

# **Comments on the First Results of the Judicial Reform in Ukraine**

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# BRIEF INTRODUCTION TO THE PROCEDURE OF SELECTION OF JUDGES TO THE NEW SUPREME COURT

## □ MAIN ACTIVITIES:

- amendment of the legislative framework (the Constitution, the Law on the Judiciary and the Status of Judges and a large number of rules of procedure and methodologies)
- launch of a process of selection and appointment of the best candidates, eligible for judicial positions in Ukraine

## □ DETAILS ON THE COMPETITION:

- launched on the 7<sup>th</sup> of November 2016;
- for the position of 120 judges;
- based on a new, extraordinary procedure which is applied for the first time;
- detailed and comprehensive rules, known well in advance

# AIMS of the procedure

- ❑ To undertake an in-depth judicial reform;
- ❑ To introduce a new more efficient way of selection and appointments of judges;
- ❑ To select the best candidates for the position of judges to the Supreme court;
- ❑ To secure the integrity, transparency and efficiency of the judicial system.

# Details of the competition

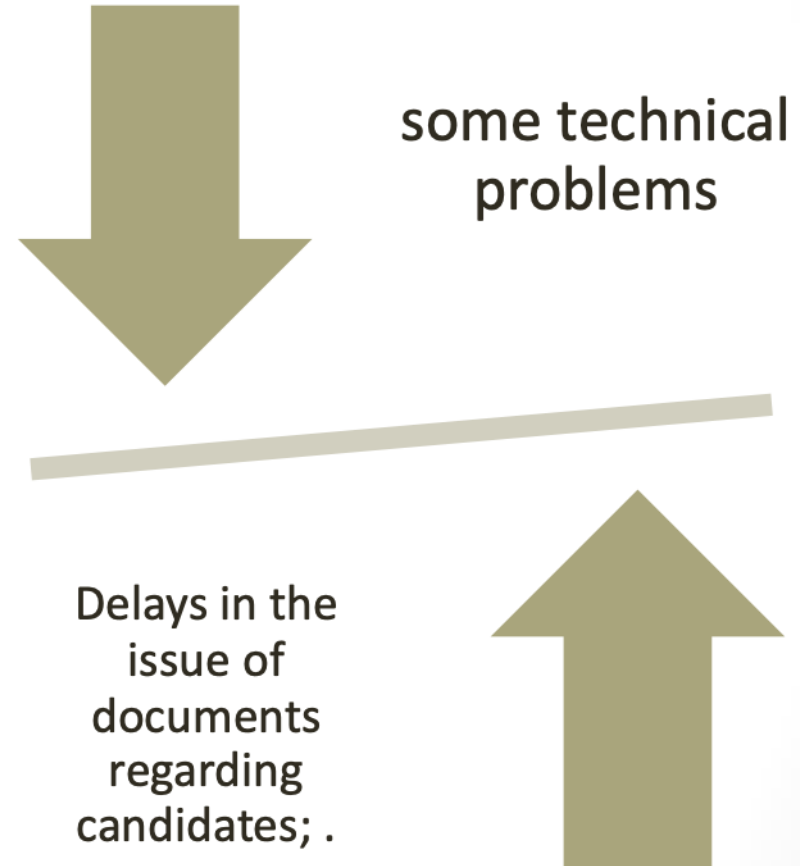
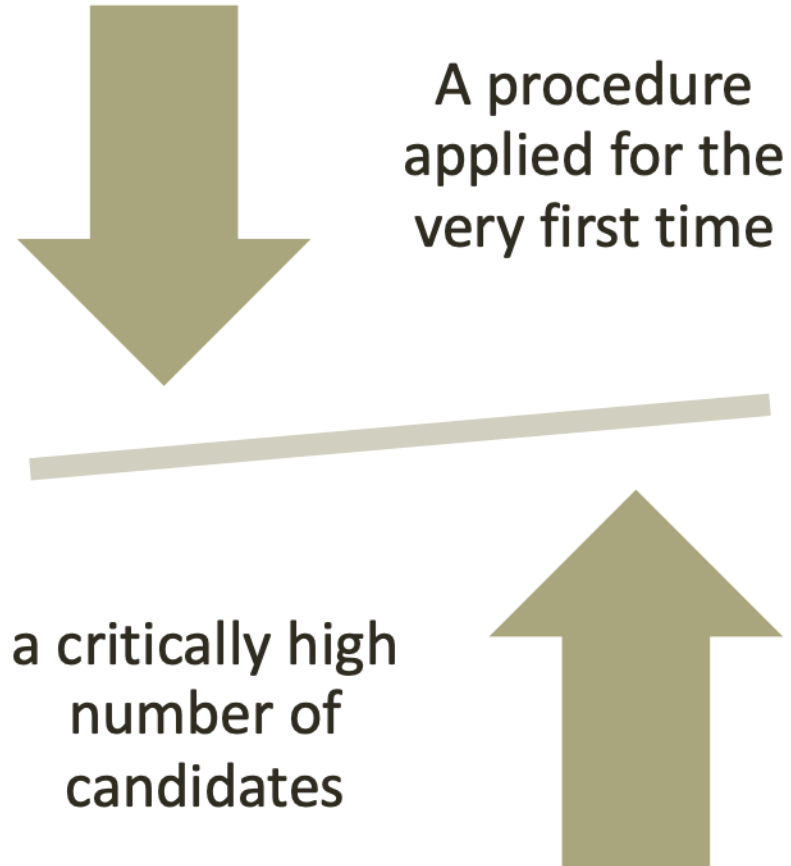
## □ The procedure involves three main levels:

