

OPINION ON THE REGULATION ON THE REGULAR EVALUATION OF JUDGES

UKRAINE

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Based on an unofficial English translation of the Regulation provided by the OSCE Support Programme for Ukraine.



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EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

The Regulation under review is a subordinate legislation and has been developed pursuant to the Law of Ukraine “On the Judiciary and Status of Judges” (i.e., the primary legislation) to outline the process and methods for the evaluation and self-evaluation of judges (hereinafter referred to as “regular evaluation”) as routine procedures in judicial career management.

Overall, the Regulation constitutes a comprehensive and well-structured framework, which reflects a number of important international recommendations and good practices. In particular, it is positive that the overall purpose is oriented toward professional development and career growth. If implemented effectively, the evaluation mechanism may contribute to strengthening professionalism within the judiciary, the quality of judicial decisions, and ultimately enhancing transparency and public confidence in the administration of justice.

At the same time, the Opinion offers a number of recommendations intended to further refine the framework and support its consistent and objective application in practice. In particular, it would be advisable for the Regulation to provide greater clarity regarding the methodology used in the evaluation process, including how compliance with ethical standards and professional principles will be assessed and on the basis of which documents, materials or elements the evaluators will carry out their assessment. Clarifying these aspects would contribute to ensuring that the evaluation process is transparent, predictable and uniformly applied.

In addition, the evaluation questionnaires would benefit from further elaboration to clarify certain indicators which are formulated in broad and general terms, while considering supplementing with new indicators which are essential to comprehensively evaluate the competence of judges. While the inclusion of the indicator of “gender competence” is generally positive, it remains unclear what elements this indicator encompasses. In order to ensure clarity and objectivity, it would be advisable to further specify the content of this indicator, for example through sub-indicators reflecting the ability to apply national legislation in a gender- and diversity-sensitive manner, ensure equal treatment of all individuals in the courtroom, prevent discriminatory or abusive conduct, where relevant, avoid secondary victimization of victims of crime, etc. These sub-indicators should be included in the different evaluation questionnaires.

Furthermore, the framework would benefit from more explicit attention to several areas of professional competence that are increasingly recognized at the international or regional level. In particular, the Regulation and its appendices do not refer to the evaluation of judges’ knowledge of relevant developments in international law, including international human rights instruments and evolving jurisprudence of regional and international courts. Similarly, consideration could be given to including an indicator relating to the safe, responsible and ethical use of digital technologies in judicial work, where appropriate and relevant.

The Regulation should also clarify that, as a rule, the evaluation shall not concern substance of judicial decision-making, including the legal merits of the decisions, although this should not preclude the possibility for evaluators to examine the clarity of judgments and whether they follow established structure, on the basis of selected samples. In addition, evaluation may allow to identify instances of manifest and clearly established legal error. If such an approach is envisaged, the

methodology for assessing such a quality of judicial decisions should be clearly defined.

Finally, several additional safeguards and methodological improvements could further strengthen the evaluation process. These include the incorporation of clear procedural guarantees across all evaluation methods, such as the right of judges to access the results of their evaluation and to submit observations or objections. The framework would also benefit from explicit provisions ensuring the confidentiality of the process and evaluation results, while ensuring that the processing of evaluation data strictly complies with international personal data protection standards.

More specifically, and in addition to what is stated above, ODIHR makes the following recommendations to further enhance the provisions of the Law and ensure compliance with international human rights standards and OSCE commitments:

A. Regarding objective and scope of the regular evaluation of judges:

1. to more expressly clarify whether, and under what conditions and safeguards, the results of regular evaluation may be used for the purpose of judicial career development, including promotion, ensuring that all applicable international standards on performance evaluation and judicial independence are fully respected; [para 19]
2. to clarify whether and how the adjudicative work of judges holding governance or managerial positions is subject to evaluation in case they continue to exercise judicial functions; [para 25]
3. to ensure that questionnaires and indicators applicable to the regular evaluation of judges exercising managerial functions or judges of highest courts adequately reflect the specific responsibilities attached to such positions; [para 26]

B. Regarding evaluation criteria:

1. to consider including, at least in the self-evaluation questionnaire, an indicator regarding the competence and abilities to ensure the safe and ethical use of digital technologies for judicial work, as appropriate and relevant; [para 63]
2. to explicitly provide in the Regulation that judges are never evaluated on the substance of their judicial decision-making, including the legal merits of individual decisions or verdicts, whether directly or indirectly (such as through reversal rates), with possible exception of identifying instances of manifest and clearly established legal error; [para 64]

C. To clarify whether all regular evaluations - lecturer-led, peer, self-assessments, and assessments by public associations - should follow a three-year cycle, reflecting the differing implications of formal and informal evaluations, allowing a comprehensive review of judicial performance without creating the impression of constant supervision, and, where possible, scheduled close together to support coherent assessment and follow-up training; [para 68]

D. Regarding procedural safeguards and personal data protection:

1. to clearly embed in the Regulation and consistently apply procedural guarantees - particularly the right to access results and submit objections - across all evaluation methods to ensure transparency, procedural fairness and judges' confidence in the process; [para 74]

2. to explicitly guarantee the confidentiality, limited use, and security of all evaluation data, including self-evaluations and peer reviews, ensuring full compliance with international personal data protection standards, while clarifying that the evaluation results shall not be published; [para 78]
- E. To emphasize in the Regulation a clear distinction between judicial performance evaluation and disciplinary accountability, while ensuring that any serious errors or misconduct identified during evaluations are transmitted through clearly defined channels to the competent disciplinary body, preserving functional separation and procedural clarity; [para 82]
- F. To clarify the role of the High Qualification Commission of Judges in the evaluation framework, ensuring that peer and self-evaluation results are appropriately transmitted and considered, so that judicial assessment and promotion processes are coherent, accountable, and aligned with international standards on independence and institutional responsibility. [para 84]

These and additional Recommendations, are included throughout the text of this Opinion, highlighted in bold.

As part of its mandate to assist OSCE participating States in implementing their OSCE human dimension commitments, ODIHR reviews, upon request, draft and existing laws to assess their compliance with international human rights standards and OSCE commitments and provides concrete recommendations for improvement.

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I. INTRODUCTION

1. On 12 November 2025, the Rector of the National School of Judges of Ukraine (hereinafter “NSJ”) sent to the OSCE Office for Democratic Institutions and Human Rights (hereinafter “ODIHR”) a request for a legal review of the Regulation on the Regular Evaluation of Judges, as approved by the High Qualification Commission of Judges of Ukraine on 29 September 2025 (hereinafter “Regulation”).
2. On 9 December 2025, ODIHR responded to this request, confirming the Office’s readiness to prepare a legal opinion on the compliance of the Regulation with international standards and OSCE human dimension commitments.
3. This Opinion was prepared in response to the above request. ODIHR conducted this assessment within its mandate to assist the OSCE participating States in the implementation of their OSCE human dimension commitments.¹

II. SCOPE OF THE OPINION

4. The scope of this Opinion covers only the Regulation submitted for review. Thus limited, the Opinion does not constitute a full and comprehensive review of the entire legal and institutional framework regulating the judiciary and the evaluation of judges in Ukraine.
5. The Opinion raises key issues and provides indications of areas of concern. In the interest of conciseness, it focuses more on those provisions that require amendments or improvements than on the positive aspects of the Regulation. The ensuing legal analysis is based on international and regional human rights and rule of law standards, norms and recommendations as well as relevant OSCE human dimension commitments. The Opinion also highlights, as appropriate, good practices from other OSCE participating States in this field. When referring to national examples, ODIHR does not advocate for any specific country model; it rather focuses on providing clear information about applicable international standards while illustrating how they are implemented in practice in certain national laws. Any country example should always be approached with caution since it cannot necessarily be replicated in another country and has always to be considered in light of the broader national institutional and legal framework, as well as country context and political culture.
6. Moreover, in accordance with the *Convention on the Elimination of All Forms of Discrimination against Women*² (hereinafter “CEDAW”) and the *2004 OSCE Action Plan for the Promotion of Gender Equality*³ and commitments to mainstream gender into OSCE activities, programmes and projects, the Opinion integrates, as appropriate, a gender and diversity perspective.

1 See especially OSCE Decision No. 7/08 Further Strengthening the Rule of Law in the OSCE Area (2008), point 4, where the Ministerial Council “[e]ncourages participating States, with the assistance, where appropriate, of relevant OSCE executive structures in accordance with their mandates and within existing resources, to continue and to enhance their efforts to share information and best practices and to strengthen the rule of law [on the issue of] independence of the judiciary, effective administration of justice, right to a fair trial, access to court, accountability of state institutions and officials, respect for the rule of law in public administration, the right to legal assistance and respect for the human rights of persons in detention [...]”.

2 See UN Convention on the Elimination of All Forms of Discrimination against Women (hereinafter “CEDAW”), adopted by General Assembly resolution 34/180 on 18 December 1979. Ukraine deposited its instrument of ratification of this Convention on 12 March 1981.

3 See OSCE Action Plan for the Promotion of Gender Equality, adopted by Decision No. 14/04, MC.DEC/14/04 (2004), para. 32.

7. This Opinion is based on the English version the Regulation, as provided by the OSCE Support Programme for Ukraine. Errors may result from translation. Should the Opinion be translated in another language, the English version shall prevail.
8. In view of the above, ODIHR would like to stress that this Opinion does not prevent ODIHR from formulating additional written or oral recommendations or comments on respective subject matters in Ukraine in the future.

