



UKRAINE
HIGH COUNCIL OF JUSTICE
DECISION

17 December 2024

Kyiv

No. 3659/0/15-24

**On Approving the Unified Indicators
for Assessing Integrity and Professional Ethics of Judges (Judicial Candidates)**

Article 1(1) of the Law of Ukraine “On the High Council of Justice” states that the High Council of Justice is a collegial, independent constitutional authority and judicial governance body that operates in Ukraine on a permanent basis to ensure the independence of the judiciary, its functioning on the basis of responsibility and accountability to the society, building a community of highly professional judges with integrity, observance of the Constitution and laws of Ukraine, as well as professional ethics in the work of judges and prosecutors.

On 30 December 2023, the Law of Ukraine No. 3511-IX dated 9 December 2023 “On Amending the Law of Ukraine ‘On the Judiciary and the Status of Judges’ and Certain Legislative Acts of Ukraine on Improving Judicial Career Procedures” came into force, which, in particular, improved the procedure for holding the position of a judge.

This Law amends Article 3 of the Law of Ukraine “On the High Council of Justice”, which empowers the High Council of Justice to approve the Unified Indicators for Assessing Integrity and Professional Ethics of Judges (Judicial Candidates) after consultations with the High Qualification Commission of Judges of Ukraine, the Council of Judges of Ukraine and the Public Integrity Council.

Pursuant to paragraphs 2.1.2.1.5-2.1.2.1.7 of Annex 2 to the State Anti-Corruption Programme for 2023-2025 approved by the Resolution of the Cabinet of Ministers of Ukraine No. 220 of 4 March 2023, the High Council of Justice, the High Qualification Commission of Judges of Ukraine, the Council of Judges of Ukraine, the Public Council of International Experts, and the Public Integrity Council are to design unified criteria (indicators) for assessing the integrity and professional ethics of judges and integrity criteria (indicators) for a judicial candidate, taking into account the judge’s professional profile and best practices derived from the analysis of assessment practices, hold consultations on the said draft criteria and subsequently agree upon them and approve them.

In its Resolution of 11 February 2021 on the implementation of the Association Agreement between Ukraine, on the one part, and the European Union, the European Atomic Energy Community and their Member States, on the other part, the European Parliament drew attention to the absence of a requirement and a properly established

procedure for assessing whether judicial candidates meet the integrity criterion (outside the qualification evaluation procedure).

In Chapter 23 “Judiciary and Fundamental Rights”, subsection “Functioning of the Judiciary” of Ukraine 2023 Report, which is a part of European Union Enlargement Package, the European Union also recommended to fill the vacant positions of justices of the Constitutional Court of Ukraine in line with the adopted legislation; to relaunch the selection of ordinary judges on the basis of the improved legal framework, including clear criteria of integrity and professionalism and the strong role of the Public Integrity Council.

After the fourth round of evaluation “Preventing Corruption among Members of Parliament, Judges and Prosecutors”, in its recommendation XVII “Preventing Corruption among Members of Parliament, Judges and Prosecutors”, GRECO noted that it is crucial to ensure that the regular evaluation of judges is conducted by judges in accordance with pre-defined unified and objective criteria related to their daily work.

In its Report after the fifth round of monitoring regarding Ukraine, the Monitoring Group of the Anti-Corruption Network of the Organisation for Economic Co-operation and Development stressed that judges should be appointed, their terms of office should be merit-based and guaranteed by law, and that additional regulatory framework is required to define clear criteria and methodology for assessing integrity.

The provisions of Regulation (EU) No. 2024/792 of the European Parliament and of the Council of 29 February 2024 establishing the Ukraine Facility and Ukraine’s obligations under the Framework Agreement between Ukraine and the European Union on Special Arrangements for the Implementation of the Union’s Financing for Ukraine under the Ukraine Facility (ratified by Law of Ukraine No. 3786-IX of 6 June 2024) envisage enhanced accountability, integrity and professionalism of the judiciary.

By its decision No. 375/0/15-24 of 8 February 2024, the High Council of Justice established a working group for developing the Unified Indicators for Assessing the Integrity and Professional Ethics of Judges (Judicial Candidates) (hereinafter – the working group).

