18	**0,19**	**10**	**0,10**

In 2021, the National Agency made: 6 substantiated conclusions on the detection of signs of criminal offenses under Article 366-2 of the Criminal Code and 4 protocols on administrative offenses related to corruption under Part 4 of Article 172-6 of the Code of Administrative Offenses (violation

of financial control requirements). In 2021, the Department of Special Inspections and Lifestyle Monitoring drew up: 6 protocols on administrative offenses related to corruption under Part 1 and 2 of Article 172-6 of the Code of Administrative Offenses.

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 (provide grounds for recusal of a judge).

The legal framework concerning conflicts of interest of prosecutors includes: 1. the Law on Prevention of Corruption (LPC); 2. the Law on the Prosecutor's Office (LPO); 3. the Criminal Procedure Code, the Civil Procedure Code, the Commercial Procedure Code, and the Code of Administrative Procedure (provide grounds for recusal of a judge); 4. the Code of Professional Ethics and Conduct of Prosecutors.

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 and prosecutors. 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).Procedural codes prohibit a judge/prosecutor to consider a case and is subject to a recusal if s/he is directly or indirectly interested in the outcome of the case or there are other circumstances that cast doubt on the impartiality or objectivity of the judge/prosecutor. For example, a judge/prosecutor is not entitled to participate in criminal proceedings if he/she is an applicant, victim, civil plaintiff, civil defendant, family member or close relative of a party, applicant, victim, civil plaintiff or civil defendant; if the prosecutor participated in the same proceedings as an investigating judge, judge, defence counsel or representative, witness, expert, specialist, representative of the probation staff, interpreter; if he/she

personally, his/her close relatives or family members are interested in the outcome of the criminal proceedings or there are other circumstances that raise reasonable doubts about his/her impartiality (Criminal Procedure Code, Article 77). The Civil Procedure Code stipulates that judges, prosecutors, investigators, employees of units conducting operational and investigative activities may not be representatives in court, except when they act on behalf of the relevant body, which is a party or a third party in the case, or as legal representatives (Article 61). The Commercial Procedure Code of Ukraine stipulates that judges, prosecutors, investigators, employees of units engaged in operational and investigative activities may not be representatives in court, except when they act on behalf of the relevant authority, which is a party or a third party to the case, or as legal representatives (Article 59).

According to the Code of Professional Ethics and Conduct of Prosecutors, the prosecutor shall take all possible measures to prevent the emergence of a real or potential conflict of interest, notify his/her immediate supervisor no later than the next working day from the moment when he/she learned or should have learned about the existence of a real or potential conflict of interest. The prosecutor holding an administrative position may not directly or indirectly induce subordinates or other prosecutors to make decisions, take actions or omit to act in favour of their private interests or interests of third parties. In case of a conflict of interest, the prosecutor is obliged to act in accordance with the requirements of the law.

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, medical practice, instructing and refereeing in sports (Article 25, LPO) (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. However, they are not obliged to inform his/her hierarchy about these 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). No new developments were reported by the authorities for the purpose of adoption of the Second Compliance Report (see para. 96-100) and GRECO reiterated that the possibility for the judge, whose recusal has been requested, to participate in the examination of the recusal request remains a source of concern. In addition, the authorities did not provide information as to whether an appeal of the decision on recusal per se is possible. As such, GRECO concluded that the recommendation remains partly implemented.

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, directly of through other persons, 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. In the Second Compliance Report (see para. 31-36), GRECO noted new developments only with regard to the first part of the recommendation, namely that the authorities maintain that the cost of living (subsistence minimum) is a measurable and flexible economic indicator and that it is thus justified to use it in determining maximum thresholds of acceptable gifts. They also state that the NACP's recent practice did not reveal the link between gifts allowed and the subsistence minimum as problematic. Further, as to the concept of generally accepted ideas of hospitality, the

authorities refer to the definition of a gift contained in Article 1 of the LPC, which, inter alia, includes “an advantage provided/received free of charge, or at a price lesser than the minimum market price”, reiterated in the methodological recommendations developed by the NACP. Following the fact that maintaining the subsistence minimum as an indicator for determining maximum value of acceptable gifts was considered insufficient in the Evaluation Report and remains as such and that no new and more precise definition has been introduced to clarify the concept of « hospitalities which may be accepted » in a coherent manner, as well as following the fact that no measures have been taken to establish internal procedures for the valuation and reporting of gifts applicable to judges, similar to those already in place in respect of prosecutors, GRECO concluded recommendation remains partly implemented.

