



USAID | **UKRAINE**
FROM THE AMERICAN PEOPLE

FAIR, ACCOUNTABLE, INDEPENDENT, AND RESPONSIBLE (FAIR) JUDICIARY PROGRAM IN UKRAINE

**ANNUAL PROGRESS REPORT
OCTOBER 2012 TO SEPTEMBER 2013**

Contract No. AID-121-C-11-00002

October 30, 2013

This publication was produced for review by the United States Agency for International Development. It was prepared by Chemonics International Inc.

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

CONTENTS

Executive Summary	4
Overview of the Project	5
Expected Result 1.1: Ukrainian Judicial Reform Legislation Receives Favorable Comments from the Venice Commission as Meeting International Standards and Reflects Domestic and International Expert Input	6
Expected Result 1.2: Constitutional Reform related to the Judiciary Is Pursued in an Inclusive Manner	9
Expected Result 2.1: Ukrainian Judges Are Appointed on Objective, Knowledge, and Performance-Based Criteria	13
Expected Result 2.2: Ukrainian Judges Are Disciplined in Transparent Processes	16
Expected Result 2.3: The Regulatory and Institutional Framework for Judicial Accountability and Integrity is Strengthened	18
Expected Result 3.1: The Skills and Competencies of Ukrainian Judges Are Bolstered through Modern Demand-Driven Initial and Ongoing Judicial Training Programs	20
Expected Result 3.2: Judicial Operations are Evaluated and Funded According to an Objective Assessment of Needs and Performance	23
Expected Result 3.3: The SJA’s Capacity to Represent and Support the Developing Needs of Ukraine’s Judiciary is Strengthened	28
Expected Result 4.1: Civil Society and the Public have Effective Means to Engage in Dialogue with Decision Makers regarding Judicial Reform	29
Expected Result 4.2: The Ukrainian Public is Engaged in the Judicial Reform Process through Civic Education and Advocacy Activities	32
Expected Result 4.3: Civil Society Organizations have Means and Opportunities to Effectively Monitor the Implementation of Judicial Sector Reforms and Provide Oversight to Judicial Operations	34
Performance Management and Evaluation	38
Budget Execution and LOE Utilization	41
Administration and Project Management	41
Donor Coordination	43
List of Annexes	46

EXECUTIVE SUMMARY

Year 2 of USAID's Fair, Accountable, Independent, and Responsible (FAIR) Judiciary Program in Ukraine continued to be marked by extended progress across project activities. FAIR's primary objective – supporting legislative, regulatory, and institutional reforms in Ukraine's judicial institutions to build the foundation necessary for a more accountable and independent judiciary – requires USAID's committed assistance and FAIR's successes to date continue to advance this objective in the face of ongoing challenges.

Unfortunately, the Ukrainian judiciary remains subject to political interference with relatively weak judicial institutions and limited capacity to fully defend and uphold judicial independence. Nevertheless, the Law on the Judiciary and Status of Judges remains an overall success for Ukraine. Based upon its main goals, and in coordination with judicial and civil society leadership, and guidance from USAID, FAIR provided critical support to the judiciary in Year 2 in the following key areas:

Constitutional Reform. It remains clear that sustainable judicial development is not possible without constitutional reform. On July 4, 2013, President Yanukovich submitted to the Verkhovna Rada (Parliament) on July 4, 2013 the Draft Law *On Introducing Changes to the Constitution of Ukraine Regarding Strengthening Guarantees of Judicial Independence*, to amend Articles 157 and 158 of the Constitution. The purpose of the draft law is to improve provisions in the Constitution and strengthen the existing guarantees of judicial independence. Amendments to the law will give the opportunity to change the procedure for the appointment and dismissal of judges. The new provisions will reduce the role of political institutions in the appointment and dismissal process and increasing the number of judges in the High Council of Justice (HCJ), per Venice Commission recommendations. On September 19, 2013, the Constitutional Court of Ukraine (CCU) recognized the conformity of the draft law with the Constitution, leading the way for further debate in Parliament. These draft amendments represent a significant step forward and include a number of proposals supported by FAIR.

Judicial Selection. FAIR's Year 2 continued support for an objective and merit-based system for judicial selection. With FAIR's guidance and assistance, the High Qualifications Commission of Judges (HQC) conducted its third national test for nearly 3,500 judicial candidates and a qualifications exam following initial training for the first time. In a firm demonstration of this program's sustainability, the test and qualifications exam were conducted entirely with HQC financing. As a result, more than 880 judges have now been transparently appointed to the Ukrainian bench.

FAIR by the Numbers 2012-2013

- 451 courts covering every region of Ukraine received assistance.
- Supported 15 key government justice sector institutions.
- Targeted programming provided to 13 civil society organizations.
- Promoted six amendments in Ukrainian legislation to enhance judicial independence.
- Trained 1,206 judges and judicial personnel.
- 82 trainers qualified under Training of Trainers Program.
- 399 justice sector personnel engaged in long-term strategic planning for the judiciary.
- Trained 220 judges in judicial self-governance mechanisms.
- Supported two national tests of 3,476 and 2,339 judicial candidates accordingly.
- Engaged 4,970 citizens in the process of monitoring and oversight of court performance.

Professional Conduct Code. The integrity of Ukraine’s judiciary took meaningful steps forward through FAIR’s support to the Council of Judges’ (COJ). This resulted in the Congress of Judges adopting a new, modern Code of Judicial Ethics on February 22, 2013 which is in line with European and international standards. The improvements are notable, including a prohibition on ex parte communications and substantial conflict of interest and recusal provisions.