III. LEGAL ANALYSIS AND RECOMMENDATIONS

1. RELEVANT INTERNATIONAL HUMAN RIGHTS STANDARDS AND OSCE HUMAN DIMENSION COMMITMENTS

9. The independence of the judiciary is a fundamental principle and an essential element of any democratic state based on the rule of law.⁴ The principle is also crucial to upholding other international human rights standards.⁵ This independence means that both the judiciary as an institution, but also individual judges must be able to exercise their professional responsibilities without being influenced by the executive or legislative branches or other external actors. The rule of law in a democracy requires not only judicial independence but also the establishment of competent courts rendering judicial decisions of the highest possible quality.⁶ From this perspective, the individual evaluation of judges' work and abilities is an essential mechanism to contribute to improving the quality of justice, although it should be devised carefully in order not to infringe judicial independence.⁷ The independence of the judiciary and quality of justice are also essential to engendering public trust and credibility in the justice system in general, so that everyone is seen as equal before the law and treated equally, and that no one is above the law. Public confidence in the courts as independent from political influence is vital in a society that respects the rule of law. Judicial independence is a pre-requisite for safeguarding the rule of law and the fundamental guarantee of a fair trial.⁸
10. At the international level, the right of every individual to a fair and public hearing by a *competent*, independent and impartial tribunal established by law is guaranteed by Article 14 of the International Covenant on Civil and Political Rights (hereinafter "the ICCPR").⁹ In its *General Comment No. 32 on Article 14 of the ICCPR*, the UN Human Rights Committee has emphasized that States should guarantee the *actual* independence of the judiciary from political interference, and adopt clear procedures and objective criteria for the appointment, remuneration, promotion, suspension and dismissal, as well as

4 See UN Human Rights Council, Resolution on the Independence and Impartiality of the Judiciary, Jurors and Assessors, and the Independence of Lawyers, [A/HRC/29/L.11](#), 30 June 2015, which stresses "*the importance of ensuring accountability, transparency and integrity in the judiciary as an essential element of judicial independence and a concept inherent to the rule of law, when it is implemented in line with the Basic Principles on the Independence of the Judiciary and other relevant human rights norms, principles and standards*". As stated in the OSCE Copenhagen Document 1990, "*the rule of law does not mean merely a formal legality which assures regularity and consistency in the achievement and enforcement of democratic order, but justice based on the recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression*" (para. 2).

5 See e.g., OSCE Ministerial Council Decision No. 12/05 on Upholding Human Rights and the Rule of Law in Criminal Justice Systems, 6 December 2005.

6 See e.g., Council of Europe, Consultative Council of European Judges (CCJE), *Opinion no. 17 (2014) on the Evaluation of Judges' Work, the Quality of Justice and Respect for Judicial Independence*, 24 October 2014.

7 See the CCJE Opinion No. 1(2001) [on the independence of the judiciary and irremovability of judges](#), especially para. 45, the CCJE Opinion No. 6(2004) [on fair trial within a reasonable time](#) para 34.

8 See the CCJE Opinion No. 1(2001) [on the independence of the judiciary and irremovability of judges](#) para. 10; Recommendation CM/Rec(2010)12, paras 3 and 11; the CCJE [Magna Carta of Judges](#) (2010), para. 2.

9 UN International Covenant on Civil and Political Rights (hereinafter "ICCPR"), adopted by the UN General Assembly by resolution 2200A (XXI) of 16 December 1966. Ukraine ratified the ICCPR on 12 November 1973.

disciplinary measures.¹⁰ Principle 10 of the UN Basic Principles on the Independence of the Judiciary (1985)¹¹ underlines that “Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law.” International understanding of the practical requirements of judicial independence continues to be shaped by the work of international bodies, including the UN Human Rights Committee¹² and the UN Special Rapporteur on the Independence of Judges and Lawyers. It is also worth referring to Article 11 of the [United Nations Convention against Corruption](#) (UNCAC) whereby State Parties agree to “take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary”.¹³

11. As a member of the Council of Europe (hereinafter “CoE”), Ukraine is bound by the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter “the ECHR”), particularly its Article 6, which provides that everyone is entitled to a fair and public hearing “by an independent and impartial tribunal established by law”, as interpreted by the European Court of Human Rights (hereinafter “ECtHR”). The CoE *Recommendation CM/Rec(2010)12 of the Committee of Ministers to Member States on Judges: Independence, Efficiency and Responsibilities* elaborates several recommendations to enhance the quality of justice, including in relation to the training and assessment of individual judges.¹⁴ The CoE Consultative Council of European Judges (hereinafter “CCJE”) has in various opinions and recommendations laid emphasis on maintaining and improving the quality and efficiency of judicial systems in the interest of all individuals.¹⁵ Especially, its [Opinion No. 17 \(2014\) on the evaluation of judges’ work the quality of justice and respect for judicial independence](#) (hereinafter “CCJE Opinion No. 17”) lays out clear and detailed principles and guidance regarding the individual evaluation of judges while ensuring that evaluation mechanisms do not undermine, either directly or indirectly, judicial independence.¹⁶ In addition, the CoE Group of States against Corruption (GRECO)’s Fourth Evaluation Round specifically addresses the periodic performance evaluation of judges, recommending that it is carried out by judges on the basis of pre-established, uniform, and objective criteria in relation to their daily work.¹⁷
12. Given the EU candidate status of Ukraine and the opening of ‘Cluster 1: Fundamentals’ of the EU accession negotiations, which focuses *inter alia* on the functioning of democratic institutions, rule of law and public administration reform, the need to ensure the judicial independence and impartiality and the quality of justice at all levels is paramount.¹⁸ The latest European Commission’s Report notes specifically that “[p]eriodic performance evaluations of judges and prosecutors still need to be introduced, based on objective rules and assessment criteria in line with GRECO recommendations and European standards”. Further, Article 47 of the EU Charter of

10 UN Human Rights Committee, General Comment No. 32 on Article 14 of the ICCPR: Right to Equality before Courts and Tribunals and to Fair Trial, 23 August 2007, para. 19.

11 [UN Basic Principles on the Independence of the Judiciary](#), endorsed by UN General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, which are supported by the requirements of appointment (Principle 10), continuing education (Principle 13) and judicial conduct (Principle 19) suggesting that competence is prerequisite to judicial appointments.

12 UN Human Rights Committee (UN HRC), [General Comment No. 32 on Article 14 of the ICCPR: Right to Equality before Courts and Tribunals and to Fair Trial](#), 23 August 2007, para. 19.

13 UN Convention against Corruption (UNCAC), adopted by the UN General Assembly on 31 October 2003. The UNCAC was ratified by Ukraine on 2 December 2009.

14 Council of Europe (CoE), *Recommendation CM/Rec(2010)12 of the Committee of Ministers to Member States on Judges: Independence, Efficiency and Responsibilities*, adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers’ Deputies, paras. 42, 56-58.

15 See the CCJE Opinions No.1(2001) [on the independence of the judiciary and irremovability of judges](#), No. 3(2002) [on ethics and responsibility of judges](#), No. 4(2003) [on the training of judges](#), No. 6(2004) and No. 11(2008) [on the quality of judicial decisions](#).

16 CCJE, Opinion No. 17(2014) [on the evaluation of judges’ work, the quality of justice and respect for judicial independence](#).

17 See CoE, Group of States against Corruption (GRECO), [Fourth Evaluation Round on corruption prevention in respect of members of parliament, judges and prosecutors - Addendum to the Second Compliance Report - Ukraine](#), GrecoRC4(2024)15, 20 February 2025, Recommendation xvii.

18 See European Commission, [Commission Staff Working Document – Ukraine 2025 Report](#), SWD(2025) 759 final, 4 November 2025, pp. 33-34.

Fundamental Rights guarantees the right to an effective remedy and to a fair trial by an independent and impartial tribunal established by law.¹⁹

13. As an OSCE participating State, Ukraine also committed to ensure “the independence of judges and the impartial operation of the public judicial service” as one of the elements of justice “which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings”.²⁰ In the [1991 Moscow Document](#),²¹ participating States further committed to “respect the international standards that relate to the independence of judges [...] and the impartial operation of the public judicial service” (para. 19.1) and to “ensure that the independence of the judiciary is guaranteed and enshrined in the constitution or the law of the country and is respected in practice” (para. 19.2). Moreover, in its [Decision No. 7/08 on Further Strengthening the Rule of Law in the OSCE Area](#) (2008), the Ministerial Council called upon OSCE participating States “to honour their obligations under international law and to observe their OSCE commitments regarding the rule of law at both international and national levels, including in all aspects of their legislation, administration and judiciary”, as a key element of strengthening the rule of law in the OSCE area.²² More detailed guidance is also provided by the *ODIHR Warsaw Recommendations on Judicial Independence and Accountability*²³ and the *ODIHR Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia*,²⁴ which both specifically address the evaluation of judges.
14. A number of other useful reference documents elaborated in various international and regional fora contain practical guidance and recommendations regarding the performance evaluation of individual judges that are relevant to the present Opinion, including, among others:
 - the Global Judicial Integrity Network’s [Bangalore Principles of Judicial Conduct](#) (2006) and their Commentary,²⁵ as well as the Measures for the Effective Implementation of the Bangalore Principles (2010)²⁶ and Paper on Gender-related Judicial Integrity Issues (2019)²⁷ especially as they relate to competence and diligence of judges;
 - the CoE European Commission for the Efficiency of Justice (hereinafter “CEPEJ”) Working Group on quality of justice (CEPEJ-GT-QUAL) [Guidelines on the evaluation of the quality of work of judges](#) (hereinafter “CEPEJ Guidelines”), which provide concrete guidance on how to assess the quality of a judge’s work, identifying specific criteria and methods for measuring the quality of a judge’s work during his/her individual evaluation;²⁸

19 Charter of Fundamental Rights of the European Union (EU), OJ C 326, 26 October 2012.

20 OSCE, [1990 Copenhagen Document](#), paras. 5 and 5.12.

21 OSCE, [Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE](#) (Moscow, 10 September-4 October 1991).

22 OSCE, Ministerial Council Decision No. 7/08 on Further Strengthening the Rule of Law in the OSCE Area, Helsinki, 4-5 December 2008, <<http://www.osce.org/mc/35494>>.

23 ODIHR, *Warsaw Recommendations on Judicial Independence and Accountability*, 2023, paras 3, 4, 13, 26, 38.

24 ODIHR, *Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia*, 2010, paras 27-29.

25 [Bangalore Principles of Judicial Conduct](#), adopted by the Judicial Group on Strengthening Judicial Integrity, which is an independent, autonomous, not-for-profit and voluntary entity composed of heads of the judiciary or senior judges from various countries, as revised at the Round Table Meeting of Chief Justices in the Hague (25-26 November 2002), and endorsed by the UN Economic and Social Council in its resolution 2006/23 of 27 July 2006, which articulate the core values expected of judges, including competence and diligence (Value 6) as prerequisites to the due performance of judicial office and underline in particular that judges shall take reasonable steps to maintain and enhance their knowledge, skills and personal qualities necessary for the proper performance of judicial duties, including through training. See also the [Commentary on the Bangalore Principles of Judicial Conduct](#) (September 2007), and the [Measures for the Effective Implementation of the Bangalore Principles of Judicial Conduct](#) (2010), prepared by the Judicial Group on Strengthening Judicial Integrity to assist with the practical implementation of the Bangalore Principles.