The working group included members of the High Council of Justice, the High Qualification Commission of Judges of Ukraine, the Council of Judges of Ukraine and the Public Integrity Council, and representatives of international projects.

Since its establishment, the Working Group has held 23 meetings which helped to develop the Draft Unified Indicators for Assessing Integrity and Professional Ethics of Judges (Judicial Candidates) (hereinafter – the Draft).

On 24 June 2024, the working group submitted the Draft to the Chair of the High Council of Justice and members of the High Council of Justice for consideration.

On 25 June 2024, the High Council of Justice sent the Draft to the High Qualification Commission of Judges of Ukraine, the Council of Judges of Ukraine, and the Public Integrity Council for these authorities to express their perspective on the Draft and provide suggestions or comments regarding it.

The Public Integrity Council sent a letter to the High Council of Justice No. 9414/0/8-24 dated 10 July 2024, noting its overall positive assessment of the working group’s efforts and setting out its suggestions and recommendations to the Draft.

On 11 July 2024, the High Council of Justice received an advisory opinion on the

Draft Unified Indicators for Assessing the Integrity and Professional Ethics of a Judge (Judicial Candidate) approved by the Decision of the Council of Judges of Ukraine No. 20 dated 11 July 2024.

On 15 July 2024, the High Qualification Commission of Judges of Ukraine sent its proposals and comments on the Draft to the High Council of Justice.

The Resolution of the Cabinet of Ministers of Ukraine No. 1194 of 18 October 2024 amended the State Anti-Corruption Programme for 2023-2025 and postponed the deadline for implementation of the measure specified in paragraph 2.1.2.1.7 of Annex 2 to the State Anti-Corruption Programme for 2023-2025, the new deadline being November 2024.

On 28 November 2024, pursuant to the Law of Ukraine “On the High Council of Justice”, the final Draft was sent to the High Qualification Commission of Judges of Ukraine, the Council of Judges of Ukraine, and the Public Integrity Council for consultation so that they express a coordinated position and provide respective proposals.

On 5 December 2024, the High Qualification Commission of Judges of Ukraine sent a coordinated position on the Draft prepared by the Working Group and provided proposals regarding its specific provisions laid out as a comparative table to the High Council of Justice.

The Public Integrity Council sent a letter No. 13817/0/8-24 dated 9 December 2024 with a coordinated position on the Draft and a comparative table with relevant substantiation to the High Council of Justice.

The High Council of Justice, pursuant to Article 131 of the Constitution of Ukraine, Articles 3 and 34 of the Law of Ukraine “On the High Council of Justice”,

held:

to approve the Unified Indicators for Assessing Integrity and Professional Ethics of a Judge (Judicial candidate) attached hereto.

Chair of the High Council of Justice

Hryhorii USYK

APPROVED

Decision of the High Council of Justice
No. 3659/0/15-24 of 17 December 2024

Unified Indicators for Assessing Judicial Integrity and Professional Ethics of a Judge (Judicial Candidate)

Unified Indicators for Assessment of Integrity and Professional Ethics of a Judge (Judicial Candidate) (hereinafter – the Indicators) are adopted pursuant to the Constitution of Ukraine, the Law of Ukraine “On the High Council of Justice” and the Law of Ukraine “On the Judiciary and Status of Judges” in order to define the criteria of integrity and professional ethics and the same principles for their application by all the assessing entities.

Section I **General Provisions**

1. Definitions.

As used in these Indicators, the following terms shall have the following meanings:

“family members” means persons referred to in the Law of Ukraine “On Prevention of Corruption”;

“origin of property” means the grounds and methods that give rise to or change the rights to objects of civil rights (deeds, individual acts, etc.);

“standard of living” means a complex indicator reflecting the extent of satisfaction of material, spiritual and social needs, including the property status of a judge (judicial candidate) and his/her family members, encompassing the rights to all objects of civil rights that were or are owned, possessed or used by the judge (judicial candidate), his/her family members, close relatives, including objects of civil rights of third parties regarding which the judge (judicial candidate) or his/her family members may directly or indirectly exercise actions identical to ownership, possession or use, as well as their expenses;

“lifestyle” means behaviour of a judge (judicial candidate), which is an external manifestation of his/her moral values, principles and standards;

“reasonable doubt” means having relevant and sufficient factual data that are convincing for an ordinary reasonable person that a judge (judicial candidate) may not meet the criteria of integrity and professional ethics;

“ordinary reasonable person” means a law-abiding person well-informed about the facts and current processes who perceives information and circumstances objectively from an external perspective.