Judicial Discipline. This year FAIR introduced, together with the HQC, the first ever training program for judicial inspectors. As a result, judicial inspectors now have improved skills to investigate allegations of judicial misconduct.

Targeted Training. During Year 2 FAIR supported the development of new judicial education curricula with the National School of Judges (NSJ), including a program on rule of law and human rights and updated programs on judicial opinion writing and judicial ethics based on the new Code of Judicial Ethics. FAIR also supported the completion of the “Judges Book” together with the NSJ, which will serve as an introduction to the profession focusing on the role of a judge in a democratic society.

Improved Court Administration. Under the leadership of the State Judicial Administration (SJA) and NSJ, FAIR developed and implemented with Michigan State University (MSU) a pilot Court Administration Certificate Program. 40 competitively selected court administrators from all over Ukraine participated in the pilot. The training program was based on MSU’s Judicial Administration Non-Degree Certificate Program covering purposes and responsibilities of courts; leadership; resources, budget, and finance; information technology, human resource and case flow management; visioning and strategic planning, among other topics. It provided a great opportunity for the participants to learn about best international practices in court administration from the leading American professors, share their experience and the challenges they face in their daily work, and create a professional network with their peer colleagues from different regions of the country.

Engaging Civil Society. FAIR’s commitment to a strengthened role for civil society as advocates for and monitors of judicial reform was continued in Year 2. FAIR continued to support eight CSOs that partnered with 34 courts in 13 regions to conduct interviews with over 4,000 court users and develop “citizen report cards” to improve court services. In one year, the number of courts participating in this program more than doubled. FAIR supported the Ministry of Justice (MOJ) to increase public awareness about free legal aid with the dissemination of thousands of public awareness kits, video and a broad multimedia campaign.

Strategic Planning. On February 22, 2013, the Congress of Judges adopted the Strategic Plan for the Ukrainian Judiciary from 2013 to 2015. This plan, which was supported by FAIR, includes core values, principles and strategic areas for the judiciary.

Assistance is still needed to ensure that accomplishments are more fully developed and broadened, and most importantly, institutionalized so that they are not easily erased. The report that follows describes these successes in greater detail, as well as providing information on key achievements, progress made in meeting performance targets, budget execution, project management and donor coordination over the past year.

OVERVIEW OF THE PROJECT

As outlined in the contract, the following section contains a discussion of the current status of affairs and key achievements to date for each Expected Result, from October 1, 2012 through September 30, 2013. Deviations in implementation of the work plan and problems requiring resolution or USAID intervention are discussed, if they are applicable. Views expressed by project

counterparts do not necessarily represent those of the FAIR team.

EXPECTED RESULT 1.1: UKRAINIAN JUDICIAL REFORM LEGISLATION RECEIVES FAVORABLE COMMENTS FROM THE VENICE COMMISSION AS MEETING INTERNATIONAL STANDARDS AND REFLECTS DOMESTIC AND INTERNATIONAL EXPERT INPUT

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: During the reporting period, the FAIR team worked with a variety of partners on improving the legislative and regulatory framework for the judiciary. The FAIR team continues to regularly monitor legislative initiatives to analyze potential impacts on the judiciary and launch public discussions when needed to prevent backsliding. This activity occurred in parallel with efforts regarding constitutional reform (see Expected Result 1.2) to utilize available resources and further advance justice sector improvements.

The parliamentary elections of October 28, 2012 led to a new composition of the Parliament of Ukraine (Verkhovna Rada). FAIR initiated efforts to build connections with the new political forces in Parliament by presenting members with FAIR program activities and propose expert support in areas of cooperation. In February and March 2013, FAIR leadership and experts met with representatives of the Batkivshchyna party, UDAR party, and All-Ukrainian Organization Svoboda. During these meetings, FAIR Chief of Party (COP) David Vaughn introduced the USAID FAIR Justice Project to members of Parliament (MPs), described program areas, presented program results, and outlined the challenges of judiciary and constitutional reform. The members of Parliament informed the FAIR team that they are very interested in FAIR's ability to provide expert support and expertise. The MPs and FAIR team agreed to cooperate and develop collaboration in the judicial reform area.

Under this Expected Result, FAIR also worked with its partners to assist them in promoting activities in their sector.

On October 5, 2012, upon the request of the HCJ, FAIR provided financial and technical support to conduct a scientific and practical conference on *Constitutional and Legal Status of the High Council of Justice: Theory and Practice*, which was held in the premises of the National University Odessa Law Academy. Conference objectives included: (1) collect the academic community's opinions and research regarding the roles and responsibilities of the HCJ; (2) discuss possibilities to improve the status, composition, and activity of the HCJ; (3) and develop recommendations regarding the status, composition, and powers of the HCJ to provide the Constitutional Assembly with relevant recommendations. This conference was the first in a number of planned events by the HCJ in connection to the HCJ's 15th anniversary celebration. The second event was the International Conference *Role and Place of High Councils of Justice in Creating the Judicial Corps* conducted by the HCJ, with FAIR financial and technical support, on March 21, 2013. Conference objectives included: (1) conduct a comparative analysis of the status, composition, and operations of High Councils of Justice in other countries; (2) accumulate international experience, scientific opinions, and research results on determining the place of the



FAIR Expert James Hamilton presenting at the International Conference on "Role and Place of High Councils of Justice in Creating the Judicial Corps" in Kyiv on March 21, 2013.

