

Staffing Challenges within the High Council of Justice

In this material, we examine the current challenges related to the selection of members of the High Council of Justice (HCJ), shortcomings in the design of competitive procedures and other risks that may result in a renewed blockage of the HCJ.

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The High Council of Justice is an independent constitutional body of state authority and judicial governance that operates to ensure the independence of the judiciary, its functioning on the principles of responsibility and accountability to society and the formation of an ethical and highly professional corps of judges.

The key powers of the HCJ include:

1. submitting proposals to the President of Ukraine on the appointment of judges to office;
2. ensuring the conduct of disciplinary proceedings against judges;
3. granting consent to the detention of a judge or to holding a judge in custody or under arrest;

4. adopting decisions on the dismissal of judges from office, the temporary suspension of judges from the administration of justice, the transfer of judges from one court to another, as well as exercising other powers.¹

The HCJ consists of 21 members. Of these:

- › 10 are elected by the Congress of Judges of Ukraine (from among judges or retired judges);
- › 2 are appointed by the President of Ukraine;
- › 2 members each are elected by the Verkhovna Rada of Ukraine, the Congress of Advocates of Ukraine, the All-Ukrainian Conference of Prosecutors and the Congress of Representatives of Higher Legal Educational Institutions and Scientific Establishments. In addition, the President of the Supreme Court is a member of the HCJ ex officio.

Members of the HCJ are elected (appointed) for a four-year term. The same person may not hold the position of an HCJ member for two consecutive terms.

The HCJ is quorate provided that at least 15 members have been elected (appointed), the majority of whom are judges (including retired judges), and that they have taken the oath.

The Current Context

As of the end of November 2025, the [HCJ consists of 17 members](#), with four positions remaining vacant: two under the quota of the Congress of Judges of Ukraine and two under the quota of the Congress of Advocates of Ukraine.

Although the [Law of Ukraine 'On the High Council of Justice'](#) (the Law) requires that the Congress of Judges of Ukraine, the Congress of Advocates of Ukraine, the All-Ukrainian Conference of Prosecutors and the Congress of Representatives of Higher Legal Educational Institutions and Scientific Establishments convene for the purpose of electing HCJ members no later than two months before the expiry of the term of office of the respective HCJ member, in practice not all appointing (electing) entities comply with this requirement.

In 2025, for more than half a year starting in March, the HCJ operated at the quorum threshold — with a composition of 15 members — due to the expiry of the terms of office of two members appointed under the quota of the Congress of Judges of Ukraine and the failure to fill vacancies

¹ [Constitution of Ukraine, Article 131; On the High Council of Justice: Law of Ukraine dated 21 December 2016 No. 1798-VIII, Article 3.](#)

under the quotas of the Congress of Judges of Ukraine, the Congress of Advocates of Ukraine and the President of Ukraine.²

In October 2025, the President appointed two HCJ members under his quota, following a selection process that had been ongoing since November 2024. Prior to this, these positions had remained vacant for more than three years.

Representation of the Bar within the HCJ has been absent for almost four years. The last Congress of Advocates of Ukraine³ took place in February 2019, at which two HCJ members were elected; they resigned from office early at their own request in January 2022.

In September 2022, the Bar Council of Ukraine adopted a decision to convene the Congress of Advocates of Ukraine and approved its agenda, which included, inter alia, the appointment of members of the HCJ.⁴ However, [according to the National Bar Association of Ukraine](#), the congress is planned to be held after the termination of martial law.

Problematic Aspects of Competitive Procedures

The selection of candidates for the HCJ is conducted in accordance with the requirements of the Law through a competitive procedure based on the criteria of professional competence, ethics and integrity.

In order to be elected as an HCJ member by the Congress of Judges of Ukraine, the Congress of Advocates of Ukraine, the Congress of Representatives of Higher Legal Educational Institutions and Scientific Establishments, or the All-Ukrainian Conference of Prosecutors, a candidate must submit the required documents to the HCJ no later than **30 days** before the date of the relevant congress or conference.

After the document submission period has ended, the HCJ Secretariat forwards copies of the submitted documents to the Ethics Council.⁵ Having reviewed the documents and conducted interviews, the Ethics Council submits to the body convening the respective congress or conference its opinion on each candidate's compliance with the criteria of professional ethics

² [Shadow report](#) to Chapter 23 'Justice and Fundamental Rights' and Chapter 24 'Justice, Freedom and Security' of the European Commission's Report on Ukraine's progress within the European Union Enlargement Package in 2024, p. 26.

³ The highest body of bar governance in Ukraine, convened by the Bar Council of Ukraine at least once every three years.

⁴ [The Bar Council of Ukraine has decided to convene the Sixth Congress of Lawyers of Ukraine](#). National Bar Association of Ukraine. 2022.

⁵ The Ethics Council is established to assist the bodies that elect (appoint) members of the High Council of Justice in determining whether candidates for membership of the High Council of Justice meet the criteria of professional ethics and integrity.

and integrity, as well as a list of candidates recommended for election to the position of HCJ member. This list must include a number of candidates that is **at least twice the number of vacant HCJ member positions**.

