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# Ukraine's Supreme Court: Born Amid Crisis, Now Under Siege

BY DAVID COLLINS AND  
SERGII KOZIAKOV

While Ukraine's highest court has existed for more than a century, its current structure was constitutionally and legally established less than a decade ago.

When President Viktor Yanukovich fled Ukraine during the Revolution of Dignity in 2014, the public's confidence in the judiciary collapsed due to the total dependency of the regime on kleptocracy. To address the judiciary in crisis, **Sergii Koziakov**, a Ukrainian attorney and legal scholar, was selected to chair, from 2014-19, Ukraine's High Qualification Commission of Judges and to serve on the Justice Sector Reform Strategy Commission. Both commissions recommended reforms to boost the efficiency and efficacy of the Court's proceedings, such as expanding the number of justices, establishing new cassation (or specialized) courts within the Supreme Court, and establishing new ethics protocols. These reforms were [officially adopted](#) in 2016.

The most recently constituted Supreme Court has, so far, withstood multiple challenges. The justices have continued to hold court while under siege, with more than 65,000 cases being submitted to the Court in 2022 alone. As of June 2023, the Court is

also experiencing an internal test of its resolve. President Vsevolod Knyazev of the Supreme Court was arrested in May 2023 on charges of graft in public office and accepting a bribe (see [press announcements](#) from the Supreme Court). His arrest prompted a rare plenum meeting of the Supreme Court and the election of a new president.

To learn more about the Supreme Court and the recent reforms, **David Collins**, justice of the Court of Appeal of New Zealand and chair of the *Judicature International* editorial board, spoke with Koziakov about the reforms and how the Ukraine judiciary has evolved since then. The following is a transcript of their conversation, edited for style and clarity.

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**DAVID COLLINS:** Your background is fascinating, Sergii. Could you tell us a little bit more about how you became a Visiting Senior Fellow at the London School of Economics and your career in Ukraine?

**SERGII KOZIAKOV:** I'm here in London, having fled the bombing in Kyiv on February 24, the beginning of the war. The bombing woke up my

family and me at 4:30 a.m., and by 9:00 p.m., we left the capital. There were so many cars evacuating the capital that for the first 130 kilometers, we moved slowly — approximately 19 hours on a very good road.

I spent 72 hours driving with no sleep before we came to a Polish city on the Ukrainian-Polish border. In a few days, we moved to Warsaw, and then in April 2022, we arrived in London to join my daughter, whose international company had relocated her to London.

The [Council for At-Risk Academics \(Cara\)](#) provides assistance to academics in immediate danger, and with its help, I became a fellow in law and state policy at the London School of Economics and Political Science. I continue my academic work because, for many years, I was an associate professor at Taras Shevchenko National University of Kyiv. Taras Shevchenko is named after our great poet from the 19th century, a national hero. It is the number one university in the country.

I am a graduate of that university and have taught there for more than 30 years, since the end of the Soviet Union era. Among other things, I created an English language master's degree program on international trade

regulation. In 1990, the last year of the Soviet Union, I started the first private law firm in Ukraine and continue to be a partner in the firm.

**DAVID COLLINS:** What is the background of the reformation of Ukraine's judiciary that started in 2014?

**SERGII KOZIAKOV:** Maybe you have heard about our 2014 "Revolution of Dignity," which actually began in late November 2013. In the beginning, it was a small meeting of students against the government, which had rejected the project of association with the European Union. The government had promised to associate for years, but then, under pressure from Russia, rejected it. The meeting of students turned into a revolution for many people. I have videos from when I took part in a huge demonstration together with my students. There were approximately 1 million people there on the first day.

And this revolution succeeded in late February 2014, because our former president, Viktor Yanukovich, ran away from the country. He was hugely corrupt and part of a really corrupt family. They practically were state mafia.

After Yanukovich, along with his family and associates, ran away from the country, in March 2014, Russian troops came to the Crimean Peninsula and also to some eastern territories of Ukraine and occupied them. Meanwhile, we elected a new democratic president and a new democratic parliament.

