



**ADVISORY GROUP
OF EXPERTS**

APPROVED

**Minutes No. 16 of the meeting of the Advisory Group of Experts
dated 18 February 2025**

DECISION No. 2.15

*On the compliance of the candidate
for the position of a judge of the Constitutional Court of Ukraine
Oksana Soldatenko
with the criterion of a recognised level of competence in the field of law*

The Advisory Group of Experts (hereinafter referred to as the Advisory Group) composed of Oksana Vasylychenko, Chair of the Advisory Group, Maureen O'Connor, Secretary of the Advisory Group, members of the Advisory Group: Hanna Suchocka, Aleš Zalar, Yaroslav Romaniuk, Vasyl Shakun, in the presence of the Deputy Members of the Advisory Group: Volodymyr Kuzmenko, Vitalii Makhinchuk, Marek Zubik, as well as Richard Barrett and Thomas Griffith (in remote mode using electronic means of video communication), having assessed the compliance of the candidate for the position of a judge of the Constitutional Court of Ukraine Oksana Soldatenko (hereinafter referred to as the Candidate) with the criterion of a recognised level of competence in the field of law, in accordance with the Law of Ukraine "On the Constitutional Court of Ukraine" (hereinafter referred to as the Law), the Regulations of the Advisory Group of Experts approved by the decision of the Advisory Group of Experts of 12 November 2023, as amended by Minutes No. 10 the meeting of the Advisory Group of Experts of 30 May 2024 (hereinafter referred to as the Regulations), the Methodology for Assessing Moral Qualities and Level of Competence in the Field of Law of Candidates for the Position of Judge of the Constitutional

Court of Ukraine, approved by the decision of the Advisory Group of Experts of 04 December 2023, as amended by Minutes No. 10 of the meeting of the Advisory Group of Experts of 30 May 2024 (hereinafter referred to as the Methodology),

has established:

1. In accordance with part twenty-five of Article 10² of the Law, the Advisory Group, among other things, assesses the level of competence in the field of law of candidates for the position of a judge of the Constitutional Court of Ukraine.

2. According to part five of Article 10⁸ of the Law, candidates who have received a “compliant” assessment from the Advisory Group on the criterion of high moral qualities are assessed for compliance with the criterion of the level of competence in the field of law.

3. According to paragraph 2 of part three of Article 10⁸ of the Law, a candidate for the position of a judge of the Constitutional Court of Ukraine is deemed to comply with the criterion of a recognised level of competence in the field of law if the candidate has the necessary knowledge to exercise the powers of a judge of the Constitutional Court of Ukraine. According to paragraph 4 of part three of Article 10⁸ of the Law, a candidate does not comply with this criterion in case of proof of non-compliance or reasonable doubts about compliance.

4. The Advisory Group determines whether the candidate for the position of a judge of the Constitutional Court of Ukraine possesses the necessary knowledge to perform the powers of a judge of the Constitutional Court of Ukraine by assessing the candidate's knowledge in the areas defined in part four of Article 2 of the Methodology.

5. According to the decision of the Advisory Group No. 1.27, formalised in Minutes No. 15 of the meeting of the Advisory Group of 28 January 2025, Oksana Soldatenko was recognised as complying with the criterion of high moral qualities for the purposes of competitive selection of candidates for the position of a judge of the Constitutional Court of Ukraine.

6. In accordance with the second paragraph of part two of Article 10⁸ of the Law, Article 4 of the Methodology, within fifteen days from the date of the decision to assess the compliance of all candidates with the criterion of high moral qualities, the Advisory Group

assesses the level of competence in the field of law of each candidate for the position of a judge of the Constitutional Court of Ukraine, in particular by conducting a written assessment of candidates for the position of a judge of the Constitutional Court of Ukraine, as well as conducting additional interviews (if necessary).

7. In accordance with parts two, three, five and six of Article 10⁸ of the Law and on the basis of paragraph d of part one of Article 4 of the Methodology, the Advisory Group adopted decisions Nos. 2-4, formalised in Minutes No. 5 of the meeting of the Advisory Group of 23 March 2024, by which it approved: the conditions for conducting a written assessment of the level of competence in the field of law of candidates for the position of a judge of the Constitutional Court of Ukraine, the composition of the external group of international experts to prepare written questions and questions for additional interviews to determine the level of competence in the field of law

8. By the decision of the Advisory Group No. 2, formalised in Minutes No. 15 of the meeting of the Advisory Group of 28 January 2025, the Advisory Group set 08 February 2025 as the date for the written assessment of candidates for the positions of judges of the Constitutional Court of Ukraine.

