

**APPROVED**  
**by Decisions of the Ethics**  
**Council as of**  
**01.12.2021 № 1,**  
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**as amended**  
**by Decisions of the Ethics**  
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## **RULES OF PROCEDURE OF THE ETHICS COUNCIL**

The Rules of Procedure of the Ethics Council (hereinafter – the Rules of Procedure) determine the procedure of work of the Ethics Council (hereinafter – the Council), aimed at exercising the powers defined by the Law of Ukraine «On the High Council of Justice» and the Law of Ukraine «On Amending Selected Legislative Acts of Ukraine concerning Procedure for Election (Appointment) of Members of the High Council of Justice and Activities of Disciplinary Inspectors of the High Council of Justice» (hereinafter - the Laws), the procedure for preparation, consideration, and adoption of the Council decisions, as well as other issues of procedural activity of the Council.

### **Section I. General provisions**

1.1. The Council in its work shall be guided by the Constitution of Ukraine, the Laws, these Rules of Procedure, and other normative-legal acts.

1.2. The Council shall:

1) determine the compliance of candidates for a position of a member of the High Council of Justice (hereinafter - candidates) with the criterion of professional ethics and integrity;

2) within six months of the day of approving its personal composition, make a one-time assessment of compliance of members of the High Council of Justice (except for the Chief Justice of the Supreme Court) elected (appointed) before the Law of Ukraine «On Amending Selected Legislative Acts of Ukraine concerning Procedure for Election (Appointment) of Members of the High Council of Justice and Activities of Disciplinary Inspectors of the High Council of Justice» came into force

(hereinafter - sitting members) with the professional ethics and integrity criterion set forth for filling the position of a member of the High Council of Justice.

1.2.1. The Council shall define the procedure and sequence of assessing sitting members and candidates for compliance with the criterion of professional ethics and integrity with allowance for the capability of exercising powers by the High Council of Justice according to the Constitution of Ukraine.

1.2.2. First, the Council assesses the candidates for the vacant positions of the members of the High Council of Justice, the competition for which was announced in accordance with clause 3 of section II «Final and Transitional Provisions» of the Law of Ukraine «On Amending Selected Legislative Acts of Ukraine concerning Procedure for Election (Appointment) of Members of the High Council of Justice and Activities of Disciplinary Inspectors of the High Council of Justice». Upon completion of the relevant competitions, the Council urgently performs the assessment of sitting members. Further assessment of sitting members by the Council is carried out after filling the vacant positions of the members of the High Council of Justice. However, regardless of the number of positions filled, the Council begins to assess the remaining sitting members no later than February 8, 2022.

1.3. The Council is headed by the Chair and the Deputy Chair, who are elected by secret ballot by a majority of the Council. The eldest member of the Council shall chair the session before the election of the Chair of the Council.

1.3.1. If the Chair of the Council is elected from among the members of the Council being judges or retired judges proposed by the Council of Judges of Ukraine, the Deputy Chair is elected from among the members of the Council proposed by international and foreign organizations which have been providing Ukraine with international technical assistance in the sphere of judicial reform and/or preventing and counteracting corruption for the last five years (hereinafter – international and foreign organizations), and vice versa.

1.4. Organizational and technical support of the Council is provided by the State Judicial Administration of Ukraine.

## **Section II. Organization and procedure for holding sessions of the Council**

2.1. The Chair of the Council chairs the sessions. In the absence of the Chair, the session is chaired by the Deputy Chair of the Council. In the absence of the Chair and Deputy Chair of the Council, the Chair of the session is elected by a majority of

the present members of the Council by open ballot. The Chair and the Deputy Chair are subject at all times to the direction of the Council.

2.1.1. The Chair of the Council, in consultation with the Deputy Chair of the Council, shall:

- 1) determine the schedule of sessions of the Council, organize advance notification of the members of the Council and participants of the session;
- 2) ensure the distribution of all materials relating to the assessment of candidates and sitting members to members of the Council and experts (specialists) engaged by the Council pursuant to part 23 of Article 9<sup>1</sup> of Law of Ukraine "On the High Council of Justice";
- 3) appoint, taking into account the workload and in the order of received cases, two rapporteurs for the assessment of each sitting member and each candidate: one rapporteur from amongst the members of Council being judges or retired judges proposed by the Council of Judges of Ukraine, and one rapporteur from amongst the members of the Council proposed by international and foreign organizations;
- 4) interact with the authorities and other national and international organizations on issues of exercising powers by the Council;
- 5) organize the resolving of questions concerning organizational and technical support of the Council operations by the State Judicial Administration of Ukraine;
- 6) organize the receipt by members of the Council of free-of-charge and full access to open state-run registers and judicial dossiers (dossier of candidates for the position of a judge);
- 7) organize the engagement of additional experts and specialists of international and foreign organizations;

2.1.2. The Deputy Chair may convoke a session of the Council.

2.1.3. The Chair of the session of the Council shall:

- 1) open, conduct, and close the sessions, announce adjournment of the sessions, postponement, and withdrawal from consideration of issues;
- 2) announce the completion of the Council's consideration of an issue, put it to the vote, and announce the result of the vote;
- 3) ensure compliance with the requirements of these Rules of Procedure by all present at the session;

- 4) take measures to maintain order at the session;
- 5) perform other actions within the powers prescribed by the Law and these Rules of Procedure.