26 [Measures for the Effective Implementation of the Bangalore Principles of Judicial Conduct](#) (2010), prepared by the Judicial Group on Strengthening Judicial Integrity to assist with the practical implementation of the Bangalore Principles.

27 [Paper on Gender-related Judicial Integrity Issues](#) (2019), prepared by the Judicial Group on Strengthening Judicial Integrity.

28 [CEPEJ Guidelines on the Evaluation of the Quality of Work of Judges](#) (2024).

- the recommendations regarding the assessment of professional performance and irremovability of judges and prosecutors developed by the European Network of Councils for the Judiciary (hereinafter “ENCJ”);²⁹
- the CoE European Charter on the Statute for Judges (1998);³⁰
- the 2025 Venice Commission’s Compilation of Opinions and Reports concerning Judges, which has a dedicated section on the evaluation of individual judges;³¹
- the Opinions of ODIHR dealing with issues pertaining to the evaluation of judges,³² as well as the *ODIHR Warsaw Recommendations on Judicial Independence and Accountability*³³ and the *ODIHR Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia*.³⁴

2. OBJECTIVE AND SCOPE OF THE REGULAR EVALUATION OF JUDGES

15. Article 90 of the Law of Ukraine “On the Judiciary and Status of Judges” (hereinafter “the Law”) defines the objective of the regular evaluation of judges as “*identifying the judge’s individual needs in improving and motivating him/her to maintain his/her qualification at the proper level and grow professionally*”. It further elaborates that the regular evaluation is carried out by the trainers of the National School of Judges of Ukraine (hereinafter the “NSJ”), by other judges of the respective courts, by a judge him/herself (self-evaluation) and by public associations (Article 90 (2)). While Article 90 elaborates the elements to be evaluated by the trainers of the NSJ (Article 90 (3))³⁵ and those to be included in the questionnaires to be used by public associations (Article 90 (5)),³⁶ the material scopes and criteria to be used in the peer evaluation and in the self-evaluation are not specified. Article 90 (6) of the Law further states that the “*procedure and methodology for the judge’s evaluation and self-evaluation shall be approved by the High Qualification Commission of Judges of Ukraine*”.
16. The Regulation under review was approved by the High Qualification Commission of Judges of Ukraine (hereinafter “the HQCJ”) on 29 September 2025. It defines the purpose of regular evaluation as identifying judges’ individual needs for improvement, encouraging the maintenance of professional qualifications at an appropriate level, and promoting professional growth (Articles 1 and 60). The Regulation also places particular emphasis on identifying training needs and providing structured feedback to the NSJ in order to inform curriculum design, development, and delivery (paragraph 64 of the Regulation). ODIHR notes positively that the stated objectives of the evaluation system are framed in developmental rather than disciplinary terms.

29 Available at <<https://www.encj.eu/>>. See in particular, the ENCJ, *Report on Minimum Standards regarding evaluation of professional performance and irremovability of members of the judiciary* (2012/2013) and *2019 Report*.

30 European Charter on the Statute for Judges (Strasbourg, 8–10 July 1998), adopted by the European Association of Judges, published by the Council of Europe [DAJ/DOC (98)23], <<https://wcd.coe.int/ViewDoc.jsp?p=&id=1766485&direct=true>>.

31 CoE, Venice Commission, *Compilation of Venice Commission Opinions and Reports concerning Judges* (2025), CDL-PI(2025)003. See also Report of the Venice Commission on the Independence of the Judicial System, in particular Part I on the independence of Judges, available at: <<https://rm.coe.int/1680700a63>>. See also *Compilation of Venice Commission Opinions and Reports Concerning Prosecutors*, CDL-PI(2022)023; *Rule of Law Checklist*, CDL-AD(2016)007, 18 March 2016. See also related Venice Commission’s legal opinions on the prosecution service.

32 See, for instance, OSCE/ODIHR, *Opinion on the Law on the Selection, Performance Evaluation and Career of Judges of Moldova* (2014); *Opinion on the Qualification Assessment Procedure of Judges of Ukraine* (2015).

33 ODIHR, *Warsaw Recommendations on Judicial Independence and Accountability*, 2023.

34 ODIHR, *Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia*, 2010.

35 including legal knowledge, analytical abilities, cooperation skills (negotiating skills, teamwork, working under pressure etc.), written and oral communication skills, etc.

36 includes such information as duration of the trial, observance by the judge of the procedural rules and respect for rights of the trial participants by the judge, communication culture, level of the judge’s impartiality, level of satisfaction of the trial’s participants with the judge’s conduct, comments on conducting the trial and other information.

17. This is in line with recommendations and guidance developed by international and regional bodies, which emphasize that the primary aim of judicial evaluation should be the improvement of the quality of judicial work at all levels³⁷ and that it should be clearly separate from disciplinary measures and processes.³⁸
18. It is important that the basis and main elements for evaluation be set out clearly and exhaustively in primary legislation, although the precise criteria, along with the timing and mechanisms, may be regulated further by subordinate legislation which should also be published.³⁹ Although going beyond the scope of this Opinion, Article 90 of the Law should be supplemented to also elaborate the main elements that are to be evaluated by the other judges and in the self-evaluation.
19. Article 91 of the Law indicates that the “[r]esults of regular evaluation may be taken into account when considering the issue of conducting the competition for filling a vacancy in the relevant court”. At the same time, neither the Law nor the Regulation clearly define if and how the results of the regular evaluation may be taken into account for the purpose of career development and/or promotion.⁴⁰ **The Regulation would benefit from more expressly clarifying whether, and under what conditions and safeguards, the results of regular evaluation may be used for the purpose of judicial career development, including promotion, ensuring that all applicable international standards on performance evaluation and judicial independence are fully respected** (see also Subsection 4.4 *infra* on the Consequences of the Evaluation Process).
20. The Regulation establishes the principle of mandatory participation of judges in regular evaluation (paragraph 6). At the same time, paragraph 5 of the Regulation exempts judges who, at the relevant time, serve as members of the High Council of Justice, the HQCJ, or as chair or deputy chair of the Council of Judges of Ukraine, as well as judges on military service or parental leave, although they may voluntarily choose to participate in self-evaluation at their own discretion.
21. In principle, regular evaluation should apply to all judges, including those performing functions in a judicial council or any other body guaranteeing the independence of judges, as this may otherwise undermine perceptions of fairness and equal treatment.⁴¹ While exemptions based on objective factual circumstances – such as parental leave or military service – may be justified, the exclusion of judges exercising governance or managerial functions raises concerns, particularly where such judges may continue to perform adjudicative duties on a full-time or part-time basis, and would benefit from clearer justification. In this respect, international recommendations emphasize that the fairness

37 See e.g., CCJE, [Opinion No. 17\(2014\) on the evaluation of judges’ work, the quality of justice and respect for judicial independence, para. 24](#), which states that all evaluations should aim at maintaining and improving the quality of judges’ work and, by extension, the judicial system as a whole. See also paras. 6-8, which also recognize that individual evaluation of judges may serve a variety of legitimate purposes, including providing feedback, identifying training needs, informing remuneration systems, and, in certain cases, supporting decisions on promotion; the CCJE notes that, if appropriately designed and safeguarded, such evaluation mechanisms may contribute to improving the overall quality of the judicial system and strengthening public accountability, provided that judicial independence is not undermined. See also ODIHR, *Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia*, 2010, para. 28; European Law Institute (ELI)-Mount Scopus [European Standards of Judicial Independence](#) (2024), Standard 27: Evaluation and promotion, 44, which underline that evaluation mechanisms should promote professionalism, self-reflection, and public confidence in the judiciary. See also Venice Commission, [Compilation of Venice Commission Opinions and Reports concerning Judges](#) (2025), CDL-PI(2025)003, Section 3.3.3.1.

38 See e.g., CCJE, [Opinion No. 17\(2014\) on the evaluation of judges’ work, the quality of justice and respect for judicial independence, para. 29](#); and ODIHR, *Warsaw Recommendations on Judicial Independence and Accountability*, 2023, para. 26. See also Venice Commission, [Compilation of Venice Commission Opinions and Reports concerning Judges](#) (2025), CDL-PI(2025)003, Section 3.3.3.3.

39 CCJE Opinion No. 17 (2014) [on the evaluation of judges’ work the quality of justice and respect for judicial independence](#), para. 30. See also ODIHR, *Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia*, 2010, para. 29.

40 See e.g., ENCI, [Minimum standards regarding evaluation of professional performance and irremovability of members of the judiciary](#) (Report 2012-2013) p. 18.

41 CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges](#) (2024), page 9.

and credibility of judicial evaluation systems depend on equal treatment and the avoidance of perceived favouritism.⁴²

22. The CoE CEPEJ Guidelines indicate that, in most CoE member states, the majority of judges are subject to regular evaluation, with only limited exceptions.⁴³ These typically concern judges of the highest courts or those approaching retirement, based on the assumption that extensive professional experience may reduce the need for regular evaluation.
23. Furthermore, where judges hold managerial or leadership positions, international recommendations call for differentiation of evaluation criteria to reflect the specific nature of their responsibilities. For instance, the CoE CEPEJ Guidelines recommend that criteria applicable to court presidents and judges exercising managerial functions be adapted to assess organizational and leadership responsibilities.⁴⁴
24. It is understood that the judges of the Supreme Court of Ukraine are also subject to the regular evaluation mechanism envisaged in the Regulation, which is welcome.⁴⁵ The question may arise whether the evaluation framework should be adjusted to tailor it to the specific role they occupy in the judicial system, which may potentially require different or additional evaluation benchmarks.⁴⁶
25. **The Regulation should, therefore, clarify whether and how the adjudicative work of judges holding governance or managerial positions is subject to evaluation in case they continue to exercise judicial functions. Such clarification is necessary to ensure compliance with international standards and to avoid perceptions of unequal or preferential treatment.**
26. **It is also advisable that the Regulation also tailor the regular evaluation of judges exercising managerial functions and those from the highest courts, ensuring that questionnaires and indicators adequately reflect the specific responsibilities attached to such positions.**

RECOMMENDATION A.

1. To more expressly clarify whether, and under what conditions and safeguards, the results of regular evaluation may be used for the purpose of judicial career development, including promotion, ensuring that all applicable international standards on performance evaluation and judicial independence are fully respected.
2. To clarify whether and how the adjudicative work of judges holding governance or managerial positions is subject to evaluation in case they continue to exercise judicial functions.
3. To ensure that questionnaires and indicators applicable to the regular evaluation of judges exercising managerial functions or judges of highest

42 See, among other, CCJE, [Opinion No. 17\(2014\) on the evaluation of judges' work, the quality of justice and respect for judicial independence](#), paras. 6-8 and 23. See also CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges](#) (2024), pages 9-11.