As per Article 18, LPO, a prosecutor may not hold office and at the same time hold a position in any public authority, other state body, local self-government body and or hold a representative mandate in state elected positions. The incompatibility requirements do not apply to the participation of prosecutors in the activities of elected bodies of religious and public organizations. Provisions of the LPC on restriction regarding performing several activities also apply to prosecutors. LPC (Article 25) stipulates that persons authorized to perform functions of the state and local self-government bodies are prohibited to: 1. engage in other paid (except for teaching, scientific and creative activity, medical practice, instructing and judging practice in sports) or entrepreneurial activity, unless otherwise provided by the Constitution or laws of Ukraine; 2. be a member of the board, other executive or supervisory bodies, supervisory board of an enterprise or organization aimed at making profit (except for cases when persons perform functions of managing shares (stakes, shares) owned by the state or territorial community and represent the interests of the state or territorial community in the board (supervisory board), audit commission of an economic organization), unless otherwise provided by the Constitution or laws of Ukraine, except for the case provided for in the first paragraph of part two of this Article.

Prosecutors do not need authorisation to perform accessory activities, nor are they obliged to inform his/her hierarchy about these accessory activities. However, his/her accessory activities will be agreed with the employer in accordance with the Labour Code requirements, if such activities are carried out during working hours.

The general rules on gifts contained in Articles 23 *et seqq*. LPC which are applicable to judges are applicable also to prosecutors. In particular, they are prohibited from demanding, asking for, receiving gifts, directly through other persons, for themselves or close persons from legal entities or individuals in connection with their activity as a prosecutor or from subordinate persons.

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; 5. the Administrative Offences Code (Article 172-7).

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 (recommendation xxviii).

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. In the Second Compliance Report (see para. 137-142), GRECO noted new information from the authorities, namely that on 30 September 2021, the Prosecutor General approved the Order No 309 "On the organisation of the activities of prosecutors in criminal proceedings". Paragraph 21.1 of this Order stipulates that a prosecutor is obliged to recuse him/herself in the presence of a conflict of interest, or other circumstances, which may raise doubts as to his/her procedural independence. Reference is made once to legal provisions prohibiting participation of prosecutors in criminal cases, and dismissing the prosecutor, already in force at the time of the adoption of the Evaluation Report. The authorities share concerns relating to the possibility for the head of prosecutor's office to change the prosecutor in charge of a concrete case on the grounds of "ineffective supervision", provided under Article 37 of the CPC. According to the authorities, this provision is at times abused, especially in high-profile cases, through changing the composition of the group of prosecutors in charge of the case, or transfer the case to another prosecutor, which is also not subject to appeal. GRECO noted with satisfaction the adoption of a new normative act setting out mandatory self-recusal of prosecutors in cases of conflicts of interest or other circumstances which may raise doubts to their procedural independence. That said, it remains unclear whether any legal provisions have been put in place to allow appealing against recusal decisions. The provisions of the CPC and LPC cited by the authorities were in force at the time of the adoption of the Evaluation Report and do not relate to prosecutors' recusal from specific cases. GRECO therefore concluded that the recommendation remains partly implemented.

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	√			√

The 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 2021 was not available.

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 LHCJ made in 2021, as of 5th August 2021 disciplinary proceedings are conducted by the disciplinary inspector of the HCJ, within the procedure established by the LHCJ. The disciplinary inspector is determined by the automated case distribution system for a preliminary check of a relevant disciplinary complaint.