2. The Indicators shall be applied by the assessing entities – High Council of Justice, High Qualification Commission of Judges of Ukraine, their institutions or other entities, as determined by law while:

1) assessing the eligibility for the position held regarding a judge appointed for a five-year term or elected for a life tenure before the entry into force of the Law of Ukraine “On Amending the Constitution of Ukraine (Regarding Justice)” (Section XV(161) of the Constitution of Ukraine, Transitional Provisions);

2) determining whether a judge (judicial candidate) is eligible to administer justice in the respective court according to the criteria set by law (Section V “Qualification of a Judge” of the Law of Ukraine “On the Judiciary and Status of Judges”);

3) the High Council of Justice is considering the recommendation of the High Qualification Commission of Judges of Ukraine on appointing a judge to a position or transferring him/her (the Law of Ukraine “On the High Council of Justice”, Section II “Special Part”, Chapter 2 “Participation in Judicial Selection”);

4) conducting a competition and appointing a member of the High Qualification Commission of Judges of Ukraine (Article 95 of the Law of Ukraine “On the Judiciary and Status of Judges”);

5) checking information that may indicate that the statements provided by a judge in a declaration of integrity are unreliable (including incomplete), failure to submit or delayed submission of the declaration of integrity.

3. The Indicators shall be applied to evaluation procedures that were initiated prior to their approval but have not been completed and to procedures that are initiated after their approval.

4. The Indicators shall enter into force the next day after publication on the official website of the High Council of Justice.

Section II

Principles Governing the Application of Indicators for Assessing Integrity and Professional Ethics of a Judge (Judicial Candidate)

5. The assessment of whether a judge (judicial candidate) meets the Indicators shall be conducted in accordance with the Constitution of Ukraine, the legislative framework of Ukraine, and with due regard to international law instruments and practices of their application.

6. Assessment of whether a judge (judicial candidate) meets the Indicators should be conducted while respecting the right to human dignity, privacy and family life.

7. The assessment of whether a judicial candidate meets the Indicators shall be conducted with due regard to the rules of professional ethics that are or were applicable to him/her and the rules of professional ethics of judges that can be reasonably expected to be observed by the judicial candidate from the moment he/she is admitted to the selection or competition for the position of a judge.

8. In assessing whether a judge (judicial candidate) meets the Indicators, the following shall be used: information and reference systems, registers, databases and other sources of information, including the judicial dossier (candidate’s dossier) and declarations of a person authorised to perform state or local government functions

submitted pursuant to the Law of Ukraine “On Preventing Corruption”. Information the source of which cannot be ascertained shall have no evidential value during the assessment of whether a judge (judicial candidate) meets the Indicators. The assessing entity may check such information. Anonymous reports shall not be considered.

Information from criminal, administrative, civil, and administrative offence cases or disciplinary proceedings may be used during the assessment of whether a judge (judicial candidate) meets the Indicators.

A judge (judicial candidate) shall have the right to provide explanations and information on the circumstances that, in his/her opinion, are relevant for assessing whether he/she meets the criteria of integrity and professional ethics.

9. The assessment of whether a judge (judicial candidate) meets the Indicators may be based on information with no time limitation, taking into account the elapsed time and the subsequent behaviour of the judge (judicial candidate).

10. Any opinion or assessment of a national or international body:

1) is not ex ante decisive and mandatory to be taken into account when assessing whether a judge (judicial candidate) meets the Indicators;

2) does not refute reasonable doubts about whether the judge (judicial candidate) meets the criteria of integrity and professional ethics.

Such opinions and assessments may be taken into account when assessing whether a judge (judicial candidate) meets the criteria of integrity and professional ethics.

Facts and circumstances that have been properly assessed in accordance with the procedure established pursuant to law by institutions involving representatives of international and foreign organisations that support public authorities to determine whether persons meet the criteria of professional ethics and integrity in competitive procedures and where a person has been found to meet or not meet the criteria of professional ethics and integrity shall not be subject to review during the assessment, unless new essential information is discovered.

