



**ADVISORY GROUP
OF EXPERTS**

APPROVED

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

DECISION No. 2.1

On the compliance of the candidate

for the position of a judge of the Constitutional Court of Ukraine

Iurii Barabash

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 Vasylchenko, 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 Iurii Barabash (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. 1.2, formalised in Minutes No. 15 of the meeting of the Advisory Group of 28 January 2025, Iurii Barabash 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 an outstanding level of knowledge and legal analysis in the written assessment.

13. The Candidate successfully completed the written assignment, conducting a thorough analysis of the circumstances underlying the questions and providing clear and well-substantiated answers, demonstrating familiarity with the doctrine of constitutional law and relevant case law. In response to the first question, the Candidate demonstrated knowledge of human rights theory and provided a detailed explanation of the right to peaceful assembly and approaches to its restriction. In the second question, he revealed in detail the legal content of the principle of separation of powers and reasonably applied the case law of the Constitutional Court of Ukraine to the described situation. In response to the third question, the Candidate demonstrated a high level of knowledge of comparative constitutional law and the ability to apply various methods of interpretation to resolve a constitutional and legal problem.

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

15. In addition, the Candidate has more than 20 years of professional experience in the field of law.

The Candidate is a Doctor of Law and serves as a Professor of the Department of Constitutional Law of Ukraine and Vice-Rector for Scientific and Academic Affairs and Strategic Development of the Yaroslav Mudryi National Law University.

He also holds the position of academician-secretary of the Department of State and Legal Sciences and International Law of the National Academy of Legal Sciences of Ukraine and serves as Chairman of the Scientific Advisory Council of the Constitutional Court of Ukraine.

In 2003, the Candidate defended his Ph.D. dissertation on the topic: "Parliamentary Control in Ukraine: Problems of Theory and Practice". In 2009, the Candidate defended his dissertation for the Doctor of Laws degree on the topic: "State and Legal Conflicts at the Modern Stage of State Formation: Constitutional and Legal Aspect". The Candidate has authored over 160 scientific publications.

Thus, the Advisory Group, when assessing the Candidate's compliance with the criterion of a recognized level of competence in the field of law, also considered his many years of activity in positions directly related to the field of constitutional law and the Candidate's contribution to the development of the constitutional law jurisprudence.

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 Yurii Barabash 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 Suchoska)

Оксана Васильченко
(Oksana Vasylchenko)

Морін О'Коннор
(Maureen O'Connor)

Ярослав Романюк
(Yaroslav Romaniuk)