H CJ within the system of state bodies; (3) discuss the possibilities of further improving the status, composition, and operations of the HCJ; (4) based on conference results, develop and provide the Constitutional Assembly with additional proposals regarding the status, composition, and powers of the HCJ taking into account best international practices. FAIR also contributed with the participation of European experts; namely Judge Giacomo Oberto who delivered the presentation on the *Judicial Independence in Its Various Aspects: International Basic Principles and the Italian Experience* and James Hamilton who delivered the presentation on the *Status and Scope of Authority of the HCJ in Line with European Union, Council of Europe Standards on Judicial Independence and Accountability*.

On November 29 and 30, 2012, FAIR in cooperation with the Organization for Security and Co-operation in Europe (OSCE) Project Coordinator in Ukraine and the German Foundation for International Legal Cooperation supported the International Scientific and Practical Conference *Role of Administrative Case Law and its Impact on Public Law Development* conducted by the High Administrative Court of Ukraine (HAC).

The objectives of the conference were to: (1) learn the interrelation between the establishment of administrative justice and level of human rights protection in public law relations; (2) discuss the administrative justice models in terms of distribution of powers between different jurisdictions; (3) learn the impact of the European Court of Human Rights decisions on domestic remedies for system improvements, protection of human rights, and fundamental freedoms in the court.

FAIR demonstrated its commitment to promote legal education reform by supporting the meeting of the Working Group on Legal Education Reform in Ukraine in cooperation with the OSCE Project Coordinator in Ukraine on November 8 and 9, 2012. On April 25 and 26, 2013, FAIR jointly with OSCE and the Ministry of Education supported the national conference *Legal Education Reform Efforts* in cooperation with the National University Law Academy in Kharkiv. The objective of the conference was to present the draft Concept Paper on needed reform tendencies to the deans of leading law schools. The FAIR Project brought regional expert Mr. David Kareselidze from Tbilisi, Georgia, to provide his country's experience in reforming legal education and contribute to the improvement of the Concept Paper. In the frame of these efforts, FAIR contributed to the draft Law on Higher Education with respect to the improvement of the accreditation process and quality of education assurance.

Milestone Progress ER 1.1

- Draft amendments to the Law on the Judiciary and Status of Judges (amended according to Venice Commission recommendations) introduced to the President's office for consideration.
- Draft Law on the Bar and Advocates activity was submitted to the Verkhovna Rada of Ukraine on April 28, 2012, adopted on July 5, 2012, in force from August 15, 2012.
- Held three public discussions on pending judicial reform legislation (*December 20 and 21, 2011, Conference on Judicial Reform in Ukraine and International Standards for Judicial Independence; October 5, 2012, Conference on Constitutional and Legal Status of the High Council of Justice: Theory and Practice; March 21, 2013 Conference on Role and Place of High Councils of Justice in Forming the Judicial Corps*).
- Concept Paper on Legal Education Reform developed and presented to the members of the Working Group on Legal Education Reform in Ukraine
- International conference on "Role of Administrative Case Law and its Impact on Public Law Development" conducted.
- Recommendations to improve HQC Regulation on transferring judges within term of their first appointment developed
- Concept paper on amendments to the Law on Access to Court Decisions developed.
- International conference on "Role of the Supreme Court in a Democratic Society" conducted.
- The Law on Amending Certain Legislative Acts of Ukraine concerning Realization of State Anti-Corruption policy adopted.

During the reporting year, FAIR short-term local Judicial Operation Expert Olena Ovcharenko analyzed the HQC practice on transferring judges within their first appointment term with the goal of increasing the transparency of the process. FAIR finalized her report and submitted it for

consideration to the HQC. The next step in the activity is obtaining the decision of the HQC on the on criteria for transferring judges. This will be reflected in the next work plan period.

Additionally, FAIR short-term local expert Mykola Khavronyuk reviewed the legislation related to the background check of judicial candidates to develop recommendations to ensure consistency with the Law on Corruption Prevention and Counteraction. As a result of this assignment, Mr. Khavronyuk drafted the Law on Amending Some Legislative Acts regarding the Improvement of Legislation in the Area of Corruption Prevention and Counteraction concerning the background check of judicial candidates and relevant explanatory note.

On February 15, 2013, FAIR jointly with the German Foundation for International Legal Cooperation supported the international conference *Role of the Supreme Court in a Democratic Society* conducted by the Supreme Court of Ukraine (SCU) to commemorate its 90th anniversary. The objective of the conference was to discuss the development of legislation affecting the judiciary, in particular the role and status of the SCU. Representatives from state authorities of Ukraine, judges of various levels and jurisdictions, leading national scientists, representatives of international organizations, and judges from Azerbaijan, Georgia, Germany, Russia, and the United States took part in the conference. Participants agreed on the following: the Supreme Court is the key to ensuring unified court practices and rule of law principles; the Supreme Court, as the highest judicial institution, should deal with cases of different court practices in material and procedural law; and direct access to the Supreme Court of Ukraine should be ensured to secure the right to appeal against High Administrative Court (HAC) decisions. FAIR contributed to the expert panel of the conference with the participation of U.S. *pro bono* Expert Federal Judge Philip Pro, who delivered the presentation the *Supreme Court as an Institution of Democratic Society: Current State and Improvement Perspectives*.

As a result of the adoption of the Law on Bar and Advocates Activity, the National Association of Advocates of Ukraine (NAAU) and the Bar Council of Ukraine took the first steps in institutional development. FAIR Deputy Chief of Party (DCOP) Nataliya Petrova is a member of the Bar Council of Ukraine and contributed to the development of a number of internal regulatory documents of the NAAU and Bar Council based on the experience of the American Bar Association (ABA).

On May 14, 2013 the Verkhovna Rada adopted the Law on Amending Certain Legislative Acts of Ukraine concerning Realization of State Anti-Corruption Policy expanding the authority of the COJ of Ukraine over conflict of interest prevention in Constitutional and general courts as well as leadership performance of the HQC and SJA.