11. A judge (judicial candidate) meets the Indicators if there is no non-compliance or reasonable doubt about whether he or she meets at least one indicator. A doubt may not be based solely on assumptions or a subjective opinion.

12. When assessing whether a judge (judicial candidate) complies with the Indicators, the following circumstances that indicate the materiality or immateriality of a violation of the legislative framework, rules of professional ethics or other ethical norms may be taken into account: severity of the violation, one-time, repeated or systematic occurrence of the violation; whether or not there is damage; severity of the consequences; form of guilt and motives; attitude of the judge (judicial candidate) to the violation; circumstances and conditions of the act; elapsed time since the violation, etc.

13. If an object of civil rights was acquired at a price that differs significantly from the market value, the market value for similar objects at the time of acquisition shall

be taken into account when assessing whether the expenses for its acquisition are proportionate with the legitimate income.

Acquisition of objects of civil rights at a price significantly different from the market value does not indicate that the judge (judicial candidate) does not meet the Indicators, provided that there are convincing explanations which eliminate reasonable doubts about the credibility, reasonableness, legitimacy of such a price, and there are no circumstances indicating concealment of real income or expenses, non-compliance with the law, tax evasion or other dishonest aims.

Section III

Compliance Indicators and Criteria

14. The assessment of the integrity and professional ethics of a judge (judicial candidate) means assessing whether the judge (judicial candidate) meets the following indicators:

- independence;
- impartiality;
- observance of ethical standards and impeccable behaviour in professional and personal life;
- honesty;
- diligence;
- incorruptibility;
- lawful origins of property, correspondence of the standard of living of the judge (judicial candidate) or his/her family members to the declared income, correspondence of the lifestyle of the judge (judicial candidate) to his/her status.

15. **Independence** means the ability of a judge (judicial candidate) to exercise his/her functions (duties) and make decisions independently, without any unlawful influence, incitement, pressure, threat or interference, direct or indirect, from anyone and for any reason, and to counteract unlawful interference.

A judge (judicial candidate) meets the indicator of independence if he or she, in particular, but not limited to:

- 1) demonstrates and maintains high standards of behaviour in order to strengthen public trust in the independence of the judiciary;
- 2) exercises his/her functions independently, so that it is obvious to an ordinary reasonable person;
- 3) exercises his/her functions pursuant to the legal framework, rules of professional ethics, and other ethical standards of independence;
- 4) administers justice independently, guided only by its own assessment of the facts and by a conscious understanding of the law;

5) upholds and supports guarantees of independence, not only by unequivocally rejecting all forms of unlawful influence, but also by responding in the manner prescribed by the Law of Ukraine “On the Judiciary and the Status of Judges” in case there is unlawful interference with his/her functions;

6) prevents any relationship inappropriate for the position or interference from any person so that it is obvious to an ordinary reasonable person.

16. Impartiality means the ability of a judge (judicial candidate) to make decisions regardless of sympathies/anti-sympathies, favour, public opinion and to avoid behaviour that may cause reasonable doubt about his/her impartiality.

A judge (judicial candidate) meets the indicator of impartiality if he or she, in particular, but not limited to:

1) has not taken part in decision-making in cases he/she was personally interested in;

2) has performed his/her professional duties without giving unreasonable favours, has not shown favour or dislike, or biased attitude;

3) has performed duties impartially and refrained from behaviour, any actions or statements that could cause an ordinary reasonable person to doubt his or her impartiality;

4) has not discriminated against, granted privileges to or tolerated limitations based on race, colour, political, religious or other beliefs, gender, disability, gender identity, ethnic or social origin, property status, place of residence, language or other grounds;

5) has taken measures, as provided for by law and the Code of Judicial Ethics, to resolve or prevent conflicts of interest and circumstances that may cast doubt on his or her impartiality.

17. Observance of Ethical Standards and Impeccable Behaviour in Professional and Personal Life means that a judge (judicial candidate) strictly adheres to the professional ethical and generally recognised moral rules of conduct in his/her professional and personal life.