**DAVID COLLINS:** What led to you playing such important roles in court reform?

**SERGII KOZIAKOV:** In May 2014, my

close friend, Olexii Reznikov (now Minister of Defense) who was at that time a member of the board of the Ukrainian Bar Association, called me. He said, "Sergii, we propose that you take part in a competition to become a member of the High Qualification Commission of Judges. The new Minister of Justice promised that the competition to select the commission would be honest." He told me that I was suggested by members of the board of the Ukrainian Bar Association, who knew me as honest and professional. I thought about it and discussed it with my family, and two days later I agreed. And then I took part in this competition.

In the competition commission, there were people from what we call *Maidan*; it's a central square in Kyiv. *Maidan* is a Ukrainian word, but it seems to me that Ukrainian is a word of Turkish origin. And there were a lot of activities from *Maidan*, and they voted for me unanimously. It was in June, then I waited for the order of the ministry for several months, which was not signed until October.

In the beginning, I served on the commission with six judges, who had been elected in September 2014 by the congress of judges. Other members filled out the commission, and we started to work on the 9th of December 2014. That day, the judges elected me, an advocate and academician, as chair. And it was a huge grievance in the court system. All judges asked members of the Commission, "Why did you not elect a judge?" But it was quite logical because, at that time, most Ukrainian people wanted to dismiss all judges. They had almost zero trust in the court system. During the *Maidan* revolution, judges adopted a lot of unconstitutional decisions against people who protested against the top mafia of the state.

The second reason was that according to the not-entirely successful law, which was passed a few weeks after the end of the Revolution of Dignity and which dismissed all members of the High Council of Justice and the High Qualification Commission of Judges, these two bodies did not work for 8 and 13 months, respectively. The judiciary was in a state of crisis. Therefore, we really needed crisis management. I was the only member of the commission who understood what crisis management meant because before I had worked with clients from the top 100 international companies, including General Motors, McDonald's, Avon Cosmetics, Samsung Electronics, and so on. And I took part in huge projects as a lawyer.

**DAVID COLLINS:** After selecting you as chair, what were the commission's initial activities?

**SERGII KOZIAKOV:** Our first activity was transferring judges from courts in the occupied territories to peaceful territories in Ukraine. In December 2014, we transferred more than 400 judges from Lugansk and Donetsk in the eastern part of Ukraine.

Next, in February we started a disciplinary function because there were a lot of submissions of claims against judges. I remember the figure of approximately 12,000 disciplinary claims against judges. It sounds like a crazy figure, but it was really so! Also, more than 400 judges remained in Crimea occupied by the Russian Federation. Most of them, unfortunately, became collaborators, and in the second half of 2015, we recommended them for dismissal for breach of oath.

With 12,000 claims, it was real crisis management. We realized we needed

a strategy, not only for the commission but generally for the judiciary. The new president appointed a deputy of the administration to be responsible for creating a new structure of the judiciary.

Working in a special committee with the administration, we drafted a strategy, which I call the Justice Sector Reform Strategy. It was a commission similar to the Presidential Commission on the Supreme Court of the United States of America established by President Biden in April 2021 but with much wider power. Our President signed a decree with the text of this strategy in May 2015, and the plan was to implement it between 2015-2020.

**DAVID COLLINS:** Can you tell us more about the justice sector reform strategy?

**SERGII KOZIAKOV:** In 2014, the inability of the judicial system to fully cope with the problem of handling high-profile cases of corruption and political interference in the judicial system, its lack of transparency, and its ineffective administration of justice became evident. This was reflected in public opinion polls, which showed that only 5% of members of the public trusted the judicial system. The judges themselves recognized corruption and bribery in the judicial system. Reforming the judicial system among Ukrainians was recognized as a priority task. In early spring 2015, the law “On Ensuring the Right to a Fair Trial” was adopted. This law, first of all, improved the procedure for appointing a judge and ensured maximum transparency and publicity of these procedures. Secondly, the procedure for appointing and transferring judges to other courts has been changed. Both the first

and second procedures are carried out exclusively on a competitive basis, and the Higher Qualification Commission of Judges and the Higher Council of Justice play the main role.