Pursuant to Expected Result 1.1, FAIR is assisting the Ukrainian Parliament, the HQC, and HCJ in improving legislation and regulations. The objective of this assistance is to provide better protection of judicial independence. This will be accomplished through amending the Law of Ukraine on the Judiciary and Status of Judges and the Law on the High Council of Justice. In support of Task 1.1.3, there is a need to bring the judicial discipline liability procedure of both laws in line with related provisions of the findings from the European Court of Human Rights (ECHR). Specifically the provisions in the *Oleksandr Volkov v. Ukraine* case regarding procedures for the disciplining of judges. The ruling provides sanctions with respect to proportionality in judicial misconduct cases and the introduction of statutory limitation in cases that involve the dismissal of a judge for the breach of oath. Concerning the decision of the *Oleksandr Volkov v. Ukraine* case ECHR stated that;

...There are many issues, as discussed in the reasoning part of this judgment, indicating defects in the domestic legislation and practice in this area. In sum, the legislative steps mentioned by the Government do not resolve the problems of systemic dysfunctions in the

legal system disclosed by the present case. Ukraine must urgently put in place the general reforms in its legal system outlined above. In so doing, the Ukrainian authorities should have due regard to this judgment, the Court's relevant case-law and the Committee of Ministers' relevant recommendations, resolutions and decisions.

FAIR short-term expert Olena Ovcharenko was involved in assessing the scope of legislation to be amended with respect to the issues identified by the ECHR in the *Oleksandr Volkov v. Ukraine* case. Based on the expert's report, FAIR will provide the Parliament Rule of Law and Justice Committee with a list of recommendations that are in line with Council of Europe standards. These recommendations will act as legislative initiatives to be considered by Members of Parliament in the areas of (1) improvement of disciplinary procedures, (2) expanding the list of judicial disciplinary sanctions available to impose on the judge in question, (3) expanding the authority of the HAC.

FAIR's short-term local expert Mykola Khavronyuk analyzed provisions of the Law of Ukraine on the Rules of Ethical Conduct No. 4722-VI of May 17, 2012. The analysis reviewed compliance with constitutional guarantees of judicial independence and provisions of the Law of Ukraine on the Judiciary and Status of Judges of July 7, 2010. The expert developed recommendations on relevant legislative amendments to eliminate any contradictions between the Constitution of Ukraine and international standards of judicial independence and impartiality. FAIR plans to submit the recommendations for consideration to interested MPs in the next reporting period. With regard to increasing the role of judicial self-government bodies in forming the budget of the judiciary, Mr. Khavronyuk drafted the suggested changes to a number of legislative acts to envisage the right of the COJ to submit budget requests directly to the VR Budget Committee without involving executive bodies.

Finally, FAIR continues its cooperation to improve the free legal aid system in Ukraine with the leadership of the Coordinating Center for Legal Aid. The aim of the assistance is to bring the text of the Law on Free Legal Aid and its implementation in line with Council of Europe (COE) recommendations and international standards, as well as the development of secondary legislation. The Center is interested in developing methodology to assess the quality of legal services. FAIR will partner with other donors to provide this requested assistance.

DEVIATIONS IN THE IMPLEMENTATION OF THE WORK PLAN: FAIR conducted most activities as scheduled. Minor changes in implementation were required as a result of the pace of partner performance. However, actual legislative changes are still pending due to the lack of political will, an unstable Parliament, and weak judiciary leadership which lacks initiative in the judicial reform process. FAIR continues to work on promoting and fostering key reform components and focuses its efforts on building consensus and mutual understanding among stakeholders.

EXPECTED RESULT 1.2: CONSTITUTIONAL REFORM RELATED TO THE JUDICIARY IS PURSUED IN AN INCLUSIVE MANNER

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: During the current reporting year, the FAIR team has focused on providing expert and technical support to the Constitutional Assembly (CA) in its efforts to come up with a consolidated draft Concept Paper on needed Constitutional changes as well as promote its work to the public.

As a result of the efforts of the CA Commission on the Judiciary, and based on its ideas, the Presidential Administration developed the draft law On Amending the Constitution of Ukraine Regarding Strengthening Judicial Independence to address the number of issues identified by Venice Commission experts. These issues are currently preventing the status of judges from being in full compliance with Ukrainian government commitments to the Council of Europe.

Mentioned above draft law introduces a new provision establishing by law the right of everyone to a fair and public trial of his/her case within a reasonable time by an independent and impartial court. The document envisages that the ir-removability principle with respect to the first appointment of judges should be eliminated and judges should be appointed for an unlimited term by the appointment of the President and in accordance with the recommendation of the HCJ. It is worth mentioning that the drafters suggested changes the composition of the HCJ by increasing the number of judges appointed by the Congress of Judges from 3 to 12 out of 20 HCJ members. The Verkhovna Rada's will not be involved in the process of judicial appointment and dismissal. The authority of lifting judicial immunity in case of criminal investigation against a judge is transferred from Parliamentary authority to the HCJ. Breach of the oath as ground for judicial dismissal is eliminated and replaced with judicial conduct incompatible with the status of a judge. The draft Law envisages that courts of general jurisdiction shall be created, re-organized, and liquidated by law. The age limit for judicial candidates is increased from 25 to 30 year and the age for judicial retirement is increased from 65 to 70.