9. On 08 February 2025, the Candidate participated in the written assessment by providing written answers to written questions in accordance with the procedure provided in paragraph d of part two of Article 4 of the Methodology.

10. On 18 February 2025, in accordance with part four of Article 4 of the Methodology, the Advisory Group adopted Decision No. 1, formalised in Minutes No. 16 of the meeting of the Advisory Group of 18 February 2025, on the absence of the need for additional interviews.

11. The Advisory Group, having reviewed the information about the Candidate and analysed the Candidate's response to the written assessment, decided that the Candidate complies with the criterion of a recognised level of competence in the field of law, given the following.

12. The Candidate has demonstrated a sufficient level of knowledge and legal analysis in the written assessment.

13. The Candidate completed the written assignment, providing answers that had an orderly structure, although they contained several contradictory conclusions. In the first

question, the Candidate correctly applied the normative material and appropriately identified the problem of competition between the right to freedom of assembly and the right to respect for private and family life, although she did not sufficiently substantiate the rather the controversial conclusion that restrictions on the right to assemble in penitentiary institutions apply to persons who are members of the administrative bodies of the state. In response to the second question, the Candidate highlighted the basic features of the principle of separation of powers, but the argument relied excessively on references to normative acts and lacked a sufficient number of examples to fully explore the topic. In response to the third question, despite a clear direction of thought, the Candidate did not provide adequate explanations regarding the concept and content of constituent power and did not express her own opinion on this issue.

14. The Candidate has generally confirmed the skill of analysing complex legal issues of a constitutional nature, structuring her own arguments, formulating a sound solution mainly relevant to the essence of the problem, and presenting it in a concise, clear and precise language.

15. In addition, the Candidate is a professor at the Department of Law of the Poltava University of Economics and Trade. In 2011, the Candidate defended her dissertation for the Doctor of Laws degree on the topic: “Legal Regulation of Expenditures for the Implementation of the Constitutional Right of Citizens to Health Care in Ukraine and the Countries of Central Europe”. The Candidate is the author of over 200 scientific publications. The Advisory Group takes the above-mentioned into account when assessing the Candidate's compliance with the criterion of a recognized level of competence in the field of law.

16. Taking into account the above, based on the results of the assessment of the Candidate's level of competence in the field of law for the purposes of selecting candidates for the position of a judge of the Constitutional Court of Ukraine, the Advisory Group did not find confirmation of inconsistency and has no reasonable doubts about the Candidate's compliance with the criterion of a recognised level of competence in the field of law. Thus, the Candidate has the necessary knowledge to exercise the powers of a judge of the Constitutional Court of Ukraine.

Guided by Articles 6, 7 of the Regulations of the Advisory Group of Experts approved by the decision of the Advisory Group of Experts of 12 November 2023, as amended by Minutes No. 10 of the meeting of the Advisory Group of Experts of 30 May 2024, the Methodology for Assessing Moral Qualities and Level of Competence in the Field of Law of Candidates for the Position of Judge of the Constitutional Court of Ukraine approved by the decision of the Advisory Group of Experts of 04 December 2023, as amended by Minutes No. 10 of the meeting of the Advisory Group of Experts of 30 May 2024, Articles 10², 10⁸ of the Law of Ukraine "On the Constitutional Court of Ukraine", the Advisory Group

has decided:

candidate for the position of a judge of the Constitutional Court of Ukraine Oksana Soldatenko for the purposes of selection of candidates for the position of a judge of the Constitutional Court of Ukraine on a competitive basis complies with the criterion of a recognised level of competence in the field of law.

Signatures:

Алеш Залар
(Aleš Zalar)

Василь Шакун
(Vasyl Shakun)

Ганна Сухоцька
(Hanna Suchocka)

Оксана Васильченко
(Oksana Vasylchenko)

Морін О'Коннор
(Maureen O'Connor)

Ярослав Романюк
(Yaroslav Romaniuk)