In accordance with the Constitutional Reform from 2016, the President of Ukraine performs only ceremonial functions and does not, as before, have the ability to deviate from the decisions made by the High Qualification Commission of Judges and the High Council of Justice. Thirdly, a detailed list of grounds for dismissing judges from their positions and disciplining them is defined so that, on the one hand, the system of disciplinary responsibility is adequate and ensures that the punishment corresponds to the offense committed. On the other hand, it cannot be used as a tool of political influence or political persecution of judges. And last, we proposed the adoption of other legislative acts, such as laws on the High Council of Judiciary and on the Constitutional Court of Ukraine, as well as extensive amendments to new procedural codes.

**DAVID COLLINS:** Before we discuss the actual nature of the reforms, could you provide us with a brief overview of the court structure in Ukraine? The Ukrainian court structure seems quite different from common law court structures. And the number of judges on your Supreme Court seems to be very high compared to Supreme Courts and jurisdictions that we are most familiar with.

**SERGII KOZIAKOV:** Before the reform, there was a four-tier court system: local courts, appellate courts, cassation specialized courts, and the Supreme Court.

**DAVID COLLINS:** How many courts of cassation were there?

**SERGII KOZIAKOV:** Three: The High Specialized Court of Ukraine for Consideration of Civil and Criminal Cases, the High Commercial Court of Ukraine, and the High Administrative Court of Ukraine. And these courts were responsible for 99% of all cases in the cassation courts. The former president thought that everything should be decided on this level. Further, judges in those courts decided whether to permit any case to move to the Supreme Court. At that time, the Supreme Court almost did not have any power. Prior to the reform, there were 330 judges of cassation courts and the Supreme Court, 42 of whom were judges in the Supreme Court.

In the judiciary reform, we eliminated the three highly specialized courts and the previous Supreme Court and created instead the new Supreme Court with a Cassation Civil Court, Cassation Commercial Court, Cassation Criminal Court, Cassation Administrative Court, and Grand Chamber. So now there is a three-tier court system: local courts, appellate courts, and the Supreme Court.

**DAVID COLLINS:** How many judges are on the Supreme Court now, Sergii?

**SERGII KOZIAKOV:** As of today — 168. Certainly, it’s not a small court, but for the first five years almost 491,000 cases came to the Supreme Court! And the Grand Chamber alone decided almost 6,000 cases. Even last year — during the war — 65,628 cases were submitted to the new Supreme Court.

**DAVID COLLINS:** How did you decide on the number of judges in the new court?

**SERGII KOZIAKOV:** When we planned to create a new Supreme Court, we researched supreme courts around the world. I asked USAID to prepare a report on 45 countries in the world. Some countries, such as the United States and Canada, have nine judges. The new supreme court in England has 13. But there is a big supreme court in Italy – 300 judges. Also, many, many in Turkey. We were closer to Italy and Turkey but reduced the cassation level to 30% fewer judges than before.

**DAVID COLLINS:** What are some other aspects of the reform?

**SERGII KOZIAKOV:** Previously our parliament and president had enormous power to appoint and remove judges, and it was a really corrupt procedure. Until 2014, if you wanted to become a judge, you went to a certain office – often with money – and then you got appointed. All judges knew that I never gave bribes to judges when I practiced law. Never. And when I joined the commission, to eliminate even the possibility to bring me a bribe, I set up a small table near the door to the entrance of my office, so that people had to enter empty-handed and retrieve whatever they might have brought when they left.

**DAVID COLLINS:** How did you root out this problem of corruption?

**SERGII KOZIAKOV:** We decided to make all procedures transparent to the maximum. We should have a Guinness World Record for making procedures transparent! We decided to start from the top with the new Supreme Court. We made a new rule that now all vacant positions of judges will be filled after an open competition.

Before the reform, the list of

vacancies in the Supreme Court was unknown. If you wanted to become a judge of the Supreme Court, it was necessary to meet with the appropriate office to ask if there was a vacancy. As a first step, we published the list of vacancies on our website. Then we announced that it would be an open competition – the first in the history of Ukraine.