Milestone Progress ER 1.2

- Concept paper for the Constitutional Assembly is approved by the President of Ukraine.
- Council of Europe expert Lorena Bachmaier developed and presented the Opinion on the Constitution of Ukraine with a Focus on Rule of Law Principle.
- The draft law “On Amending the Constitution of Ukraine Regarding Strengthening Judicial Independence” is developed by the Presidential Administration.
- The Concept of Improving the Constitutional Regulation of Justice in Ukraine was incorporated into the General Concept of Constitutional Changes presented during the 4th CA plenary meeting.
- Council of Europe expert Lorena Bachmaier developed and presented the Opinion on the improved Concept Paper on Justice Sector Amendments.
- The draft Concept Paper on entire Constitutional Changes was discussed at the last CA plenary session and was sent for further approval.

The scope and essence of such changes has been under scrutiny, as opposition representatives see the danger of removing Parliamentary overview from the judicial appointment/dismissal process and concern that the law provides the President with too much power over judicial careers (appointment, transfer, promotion, and dismissal).

On December 6, 2012, the CA conducted the third plenary meeting with many non-Assembly members being present. During the meeting the Head of the Constitutional Assembly, Leonid Kravchuk, informed the CA members that the Administration of the President of Ukraine developed a draft law to amend the Constitution of Ukraine with regards to the judiciary. This draft law and its provisions were the key points of discussion during the meeting. Secretary of the Constitutional Assembly, Maryna Stavniichuk, outlined agenda items for the plenary meeting, which resulted in a lively discussion focusing on the judiciary and law enforcement. The agenda of the plenary meeting included presentations by the Head of the Constitutional Assembly Commission on the Judiciary, Vasyl Malyarenko, the Advisor to the President of Ukraine and Chief of the Department of the Judiciary at the Presidential Administration, Andrii Portnov, and the Head of the Constitutional Assembly Commission on Law Enforcement, Vasyl Tatsii. In his presentation Mr. Malyarenko outlined the



FAIR Expert Lorena Bachmaier Winter (right) during her presentation on the Roundtable on “Conceptual Issues of Improving Constitutional Principles of the Justice in Ukraine” in Kyiv on December 6, 2012.

challenges that the Ukrainian judiciary is facing, including high workload of judges, low financing, and low public trust. Mr. Malyarenko also presented on the Concept of Improving the Constitutional Regulation of Justice in Ukraine developed by the Administration of the President and approved during the meeting of the CA Commission on Justice on December 4, 2012. According to Mr. Malyarenko, the draft law contains some very positive changes though it is fragmented and inconsistent. He recommends that it be taken into consideration later, once the text of the changes to the Constitution are developed on the basis of the Concept mentioned above. Mr. Tatsii presented the conceptual approaches to the Constitutional reform in the area of law enforcement.

As a result of the CA plenary session, consensus was reached on the need to identify the most acceptable means to safeguard judicial independence through the separation of power and a system of checks and balances. It is worth noting that upon the recommendation of the President of the European Commission, José Manuel Barroso, who welcomed and supported the establishment of the CA in Ukraine, plenary meetings are now broadcasted live on the web.

Later, on December 6, 2012 the CA leadership conducted a roundtable on “Conceptual Issues of Improving Constitutional Principles of the Justice delivery in Ukraine” with the participation of Venice Commission experts and FAIR cooperation. In her presentation FAIR expert Lorena Bachmaier identified current Constitutional provisions that should be reviewed to ensure legal certainty, predictability, and clarity. Ms. Bachmaier’s assessment contains recommendations to be considered by the Constitutional Assembly in the Concept Paper on Constitutional Reform content development.

Finally, FAIR accommodated CA needs in developing and supporting an independent website to ensure an independent channel for civil society education and active engagement in the Constitutional reform process (<http://cau.in.ua/>).

On March 20, 2013, the Constitutional Assembly Human Rights Commission jointly with the leading Ukrainian higher education institutions conducted the International Conference *Human Rights in the Modern World*. Academics and experts from Ukraine, Russia, Belarus, Hungary, Germany, and Poland took part in the discussion. The objectives of the conference were to discuss the international and constitutional aspects of ensuring human rights implementation in the international and national legal systems. The participants of the conference devoted a lot of time to discuss the necessity not only of stating the rights, but also providing effective implementation mechanisms with the relevant domestic remedies for infringement of rights. Ukrainian law professor Volodymyr Butkevych, Head of the Constitutional Assembly Human Rights Commission, informed the conference participants about the Commission’s activities and welcomed ideas, recommendations, and propositions from interested parties to be considered in the development of the Concept Paper on Human Rights Guarantees Improvement in the Constitution.

On March 27, 2013, FAIR organized a meeting between U.S. Federal Judge John R. Tunheim and CA leadership – Mr. Leonid Kravchuk and Ms. Maryna Stavniichuk – to provide them with his unique experience as a constitutional process expert from 2007-2008. Judge Tunheim shared his views on how minorities’ interest can be met and satisfied when opposition representatives are not willing to participate in CA activities. Both leaders expressed interest and appreciation for Judge Tunheim’s insights and acknowledged the relevance and applicability of his experience for Ukraine.



U.S. Federal Judge John R. Tunheim, President Leonid Kravchuk and FAIR COP David M. Vaughn after the meeting in Kyiv on March 27, 2013

On March 29, 2013, the Head of the CA, Mr. Kravchuk, submitted to the Venice Commission the request to provide expert opinion on the proposed draft law. On June 15, 2013, the Venice Commission issued its opinion on the draft law, which was mostly positive. The Commission welcomed proposals to abolish judicial probation period, to increase the age limit and working experience of judicial candidates, implementing a ceremonial role for the President in judicial appointments and dismissals, etc. Yet, once again, the Venice Commission pointed out the need to

clarify the grounds for judicial disciplining and dismissal, and recommended narrowing judicial immunity.