43 See CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges](#) (2024), page 9, Guideline 5.

44 The CoE [CEPEJ Guidelines](#) explicitly recommend that criteria for evaluating court presidents and judges with managerial responsibilities be adapted to reflect their organizational and leadership roles. See, in particular, Guideline 11 which states that "specific criteria for the evaluation of court presidents and judges holding managerial positions should be adjusted to their specific responsibilities and tasks", and that evaluation could include management of material and human resources, ensuring timely work of the court, transparency, communication, and representation functions, in addition to regular judicial duties.

45 See e.g., CoE, Venice Commission, [CDL-AD\(2022\)050, Opinion on the draft amendments to the Law on the Judicial Council and Judges of Montenegro](#), para. 48.

46 See e.g., CoE, Venice Commission, [Compilation of Venice Commission Opinions and Reports concerning Judges](#) (2025), CDL-PI(2025)003, Section 3.3.3.1.

courts adequately reflect the specific responsibilities attached to such positions.

3. TYPES OF EVALUATION

27. The Regulation envisages that the regular evaluation is carried out by:
- lecturers (trainers) from the NSJ, based on training results through completing a questionnaire;
 - other judges of the relevant court, through a questionnaire;
 - the judge concerned, through the completion of a self-evaluation questionnaire; and
 - public associations through an independent evaluation of the judge's performance during court hearings.
28. It is generally recommended that, in order to safeguard judicial independence, the evaluation of judges is carried out primarily by judges themselves, or independent bodies composed of judges. At the same time, it is advisable to involve legal professionals from outside the current judicial system or lay members to avoid cronyism and the perception of self-protection.⁴⁷ Any such involvement of other professionals must be subject to strict safeguards, especially external assessors should possess sufficient knowledge and experience of the judicial system to enable a proper assessment of judicial work, and their role must be strictly advisory in nature, without any decisive or determinative influence on evaluation outcomes.⁴⁸ Where judicial councils exist, they may play a role in this process, or a separate independent body may be competent specifically for judicial evaluation, for instance composed of members of the judiciary appointed or elected by their peers specifically for this purpose to ensure independence.⁴⁹ Indeed, it is important that the rules governing the appointment of members of such bodies are designed so as to dispel any reasonable doubt, in the minds of individuals, that their powers could be used as an instrument to exert pressure on, or political control over, judicial activity.⁵⁰
29. Against this background, clarity regarding all bodies competent to evaluate the performance of judges is essential. While the arrangements provided by the Regulation are set out transparently, it is essential to ensure that adequate safeguards are in place to prevent and address potential conflicts of interest in order not to undermine the perceived objectivity and independence of the evaluation process.
30. In accordance with CEPEJ principles, formal evaluations should clearly define the objectives of the evaluation, the criteria used, the composition of the evaluating body, the evaluation procedure, and the consequences of the evaluation. Furthermore, the rights and duties of both the evaluated judge and the evaluating body should be regulated through primary or subordinate legislation,⁵¹ ensuring transparency, predictability, and compliance with international standards.

47 See CCJE, [Opinion No. 17\(2014\) on the evaluation of judges' work, the quality of justice and respect for judicial independence](#), paras. 37-38. See also Venice Commission, *Compilation of Venice Commission Opinions and Reports concerning Judges* (2025), CDL-PI(2025)003, Section 3.3.3.2.

48 See CCJE, [Opinion No. 17\(2014\) on the evaluation of judges' work, the quality of justice and respect for judicial independence](#), para. 38.

49 See CCJE, [Opinion No. 17\(2014\) on the evaluation of judges' work, the quality of justice and respect for judicial independence](#), para. 49 (8). See also ODIHR, *Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia*, 2010, para. 29.

50 See e.g., although concerning a disciplinary body, Court of Justice of the European Union (CJEU), *R.I. v Inspecția Judiciară and N.L.*, Judgment of the Court (First Chamber) of 11 May 2023. [Case C-817/21](#), paras. 49-50.

51 *Ibid.*, para. 6.

3.1. National School of Judges of Ukraine

31. Among the evaluation mechanisms described in the Regulation, the NSJ represents the most formalized one, which follows a clearly defined procedure and does not evaluate judges directly as peers. As per Article 104 of the Law of Ukraine “On the Judiciary and Status of Judges”, the NSJ is a state institution with a special status within the judicial system of Ukraine established under the HQCJ. It carries out judge training, continuing education, and research functions in support of the judiciary (Article 105 of the Law).
32. To support independence and impartiality, the Regulation requires that the lecturer or trainer submit an evaluation questionnaire based on objective “training results” and register it with the NSJ (paragraph 14 of the Regulation). The NSJ then shares the completed questionnaire directly with the judge, who may submit objections (paragraph 16). The lecturer/trainer is subsequently required either to revise the questionnaire in light of the objections or to prepare a detailed written response explaining why the objections are not considered (paragraph 17). This procedure reflects the CEPEJ guidance that the evaluated judge’s “*participation in the drafting process promotes a sense of collaboration and mutual understanding between the evaluator and the judge*”,⁵² allowing the judge to be involved without compromising evaluator’s independence.

3.2. Peer Evaluation

33. As noted above, in order to safeguard judicial independence, individual evaluations should be undertaken primarily by judges or by independent bodies composed of judges,⁵³ although the involvement of other legal professionals from outside the judicial system or lay members is recommended. With respect to peer evaluation, the Venice Commission has observed that “[t]he use of serving judges to evaluate their colleagues has the potential to cause difficulties. It could strain personal relationships among colleagues, undermine judicial morale, and, where judges receive favourable evaluations, give rise to allegations of cronyism. There is a risk that such a system could lack credibility”.⁵⁴
34. Applied to the Regulation under review, this concern may be particularly relevant because judges are evaluated by peers from the same court, which may increase the risk of personal bias or conflicts of interest.
35. The CoE CEPEJ Guidelines underline that while peer review should be encouraged as a tool of evaluation among colleagues, it should primarily be intended as an informal evaluative tool among colleagues.⁵⁵ In this context, a judge may have informal discussions with a senior or more experienced judge regarding their work and career, with the primary aim of professional development. Peer review should generally be designed to help judges identify each other’s strengths and areas for improvement, rather than serve as a formal assessment.⁵⁶ Importantly, CEPEJ Guidelines caution that peer review should not be used as a method for regular, systematic professional evaluation.⁵⁷ Its inherent confidentiality makes it unsuitable for decisions related to career advancement or other human resources outcomes.

52 See CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), page 17.

53 See CCJE, [Opinion No. 17\(2014\) on the evaluation of judges’ work, the quality of justice and respect for judicial independence](#), paras. 37-38. See also Venice Commission, [Compilation of Venice Commission Opinions and Reports concerning Judges](#) (2025), CDL-PI(2025)003, Section 3.3.3.2.

54 See CoE, Venice Commission, CDL-AD(2014)007, [Joint opinion on the draft law amending and supplementing the judicial code \(evaluation system for judges\) of Armenia](#), paras. 67, 69 and 70, as cited by [Compilation of Venice Commission Opinions and Reports Concerning Judges](#), 30.

55 See CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), Guideline 3 and page 8.

56 CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), page 7.

57 See CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), page 8.

36. The CCJE Opinion No. 17 (2014) underlines that “it is essential that there is procedural fairness in all elements of individual evaluations. In particular, judges must be able to express their views on the process and the proposed conclusions of an evaluation. They must also be able to challenge assessments, particularly when it affects the judge’s ‘civil rights’ in the sense of Article 6 of the Convention”.⁵⁸
37. While the CoE CEPEJ Guidelines recognize that informal systems of judicial performance evaluation can, in principle, be formalized,⁵⁹ they do not recommend doing so for peer review. **It may be advisable that the peer evaluation mechanism envisaged in the Regulation remain informal. Such a framework should allow judges to discuss and understand the results of informal peer review – which should remain confidential – without imposing binding consequences, while still linking insights gained to formal training or development opportunities. The Regulation could also permit judges to share peer review results voluntarily if this supports further refinement of their professional development.**

3.3. Self-evaluation

38. Similar to peer review, self-evaluation or self-assessment is classified by the CoE CEPEJ Guidelines as a form of *informal* evaluation. Generally, the CEPEJ recommends that “the formal evaluation system should be complemented with a type of informal evaluation, such as self-assessment, peer review, or mentoring of junior judges”.⁶⁰ Self-evaluation is widely regarded as a key component of judicial performance evaluation and has increasingly been integrated into formal evaluation frameworks across CoE member states.⁶¹ In this regard, the CCJE Opinion No. 17 (2014) emphasizes that informal assessment can assist judges by providing opportunities for self-reflection, feedback, and identification of training needs, thereby contributing to the improvement of judicial skills and the overall quality of the judiciary.⁶²
39. The CoE CEPEJ Guidelines further underline that self-assessment tools, including questionnaires or forms, should be completed objectively and with a genuine focus on improvement. In that respect, self-assessment can be an effective review mechanism when conducted without bias and with appropriate guidance.⁶³ In practice, judges may require clear instructions and methodological support to ensure that self-evaluation is meaningful, balanced, and constructive rather than purely formalistic.
40. In several systems where self-assessment forms part of formal evaluation procedures, including in Ukraine, judges are invited to submit structured reports describing their judicial activities and training, set professional objectives, prepare a Strengths/Weaknesses/Opportunities/Threats (SWOT) analysis, and complete a self-assessment form covering various aspects of their professional performance, which is then submitted to the evaluating body.⁶⁴

⁵⁸ *Ibid.*, para. 55. See also e.g., ECtHR case of *Guz v Poland*, no. 965/12, 15 January 2021. which dealt with the relationship between a judge’s freedom of expression when commenting on an assessment report prepared in connection with a promotion procedure and disciplinary proceedings for the alleged “excessive value judgments”, which illustrates potential risks when informal evaluation systems are formalized or improperly applied.

⁵⁹ CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), page 6.

⁶⁰ CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), page 7, Guideline 1.

⁶¹ *Ibid.*

⁶² See CCJE, [Opinion No. 17\(2014\) on the evaluation of judges’ work, the quality of justice and respect for judicial independence](#), para. 25.