Next, we wrote rules and detailed methodology by which the Supreme Court judges would be selected in Ukraine. Before, there were no written rules, only habits. We published them. All candidates could read and criticize them if necessary, but they were open.

The next point: before, only judges could apply for the position of judge of the Supreme Court. But our research showed that in some countries, not only judges but also academicians and advocates could become judges of the Supreme Court. We consulted the former president of the Supreme Court of Portugal. (By the way, though it's a small country, they have a Supreme Court with 60 judges, which is quite significant.) And he told us that not only judges but also academicians and advocates could become a judge of the Supreme Court of Portugal.

And we also published the methodology and criteria for the selection of judges.

**DAVID COLLINS:** Such as?

**SERGII KOZIAKOV:** Professionalism, ethics, and integrity. We required a lengthy biography from each candidate, plus a detailed questionnaire. As an example, we used a questionnaire from the United States. I made some changes, but it had a lot of questions, including if you had ever used drugs, or alcohol, or do you play cards, etc.

**DAVID COLLINS:** These questions were designed, I understand Sergii, to eliminate persons who might be predisposed towards corruption or bias or otherwise be an inappropriate person to hold a position on the Supreme Court.

**SERGII KOZIAKOV:** Yes, you are right. Next, we required three different written declarations. The first was a declaration of assets, which was also introduced for other persons holding public positions, including me. (In the first month of the full-scale invasion of the Russian army, the Ukrainian Parliament suspended the obligation to submit a declaration for the period that martial law was in effect) And all these declarations were published, except for personal data. They included not only the individual's but also the family's real estate, cars, money in banks, and other assets.

**DAVID COLLINS:** Also declarations of interest?

**SERGII KOZIAKOV:** We call it a declaration of family contacts. For example, if a candidate has relatives in the prosecutor's office, or who are, advocates, notaries, deputies, and so on. We also required an integrity declaration. A few months before the competition, the National Anti-Corruption Bureau started to work in Ukraine. I called the director of the National Anti-Corruption Bureau and proposed cooperation. I asked him to provide us with information about candidates for the Supreme Court.

Let me give you one example of the corruption of the chief judge in a small city on the Ukrainian border where it was also a customs office. He had a property with six very expensive cars. His wife had eight very expensive cars.

And his mother-in-law had 12 very expensive cars.

How was this possible? Because cars could be imported in a so-called “gray import,” as spare parts. If a car is imported as spare parts, the duty is much less than if it is imported as a car. The judge made the decision whether it was a car or car parts. And he adopted a necessary decision that cars were imported as spare parts. And for this, he received bribes. The Director of the National Anti-Corruption Bureau and I mentioned this case in several press conferences, not revealing the name of the judge. The judge emigrated from the country soon thereafter.

Another example of disclosed information: one candidate was forced to explain where he got the money he spent on 48 trips to Germany over 4 years. For the first time in the world, we published on the website all the files of judges and candidates for the positions of judges. The average number of pages is 200, and the largest number is 1,800. The total number of pages in the dossier at the beginning of 2023 was more than 1,300,000 pages.

**DAVID COLLINS:** Can you tell us more about the competition for selecting judges?

**SERGI KOZIAKOV:** First there is a two-part examination. The first stage is a test with 120 multiple-choice questions, graded by computer. The second part is a case study, evaluated by members of the commission. Another innovation: we require four psychological tests. I don’t know if in New Zealand there is psychological testing.

**DAVID COLLINS:** No, not for judges.

**SERGI KOZIAKOV:** I believe at present only four countries require it. But

Ukraine has the most substantial psychological testing. We use the American psychological test, MMPI-2, and three others. And we invited an Italian company to provide psychological testing in Ukraine. They had provided an evaluation of about 4,000 candidates for the positions of detectives and analysts of the National Anti-Corruption Bureau and 30,000 candidates for the positions of regional patrol officers of the national police. Fortunately, donors from the European Union paid for psychological testing.

The last stage is an interview with candidates who have successfully passed the previous stages. Here again, unique in the world, the interviews with all candidates are streamed to YouTube. You can easily find many hundreds of these interviews on YouTube, five years after the end of the competition.