Later, the Concept of Improving the Constitutional Regulation of Justice in Ukraine was incorporated into the General Concept of Constitutional Changes presented during the fourth CA plenary meeting on June 21, 2013.

In late May, FAIR was asked to provide a preliminary expert review on the improved Concept Paper on Justice Sector Amendments. Short term foreign expert Ms. Lorena Bachmaier delivered her Opinion with generally positive feedback. As part of her opinion, she warned policy makers on the hidden risks of judicial independence in the proposed changes. She questioned the neutrality and independence of the Congress of Judges in High Council of Justice while forming a majority.

On June 3, 2013, FAIR organized another meeting of U.S. Federal Judge John R. Tunheim with Constitutional Assembly Coordination Bureau members to discuss the provisions for judicial independence. The meeting focused on the scope of judicial immunity and the composition of the HCJ. Judge Tunheim shared his vision on best model constitutional guarantees for judicial independence. Participants of the meeting expressed interest and appreciation for Judge Tunheim's insights.

On June 21, 2013, CA conducted its plenary session to consider the draft Concept Paper on Entire Constitutional Changes. The document was discussed but was not ready for approval and was sent for revision. FAIR arranged two short term experts - Law professors Lorena Bachmaier and Evgen Tanchev - to review the proposed draft and provide comments. Early in September 2013, the leadership of the Constitutional Assembly was provided with the translated comments of the two experts for consideration.

On July 4, 2013, the President submitted to the Verkhovna Rada the above mentioned draft law On Amending the Constitution of Ukraine Regarding Strengthening Judicial Independence registered under #2522a. On September 5, 2013, the Parliament of Ukraine forwarded the draft, in accordance with Article 159 of the Constitution of Ukraine, to the Constitutional Court of Ukraine (CCU) for approval. On September 19, 2013, the CCU ruled on the conformity of the draft law On Introducing Changes to the Constitution of Ukraine Regarding Strengthening Guarantees of Judicial Independence, registered in the Parliament as number 2522a, as Articles 157 and 158 of the Constitution requires. The Court considered as "appropriate" the initiative of the draft law to increase the age limit for mandatory retirement of judges from 65 to 70 years. At the same time, according to the Court ruling, increasing the age limit of judicial candidates from 25 to 30 years

will give “the judicial corps highly-qualified professional staff in terms of their life experience, social maturity, and moral qualities, necessary for justice administration.” Finally, in its ruling, the CCU was positive about the idea to fix, at the constitutional level, the authority of the SCU to ensure equal application of legislation by all courts of general jurisdiction through the creation of a unified case law in Ukraine. On October 10, 2013, Parliament voted on the draft law after the first reading with a 244 MPs in support. It is anticipated that the draft law will be adopted in February 2014.

Meanwhile, FAIR will be working to develop draft amendments to a number of the laws to reflect and support envisaged constitutional changes. FAIR is also working with other CA Commissions to assure developed changes to the Constitution are in line with rule of law principles.

DEVIATIONS IN THE IMPLEMENTATION OF THE WORK PLAN: Progress has been made under this task since the Constitutional Assembly began working on a periodic basis. FAIR continues to adjust its work based on ongoing developments and pace of partner activities.

EXPECTED RESULT 2.1: UKRAINIAN JUDGES ARE APPOINTED ON OBJECTIVE, KNOWLEDGE- AND PERFORMANCE-BASED CRITERIA

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: During the last reporting year, FAIR, in cooperation with the HQC and CSO Universal Examination Network, focused on improving the judicial selection process and conducting analysis to identify judicial qualifications (competencies) judicial candidates should possess to be effective on the bench.

Milestone Progress ER 2.1
<ul style="list-style-type: none"> • Held Three working meetings with the HQC. • HQC formed working group to improve selection procedures for the first appointment of judges. • Completed Gap analyses of the judicial vacancy application, test administration, and scoring processes. • Conducted psychometrical analysis of the qualification exam and initial test. • Held training for the HQC members on case study evaluation methodology. • Developed recommendations for improving the judicial vacancy application, test administration, and scoring processes. • Drafted Handbook for test item developers. • Held training on developing test questions for evaluating skills at high cognitive levels for developers of test items. • Drafted Manual for anonymous test administrators (proctors). • Drafted Report with the recommendations and necessary steps to automate qualifications exam. • Held Analysis of Judicial Practice; presented and promoted it results.

On November 5 to 7, 2012, the HQC and NSJ, with support from FAIR, conducted a two-day training for developers of test questions and case studies (<http://www.nsj.gov.ua/ua/news/1861/>). During the event, FAIR short-term Judicial Testing and Training Expert Leonid Sereda presented the methodology of case study development and evaluation, the methodology of developing test items to evaluate high cognitive levels for judicial qualifications exams, and psychometrical results of the 2012 initial anonymous test and qualification exam to the participants.

Additionally, in November 2012, the HQC completed the second iteration of the judicial selection process. More than 1,100 candidates successfully passed and were included on the reserve list of judicial candidates. On November 5, 2012, the HQC announced the third iteration of the national judicial selection process. The third iteration includes a new stage –a six-month initial training for judicial candidates who successfully pass the anonymous test. According to the Law on the Judiciary and the Status of Judges, the NSJ is responsible for organizing special trainings for candidate judges with implementation conducted by law schools. Four Ukrainian Universities were chosen by the HQC - Kyiv

National University named after Taras Shevchenko, Lviv National University, the National University Odessa Law Academy, and the Kharkiv National Law University named after Yaroslav Mudryi. On October 9, 2012, in preparation for the implementation of special training, the HQC approved the Regulation on the procedure for conducting special trainings for judicial candidates

and corresponding schedule. It is important to note that according to the schedule, candidates will improve their theoretical knowledge and develop competencies needed as a judge such as (i) ability to apply knowledge in practice and correctly draft procedural documents, (ii) ability to effectively listen, (iii) communicative skills, (iv) ability to resist influence and pressure and (v) to resolve conflicts, together with the ability to think logically and analytically.