The disciplinary chamber reviews cases on disciplinary responsibility of judges. For this purpose, HCJ set up disciplinary chambers consisting of members of HCJ. Three disciplinary chambers were set up in HCJ by the decision of HCJ dated 2nd February 2017.

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: 1. a preliminary review of materials by the disciplinary inspector (rapporteur); 2. the decision-making on bringing a judge to disciplinary liability /refusal of bringing a judge to disciplinary liability;3. submitting the complaint to the disciplinary chamber to adopt a decision on opening a disciplinary proceeding; 4. preparing materials with proposal on opening or refusing in opening a disciplinary case. Complaints may be dismissed by the disciplinary inspector (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 or as a disciplinary measure. 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).

QDCs have become operational on 3rd November 2021 (GRECO Second Compliance Report, para. 118).

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). In the Second Compliance Report (see para 143-147), GRECO noted that the situation remains the same as it was at the time of the adoption of the Compliance Report and concludes that recommendation remains not implemented.

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 progress has been noted by GRECO in the Second Compliance Report (see para. 148-152).

The following data on disciplinary proceedings in respect of judges and prosecutors was provided:		2021			
		Judges		Prosecutors	
		Abs	per 100	Abs	per 100
Number of disciplinary proceedings initiated	Total number (1 to 5)	182	4,17	264	2,73
	1. Breach of professional ethics (including breach of integrity)	26	0,60	83	0,86
	2. Professional inadequacy	156	3,58	108	1,12
	3. Corruption	0	0,00	18	0,19
	4. Other criminal offence	NA	NA	NAP	NAP
	5. Other	NA	NA	55	0,57
Number of cases completed	Total number (1 to 5)	140	3,21	229	2,36
	1. Breach of professional ethics (including breach of integrity)	23	0,53	70	0,72
	2. Professional inadequacy	117	2,68	130	1,34
	3. Corruption	0	0,00	14	0,14
	4. Other criminal offence	NA	NA	NAP	NAP
	5. Other	NAP	NAP	15	0,15
Number of sanctions pronounced	Total number (total 1 to 10)	74	1,70	105	1,08
	1. Reprimand	32	0,73	61	0,63
	2. Suspension	NAP	NAP	NAP	NAP
	3. Withdrawal from cases	1	0,02	NAP	NAP
	4. Fine	NAP	NAP	NAP	NAP
	5. Temporary reduction of salary	33	0,76	NAP	NAP
	6. Position downgrade	0	0,00	NAP	NAP
	7. Transfer to another geographical (court) location	0	0,00	NAP	NAP
	8. Resignation	NAP	NAP	NAP	NAP
	9. Other	33	0,76	21	0,22
	10. Dismissal	8	0,18	23	0,24

Council for the Judiciary/ Prosecutorial Council

High Council of Justice

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, considering complaints against decisions taken by competent bodies on bringing judges and prosecutors to disciplinary liability, 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, excluding the chair of the Supreme Court, who is an ex-officio member) 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 be Ukrainian citizens, at least 35 years old, have command of state language, belong to the legal profession and have at least 15 years of experience in the area of law, 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).

Regarding the procedure for appointment of HCJ's members, bodies convening the respective congress or conference which elect members of the HCJ notify the HCJ's secretariat of the date and place of their decision-making, not later than 45 days in advance. The next day the HCJ's secretariat publishes on its official website an announcement inviting candidates to submit their applications. The candidates have to submit their written request for election/appointment, a CV, a motivation letter, a copy of a document of identity, information on employment activity from the State Register of Compulsory State Social Insurance, a copy of a career progress record, a declaration statement of a person authorised to perform government or local self-government functions for the year preceding the year when the vacancy was announced, a declaration of family relations, a declaration of integrity of a judge, a copy of a certificate of higher education in law, a medical certificate, a written consent for processing of personal data, a written statement on absence of restrictions on the membership in the HCJ, a request for undertaking a check in accordance with the Law "on government vetting" etc. The written request form for election/appointment as a member of HCJ is subject to approval by HCJ