At the same time, if the number of recommended candidates is lower than required by the Law, a new competition is announced.⁶

Thus, the Law requires the Ethics Council, following the selection process, to compile a **general list of candidates** recommended for election to the position of HCJ member, **the number of whom must be at least twice the number of vacant positions**.

By way of comparison, a different approach is applied by the legislator when selecting candidates for vacancies in another key body of judicial governance — the High Qualification Commission of Judges of Ukraine (HQCJ) — as well as for the Constitutional Court of Ukraine (CCU).

Specifically, the Law of Ukraine ‘On the Judiciary and the Status of Judges’ provides that the competition commission conducts the selection of candidates for the position of HQCJ member who meet the criteria of integrity and professional competence, at a ratio of no fewer than two candidates per vacant position.⁷

Under the Law of Ukraine ‘On the Constitutional Court of Ukraine’, if, following the assessment by the Advisory Group of Experts,⁸ the number of candidates who meet the criteria of high moral character and a recognised level of competence in the field of law is fewer than two persons per vacant position of a CCU judge, a new competitive selection is announced.⁹

Thus, the selection of candidates for vacant positions in the HQCJ and the CCU is carried out on the basis of at least two candidates for each individual vacant position, without reference to the total number of such positions, unlike the model used for forming the list of candidates for the HCJ.

⁶ About the High Council of Justice: Law of Ukraine dated 21 December 2016 No. 1798-VIII, Part 8 of Article 9.

⁷ [On the judicial system and status of judges](#): Law of Ukraine dated 02.06.2016 No. 1402-VIII, Part 5 of Article 95.

⁸ The advisory group of experts is formed with the aim of assisting the entities responsible for appointing judges to the Constitutional Court in assessing the moral qualities and level of competence in the field of law of candidates for the position of judge of the Constitutional Court.

⁹ [On the Constitutional Court of Ukraine](#): Law of Ukraine No. 2136-VIII dated 13 July 2017, Article 10–8.

The requirement of the Law to form a consolidated list of candidates recommended by the Ethics Council for election to the position of an HCJ member, in a number at least twice the number of vacant positions, in practice leads to difficulties in its implementation.

In this context, the situation surrounding the selection of candidates for two HCJ member positions under the quota of the Congress of Judges of Ukraine, interviews for which were conducted in February 2025, is illustrative.

On 6 March, the [Ethics Council announced](#) that it had completed the selection process and approved the list of candidates recommended for appointment. [As a result of the evaluation](#), two candidates were found to meet the criteria of professional ethics and integrity, while five were found not to meet these criteria.

However, since the number of recommended candidates proved to be lower than required by the Law, it became necessary to announce a new competition.

Thus, under the current wording of Part 8 of Article 9 of the Law, the electing (appointing) body — the Congress of Judges of Ukraine — on the basis of the above-mentioned decision of the Ethics Council, is unable to fill even a single vacant HCJ member position.

It should be noted that over the past 11 years, the HCJ has ceased its activities twice. In the coming years, there is a risk of a repeated suspension, as nearly a quarter of the members required to form its full composition are currently missing.

In addition, the terms of office of three HCJ members — appointed under the quotas of the Congress of Representatives of Higher Legal Educational Institutions and Scientific Establishments and the Verkhovna Rada of Ukraine — will expire in August 2026. In January 2027, eight HCJ member positions under the quota of the Congress of Judges of Ukraine will become vacant simultaneously.

Another problem in the selection of HCJ members is the extremely short timeframe established by law within which the Ethics Council must carry out the selection of candidates. This process includes the review of submitted documents, the results of special background checks and information from open sources, interviews with shortlisted candidates, and the preparation of a list of candidates to be recommended to the appointing (electing) bodies of

HCJ members. In practice, the Ethics Council often fails to complete candidate assessments within such a compressed timeframe.¹⁰

Thus, shortcomings in the legislative regulation of procedures for selecting HCJ members, the failure (or delayed failure) by certain appointing (electing) bodies to fill vacant positions, as well as the expected release of a significant number of positions in 2026–2027, collectively create risks of a renewed blockage of the HCJ's activities.

Recommendations

Amend the Law of Ukraine 'On the High Council of Justice' to provide for the following:

1. In the second paragraph of Part 8 of Article 9 — by analogy with the procedures for selecting candidates for vacant positions in the HJC and the CCU — establish that the list of candidates recommended by the Ethics Council for election to the position of HCJ member is to be formed on the basis of at least two candidates per one vacant position.
2. Extend the time limits granted to the Ethics Council for conducting the selection of candidates for the position of HCJ member, to ensure high-quality and timely assessment and to avoid delays in the overall procedure for the election (appointment) of HCJ members.

¹⁰ [Shadow report](#) to Chapter 23 'Justice and Fundamental Rights' and Chapter 24 'Justice, Freedom and Security' of the European Commission's Report on Ukraine's progress within the European Union Enlargement Package in 2024, p. 26.