⁶³ CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), page 28.

⁶⁴ *Ibid.* Comparative practice illustrates the diversity of approaches: France and Portugal use self-assessment primarily to assist judges in setting professional goals; Belgium incorporates a Strengths/Weaknesses/Opportunities/Threats (SWOT) analysis into its self-assessment process; and Latvia, Luxembourg, and Romania require judges to complete structured self-assessment forms covering multiple areas of professional activity, which are submitted to the competent evaluation body.

41. Section IV of the Regulation provides that “judges shall complete a questionnaire independently” and that information shall be gathered through self-observation (paragraphs 29-30). However, the Regulation does not clarify the subsequent use of the completed questionnaire, including to whom it is submitted, who reviews it, or the extent to which it influences the overall evaluation outcome. This lack of clarity risks diminishing the perceived relevance and effectiveness of self-evaluation.
42. Generally, self-evaluation is only briefly addressed in the Regulation and constitutes the shortest of the four evaluation procedures described. In the absence of further guidance, there is a risk that self-assessment may be perceived by judges as a purely formal or “tick-box” exercise. **Providing additional detail on the purpose, use, and follow-up to self-evaluation could strengthen judges’ engagement and confidence in the process.**⁶⁵
43. **It is therefore recommended that the Regulation clearly distinguish between formal evaluation mechanisms (evaluation by the NSJ and public associations) and informal evaluation mechanisms (peer review and self-evaluation). These two categories should serve distinct purposes: formal evaluations primarily supporting accountability and career/promotion-related decisions, and informal evaluations focusing on professional development and judicial well-being.**⁶⁶ In line with the CoE CEPEJ Guidelines, such an approach would allow space for reflection, discussion of results, and linkage to professional development and training, while avoiding the attribution of direct consequences within the formal evaluation framework.

3.4. Public Associations

44. Among the bodies involved in the evaluation process, public associations are the only actors that are not part of the judiciary or its institutional structure. As mentioned above, generally, the involvement of legal professionals from outside the current judicial system or lay members is advisable to avoid cronyism and the perception of self-protection.⁶⁷ At the same time, the involvement of court users, NGOs or the public does not appear that widespread.⁶⁸
45. The CoE CEPEJ Guidelines recognize that the participation of external lay members can contribute to enhancing the accountability of the judiciary, provided that adequate safeguards are in place.⁶⁹ In particular, input from users and actors of justice should be formalized and objectified in a way that ensures the independence of the judge and safeguards the judge from undue pressure from actors of justice and public opinion.⁷⁰
46. The Regulation addresses this concern in detail, particularly in Section V, by setting out both institutional and individual conflict-of-interest rules applicable to public associations participating in regular judicial evaluation.
47. First, the Regulation seeks to safeguard judicial independence by excluding certain public associations from conducting regular evaluations of judges’ work. In particular, public associations that have conducted or are conducting activities with international technical assistance from donors that are state authorities, local self-government bodies, or entities of a country recognized by the Verkhovna Rada (Parliament) of Ukraine as an “aggressor

⁶⁵ See CoE CEPEJ Guidelines on the Evaluation of the Quality of Work of Judges (2024), page 16.

⁶⁶ See e.g. Nauru Declaration on Judicial Well-being (2024) and CCJE Opinion No. 28 (2025) on the importance of judicial well-being for the delivery of justice, paras. 12 and 45.

⁶⁷ See CCJE, Opinion No. 17(2014) on the evaluation of judges’ work, the quality of justice and respect for judicial independence, paras. 37-38. See also Venice Commission, Compilation of Venice Commission Opinions and Reports concerning Judges (2025), CDL-PI(2025)003, Section 3.3.3.2, referring to Venice Commission, CDL-AD(2014)007, Joint Opinion on the draft law amending and supplementing the judicial code (evaluation system for judges) of Armenia, paras. 67, 69 and 70.

⁶⁸ See CoE CEPEJ Guidelines on the Evaluation of the Quality of Work of Judges (2024), page 16.

⁶⁹ CoE CEPEJ Guidelines on the Evaluation of the Quality of Work of Judges (2024), page 41.

⁷⁰ CoE CEPEJ Guidelines on the Evaluation of the Quality of Work of Judges (2024), page 43.

state” – or that have been funded by such entities or affiliated persons – are barred from participation (paragraph 34 of the Regulation).

48. A key characteristic of a public association is that it should be self-governing and independent, meaning that decisions concerning its activities and operations should not be taken by anyone other than the members of the association or a body designated by its members to do so.⁷¹ The restrictions envisaged in the Regulation aim to protect judges from being evaluated by public associations whose past or current activities have been or are funded from state-linked or other funding sources originating from an “aggressor state” recognized by the Verkhovna Rada of Ukraine. While the foreign origin of an association’s financial or other resources would not in itself justify differentiated treatment, imposing restrictions on this basis with a view to introduce effective measures to protect national security and sovereignty, and safeguarding judicial independence, by reducing a (duly documented) risk of undue influence of non-independent NGOs, especially in the context of war caused by the Russian Federation’s invasion of Ukraine, would not necessary violate the prohibition on discrimination nor the right to freedom of association.
49. Other safeguards to protect judicial independence are also envisaged in the Regulation, including prohibitions on representatives of public associations holding mandates as members of parliament or in local self-government bodies.
50. To further enhance transparency, the Regulation provides that all public associations eligible to conduct regular evaluations shall be listed on the official website of the HQCJ (paragraph 35 of the Regulation). A detailed and stringent procedure provided for in paragraph 36 of the Regulation governs both the accreditation of public associations and their inclusion in the evaluation process, thereby seeking to ensure transparency, independence, and public trust.
51. In addition to institutional safeguards, the Regulation establishes clear rules addressing individual conflicts of interest. In particular, a judge’s work may not be evaluated by a representative of a public association who has participated or is participating in proceedings before that judge, who is a close family member of a party to such proceedings, or where any other conflict of interest or circumstance exists that could reasonably give rise to doubts as to the impartiality of the evaluator (paragraph 47 of the Regulation).
52. Beyond conflict-of-interest rules, the CoE CEPEJ Guidelines (Guideline 7) emphasize the importance of training evaluators to protect judicial independence and ensure consistency. It recommends that evaluators undergo specific training aimed at harmonizing standards and approaches. Such training should enhance understanding of evaluation criteria, foster a shared interpretative framework, and prioritize practical exercises that establish benchmarks, compare methodologies, and identify areas for improvement across the judiciary.⁷² From this perspective, it is welcome that the Regulation requires the individuals from the public association who intend to participate in the regular evaluations of judges to complete the course at the NSJU and obtain the certificate on the topic. **This training or course should enable representatives of public associations to develop a deeper understanding of judicial culture, professional language, the standards applicable to judicial work and the purpose of the evaluation and evaluation benchmarks.** This shared understanding should improve not only the quality and credibility of judicial evaluations but also serve as an important

71 See ODIHR-Venice Commission, [Guidelines on Freedom of Association](#) (2015), paras. 40–41.

72 CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges](#) (2024), pages 10–11.

safeguard against external influence, thereby reinforcing the credibility, independence and impartiality of the evaluation process.

4. EVALUATION PROCEDURE

4.1. Evaluation Criteria

53. As emphasized above, it is essential that the criteria used for judicial evaluation must meet the qualitative requirements of clarity, objectivity, uniformity and transparency.⁷³ This is essential to prevent arbitrary application and to safeguard the fairness, transparency, and legitimacy of the evaluation process. The ODIHR Kyiv Recommendations underline that the evaluation of judges' performance "*shall be primarily qualitative and focus upon their skills, including professional competence (knowledge of law, ability to conduct trials, capacity to write reasoned decisions), personal competence (ability to cope with the work load, ability to decide, openness to new technologies), social competence (ability to mediate, respect for the parties) and, for possible promotion to an administrative position, competence to lead.*"⁷⁴ The CCJE Opinion No. 17 (2014) also emphasizes that the objective criteria to be used should be based on merit, having regard to qualifications, integrity, ability and efficiency, while noting that evaluations should not be based solely on quantitative criteria.⁷⁵
54. It is welcome that, at the outset, the Regulation specifically underlines objectivity, consistency and the use of uniform criteria for assessing judges as guiding principles for the regular evaluation (paragraph 2). Overall, the regular evaluation focuses on both the judge's professional conduct and the competence in performing judicial duties, as set out in paragraph 5 of the Regulation.
55. Further, in the Regulation, each of the four evaluation methods – evaluation by trainers of the NSJ, peer evaluation, self-assessment, and by representatives of public associations – assesses judges along specified indicators that are determined in the judge evaluation (self-evaluation) questionnaires (paragraph 61), which are annexed to the Regulation. It is understood that the content of individual indicators is further outlined in the Regulations on the Procedure and Methodology for Qualification Assessment, Indicators of Compliance with the Qualification Assessment Criteria, and the Means of Their Establishment (see paragraph 61 of the Regulation). In this respect, it is noted that on 22 January 2025, the HQCJ approved a new Regulation on the procedure and methodology for qualification evaluation, indicators of compliance with qualification criteria, and methods for their establishment, as later amended in May 2025 (hereinafter "2025 HQCJ

73 See UN Human Rights Committee, *General Comment no. 32 on Article 14 of the ICCPR: Right to Equality before Courts and Tribunals and to Fair Trial*, 23 August 2007, para. 19, which refers to clear procedures and objective criteria; UN Basic Principles on the Independence of the Judiciary, endorsed by UN General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, para. 13, which underlines that "Promotion of judges, wherever such a system exists, should be based on objective factors, in particular ability, integrity and experience"; CoE, *Recommendation CM/Rec(2010)12 of the Committee of Ministers to Member States on Judges: Independence, Efficiency and Responsibilities*, para. 58, which notes that systems for the assessment of judges should be based on objective criteria that should be published by the competent judicial authority; ODIHR Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia (2010) (ODIHR Kyiv Recommendations), para. 29, which provides that "The criteria for professional evaluation should be clearly spelled out, transparent and uniform"; *Universal Charter of the Judge* (1999, as last updated in 2017), adopted by the International Association of Judges, Article 5-3, which provides that "Assessment must be based on objective criteria, which have been previously made public"; the *European Charter on the Statute for Judges* (Strasbourg, 8-10 July 1998), adopted by the European Association of Judges, DAJ/DOC (98)23, paras. 4.1; *Report on the Independence of the Judicial System – Part I: The Independence of Judges* (2010), CDL-AD(2010)004, para. 27; CCJE, *Opinion no. 17 (2014) on the Evaluation of Judges' Work, the Quality of Justice and Respect for Judicial Independence*, paras. 31 and 49 (6), which refer to objective standards, which should be based on merit, having regard to qualifications, integrity, ability and efficiency.