and published on its website, together with other documents on the candidates. The HCJ's secretariat initiates a special check of candidates in accordance with the Law "On the Prevention of Corruption". The findings of the special check are sent to the respective congress/conference with an opinion whether the candidate's application meets the requirements set for the position of the HCJ's member. The candidates' documents are sent also to the Ethics Council to establish the candidate's compliance with the criteria of professional ethics and integrity. The Ethics Council then provides the respective congress/conference with its opinion and a list of recommended candidates for the position of the HCJ. There should be twice as many candidates on the list as there are vacant positions for members of HCJ. The congress/conference elects its members by a secret ballot. All procedures for electing members of HCJ by respective congresses/conferences are regulated in respective laws.

The Ethics Council is comprised of 6 members (3 judges/retires judges; 1 nominated by the Council of Prosecutors; 1 nominated by the Bar council, 1 proposed by the National Academy of Legal Sciences of Ukraine represented by the Presidium) who are appointed by the chair of HCJ. They should have an impeccable goodwill, high professional and moral qualities, public authority, meets the criteria of professional ethics and integrity, have at least 5 years of experience in administering justice, in advocacy or prosecution activities, or scientific activity in the field of law. Meetings of the Ethics Council are open, information on the meetings and their agenda published in advance and their meetings are broadcasted live.

Accountability measures in place regarding activities of the HCJ include publication of its activity reports, publication of its decisions that are reasoned. No information has been provided on operational arrangements in place to avoid an over-concentration of powers. Information on the activities of the High Council of Justice, including decisions taken, is published on its official website: https://hcj.gov.ua/

Council for the Judiciary

The Law "On the Judiciary and Status of Judges" governs the Council of Judges which is the highest body of judicial self-government acting as the executive body of the Congress of Judges. It has 32 members: 11 judges from local general court, 4 judges from local administrative courts, 4 judges from the courts of appeal for civil, criminal and administrative offences, 2 judges from administrative courts of appeal, 2 judges from commercial courts of appeal, one judge from each of the higher specialised courts and 4 judges from the Supreme Court. The Council of Judges is elected by the Congress of Judges.

The terms of office of the Council of Judges of Ukraine are not defined, but the next congress of judges of Ukraine is held at least once every 2 years. The Congress of Judges of Ukraine has the right to raise the issue of re-election of members of the Council of Judges of Ukraine. The law does not set any restrictions on the number of terms of office in the Council of Judges of Ukraine.

No evaluation of candidates to the Council of Judges is conducted. Candidates are nominated directly at the congress of judges by the delegates of the congress, subject to the restrictions established by law. Members of the Council of Judges of Ukraine exercise their powers on a voluntary basis, continuing to administer justice.

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).

CoP, as a body of prosecutorial self-government:

- makes recommendations on the appointment and dismissal of prosecutors from administrative positions in the cases provided for by this Law;
- organizes the implementation of measures to ensure the independence of prosecutors, improving the state of organizational support for the activities of prosecutors' offices;
- considers issues of legal protection of prosecutors, social protection of prosecutors and their family members and makes appropriate decisions on these issues;
- considers appeals by prosecutors and other messages on threats to the independence of prosecutors, takes appropriate measures based on the consequences of the review;
- appeals to state authorities and local self-government bodies with proposals to for solving the issues of the prosecutor's office operation;
- supervises the implementation of decisions of prosecutorial self-government bodies;
- provides an explanation regarding compliance with the requirements of the legislation regarding the settlement of conflicts of interest in the activities of prosecutors, the head or members of the relevant body conducting disciplinary proceedings;
- exercises other powers provided for by this Law.

CoP is also empowered to provide recommendations for the appointment and dismissal of prosecutors from such administrative positions as First Deputy and Deputy Prosecutor general; the head of the regional prosecutor's office, his first deputy and deputy; head of the district prosecutor's office.

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).

The information on the activities of the Council of Prosecutors of Ukraine, including approved decisions, is published on its official website: https://rpu.gp.gov.ua/ua/krada/normosnovu.html