**Information note of the High Council of Justice of Ukraine**

**on ensuring the authority of justice and**

**independence of judges**

Article 126 of the Constitution of Ukraine stipulates that the independence and immunity of judges are guaranteed by the Constitution and laws of Ukraine. A judge may not be held liable for a court decision made by him or her, except in the case of a crime or disciplinary offence. A judge holds office for an unlimited term.

This article of the Basic Law of Ukraine contains a list of grounds for dismissal of judges and termination of their powers.

Article 129 of the Constitution of Ukraine stipulates that a judge shall be independent in the administration of justice and shall be guided by the rule of law.

Article 131 of the Constitution of Ukraine stipulates that, in accordance with the law, bodies and institutions shall be established in the judicial system to ensure the selection of judges and prosecutors, their professional training, evaluation, consideration of cases of disciplinary liability, financial and organisational support of courts.

Article 1(1) of the Law of Ukraine ‘On the Judiciary and the Status of Judges’ stipulates that judicial power in Ukraine is exercised by independent and impartial courts established by law in accordance with the constitutional principles of the separation of powers.

Article 6 of the Law of Ukraine ‘On the Judiciary and the Status of Judges’ stipulates that courts are independent of any unlawful influence in the administration of justice. The courts administer justice on the basis of the Constitution and laws of Ukraine and the rule of law. Interference with the administration of justice, influence on the court or judges in any way, disrespect for the court or judges, collection, storage, use and dissemination of information orally, in writing or otherwise with the aim of discrediting the court or influencing the impartiality of the court, calls for non-enforcement of court decisions are prohibited and shall entail liability established by law. State and local authorities and their officials must refrain from statements and actions that may undermine the independence of the judiciary.

According to Article 48 of the Law of Ukraine ‘On the Judiciary and the Status of Judges’, a judge in his or her administration of justice is independent of any unlawful influence, pressure or interference. A judge shall administer justice on the basis of the Constitution and laws of Ukraine, guided by the rule of law. Interference with the judge's activities in the administration of justice is prohibited and entails liability established by law.

The independence of a judge is ensured by: 1) a special procedure for their appointment, prosecution, dismissal and termination of powers; 2) immunity and immunity of a judge; 3) irremovability of a judge; 4) the procedure for the administration of justice, determined by the procedural law, secrecy of court decisions; 5) prohibition of interference in the administration of justice; 6) liability for contempt of court or a judge; 7) a separate procedure for financing and organisational support of the courts established by law; 8) proper material and social security of judges; 9) functioning of judicial governance and self-government bodies; 10) means of ensuring personal security of judges, their family members and property, as well as other means of their legal protection, as determined by law; 11) the right of a judge to resign.

State authorities, local self-government bodies, their officials and employees, as well as individuals and legal entities and their associations are obliged to respect the independence of a judge and not to encroach on it.

According to part four of Article 48, paragraph 9 of part seven of Article 56 of the Law of Ukraine ‘On the Judiciary and the Status of Judges’, a judge is obliged to report interference with his or her activities as a judge in the administration of justice to the High Council of Justice and the Prosecutor General within five days after becoming aware of such interference.

Pursuant to Article 131 of the Constitution of Ukraine, the High Council of Justice operates in Ukraine, which, in particular, takes measures to ensure the independence of judges.

The powers of the High Council of Justice, as provided for in Article 3 of the Law of Ukraine ‘On the High Council of Justice’, include, inter alia, taking measures to ensure the authority of justice and independence of judges.

According to part one of Article 73 of the Law of Ukraine ‘On the High Council of Justice’, the High Council of Justice is established to ensure the independence of judges and the authority of justice:

1) maintain and publish on its official website a register of reports of judges on interference in the administration of justice, verify such reports, publish the results and make appropriate decisions;

2) submits to the relevant bodies or officials a request to identify and bring to statutory liability persons who have committed acts or omitted to act that violate the guarantees of judicial independence or undermine the authority of justice;

3) submit to the meeting of the respective court a proposal to dismiss a judge from his/her administrative position in case of failure to comply with the decision of the High Council of Justice;

4) approves and publishes public statements and appeals;

5) addresses subjects of the right of legislative initiative, bodies authorised to adopt legal acts with proposals to ensure the independence of judges and the authority of justice;

6) addresses the prosecutor's office and law enforcement agencies to provide information on the detection and investigation of crimes committed against the court, judges, members of their families, court staff, crimes against justice committed by judges and court staff;

7) prepare, in cooperation with judicial self-government bodies, other bodies and institutions of the justice system, public associations, and publish an annual report on the state of judicial independence in Ukraine;

8) take other measures necessary to ensure the independence of judges and the authority of justice.

