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**Reform of the judicial system in Ukraine as a prerequisite for joining the EU: status and key issues**

Ukraine’s independence marked the beginning of the country’s European integration. This means that Ukraine’s national legislation has to be adapted to the EU *acquis*. In June 2022, the European Commission recommended that Ukraine be granted the status of a candidate country for membership in the European Union. Recently, the EU also agreed to start membership negotiations with Ukraine. One of the main requirements of the European Union for Ukraine as a candidate country is to implement a number of reforms, primarily a comprehensive reform of the Ukrainian judicial system in line with European rules and standards of justice.

The main indicator of successful judicial reform in Ukraine, as in any other country, is ensuring access to justice ( a fair trial) and its effective implementation. The case law of the European Court of Human Rights (ECtHR) shows that Ukraine has quite significant problems in this regard. The end of 2022 showed 10,400 applications pending before the ECtHR against Ukraine. The data for 2022 demonstrates that the ECtHR delivered 144 judgments against Ukraine. In particular, it was stated that in 21 of them there was a violation of Article 6 of the European Convention on Human Rights (ECHR), which sets out the right to a fair trial. The main problems in terms of access to justice are violations of procedural rights during pre-trial investigations, failure to comply with reasonable time limits for consideration of court cases, and improper enforcement of court decisions and decisions of other officials.

The effectiveness of the judicial reform has an impact on the further development of Ukraine’s European integration process. In 2016, the first stage of the judicial reform was launched. Its main goal was to strengthen the integrity and independence of the entire judicial system of Ukraine. As a result, the High Council of Justice was established. The main task of the Council is to manage the judiciary. However, active implementation of the main areas of the reform ended by 2019. It was then that the question of the integrity of the High Council of Justice and its overall effectiveness arose. After the presidential elections in 2019, the idea of reform received a new wave of attention from the authorities. The second phase of the judicial reform began during this period. The Parliament passed a law approving the dissolution of the High Qualification Commission of Judges. After that, new rules were established for the competition to select new members. These rules were based on a thorough integrity check of the High Council of Justice members. The procedure for assessing candidates for membership in the High Council of Justice and the High Qualification Commission of Judges was supposed to involve direct involvement of international independent experts. However, such changes were not able to start functioning. The reason for this was the need to introduce additional legislative changes, which took place in 2021.

Thus, according to the latest amendments, the Ethics Council was enshrined in the Law [1]. The Ethics Council is formed for the purpose of assisting the bodies that elect (appoint) members of the High Council of Justice in establishing the compliance of a candidate for the position of a member of the High Council of Justice with the criteria of professional ethics and integrity. The Council was to include three representatives of the judiciary and three international independent experts. The Council itself completed its formation in December 2021, but it could not be put into operation until May 2022. The High Council of Justice became fully operational in January 2023 after the Ethics Council vetted the selected candidates. It should be noted that the recall to the High Council of Justice was criticised by civil society experts. This was due to the lack of demonstration of the candidates’ interview with the Ethics Council. Of course, this reduces the level of transparency of the process.

A special Competition Commission consisting of three representatives of the judiciary and three international independent experts selected members to the High Qualification Commission of Judges. The Commission started functioning in January 2022, but by July 2022, the process was suspended due to the beginning of the full-scale invasion of Ukraine by the Russian Federation. Civil society experts who are constantly monitoring the judicial reform process have expressed positive feedback on the selected candidates. This gives hope for the creation of an effective High Qualification Commission of Judges. This aspect is quite important, as it will be responsible for the constant renewal of one third of the judiciary in Ukraine.

Another key area of judicial reform is the separate reform of the Constitutional Court of Ukraine. One of the first recommendations of the European Commission was to create a new mechanism for competitive selection of judges of the Constitutional Court of Ukraine. In December 2022, Ukraine established an Advisory Group of Experts to assess the moral qualities and level of professionalism of candidates. However, all the recommendations of the Venice Commission were not taken into account. For example, the Advisory Group of Experts consists of six members, not seven, as recommended. However, international independent experts during the so-called “transition” period of 6 years will have a decisive vote in the selection process.

Another key area of judicial reform is the digitalisation of justice. It is worth mentioning that Ukraine is one of the world leaders in the context of digital transformation in the provision of public services. In January 2019, the Unified Judicial Information and Telecommunication System was launched. Its main purpose is to automate document management, storage of materials, collection and processing of statistical data. It was also expected that in March 2019, 8 of the 18 modules of the system would start functioning in test mode. But by 2021, only 3 were fully operational.

Hence, some of the key aspects of judicial reform are already being implemented in practice. However, certain problems remain. For instance, Ukraine still has a critical level of public trust in the courts, too high workload of courts, and a politicised procedure for forming the judiciary. Implementation of judicial reform is one of the most important steps that Ukraine must take to become a member of the EU. Also, the issue of judicial reform should be considered and analysed in the light of foreign experience in order to find the most optimal ways to improve the judicial system.

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