74 See ODIHR Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia (2010) (ODIHR Kyiv Recommendations), para. 27.

75 See CCJE, *Opinion No. 17(2014) on the evaluation of judges' work, the quality of justice and respect for judicial independence*, paras. 31 and 34.

- Regulation”).⁷⁶ The said Regulation elaborates in details the indicators to be used to assess judges’ personal and social competence,⁷⁷ while referring to the decision of the High Council of the Judiciary of Ukraine on Approval of the Uniform Indicators to Assess Integrity and Professional Ethics of a Judge (candidate for the position of judge) (2024),⁷⁸ which further elaborate the latter indicators.
56. Some of the indicators listed in the questionnaires may nevertheless raise some concerns from the perspective of ensuring the objectivity of the evaluation process, in particular the reference to “*Compliance with ethical standards (upholding impeccable conduct)*”. While it is acknowledged that judge’s integrity and professional conduct factors are considered in the evaluation process in most European countries,⁷⁹ it is important to specify the norms of professional ethical conduct serving as the basis for judicial evaluation, to avoid arbitrary or inconsistent interpretation or abuse of the evaluation process.
 57. At the same time, it is acknowledged that the decision of the High Council of the Judiciary of Ukraine regarding the indicators to assess a judge’s integrity and professional ethics⁸⁰ attempts to clarify the said indicators by providing sub-indicators aiming to further explain the meaning of the respective indicators used to assess the integrity and professional ethics of a judge.⁸¹ While this attempts to clarify the indicators that are being used is overall welcome, **it would be advisable to also specify the methodology used in the evaluation process to examine the compliance with ethical standards and principles, and on the basis of which documents and/or elements the evaluator will carry out the assessment**, for instance potential complaints from other judges, court users or lawyers, informal interview with the judge, 360 degree professional evaluation, etc.⁸² In this respect, if the integrity and professional ethics assessment of judges is based on specific information disclosed by the judge or collected from public institutions or bodies, compliance with Article 17 of the ICCPR and Article 8 of the ECHR, which protect the right to respect for private and family life, should be ensured.⁸³
 58. In any case, it will be essential that the course developed by the NSJ for the purpose of peer evaluation and evaluation by public associations provides clear explanation and practical examples on how to interpret the indicators in practice, with a view to ensure consistent understanding and uniform application of the evaluation criteria by all evaluators.
 59. Comparative research indicates that judges’ mistrust of evaluation processes often stems not from the general criteria themselves but from inconsistent application. A uniform

76 See <[New Regulation on the procedure and methodology of qualification evaluation, indicators of compliance with qualification evaluation criteria and means of their establishment was published | High Qualification Commission of Judges of Ukraine](#)>. For the text of the Regulation, as amended in May 2025, see <[eng_polozhennya_pro_poryadok_ta_metodologiyu_kvalifikacijnogo_ocinyuvannya_pokazniki_vidpovidnosti_kriteriyam_kvalifikacijnogo_ocinyuvannya_ta_zasobi_yih_vstanovlennya_final.pdf](#)>. See also <[Критерії доброчесності судді | Вища рада правосуддя](#)>.

77 Paragraph 2.4 of the [2025 HQU Regulation](#) specifies that the criterion of personal competence shall be evaluated based on the following indicators: determination/decisiveness (further detailed in para. 2.5), responsibility (further detailed in para. 2.6), and continuous development (further detailed in para. 2.7). Paragraph 2.8 of the [2025 HQU Regulation](#) specifies that the criterion of social competence shall be assessed based on the following indicators: effective communication, effective interaction, sustainability of motivation, emotional stability, all of which are further elaborated in paragraphs 2.9 to 2.12 respectively.

78 See High Council of the Judiciary of Ukraine, [Decision on approval of the Uniform Indicators to assess integrity and professional ethics of a judge](#) (candidate for the position of judge) (17 December 2024).

79 See CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), pages 36-37.

80 See High Council of the Judiciary of Ukraine, [Decision on approval of the Uniform Indicators to assess integrity and professional ethics of a judge](#) (candidate for the position of judge) (17 December 2024).

81 The indicators used to assess the integrity and professional ethics of judges are: (i) independence; (ii) impartiality; (iii) compliance with ethical standards and impeccable behavior in professional activities and personal life; (iv) honesty; (v) conscientiousness; (vi) incorruptibility; and (vii) the legality of the sources of origin of the property, the correspondence of the standard of living of the judge (candidate for the position of judge) or members of his/her family to the declared income, the correspondence of the lifestyle of the judge (candidate for the position of judge) to his/her status.

82 See CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), pages 36-37.

83 See CoE, [Analysis of the Criteria for the Evaluation of Integrity and Ethics of Judges in Ukraine](#) (February 2024), para. 67.

approach ensures that all judges are assessed against the same standards, thereby enhancing fairness, trust in the process, and comparability of performance. Embedding detailed, practical guidance for each indicator will help evaluators apply the criteria consistently, improve transparency for judges, and strengthen the credibility of the overall evaluation system.⁸⁴

60. In addition, certain of the indicators listed in the questionnaires, which are not detailed in the [2025 HQCJ Regulation](#), are currently formulated in broad and general terms and would deserve further elaboration to not undermine the clarity, objectivity, and transparency of the evaluation process.
61. For instance, while it is welcome that the Appendix 1 refers to “Gender Competence” (indicator 1.14 of the questionnaire for the NSJ trainers), it is unclear what is encompassed under such an indicator, and whether this is limited to the obligation of equal treatment and prohibition of discrimination or goes beyond. It is essential to develop the capacity of all judges to apply the national laws in an appropriate and gender- and diversity-sensitive manner while using specialized expertise in parallel.⁸⁵ Judicial continuing education and professional development should also aim towards equitable, non-discriminatory and violence/harassment-free courts, working environment and equal treatment of all individuals in the courtroom and adjudicatory functions, as well as more generally.⁸⁶ This should also include preventing Sexual Exploitation and Abuse (SEA) and other discriminatory behaviours, including sextortion, sexual and other forms of harassment, sexual and other discrimination, gender bias, unequal gender representation, gender stereotyping, inappropriate sexual conduct, etc.⁸⁷ It is important that professional development also addresses aspects related to the prevention of secondary victimization of victims of crimes, including women and girls subjected to violence, which implies understanding the dynamics of gender-based violence and trauma experienced by victims, preventing harmful gender stereotypes, adopting a victim-centred approach and understanding the role of judges in protecting victims during the criminal process, among others.⁸⁸ **For the indicator “gender competence” to be clear and objective, it would be advisable to include sub-indicators reflecting all of the above sub-components, including the ability to apply national laws in a gender- and diversity-sensitive manner, the equal treatment of all individuals in court and adjudicatory functions, the prevention of SEA and other discriminatory behaviour and if applicable and relevant, the prevention of secondary victimization of crime victims, among others. It is also recommended that this indicator be also included in the other questionnaires, including for self-evaluation.**
62. It is noted that the Regulation and its Appendices do not mention the evaluation of the knowledge of relevant developments of international law, including international human rights instruments and evolving jurisprudence of regional and international courts. The [Bangalore Principles of Judicial Conduct](#) specifically mention that as part of the competence and diligence of judges, “[a] judge shall keep himself or herself informed about relevant developments of international law, including international conventions

84 CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges](#) (2024), page 10 and the comparative analysis in its Appendix, Question 17.

85 See e.g., UNODC, [Handbook for the Judiciary on Effective Criminal Justice Responses to Gender-based Violence against Women and Girls](#) (2019), Part 3, Section 2.1; EU Fundamental Rights Agency (EU FRA), [Stepping up the response to victims of crime: FRA’s findings on challenges and solutions](#), November 2024, Sections 2.1.1 and 2.2.2.

86 [Bangalore Principles of Judicial Conduct](#), paras. 5.1-5.5. See also [Paper on Gender-related Judicial Integrity Issues](#) (2019), prepared by the Judicial Group on Strengthening Judicial Integrity, p. 75.

87 See ODIHR, [Gender, Diversity and Justice - Overview and Recommendations](#) (2019), page 19, which notes: “in order to properly address stereotyping and gender bias in justice systems, sensitizing justice sector actors through education and training is key”. See also [Paper on Gender-related Judicial Integrity Issues](#) (2019), prepared by the Judicial Group on Strengthening Judicial Integrity, p. 75. See also the example of Canada, <[Judicial continuing education in sexual assault law and social context](#)>.

88 See e.g., UNODC, [Handbook for the Judiciary on Effective Criminal Justice Responses to Gender-based Violence against Women and Girls](#) (2019), Part 3, Section 2.1.

and other instruments establishing human rights norms”. **It would be advisable to include this aspect specifically, at least in the questionnaire on self-evaluation,** especially since this serves as the basis for the NSJ when planning the training and continuing education of judges (paragraph 64 of the Regulation).

63. In addition, international guidance emphasizes that judges should receive regular training on the capabilities and limitations of digital and artificial intelligence (AI) tools, including the risks of bias, opacity, AI-generated inaccurate, misleading, or non-verifiable outputs, data-protection breaches and undue dependence on automated outputs, as well as on ways to preserve human control and accountability when using such tools.⁸⁹ **It may therefore be useful to also include, at least in the self-evaluation questionnaire, an indicator regarding the competence and abilities to ensure the safe and ethical use of digital technologies for judicial work, as appropriate and relevant.**
64. Finally, neither the Law of Ukraine “On the Judiciary and Status of Judges” nor the Regulation under review, nor other regulations adopted by the HQCJ, clearly state that judges shall not be evaluated for the substance of judicial decision-making, including the legal merits of individual decisions or verdicts (either directly or through the calculation of rates of reversal).⁹⁰ **It is recommended to supplement the Regulation in this respect.** This however does not prevent the evaluators from looking into the clarity of judgements and whether they follow established structure, on the basis of selected samples.⁹¹ In addition, evaluation may allow to identify instances of manifest and clearly established legal error.

RECOMMENDATION B.