After losing its powers on 22 February 2022, the High Council of Justice resumed its work in a new composition in early January 2023.

In 2023, the High Council of Justice received

185 reports of interference in the administration of justice by judges.

Taking into account the reports received in previous periods, the High Council of Justice considered 208 reports from judges in 2023.

After reviewing 97 reports of interference with the administration of justice, including those submitted by a member of the High Council of Justice, 93 decisions were made to take response measures, including requests to the prosecutor's office and law enforcement agencies to provide information on the detection and investigation of crimes, submitting a request to the relevant authorities or officials to identify and bring to justice the persons who committed the acts or omitted to act, etc.

Having reviewed 111 reports from judges on interference in the administration of justice, the Council adopted 61 decisions to approve

97 conclusions of the High Council of Justice members on the absence of grounds for taking measures to ensure the independence of judges and the authority of justice.

Also, the High Council of Justice adopted 6 decisions on its own initiative within the scope of its powers to take measures to ensure the independence of judges and the authority of justice.

Pursuant to Law of Ukraine No. 2128-IX of 15 March 2022 ‘On Amendments to Section XII “Final and Transitional Provisions” of the Law of Ukraine “On the Judiciary and the Status of Judges” to ensure the sustainable functioning of the judiciary in the absence of the authorised composition of the High Council of Justice’, the Chief Justice of the Supreme Court in early 2023, during the period of the Council's absence, reviewed reports from judges on interference in the administration of justice. Taking into account the reports received in previous periods, the Chief Justice reviewed 10 reports of judges in early 2023, making 3 decisions to take response measures and 7 decisions to refuse to take measures.

In January-May 2024, the High Council of Justice received 113 reports of interference in the administration of justice by judges.

Taking into account the reports received in previous periods, the High Council of Justice considered 99 reports from judges in 2024.

After reviewing 42 reports of interference with the administration of justice, 41 decisions were made to take response measures, including requests to the prosecutor's office and law enforcement agencies to provide information on the detection and investigation of crimes, submitting a request to the relevant authorities or officials to identify and bring to justice the persons who committed the acts or omissions, etc.

Having reviewed 57 reports from judges on interference in the administration of justice, the Council adopted 15 decisions to approve

50 conclusions of the High Council of Justice members on the absence of grounds for taking measures to ensure the independence of judges and the authority of justice.

Also, the High Council of Justice adopted 3 decisions on its own initiative within the scope of its powers to take measures to ensure the independence of judges and the authority of justice.

In order to fulfil the constitutional powers to take measures to ensure the independence of judges, as well as the provisions set out in part four of Article 73 of the Law of Ukraine ‘On the High Council of Justice’, to develop and implement measures to ensure the independence of judges and the authority of justice, a working group on the development and implementation of measures to ensure the independence of judges and the authority of justice was established by the decision of the High Council of Justice of 13 April 2023 No. 357/0/15-23.

The High Council of Justice has summarised the practice of consideration by the High Council of Justice of judges' reports of interference with their activities as judges in the administration of justice and other decisions of the High Council of Justice on measures to ensure judicial independence and the authority of justice in 2021. The relevant summary is available on the official website of the High Council of Justice at the following link: <https://hcj.gov.ua/sites/default/files/field/uzagalnennya_praktyky_rozglyadu_radoyu_vtruchan_u_2021_roci.pdf>.

In addition, the website of the High Council of Justice has published the ‘Analysis of the Practice of the High Council of Justice on Assessing the Conduct of a Judge/Candidate for the Position of Judge for Compliance with the Requirements of Integrity and Professional Ethics’ (hereinafter - the Analysis).

The analysis was provided within the framework of the Council of Europe project ‘Support to the Judiciary of Ukraine in the Context of War and Post-War Period’, implemented by the Council of Europe Cooperation Programmes Division.

The relevant Analysis is available on the official website of the High Council of Justice at the following link: https://hcj.gov.ua/page/analitychne-doslidzhennya-praktyky-zdiysnennya-ocinky-vrp-vidpovidnosti-kryteriyam.