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**Competition for the post of a judge of the Constitutional Court of Ukraine**

The Constitutional Court of Ukraine (CCU) is an institution that decides on the compliance of the laws of Ukraine and, in cases provided for by the Constitution, other acts with the Constitution of Ukraine. It also provides official interpretation of the Constitution of Ukraine, and has other powers in accordance with the Constitution of Ukraine. “The activities of the Constitutional Court of Ukraine are based on the principles of the rule of law, independence, collegiality, transparency, validity and binding nature of its decisions and conclusions” [1, Art. 147]. The Constitutional Court of Ukraine is composed of 18 judges who are elected through a competitive selection process by the President of Ukraine, the Verkhovna Rada of Ukraine and the Congress of Judges of Ukraine for a term of 9 years without the right to be re-elected.

 According to the Constitution, “a judge of the Constitutional Court of Ukraine may be a citizen of Ukraine who speaks the state language, has reached the age of forty on the day of appointment, has a higher legal education and at least fifteen years of professional experience in the field of law, high moral qualities and is a lawyer with a recognised level of competence. A judge of the Constitutional Court of Ukraine may not belong to political parties, trade unions, participate in any political activity, have a representative mandate, hold any other paid positions, perform any other paid work, except for scientific, teaching or creative work” [1, Art. 148].

According to the Art. 10, part 5 of the Law “On the Constitutional Court of Ukraine”, “the announcement of the start of the competitive selection of candidates for the position of a judge of the Constitutional Court is published on the official website of the President of Ukraine, the Verkhovna Rada of Ukraine, the Council of Judges of Ukraine, respectively, not later than ninety days before the expiration of the term of office or reaching the age limit for holding the position of a judge of the Constitutional Court, or not later than twenty days from the date of the vacancy for the position of a judge of the Constitutional Court in case the powers of a judge of the Constitutional Court are terminated or they are dismissed from office on the grounds, provided for in Article 149-1 of the Constitution” [2, Art. 105 part 1].

 Accordingly, “those persons, who have expressed their intention to hold the position of a judge of the Constitutional Court and meet the requirements for a judge established by the Constitution and the respective Law, within thirty days from the date of publication of the announcement of the start of the competitive selection, shall simultaneously submit to the competition commission, the Office of the Verkhovna Rada of Ukraine, and the Council of Judges of Ukraine a list of documents specified by the Law of Ukraine «On the Constitutional Court of Ukraine»” [2, Art. 105 part 2]. This includes an application for participation in the competition, CV, a motivation letter, copies of various documents, assets declaration, diplomas, consent to the processing of personal data and the necessary checks established by the Law. The Law also provides for the type of information about the candidate that will not be published on the official website to ensure that there is no interference with the privacy rights.

Thus, within twenty days from the end of the deadline for submitting documents for this position, the competition commission, the Committee, the Council of Judges check the completeness of the documents submitted by the candidates [2, Art. 106 part 1]. According to the procedure, in case of detection of errors or inaccuracies in the documents submitted by the candidate, which do not hinder the understanding of the content of the specified information, this is not a reason to refuse an admission to the competitive selection. Also, in such cases, it is provided to give the potential candidate an additional period to correct inaccuracies in the submitted documents, but not more than ten working days. Moreover, important is the inadmissibility of competitive selection in the absence of at least two candidates for one vacancy [2, Art. 106 part 2].

 Decisions of the competitive commission, the Committee, the Council of Judges on the admission or refusal of admission to the competitive selection regarding candidates are subject to publication on the official website of the President of Ukraine, the Parliament, the Council of Judges, respectively, later the next day from the day the decision was made [2, Art. 106 part 3]. No later than three days after the adoption of the relevant decision, the competition commission, the Apparatus of the Verkhovna Rada, the Council of Judges send copies of the documents submitted by candidates to the Advisory Group of Experts for assessing their moral qualities and level of competence in the field of law and submission of the list of candidates evaluated by the Advisory Group [2, Art. 106 part 4].

The *Advisory Group of Experts* is formed to assist the subjects of the appointment of judges of the Constitutional Court in assessing the moral qualities and level of competence in the field of law of candidates for the position of a judge of the Constitutional Court, [2, Art. 102] upon the recommendation of the European Commission, in order for Ukraine to maintain its status as an EU candidate. The Advisory Group should consist of six members, but during the transitional period, three members should be international experts delegated by the Venice Commission and international organisations to monitor the work of the Advisory Group.