1. To consider including, at least in the self-evaluation questionnaire, an indicator regarding the competence and abilities to ensure the safe and ethical use of digital technologies for judicial work, as appropriate and relevant.
2. To explicitly provide in the Regulation that judges are never evaluated on the substance of their judicial decision-making, including the legal merits of individual decisions or verdicts, whether directly or indirectly (such as through reversal rates), with possible exception of identifying instances of manifest and clearly established legal error.

4.2. Frequency of Evaluation

65. As underlined above, international recommendations emphasize that judicial performance evaluations should be conducted in a manner that respects judicial independence while ensuring accountability. The CCJE Opinion No. 17 (2014)

⁸⁹ UN Special Rapporteur on the independence of judges and lawyers, *Artificial intelligence in judicial systems: promises and pitfalls*, UN Doc. A/80/169, paras. 62-63); CCJE, *Opinion n° 26 (2023) "Moving forward: the use of assistive technology in the judiciary"*, para. 92 (xiv). See also *ODIHR Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia* (2010) (ODIHR Kyiv Recommendations), para. 27.

⁹⁰ See CCJE, *Opinion No. 17(2014) on the evaluation of judges' work, the quality of justice and respect for judicial independence*, para. 35, which notes that “*In order to evaluate the quality of a judge's decision, evaluators should concentrate on the methodology a judge applies in his/her work overall, rather than assessing the legal merits of individual decisions*”. See also *ODIHR Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia* (2010) (ODIHR Kyiv Recommendations), para. 28, which provides that “*[j]udges shall not be evaluated under any circumstances for the content of their decisions or verdicts (either directly or through the calculation of rates of reversal). How a judge decides a case must never serve as the basis for a sanction*”. See also Venice Commission, *Compilation of Venice Commission Opinions and Reports concerning Judges* (2025), CDL-PI(2025)003, Section 3.3.3.4.

⁹¹ See CCJE, *Opinion No. 17(2014) on the evaluation of judges' work, the quality of justice and respect for judicial independence*, para. 35. See also Venice Commission, *Compilation of Venice Commission Opinions and Reports concerning Judges* (2025), CDL-PI(2025)003, Section 3.3.3.4.

underlines that evaluations should not take place too often “*in order to avoid an impression of constant supervision which could, by its very nature, endanger judicial independence*”.⁹² Similarly, the CoE CEPEJ Guidelines recommend that formal evaluations occur every two to four years, although more frequent assessments could be considered for newly appointed judges during their first three years.⁹³ This balance aims to prevent the perception of intrusive oversight while ensuring that issues relating to judicial conduct and competence are addressed in a timely manner - a principle reaffirmed by the Venice Commission.⁹⁴

66. Comparative research indicates that the frequency of evaluations varies across Europe, with informal evaluations generally conducted more frequently,⁹⁵ and the frequency of formal evaluations ranging from one year⁹⁶ to five years.⁹⁷
67. The Regulation similarly provides for evaluations every three years, including lecturer-led evaluations by the NSJ, peer evaluations, self-evaluations, and assessments by public associations.
68. **While the three-year frequency aligns with international practice, it remains unclear whether all evaluation types occur within the same year or are staggered over the cycle. Clarifying this point in the Regulation would enhance transparency and allow for better planning. Establishing deadlines for the completion of each evaluation type would ensure timely assessments while minimizing disruption to judge’s work and court operations.** Such changes would also facilitate the scheduling of training activities by the NSJ.
69. Additionally, the increased digitalization of judicial systems and activity may facilitate the collection of certain objective data to support performance evaluations of judges.⁹⁸ However, as underlined above, performance evaluation of judges should primarily rely on qualitative indicators and focus upon their skills; evaluations should not be based solely on quantitative data, which should always be approached with a lot of caution, as they may otherwise lead to wrongful conclusions.⁹⁹

92 CCJE, [Opinion No. 17\(2014\) on the evaluation of judges’ work, the quality of justice and respect for judicial independence](#), para 40.

93 See CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), page 9, Guideline 6.

94 See, Venice Commission, [Compilation of Venice Commission Opinions and Reports concerning Judges](#) (2025), CDL-PI(2025)003, Section 3.3.3.5, also referring to Venice Commission, [Opinion No. 1220/2024 On the Law on the Judicial Council and the Draft Law Amending and Supplementing it](#), para. 28; Venice Commission, CDL-AD(2018)022, [Opinion on the law amending the law on the Judicial Council and on the law amending the law on Courts of “the former Yugoslav Republic of Macedonia”](#), para. 47; and CDL-AD(2019)008, [Opinion on the Draft Law on the Judicial Council of North Macedonia](#), para. 46.

95 e.g., in Sweden, Switzerland, Finland, and Norway (see CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), Appendix).

96 See e.g., in Greece (see CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), Appendix).

97 In Azerbaijan, Latvia, Luxembourg, Portugal, Serbia, and the Slovak Republic (see CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), Appendix).

98 See e.g., CoE CEPEJ, [Guidelines on on electronic court filing \(e-filing\) and digitalization of courts](#) (2021), which provide a robust framework for digital data processing; see also CoE CEPEJ, [Report on case weighting in judicial systems](#) (2020). See also Resource Centre Cyberjustice and AI | Tableau Public which provides information on AI systems and other key cyberjustice tools applied in the digital transformation of the judiciary. In addition, and although noting that international guidance recommend that performance evaluation of judges rely on qualitative indicators and focus upon their skills, see also CoE CEPEJ, [Handbook on court dashboards](#) (2021), which offers detailed examples of how various quantitative parameters of judicial activity can be digitalised, such as the length of hearings and procedural stages. It also outlines how case dispositions (e.g., procedural decisions, judgments on the merits) can be tracked. While the handbook distinguishes between dashboards and performance evaluation, the dashboard concept can be adjusted to facilitate statistical data collection for evaluation purposes (although evaluations should not be based solely on such quantitative criteria, which should always be approached with caution).

99 See e.g., [ODIHR Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia](#) (2010) (ODIHR Kyiv Recommendations), paras. 27-28, which note: “*The evaluation of judges’ performance shall be primarily qualitative and focus upon their skills [...] Statistics on the efficiency of court operations shall be used mainly for administrative purposes and serve as only one of the factors in the evaluation of judges*”. See also CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges \(2024\)](#), page 31; and CCJE, [Opinion No. 17\(2014\) on the evaluation of judges’ work, the quality of justice and respect for judicial independence](#), para. 34.

RECOMMENDATION C.

To clarify whether all regular evaluations - lecturer-led, peer, self-assessments, and assessments by public associations - should follow a three-year cycle, reflecting the differing implications of formal and informal evaluations, allowing a comprehensive review of judicial performance without creating the impression of constant supervision, and, where possible, scheduled close together to support coherent assessment and follow-up training.

4.3. Procedural Safeguards and Personal Data Protection

70. It should be underlined that where evaluation procedures may affect a judge's professional position, reputation, or career prospects, robust procedural safeguards are indispensable. Such safeguards are a core element of judicial independence and fairness and serve to prevent arbitrariness, undue influence, and misuse of evaluative powers. Clear rules on conflicts of interest, transparency, confidentiality, access to information and protection of personal data, and the right to be heard and to challenge evaluation outcomes before an independent authority or a court are therefore essential.¹⁰⁰ This is particularly important in systems combining multiple evaluation methods, where different actors and procedures apply. As set out below, these safeguards should be tailored to the distinct purposes and consequences of formal and informal evaluation mechanisms, while ensuring a coherent and predictable framework overall.
71. As mentioned above (see Sub-Section 3 *supra*), the Regulation provides for several distinct evaluation mechanisms involving different actors and procedures. With the exception of self-evaluation, each of these mechanisms entails inherent risks of conflicts of interest. However, the Regulation does not comprehensively address such risks across all evaluation methods. While detailed conflict-of-interest rules are provided for public associations (see paragraph 47 of the Regulation), comparable safeguards should also be contemplated with regard to evaluations conducted by the NSJ and peer evaluators. This gap may otherwise weaken the overall coherence of the procedural framework.
72. In this respect, international guidance recommends **the establishment of a clear mechanism for the disqualification of evaluators who fail to recuse themselves or to declare a conflict of interest.**¹⁰¹ Evaluators should also be placed under an explicit obligation to report any attempts to improperly influence the evaluation process, including undue pressure, coercion, or other forms of interference from both external and internal sources. Such safeguards are essential to protect both judicial independence and the credibility of the evaluation system and are recommended to be added to the Regulation.
73. In addition, the sources of evidence on which evaluations are based must be sufficient, reliable, and proportionate, particularly where an evaluation may lead to unfavourable outcomes.¹⁰² Judges should have timely and full access to any evidence relied upon in the evaluation, enabling them to respond effectively. This includes the right to comment on a preliminary draft or to be heard during the evaluation process.¹⁰³ Where an evaluation

100 See e.g., CCJE, [Opinion No. 17\(2014\) on the evaluation of judges' work, the quality of justice and respect for judicial independence](#), paras. 41, 47-48. See also *ODIHR Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia* (2010) (ODIHR Kyiv Recommendations), para. 31. See also CoE CEPEJ [Guidelines on the Evaluation of the Quality of Work of Judges](#) (2024), page 31.

101 See e.g., Venice Commission, CDL-AD(2014)007, [Joint opinion on the draft law amending and supplementing the judicial code \(evaluation system for judges\) of Armenia](#), para. 62 as cited by *Compilation of Venice Commission Opinions and Reports Concerning Judges*, 36.

102 CCJE, Opinion No. 17 (2014) [on the evaluation of judges' work, the quality of justice and respect for judicial independence](#), paras. 39-44.

103 CCJE, Opinion No. 17 (2014) [on the evaluation of judges' work, the quality of justice and respect for judicial independence](#), para. 41.

affects a judge's civil rights, within the meaning of Article 6 of the ECHR, an effective right to challenge the evaluation must be ensured.¹⁰⁴ The more serious the potential consequences of an evaluation, the stronger these procedural safeguards must be.