2.2. Sessions of the Council are competent if at least four members of the Council are present.

2.2.1. Sessions of the Council shall be held in Ukrainian and English with simultaneous interpretation from each of the languages. Sessions shall be held in an open manner, with audio and video recording and broadcasting of the Council sessions in real time mode on the official web portal of the judicial power of Ukraine except for deliberations and voting about the compliance of candidates and sitting members with the integrity and professional ethics criterion.

Information on the time, place, agenda of a session, and decisions of the Council shall be posted on the official web portal of the judiciary of Ukraine not later than 24 hours before the start of the session.

2.2.2. A member of the Council may participate in sessions and in making decisions of the Council remotely in the video conference mode using electronic communications means.

2.2.3. Members of the Council and interpreters are not allowed to disclose any information about the deliberations and voting about the compliance of candidates and sitting members with the integrity and professional ethics criterion.

2.3. Decisions of the Council

2.3.1. A decision is considered to be the result of resolving any issues of the Council's activity referred to its competence by the Law, as well as resolving any issues of the Council's organizational activity.

2.3.2. When making a decision, a member of the Council votes «for» or «against».

2.3.3. A decision of the Council shall be adopted by a majority of votes of the members present, provided that it is supported by two votes of the Council members proposed by international and foreign organizations.

In case of an equal number of «for» and «against» votes, one more voting shall be held.

In case of an equal number of «for» and «against» votes cast at the re-voting, the votes of the members of the Council, of whom at least two are proposed by international and foreign organizations, shall be decisive.

2.3.4. A decision of the Council shall be done in written form and posted on the official web portal of the judicial power of Ukraine. A decision shall state the date and place of approval, the composition of the Council, the issues under consideration, and the reasons of the approved decision or a grounded opinion, where the decision concerns the compliance of sitting members or candidates with the integrity and professional ethics criterion.

2.3.5. The decision shall be signed by the Chair of the session on which this decision was approved. The Chair shall not sign the decision without the approval of the members of the Council who approved the decision.

2.3.6. Should a member of the Council have a dissenting opinion, it shall be made in written form and the Chair of the session shall make a respective announcement during the session. The dissenting opinion shall be attached to the case no later than seven days from the date of the decision. The content of the dissenting opinion is not subject to an announcement at a session.

## 2.4. Session progress fixation

2.4.1. Fixation of the session is carried out by a designated employee of the State Judicial Administration of Ukraine using video and audio recording technical means.

2.4.2. A copy of the technical record of the session fixation shall be provided at the request of state bodies authorized to consider issues of appeal against the decisions of the Council.

## 2.5. Amendments to Rules of Procedure

2.5.1. Procedural and organizational matters not regulated in the legislation of Ukraine or these Rules of Procedure shall be resolved by Council decisions.

2.5.2. The Council may take *ad hoc* decisions on digressing from provisions of these Rules of Procedure, as well as decisions on amending these Rules of Procedure. Such decisions may be taken in accordance with paragraphs 11–13 of clause 23<sup>1</sup> of Section III «Final and Transitional Provisions» of the Law of Ukraine «On the High Council of Justice» and disregarding clause 2.2 of these Rules of Procedure.

## **Section III. Assessment of candidates and sitting members**

3.1. The determination of the compliance of candidates and sitting members with the criterion of professional ethics and integrity shall be carried out in accordance with the Constitution of Ukraine, the Laws, these Rules of Procedure and the

Methodology for assessing compliance of a candidate to the position of the member of the High Council of Justice and members of the High Council of Justice with the criterion of professional ethics and integrity, approved by the Council.