A judge (judicial candidate) meets this indicator if he or she, in particular, but not limited to:

1) in his/her current or any previous status, has acted in accordance with the rules of professional ethics and other ethical norms, has not committed any actions that might have harmed or may harm the authority of justice or the respective authority, institution or organisation;

2) has adhered to ethical standards, avoiding behaviour that could cause an ordinary reasonable person to have a reasonable doubt, in particular, whether he/she is able to exercise his/her functions honestly, impartially, independently and competently;

3) has not used his/her official position for personal interests or in the interests of third parties;

4) while holding the positions in public service, did not obtain citizenship of another state and did not take actions to obtain it; did not conceal the fact of obtaining citizenship of another state; took measures to discontinue citizenship of another state;

5) has demonstrated civic self-awareness, patriotism, respect for Ukrainian statehood and the constitutional order, and has not committed actions indicating support (justification) of aggressive actions of other states against Ukraine;

6) has not temporarily visited a state/states that is/are involved in an armed conflict (war) with Ukraine or has/have contributed to the commission of armed aggression against Ukraine, or does/do not recognise the territorial integrity of Ukraine or the temporarily occupied territories of Ukraine and/or the territories of the aggressor state without an urgent need, i.e. if there were no critical and/or urgent life-impacting circumstances that could not have been resolved in any other way than through personal presence in these territories, despite the threat to his/her own safety, safety of his/her close relatives and national security of Ukraine.

18. **Honesty** means truthfulness, integrity, and sincerity of the judge (judicial candidate) in his/her professional and personal life.

A judge (judicial candidate) meets the indicator of honesty if he or she, in particular, but not limited to:

1) always, and not only during the exercise of their official duties, has behaved in accordance with his/her status, has shown dignity and integrity, has acted in accordance with the legislative framework, rules of professional ethics, academic integrity requirements, and other ethical rules for honesty;

2) has provided reliable information known to him/her in the declarations of integrity of a judge (declaration of integrity of a judicial candidate), in declarations of family ties of a judge (declaration of family ties of a judicial candidate), declarations of a person authorised to perform functions of the state or local self-government, of which he/she should be aware;

3) has provided truthful oral and/or written information when participating in the selection, competition, qualification assessment, disciplinary proceedings, and other legal procedures in which such judge (judicial candidate) has participated and/or is participating; has not concealed such information if there are grounds to believe that he/she was aware of it, except in cases where the law allows to refuse to provide information;

4) in achieving professional goals and accomplishments, adhered to ethical principles towards himself/herself or his/her family members;

5) while acquiring the right to objects of civil rights, acquiring other benefits, advantages, privileges or status, exercising functions, resolving disputes, has not

behaved in a way that, in the opinion of an ordinary reasonable person, may harm the authority of justice or weaken public trust in the court;

6) in personal and professional life, behaves in such a way that, in the opinion of an ordinary reasonable person, his/her behaviour is an example of strict adherence to the rule of law, the legislative framework and the judicial oath, as well as maintenance of high standards of conduct;

7) make efforts to ensure that members of his or her family act in accordance with the law and refrain from behaviour that, in the opinion of an ordinary reasonable person, may undermine the authority of justice or weaken public trust in the court.

19. Diligence means diligent, thorough and responsible performance of duties by a judge (judicial candidate).

A judge (judicial candidate) meets the indicator of diligence if he or she, in particular, but not limited to:

- 1) effectively organises the performance of his/her duties and is disciplined;
- 2) demonstrates a high level of professional motivation;
- 3) in professional activity, takes sufficient measures to ensure compliance with reasonable time frames for performing actions, completing tasks, considering cases, applications, motions, etc. and drawing up procedural documents;
- 4) refrains from any activity that makes it impossible to properly perform official duties and other functions;
- 5) maintains and improves his/her professional knowledge and skills through continuous training and professional development in order to perform his/her job duties and other functions in a competent manner;
- 6) has provided substantiation and proper reasons for the drawn-up documents based on the rule of law, relevant legislation and established facts;
- 7) in professional activity, has not acted arbitrarily when rendering decisions.

20. Incorruptibility means the ability of a judge (judicial candidate) to resist attempts to influence his/her decision-making by providing or offering to provide undue favours or other benefits to him/her or to his/her close persons.