74. Paragraph 7 of the Regulation provides that, during regular evaluations, judges have the right to review evaluation results (including questionnaires) and to submit objections, which form an integral part of the evaluation file. However, this procedural guarantee is elaborated in detail only with respect to evaluations conducted by the NSJ (paragraphs 16-19 of the Regulation, see also Sub-Section 3.1 *supra*). This approach is consistent with the CEPEJ Guidelines, which provides that judges should have the opportunity to comment on a preliminary draft.¹⁰⁵ At the same time, it appears that judges evaluated by representatives of public associations may not be afforded the same opportunity to review and contest the evaluation results. **To ensure transparency, procedural fairness and judges' confidence in the evaluation process, procedural guarantees should be applied across all evaluation methods, particularly the right to access results and submit objections, which should be clearly embedded in the Regulation.**
75. The Regulation is largely silent on issues of confidentiality and data protection, and does not clarify whether the evaluation results are intended to be published. Confidentiality of the process and results of judges' individual evaluations is essential in order not to endanger judicial independence, for instance by risking discrediting them in the eyes of the public, potentially making them vulnerable to attempts to influence or even subject them to verbal or other attacks.¹⁰⁶ For this reason, the process and results of individual evaluations should not be made public.¹⁰⁷ This omission is particularly significant in relation to self-evaluation, where judges may be less candid in their responses if there is a risk that the results could be disclosed or published. While the Regulation refers to the use of collected data for training purposes, it does not provide guarantees regarding confidentiality and personal data protection, including with respect to data retention, storage limitation, data minimization or access and security.
76. Given the sensitivity of the information that may be collected, it is fundamental that their confidentiality be guaranteed and that full compliance with international personal data protection standards be ensured. As per international standards, publicly available law should clearly outline the types of personal data that may be held by a public authority, which criteria apply to the use, retention, deletion and disclosure of these data; in this respect the use of personal data should be strictly limited and confined to its original specified purpose; necessary measures should be taken to ensure that records of personal data are accurate; personal data files should be deleted when no longer required; and individuals have the right to have access to and correct their personal data file.¹⁰⁸ Unless already provided in separate legislation, **it would be advisable to make a specific reference to the applicable legislation on the processing of personal data, which should be in line with such international standards. It is also fundamental to ensure adequate security safeguards and accountability of those public bodies that are given access to such sensitive data and the Regulation or relevant legislation should be supplemented in this respect.**

104 EN CJ, *Minimum standards regarding evaluation of professional performance and irremovability of members of the judiciary* (Report 2012-2013) p. 23.

105 See CoE CEPEJ *Guidelines on the Evaluation of the Quality of Work of Judges* (2024), Guideline 16. See also CCJE, Opinion No. 17 (2014) *on the evaluation of judges' work, the quality of justice and respect for judicial independence*, para. 41.

106 CCJE, Opinion No. 17 (2014) *on the evaluation of judges' work, the quality of justice and respect for judicial independence*, para. 48.

107 CCJE, Opinion No. 17 (2014) *on the evaluation of judges' work, the quality of justice and respect for judicial independence*, para. 48.

108 See the Council of Europe, *Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data* (CETS No. 108), 28 January 1981, which entered into force in Ukraine on 1 January 2011 following ratification (Ukraine has not signed nor ratified the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS No. 223)); and the EU General Data Protection Regulation (GDPR) – Official Legal Text (gdpr-info.eu) as an EU candidate country.

77. As discussed earlier (see Sub-Section 3.2 *supra*), peer review carries particular risks related to personal relationships among colleagues, collegiality and trust within the judiciary. Without explicit safeguards on confidentiality and limited use of the evaluation results, negative assessments of colleagues could undermine judicial cohesion and discourage honest participation in the evaluation process.
78. It is, therefore, recommended **to explicitly guarantee the confidentiality, limited use, and security of all evaluation data, including self-evaluations and peer reviews, ensuring full compliance with international personal data protection standards, while clarifying that the evaluation results shall not be published.**

RECOMMENDATION D.

1. To clearly embed in the Regulation and consistently apply procedural guarantees - particularly the right to access results and submit objections - across all evaluation methods to ensure transparency, procedural fairness and judges' confidence in the process.
2. To explicitly guarantee the confidentiality, limited use, and security of all evaluation data, including self-evaluations and peer reviews, ensuring full compliance with international personal data protection standards, while clarifying that the evaluation results shall not be published.

4.4. Consequences of the Evaluation Process

79. In accordance with the Regulation, a judge's professional development needs and the maintenance of qualifications at an appropriate level are determined on the basis of regular evaluations conducted by NSJ trainers or lecturers, peer judges from the same court, representatives of public associations, and the judge's own self-evaluation. Summarized data derived from the completed evaluation questionnaires are used to determine the overall evaluation result. These results are also intended to inform the planning of training and continuing education activities of the NSJ (paragraph 63 of the Regulation).
80. As mentioned above (see Sub-Section 2 *supra*), the Regulation does not specify whether, and if so how, the results of regular performance evaluation are linked to decisions affecting a judge's professional trajectory, such as promotion or other career-related considerations. The ENCJ, in its *2012-2013 Report on Minimum Standards for the Evaluation of Professional Performance and Irremovability of Judges*, stressed the importance of legal frameworks clearly and exhaustively defining all relevant aspects of evaluation, including possible outcomes and their consequences for the exercise of functions or career development.¹⁰⁹
81. **Therefore, and as already emphasized above, the Regulation should be complemented by clarifying whether evaluation results have consequences for subsequent professional functions, career development, or promotion, and, if so, under what conditions and safeguards, reflecting the differing implications of formal and informal evaluations.**
82. It is well established in international guidance and recommendations that a clear distinction must be maintained between judicial performance evaluation and disciplinary

109 ENCJ, *Minimum standards regarding evaluation of professional performance and irremovability of members of the judiciary* (Report 2012-2013) p. 18.

accountability. At the same time, it is acknowledged that information revealing serious grounds of misconduct or incompetence during an evaluation process may need to be transmitted to a competent disciplinary body.¹¹⁰ The regulatory framework should therefore ensure an approach that preserves the functional separation between evaluation and discipline, while enabling serious concerns identified during evaluations to be addressed through appropriate and clearly defined channels.¹¹¹

83. While regular judicial evaluations may be intended to inform professional development and career advancement, such as promotions, they must not give rise to adverse consequences, including demotion, reassignment, or loss of status. In comparative practice, the effects of judicial evaluation vary across jurisdictions - ranging from predominantly formative tools aimed at improving performance to systems where evaluations may influence career progression more directly. This diversity of approaches underscores the importance of clearly defining and limiting the legal effects of evaluations in order to safeguard judicial independence and prevent undue pressure on judges. In particular, evaluation mechanisms should not be used, whether directly or indirectly, as substitutes for disciplinary procedures or as tools for sanctioning judges. Accordingly, any negative findings arising from an evaluation should only lead to adverse consequences where they are subsequently examined and established within separate, formally initiated disciplinary proceedings. Such proceedings must fully comply with due process guarantees, including clear and foreseeable legal grounds, an independent and impartial decision-maker, the right of the judge concerned to be heard and to present evidence, and access to an effective right of appeal. Furthermore, while “*compliance with ethical standards*” is included as an explicit indicator in evaluations conducted by NSJ trainers or lecturers (Appendix 1), peer judges (Appendix 2), and through self-evaluation (Appendix 3), the Regulation does not clarify the potential consequences of ethical concerns identified during evaluation, nor does it link such concerns to any relevant follow-up or procedural mechanisms. **Where ethical considerations form part of the evaluation, the Regulation should clarify the possible implications of ethical concerns and explicitly refer to any relevant procedures or bodies competent to address them.**

While the stated aim of the Regulation is to identify individual training needs and assess professional competence, the overall evaluation result primarily feeds back into the work of the training institution (NSJ) and is not systematically shared with the judicial governance body most directly responsible for judicial assessment and promotion, namely the HQCJ. The HQCJ receives only evaluation questionnaires completed by NSJ trainers or lecturers and representatives of public associations. The outcomes of peer evaluation and self-evaluation are not transmitted to the HQCJ. It remains unclear why such distinctions exist between evaluation methods, whether this reflects a hierarchy among them or the informal nature of the peer evaluation and of the self-evaluation, or how the various findings are intended to be weighed. It is also noteworthy that the overall evaluation result is derived from “*summarized data from regular evaluation questionnaires*” (paragraph 63 of the Regulation) rather than from a reasoned decision adopted by a competent body and it is unclear which body will carry out the aggregation of the information. As noted above, it is essential that performance evaluation of judges

110 Venice Commission, [CDL-AD\(2014\)007](#), Joint Opinion on the Draft Law amending and supplementing the judicial code (evaluation system for judges) of Armenia, para. 28; [CDL-AD\(2022\)050](#), Opinion on the draft amendments to the Law on the Judicial Council and Judges of Montenegro, para. 63.

111 Venice Commission, [CDL-AD\(2024\)031](#) on the Amendments to the Judicial Code of Armenia (regarding evaluation of judges), para. 46.

be carried out by an independent body.¹¹² **Clarifying the role of the HQCJ in the evaluation framework, especially with respect to the self-evaluation and peer assessment, as well as aggregation of results, would be useful to strengthen institutional coherence and accountability.**

RECOMMENDATION E.

To emphasize in the Regulation a clear distinction between judicial performance evaluation and disciplinary accountability, while ensuring that any serious errors or misconduct identified during evaluations are transmitted through clearly defined channels to the competent disciplinary body, preserving functional separation and procedural clarity.

4.5. Other Comments

84. It is noted that the data collected in the questionnaires is not sex-disaggregated. The collection of sex-disaggregated data in the context of performance evaluation is important to help identify potential structural patterns or disparities, or implicit bias, in performance evaluation, career development, and evaluation outcomes between women and men judges, and possible gender-related trends or implicit bias, which may otherwise remain invisible. This information can then contribute to adjustments to the evaluation methodology to ensure fair and equal treatment of women and men judges throughout the evaluation process, and potential career advancement, while also promoting the development of more targeted policies and training initiatives. **It is recommended that evaluation questionnaires include the possibility to record the sex of the evaluator, the evaluated judge, and, where relevant and appropriate, the parties to the proceedings** (for the evaluations carried out by public associations).

RECOMMENDATION F.

To clarify the role of the High Qualification Commission of Judges in the evaluation framework, ensuring that peer and self-evaluation results are appropriately transmitted and considered, so that judicial assessment and promotion processes are coherent, accountable, and aligned with international standards on independence and institutional responsibility.

[END OF TEXT]

¹¹² See e.g., CCJE, Opinion No. 17(2014) on the evaluation of judges' work, the quality of justice and respect for judicial independence, para. 37. See also ODIHR Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia (2010) (ODIHR Kyiv Recommendations), para. 2. See also CoE CEPEJ Guidelines on the Evaluation of the Quality of Work of Judges (2024), page 31. See also CCJE, Opinion No. 11(2008) on the quality of judicial decisions, para. 48.