### 3.2. The Council:

- 1) shall review, study, and analyze documents of a candidate and sitting member which have been sent to the Council;
- 2) shall collect, verify, and analyze information on a candidate and sitting member including confidential information with personal data received from government authorities and local governments, information received from individuals and legal entities, from the mass media and other sources, which is needed to exercise the Council's powers;
- 3) may request a candidate and sitting member as well as specially authorized entities in the sphere of counteracting corruption, other government authorities, local governments, enterprises and organizations irrespective of ownership form and subordination, their officials, any legal entities to provide explanations, documents or information for the purpose of checking candidates and sitting members;
- 4) an agency or individual who has received such request from the member of the Council shall be bound to provide relevant explanations, information and/or documents (copies thereof) within ten calendar days of receiving the request;
- 5) shall compile a list of candidates for administering an interview based on outcomes of review of the documents submitted by the candidates, results of the special check and analysis of relevant information from open sources;
- 6) shall conduct interviews with selected candidates and with sitting members;
- 7) following an interview with a candidate:
  - a) shall approve a grounded opinion on compliance with the professional ethics and integrity criterion regarding candidate and post it on the official website of the High Council of Justice;
  - b) if the candidate is found to be compliant with the professional ethics and integrity criterion, shall include him in a list of candidates recommended by the Council for election (appointment) to the position of a member of the High Council of Justice;
  - c) shall post the list on the official web portal of the judiciary of Ukraine and sent it to the relevant entity that elects (appoints) members of the High Council of Justice;

d) shall send to the entity that elects (appoints) a member of the High Council of Justice an opinion on the compliance of each candidate with the professional ethics and integrity criterion;

e) if the number of candidates on the list is fewer than the number of candidates envisaged by part 14 of Article 91 of Law of Ukraine «On the High Council of Justice», shall notify the entity that appoints (elects) members of the High Council of Justice of a need to conduct a new competition.

8) following an interview with a sitting member:

a) shall approve a grounded opinion on compliance with the professional ethics and integrity criterion regarding sitting member and post it on the official web portal of the Judiciary of Ukraine;

b) based on the assessment results may adopt a decision to submit a reasoned recommendation to the relevant entity that elected (appointed) the member of the High Council of Justice on dismissing the member of the High Council of Justice on grounds defined by clauses 3-5 of part 1 of Article 24 the Law of Ukraine "On the High Council of Justice".

9) shall exercise other powers defined by the Laws.

3.3. A candidate and sitting member shall be found noncompliant with the professional ethics and integrity criterion if noncompliance is proved or there are reasonable doubts about compliance.

3.4.1. Personal data of the candidates, sitting members and other persons shall be collected, stored, published and processed in accordance with the legislation of Ukraine.

3.4.2. The Council shall ensure confidentiality of personal data, except in so far these Rules of Procedure permit or require disclosure of such data or when disclosure is authorized by the Council provided that such disclosure is lawful.

3.5.1. Communications between a candidate and sitting member shall be by email via the official email address of the Council (ec@court.gov.ua) and is conducted by the rapporteurs appointed for the assessment of the candidate and sitting member unless a rapporteur defines other means of communication.

3.5.2. If a rapporteur in accordance with the clause 3.5.1 directs a candidate or sitting member to provide the Council with original documents, the documents shall be delivered during business hours to the official address of the Council: The Ethics Council, Lypska Street, 18/5, Kyiv, 01021.

3.5.3. Candidates and sitting members are required to cooperate with the Council. In the process of assessment, the Council may take into account denial of a candidate and sitting member to provide answers to Council's requests and requested materials, or failure to provide answers or materials within time limit specified by the Council.

3.6. At the interview a candidate and sitting member shall not be entitled to provide any new material if previously he had an opportunity to provide such material to the Council and did not do so, except with the permission of a majority of members present either in person or remotely in the video conference mode at the interview including two members proposed by international and foreign organizations.

3.7.1. The Council shall select candidates for admission to interview based on results of reviewing documents submitted by the candidates, special check results, and relevant information from open sources and compile a list of candidates admitted to the interview.

3.7.2. To make this selection:

- 1) within no more than fourteen calendar days of their appointments, the rapporteurs shall study the materials defined in clause 3.7.1 of these Rules of Procedure and prepare draft opinions, which are submitted to other members of the Council;
- 2) based on the results of consideration of the draft opinions at the session, the Council shall decide on the admission or refusal of admission of the candidate to the interview;
- 3) in case of refusal of the candidate's admission to the interview, the decision must contain reasons for such refusal;
- 4) based on the results of the selection, the Council shall compile a list of candidates admitted to the interview and publish it on the official web portal of the judiciary of Ukraine no later than the next working day after its approval.

3.8. A candidate admitted to the interview may notify the Council in writing at any stage of his withdrawal from the competition.