The United States Senate also interviews Supreme Court candidates but only one candidate for one vacancy. We made interviews with all candidates.

And one last point, again unique in the world: the Public Council of Integrity, which consists of 20 representatives of civil society (lawyers, journalists, and anti-corruption activists), participates in the procedure. They prepare information about the candidate and submit it to the Commission in one of two versions. The first version simply gives information, negative or positive. But if they discover serious negative information about the candidate, they prepare a short report of one to three pages.

For example, if they notice that a candidate declares a car value as \$15,000, but the real price is \$150,000, we will include this information in our report about this candidate. The Council members also take part in interviews and can ask questions of

the candidate.

**DAVID COLLINS:** How has this process worked so far?

**SERGI KOZIAKOV:** We have conducted two competitions for the Supreme Court, the first for 120 vacancies and the second for 78 vacancies. For the first 120 vacancies, 1,350 candidates submitted an application.

**DAVID COLLINS:** Were most of those applicants judges, or did you also get good applications from non-judges?

Sergii Koziakov: We had 30 percent of applicants who were not judges. Each stage of the competition eliminated candidates. The exam eliminated 40 percent, for example. In the first competition, by the interview stage, we had approximately 365 candidates remaining. There were more than three candidates for each position in the last step of the interviews.

**DAVID COLLINS:** And how is the newly-constituted court working out?

**SERGI KOZIAKOV:** As of now, the Court has functioned for a little more than five years. Cases from all old courts — the specialized cassation courts and the old Supreme Court — came to them. And also, new cases also are coming to them every day. In these first years, they received approximately 90,000 decisions per year. You can imagine how hard they worked!

They also changed the structure of decisions. Now the decision has subtitles showing the structure. This makes it much easier to read; it is written not only for lawyers but also for non-lawyers. In addition, almost all cases rely on decisions or practices of the European Court of Human Rights. They



also use, directly and indirectly, norms of international law.

Most important to me is that not one case of any bribe and any corruption has been reported about judges of the new Supreme Court for the first five years of its work. Why? First, because they had to pass an open competition. Second, previously judges of the Supreme Court had a monthly salary of approximately \$500-700. Now they have the equivalent of \$10,000 monthly. It is the biggest salary in Ukraine, and it's much, much higher than in many countries in Europe — much higher than in Poland, Hungary, Bulgaria, Romania, the Baltic states, and so on.

Of course, we understood that even such a new extraordinary competition procedure does not guarantee against possible corruption in the future. In an interview I gave in the summer of 2018, before the competition for the High Anti-Corruption Court and the second competition for the Supreme Court, I said that judges who success-

fully passed the competition for the new Supreme Court would receive a judicial salary of approximately \$10,000. The salary is kind of a “carrot” and an extremely strong social step of the state, which enables judges to cover their necessary expenses, and families to be calm financially. The “stick,” on the other hand, is the need to fill out the electronic declaration and checks of the National Agency for the Prevention of Corruption and the National Anti-Corruption Bureau.

Another innovation: quite a few judges speak English. And the first President of the Supreme Court, who served from November 2017 to November 2021, was female.

**DAVID COLLINS:** Are the judges appointed for life or a finite term? Do they have to retire at a certain age?

**SERGII KOZIAKOV:** Before the reform, all judges were appointed initially for five years and then for life. Their appointment for life depended

on the decision of the Parliament and the President of Ukraine. Now they are appointed to serve until they reach the retirement age of 65.

**DAVID COLLINS:** The age makeup of your judges now must be quite a lot younger than it was.

**SERGII KOZIAKOV:** Yes. The youngest candidate appointed through the competition was 33 years old at the time of appointment. The oldest was approximately 60.

**DAVID COLLINS:** Sergii, Thank you so much for this fascinating description of court reform and judicial selection. Congratulations on your work as chair of the High Qualification Commission of Judges, which has introduced innovative reforms and accomplished so much. We look forward to hearing more from you in the future as we consider subjects such as how courts function in a time of war.

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