A judge (judicial candidate) meets the indicator of incorruptibility if he or she, in particular, but not limited to:

- 1) has not committed any acts that are indicative of a corruption offence or a corruption-related offence;
- 2) has not entered into any out-of-proceedings relations with the parties to the proceedings or persons related to them that could influence or seem to influence the outcome of these proceedings;
- 3) has not used his/her status to obtain undue favours for himself/herself or others;
- 4) has not used his/her status in a manner not prescribed by law to obtain favours, advantages, services, or to acquire ownership or the right to use an object of civil rights

at a price that is significantly lower than the market value, if there are grounds to believe that such an object of civil rights was acquired as a result of his/her professional activity;

5) not only has not committed any misconduct, but has also, to a reasonable extent, counteracted any known misconduct by colleagues, contributed to shaping a general culture of intolerance to corruption and the inevitability of punishment for corruption and unlawful interference with justice.

21. Lawful Origin of Rights to Objects of Civil Rights

A judge (judicial candidate) meets this indicator if the origin of rights to objects of civil rights of the judge (judicial candidate) and his/her family members do not cause reasonable doubt as to their lawfulness.

The lawfulness of the origin of rights to objects of civil rights does not cause reasonable doubt if, in particular, but not limited to:

1) the actions of a judge (judicial candidate) aimed at acquiring rights to objects of civil rights do not contradict the requirements of legislation, rules of professional ethics and are bona fide;

2) the price of objects of civil rights acquired by a judge (judicial candidate) and/or his/her family members corresponds to the amount of their income received from lawful sources in the periods preceding the acquisition of the respective object of civil rights;

3) the right of ownership/use of an object of civil rights acquired by a judge (judicial candidate) and his/her family members for free or from a person related to the judge (judicial candidate) and his/her family members was acquired by the preceding owner/owner from lawful sources at market value;

4) the right to the object of civil rights is formalised without any indications of concealment of the judge (a judicial candidate) as an owner or a user;

5) the right to an object of civil rights under a chargeable contract was acquired by a judge (judicial candidate) or his/her family members at a price not significantly different from the market value;

6) the grounds and procedure whereby a judge (judicial candidate) and his/her family members acquired the right to an object of civil rights do not obviously indicate non-compliance with the legislative framework about which the judge (judicial candidate) and his/her family members could not have been unaware;

7) when acquiring or alienating rights to an object of civil rights, a judge (judicial candidate) and his/her family members comply with the requirements of anti-corruption legislation, legislation on valuation and valuation-related activities, legislation on preventing and counteracting money laundering, financing terrorism and financing the proliferation of weapons of mass destruction, tax legislation, regulations of the National Bank of Ukraine, and other regulatory frameworks.

22. Correspondence of the Standard of Living to the Declared Income

The standard of living of a judge (judicial candidate) corresponds to the declared income if his/her property status does not cause an ordinary reasonable person to have a reasonable doubt as to whether it can be lawfully formed from the declared income received from legitimate sources, if, in particular, but not limited to:

1) the declaration of the person authorised to perform the functions of the state or local self-government lists all the property of the judge (judicial candidate) that must be included in the declaration pursuant to the Law of Ukraine “On Preventing Corruption” and the declared value of such property corresponds to the acquisition cost or the latest monetary valuation;

2) a judge (judicial candidate) and/or his/her family members alienated objects of civil rights under a chargeable contract at a price not significantly different from the market value;

3) a judge (judicial candidate) made expenditures that correspond to his/her standard of living and declared income.

23. Correspondence of the Lifestyle to the Status of a Judge (Judicial Candidate)

The lifestyle of a judge (judicial candidate) corresponds to the status of the position held if his/her behaviour, in the opinion of an ordinary reasonable person, does not cause doubts about whether his/her standard of living corresponds to the lawful income, is worthy, upholds the authority of the status and meets the requirements that must be observed given the status of a judge (judicial candidate).

A judge (judicial candidate) meets this indicator if, in particular, but not limited to:

1) a judge (judicial candidate) has not ostentatiously displayed his/her wealth or luxury goods, which, in the opinion of an ordinary reasonable person, is excessive or may be regarded as not corresponding to the standard of living of a judge (judicial candidate);

2) a judge (judicial candidate) has not used his/her status ostentatiously and/or inappropriately to the situation, which may undermine the authority of justice;

3) a judge (judicial candidate) has not behaved in public in an unreasonable, unethical manner that, in the opinion of an ordinary reasonable person, may be perceived as not corresponding to his or her status.