On December 20, 2012, the HQC, with FAIR expert support, conducted the third national anonymous judicial test. 2,339 aspiring judicial candidates participated in the test. On December 21, 2012, judicial candidates test results were posted on the HQC official website.

632 candidates who scored a 62 or more on the test were admitted to a six-month special training course implemented by the HQC in February 2013 (<http://nsj.gov.ua/ua/news/urochisti-vidkrittaya-spetsialnoi-pidgotovki-kandidativ-na-posadu-suddi/>). 148 judicial candidates participated in the new training; the remaining 484 candidates conducted the special training through a distance learning module. The training lasted through August 2013 and was followed by the HQC judicial qualification exam in September 2013.



Special training for candidate judges launched in Kyiv National University named after Taras Shevchenko in February 2013.

On September 9, 19, and 20, 2013, the HQC conducted the qualification exam for judicial candidates who successfully passed the training. Results of the exam are currently being evaluated. The importance of the support that FAIR rendered in this process was recognized by the Deputy Head of the HQC, Anatoly Martsynkevych, who said “With support from FAIR many valuable achievements were made. The HQC hopes that our fruitful cooperation will continue.”

This year FAIR staff together with HQC representatives conducted a tender and selected the CSO Universal Examination Network (UENet) to complete an analysis to identify needed judicial qualifications (competencies). The grantee conducted research to define the scope of knowledge, skills, and abilities required of a newly appointed judge in order to properly fulfill the professional duties. On February 25, 2013, UENet conducted a steering committee meeting to develop the grant implementation plan and agree on key activities including working group meetings, etc. The steering committee was chaired by the Head of the HQC, Igor Samsin, and included representatives of UENet, NSJ, and other NGOs namely the Laboratory of Legal Initiative and the Center of Political and Legal Reforms. On March 11, 2013, UENet conducted a second steering committee meeting to approve the list of participants for five working groups that will develop questionnaires for different legal specializations, namely civil, criminal, economic, and administrative as well as the qualities and competencies for judges within these specializations. UENet conducted eight working group meetings to develop the content and structure of the questionnaire. Two types of questionnaires were developed, one on criminal specialization and the other for civil specialization. Additionally, both questionnaires include a chapter devoted to personal skills, abilities, and qualities. This chapter proposes qualities candidate judges should possess and tools for their evaluation. After the questionnaires templates were finalized, UENet printed and distributed the questionnaires to 447 civil chamber judges and 441 criminal chambers judges. An additional 100 copies of the questionnaires were transmitted to the NSJ. UENet

processed 588 completed questionnaires on civil and criminal specialization. The survey covered nine regions of Ukraine.

On August 19, 2013, UENet conducted a roundtable to present the findings of the practice analysis survey. Representatives of the HQC, HCJ, NSJ, MOJ, SJA, high specialized courts, and the CSO were present at the event. The survey covered the following topics: (i) legal knowledge the judicial candidates should possess; (ii) personal and moral qualities judicial candidates should possess; (iii) methods of evaluating judicial candidates personal and moral qualities; (iv) ongoing trainings for sitting judges; (v) challenges in the daily work of judges; (vi) and other statistical data (for example average age of sitting judges, their education, gender, etc.). It is worth noting that conducting a survey is unique on CIS territory. Among moral qualities the most important after independency, integrity, objectivity, and impartiality was identified as judicial candidate's ability to work hard and management skills. At the same time, judges pointed out that commitment to professional growth is not important. This is evidence that current judges of the first instance believe that this skill is not necessary, not only for the judicial candidates but also for themselves. Additionally, interesting to note is that judges chose psychological testing as the most popular method for evaluation of personal and moral qualities. According to experts, this statement points to a low level of understanding concerning the goals of psychological tests, their methods and spheres of application. Finally, the most crucial topics for ongoing training according to interviewed judges are CPC and land law. Concerning the value of the survey the Head of the HQC, Mr. Samsin said;

We are deeply grateful for the conducted survey and wish to conduct it on regular basis. Results of the practice analysis will be used by the HQC and NSJ, first, in judicial selection process, second, for creating long lasting dialog with sitting judges, and third, for proper judicial training curricula preparing.

FAIR short-term local Judicial Testing and Training Expert, Serhiy Mudruk, in cooperation with the HQC staff developed the manual for anonymous test administrators (proctors). The document describes the scope of work (SOW) of every HQC employee administering the anonymous test for judicial candidates in the test center including his/her duties and authority. The manual was submitted to the HQC for further consideration. Additionally, Mr. Mudruk is finishing compiling existing materials and drafting additional methodological documents for a future collection of methodological information on test items and case study development.



Success story video on implementing of the new judicial selection process in 2012 entitled "Becoming a Judge: Objective Selection and Appointment" developed by FAIR and agreed with the HQC

Additionally, FAIR produced a video concerning the success of implementing the new judicial selection process in 2012 entitled *Becoming a Judge: Objective Selection and Appointment*. The video was presented to and appreciated by the Head of the HQC, Ihor Samsin, and the HQC Secretary, Anatoliy Martynkevych. As stated by Mr. Samsin: "The video perfectly presents great goals the HQC

achieved in cooperation with FAIR in implanting new rules of judicial selecting." The success story video is posted on the HQC and FAIR websites at <http://www.vksu.gov.ua/ua/about/istoriya-vishoi-kvalifikatsiynoi-komisii-suddiv-ukraini/>;

<http://www.fair.org.ua/index.php/index/video/8>. Additionally, discs with the video were distributed among counterparts and citizens during the Verkhovna Rada Information Fair 2013 held on May 3, 2013 and the USAID field days held in Ivano-Frankivsk on May 11, 2013 and Vinnytsia on September 7, 2013, during the celebration of City Days.

