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Embassy of Canada

Gouvernement du Canada
Ambassade du Canada



Embassy
of the Federal Republic of Germany
Kyiv



British Embassy
Kyiv



European Bank
for Reconstruction and Development

Kyiv, 15 October 2019

Dear Mr Razumkov,

As partners supporting Ukraine's democratic reforms, we welcome and support the high level of ambition demonstrated by Ukraine's new government. We share your belief that judicial reform is at the core of Ukraine's successful transformation, and that an independent, accountable, professional and efficient judiciary is of paramount importance.

In this context, we welcome your intention to pursue judicial reform, including by reinvigorating the judicial governance bodies, as well as the disciplinary and ethical framework for the judiciary, as foreseen in Draft Law No. 1008 "On the amendment of some laws of Ukraine on the activities of judicial governance bodies". We also welcome that the draft law foresees the involvement of international experts in the selection and ethical oversight processes, building on the positive experience from the selection of judges for the High Anti-Corruption Court.

We understand that this draft law is one step as part of a longer trajectory of judicial reform, and that there is a strong political imperative for rapid reform. We also acknowledge that the draft law was improved in preparation for the second reading. Nevertheless, we continue to have concerns as regards the compliance of some elements of the draft law with the principle of the judicial independence. Similar concerns have also been expressed recently by the Secretary General of the Council of Europe. An outline of our main concerns is attached in the Annex.

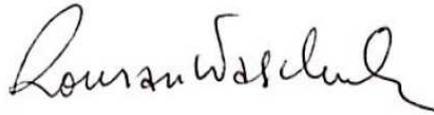
We would like to meet you to set out why some of our concerns with this draft law could have wider risks for the reform goals that the government has proposed. We would further like to discuss possible alternative solutions that would maintain the momentum of reform which the government intends, while avoiding some of the complications outlined in the Annex.

We would also encourage you to engage with the Venice Commission to assist you with ensuring the law's full compliance with our shared values.

We continue to stand ready to provide all assistance necessary to further advance judicial reform in Ukraine.



Matti Maasikas
Ambassador of the
EU



Roman Waschuk
Ambassador of Canada



Anka Feldhusen
Ambassador of Germany



Melinda Simmons
Ambassador of the
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Matteo Patrone
Managing Director of EBRD
Eastern Europe and the Caucasus

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H.E. Oleksiy Honcharuk, Prime Minister of Ukraine
Mr Andriy Bohdan, Head of the Office of the President of Ukraine
Mr Ruslan Ryaboshapka, Prosecutor General of Ukraine
Mr Ruslan Stefanchuk, First Deputy Speaker of the Verkhovna Rada of Ukraine
Ms Iryna Venediktova, Chair of the Verkhovna Rada of Ukraine Committee on Legal Policy
Mr Denys Monastyrskyy, Chair of the Verkhovna Rada of Ukraine Committee on Law Enforcement

Annex: Main issues of concern identified by the EU, USAID and Canadian experts

- 1. The planned re-selection of the Supreme Court judges and the reduction of its numbers without clear justification and under unclear terms.**
 - Potential concerns in relation to the integrity or professionalism of individual Supreme Court judges can be addressed by more proportionate and targeted measures that comply with the fundamental principle of the security of judicial tenure.
 - While it is a sovereign right of every state to change the number of its judges, such decisions should respect the principles related to the security of judicial tenure. Any reduction of judges of the Supreme Court should be preceded by a review of the rules on the court's jurisdiction and proper staffing of the courts of lower instances, to ensure access to justice and the stability of the judicial system.
- 2. The foreseen subordination of the new High Qualification Commission of Judges under the unreformed High Council of Justice.**
 - Giving the HCJ the power to approve rules and methodologies pertaining to judicial selection risks preventing the HQCJ from effectively performing its functions. Such subordination should only happen once the HCJ has also been reformed.
- 3. Commission mandates.**
 - The mandates of the new HQCJ Selection Commission and the HCJ Integrity Commission, including the modalities for the engagement and involvement of the international experts, should be further reviewed to ensure their effectiveness.