An important element of this process is the opportunity for private persons and public associations (NGOs) to provide information to the Advisory Group regarding a suitable candidate for the post of a judge of the Constitutional Court of Ukraine. However, information submitted anonymously or whose origin cannot be established will not be taken into account by the Advisory Group [2, Art. 106 part 6]. All candidates admitted to the competitive selection are subject to a special check in accordance with the procedure provided by the Law of Ukraine “On Prevention of Corruption”. The results of this check are taken into consideration during the competitive selection process. If the results of a special check reveal information about a candidate that does not meet the legal requirements for holding a position, the participation of such a candidate in the competitive selection is considered terminated [2, Art. 107].

 The Advisory Group within a period of no more than four months from the date of receipt of all documents from the competition commission, the Committee, the Council of Judges, examines the documents, the results of a special inspection, other information and materials, and also conducts interviews with candidates. Within fifteen days from the day of the interview with all candidates, the Advisory Group assesses the moral qualities of each candidate, and then within fifteen days after the assessment of compliance of candidates with the high moral qualities, it evaluates the level of competence in the field of law of each candidate [2, Art. 108 parts 1, 2].

Candidates whose compliance with the criteria of high moral qualities and a recognized level of competence in the field of law has been proven by the Advisory Group will be included in the general list of all evaluated candidates. After the formation of such a list, the Advisory Group conducts a rating vote on all evaluated candidates and forms their rating list. Candidates in the ranking list are placed depending on the number of votes. The results of the rating voting of each member of the Advisory Group are open, recorded by name and published on the official website of the Constitutional Court, after which the group submits them to the competition commission, the Committee, the Council of Judges, respectively, no later than three days from the date of their conclusion [2, Art. 108 part 7].

After receiving the list of evaluated candidates from the Advisory Group, the competition commission, the Committee, the Council of Judges conduct an interview with these candidates. Based on the results of the study of the documents and information provided by the candidates, taking into account the decisions of the Advisory Group and interviews with the candidates, the competition commission, the Committee, and the Council of Judges make a decision on the recommendation for the appointment of a judge of the Constitutional Court [2, Art. 108 part 8].

 Therefore, after analyzing the competition procedure, it should be noted a sufficiently high level of digitilization and openness of the process to the broad masses, along with the possibility for civil society to have a secondary influence on the decision-making procces by the Advisory Group. However, it should be taken into account that the relevant rules, as well as the institution of the Advisory Group of Experts, were formed relatively recently, in December 2022, under the influence of the European Commission in order to preserve Ukraine’s status as a candidate for the EU membership, thus, these rules are quite new. For instance, the activities of the Advisory Group and the Competition Commission are still subject to corruption risks due to the complexity of the bureaucratic procedure and majour role of face-to-face communication with candidates.

Herewith, it should be noted that during its second meeting in December 2023, the Advisory Group adopted the *Methodology for Assessing Moral Qualities and Competence Level in the Sphere of Law* [3], a document that allows for the specification of the concept of “high moral qualities”. The Methodology explains the criteria for determining a candidate’s moral qualities, such as: independence, honesty, integrity, impartiality, good faith. At the same time, the document establishes a clear framework for the above concepts to avoid problems with their interpretation. According to the document, the Advisory Group may take into account the seriousness or gravity, the complex of the circumstances and the presence of intent in any breach of integrity, and in the case of minor violations, whether sufficient time has passed without further breach of integrity. In general, thanks to the assistance of the Venice Commission and the EU, the competition for the position of a judge of the Constitutional Court of Ukraine is currently the most transparent and has the highest quality since its creation, but it still needs constant revision and improvement.

**References:**

**1.** Constitution of Ukraine: dated 28.06.1996, No. 254к/96-ВР: as of 1 January. 2020 URL: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80?lang=en#Text>.

**2.** On the Constitutional Court of Ukraine: Law of Ukraine of 13.07.2017 No. 2136-VIII : as of 20 August. 2023 р. URL: [https://zakon.rada.gov.ua/laws/show/2136-19?lang=en#Text](https://zakon.rada.gov.ua/laws/show/2136-19?lang=en%23Text)

**3.** The Methodology for Assessing Moral Qualities and Competence Level in the Sphere of Law: Protocol No. 2 of the meeting of the Advisory Group of Experts, dated 04.12.2023 URL: <https://ccu.gov.ua/sites/default/files/metodologiya_dge.pdf>