3.9.1. The Council shall notify a candidate admitted to the interview and a sitting member of its intention to assess and determine his compliance with the professional ethics and integrity criterion. Within five business days from the moment of receiving notification such candidate and sitting member is required to provide:

- 1) his email address and telephone number;

2) written statement that he complies with requirements prescribed by parts 1 and 10 of Article 6 and part 16 of Article 91 of the Law of Ukraine “On the High Council of Justice”;

3) his last submitted declaration of a person authorized to perform the functions of state or local self-government in the form specified by the Law of Ukraine “On Prevention of Corruption” if not already provided;

4) written confirmation that he has read the Rules of Procedure and the Methodology;

5) copies of all powers of attorney (or entries from Unified Register of Powers of Attorney regarding all powers of attorney) to which the candidate and sitting member or a member of his family is a party or a recipient of powers, being powers of attorney, which are currently in force or have been in force in the last ten years till the day of receiving the notification.

3.9.2. Candidates and sitting members shall notify the Council of any changes to their email address or telephone number by sending notification to the official email address of the Council (ec@court.gov.ua).

3.10. The Council may start the process of assessment of a candidate and sitting member by exercising the powers provided in subclauses 1-4 of clause 3.2. of these Rules of Procedure before notifying the candidate and sitting member of its intention to assess and determine his compliance with the professional ethics and integrity criterion.

3.11.1. Within no more than twenty one calendar days following the notification to a candidate admitted to the interview and sitting member of intention to assess and determine his compliance with the professional ethics and integrity criterion, the rapporteurs shall on behalf of the Council:

1) carry out the authorities described in subclauses 1 and 2 of the clause 3.2 of these Rules of Procedure in so far as not already carried out;

2) make any necessary requests referred to in subclause 3 of clause 3.2 in accordance with clauses 3.5.1 and 3.5.2 of these Rules of Procedure.

3.11.2. Any requests, including additional, to a candidate and sitting member for explanations, documents or information shall:

1) require the candidate and sitting member to acknowledge the receipt of the email;

2) require to reply to the request (provide explanations, documents or information) within the period defined by a rapporteur, but no more than 10 calendar days;

3) inform the candidate and sitting member on the content of the clause 3.5.3 (denial to provide answers per Council's requests) and clause 3.6 (limitations on providing new materials on an interview).

3.11.3 Any request by a candidate and sitting member for an extension of the period set out in subclause 2 of clause 3.11.2 of these Rules of Procedure shall only be granted if both rapporteurs, appointed for the assessment of such candidate and sitting member, agree.

3.12. Within no more than twenty one calendar days following the notification to a candidate admitted to the interview and a sitting member of the Council's intention to assess and determine his compliance with the professional ethics and integrity criterion, the Council shall set the date for his interview considering clause 3.13 of these Rules of Procedure and send the notification of this to the candidate and sitting member. The candidate and sitting member shall confirm his participation in the interview within three calendar days of receipt of the notification.

3.13. Within no more than thirty calendar days following the notification to a candidate admitted to the interview and a sitting member of the Council's intention to assess and determine his or her compliance with the professional ethics and integrity criterion, the rapporteurs shall prepare and inform members of the Council about their provisional views as to the compliance of the candidate and sitting member with the professional ethics and integrity criterion.

3.14. A candidate and sitting member shall be guaranteed a right to get familiar with materials of assessment of his compliance with the professional ethics and integrity criterion, provide oral and written explanations, take part in the Council session when his case is considered, and use services of a representative. Candidate and sitting member shall exercise the right to get familiar with the materials of assessment in the three days period before the interview.

3.15.1. The interviews are conducted during sessions of the Council with candidates and sitting members participating in them in person or remotely by videoconference with the use of means of electronic communication as decided by the Ethics Council.

3.15.2 The procedure at the interview of a candidate and sitting member, subject to change by the Council's decision, shall be as follows:

1) introduction of the candidate and sitting member by the Chair of the session;

- 2) announcement of questions by the rapporteur (rapporteurs);
- 3) explanation of the candidate and sitting member;
- 4) questions by members of the Council;
- 5) final statement of the candidate and sitting member.

3.15.3. Presence of a candidate and sitting member at interview is obligatory. The interview may be postponed due to non-attendance of a candidate and sitting member for a good cause. Existence of a good cause is determined by the Council.

Failure of a candidate and sitting member to attend an interview, regardless the causes, does not prevent the Council from assessment and determination of his compliance with the professional ethics and integrity criterion.

3.16.1. The deliberations and voting of the Council regarding compliance of a candidate and sitting member with the criterion of professional ethics and integrity shall take place in private.

3.16.2. At the conclusion of the deliberations the Council shall take a decision on compliance of the candidate and sitting member with the criterion of professional ethics and integrity stipulated by part 16 of Article 91 of the Law of Ukraine “On the High Council of Justice”.

3.16.3. After making the decision the Council shall follow the procedures set out in subclauses 7 and 8 of clause 3.2 and Section 2 of these Rules of Procedure.

4.1. Failure to comply with time limits set out in Rules 3.7.2, 3.11.1, 3.12, 3.13 of the Rules of Procedure shall be allowed for the period of martial law.