- The initial level the procedure for the competition is held before the HQCJU with the involvement of the PIC.
  - a professional exam,
  - testing of personal moral and psychological qualities and general skills;
  - A candidates' interviews with professional psychologists;
  - review of the candidates' dossiers and interviews with the candidates with the participation of the PIC.
  - HQCJU takes decision on the final scores of the candidates
- The next level of the procedure is undertaken by the HCJ:
  - HCJ considers the recommendations for the successful candidates
  - makes the final proposal to the President for their appointment.
- Final part of the procedure:
  - The President issues a decree to appoint the competition winners to the positions of judges in the SC.

# GENERAL CONCLUSIONS OF THE LEGISLATIVE FRAMEWORK

- In-depth and large-scale reform of the judiciary In Ukraine.
- Entirely new procedure which is extremely different from the previous one.
- The legislative framework is a very good basis for the conduct of a comprehensive, inclusive and clear procedure, marked by an extremely high level of publicity.
- The legislative framework can be assessed as an impressive development and its strict application should be encouraged in the future procedures as well.
- The legal regulation provides a procedure which is marked by competitiveness, transparency, objectivity and predictability.
- The conduct of the procedure is based on a methodology announced well in advance and available to the candidates and society at large. The objective and subjective criteria for assessment are in relatively good balance.
- The use of contemporary methods should be encouraged.
- All these are positive trends and should be encouraged and assessed in a positive way.
- Although there is room for improvement, the procedures meet to a great extent the standards of the CoE in this field.

# Some constraints due to:



# RECOMMENDATIONS WITH A VIEW TO THE IMPROVEMENT OF THE PROCEDURE

- ❑ Complicated multi-level process of selection and appointment of judges which involves more than one body, each responsible for a different segment of the procedure
- Some simplification of the procedure could be considered as one of further steps in the future which could make the process much faster and simpler;
- Introduction of an automated system compiling and maintaining judicial dossiers may be considered to significantly speed up the procedures and facilitate the work of the HQCJU.
- Strict principles of verification of the information used for the evaluation should be applied at all times by all bodies involved in the competition procedure (HCJ, HQCJU, PIC).

# Recommendations to PIC for compliance with CoE standards

- The role of the PIC in the procedures for the selection and appointment of judicial candidates, as well as for the evaluation of judges, should remain purely advisory
- PIC can give opinion only on the professional ethics and the integrity of a judge and not on the credibility of his/her decisions.
- Elaborate and publish in advance a methodology for the evaluation of judges and judicial candidates.
- Resolve internal issues of conflict of interest (serving lawyers evaluating judges).
- Enhance the procedure for the verification of information.



# Conclusive remarks:

- The procedure for the selection of the judicial candidates for the new SC is to a great extent in compliance with the standards of the CoE.
- The overall change is very positive.
- Some minor recommendations which can improve the implementation still remain
- Although some discrepancies between the law and the practice of its application were registered, the legislative framework should be assessed in a very positive way.
- The procedure took a lot of effort and finally can be evaluated as a successful exercise conducted in an atmosphere of extremely high publicity.
- The length of the procedure is due to the extremely high number of candidates and to the fact that it is its first application. Could improve with the decrease of candidates.