Also, based on the recommendations of independent monitors and FAIR judicial testing experts, FAIR purchased SPSS software for the HQC and NSJ. The software will provide the counterparts with the ability to conduct analysis of the quality and complexity of every test question and of the test in general. The software was installed on HQC and NSJ computers and their information technology representatives passed a three-day training on SPSS application. FAIR short-term expert Mr. Mudruk provided additional trainings to the NSJ and HQC staff upon their request.

Finally, the HQC completed its office reconstruction and FAIR started to investigate approaches in automating the judicial qualification exam. For this purpose FAIR involved short-term local Judicial Exam Automation Expert Boris Shuster who has already explored the needs of the HQC and is currently drafting his report.

DEVIATIONS IN THE IMPLEMENTATION OF THE WORK PLAN: FAIR experienced delays with supporting the HQC in investigating approaches in automating the judicial qualification exam and conducting an assessment of software and hardware needs. This slippage was caused by the process of finishing the construction of a new HQC office. The new HQC facility has the capacity to facilitate automation of the judicial qualification exam. Thus, FAIR with the delay in the work plan scheduled Judicial Exam Automation Expert Boris Shuster to investigate approaches in automating the judicial qualification exam and conduct an assessment of software and hardware needs. Currently the expert is completing his draft report.

EXPECTED RESULT 2.2: UKRAINIAN JUDGES ARE DISCIPLINED IN TRANSPARENT PROCESSES

CURRENT STATUS OF AFFAIRS AND KEY

ACHIEVEMENTS: During the reporting period, FAIR continued supporting the HQC in developing clear procedures for judicial disciplining. To achieve this goal, FAIR involved experts to analyze the draft Instruction on Verification Procedure and Decision-Making in Disciplinary Proceedings against Judges and develop recommendations on its improvement. As a result of joint efforts on developing clear procedures, on October 16, 2012, the HQC approved the Procedure of Verification and Decision-Making in Disciplinary Proceedings against Judges, and Preparation and Retaining Documents (Procedure).

The Procedure contains certain provisions recommended by FAIR experts, in particular:

- Clear requirements for self-recusal of disciplinary inspector;
- Procedure for using videoconferences to make investigations more efficient;
- Requirements to compose minutes of interviewing witnesses, interviewing a judge; and

Milestone Progress ER 2.2

- Documented current practice within the judicial discipline process.
- Presented Amendments to the Draft Regulation on the Judicial Discipline Inspector Service for HQC consideration.
- Finalized and Presented Draft Regulation on the Judicial Discipline Process for HQC consideration (achieved, although this document is now called a Procedure).
- Developed training curriculum and manual for judicial discipline inspectors.
- Developed importing and search modules enabling the posting of judicial discipline decisions to the HQC website and their search tools.
- Delivered 45 Laptops to the HQC and improved procedure of judicial misconduct complaints verification and consideration.
- Involved a local expert to design terms of reference of a unified integrated database to manage the judicial discipline and selection processes developed.
- Monitoring of judicial discipline decisions and appeals on HQC judicial discipline decisions was conducted through a grant funded activity by an NGO.

- Samples of minutes, written conclusions and other documents.

Based on the assessment conducted during the previous reporting period, the HQC requested developing Terms of Reference for a unified integrated database to manage the judicial discipline process, judicial candidate selection, judicial training, and transferring processes. In order to achieve this goal, FAIR involved local Database Management Expert Boris Shuster to design the terms of reference for a unified integrated database. Mr. Shuster conducted several meetings with representatives of the HQC Secretariat and the HQC IT Department in order to discuss the detailed structure of the Terms of Reference and the HQC vision of future database functioning. Based on the discussions with the HQC, Mr. Shuster developed the Terms of Reference and forwarded it to the HQC. Having received feedback from the HQC, the Database Management analyzed it and provided the HQC with recommendations on the next steps for developing the unified integrated database and the respective electronic documents management system.

As far as several bodies are involved in the judicial discipline and appeals process in Ukraine, in previous reporting periods FAIR representatives discussed with the HQC a necessity of analyzing judicial discipline practice in Ukraine in order to bring consistency to it. Therefore, FAIR suggested an analysis of decisions by the institutions overseeing complaints alleging judicial misconduct, and based upon these findings support the development of continuing training for judges on the issues identified as most problematic. Such an assessment would show the quality of judicial discipline decisions, an important indicator of judicial discipline procedure clarity and transparency. As agreed with the HQC, FAIR competitively selected the NGO Institute of Applied Humanitarian Researches (IAHR) and awarded it a grant for monitoring judicial discipline decisions and appeals.

During the reporting period, IAHR carried out the following activities:

- Created a database of discipline decisions (adopted from September 2010 by the HQC, HCJ, HAC);
- Conducted the discipline decisions empirical research on the basis of the proposed methodology;
- Organized two focus groups with judges and conducted 10 deep interviews in order to determine the impact of disciplinary practices on the judicial conduct;
- Developed recommendations to the HQC on improving the content and text of discipline decisions;
- Developed recommendations to the NSJ on designing judicial trainings based on the results of research carried out by the IAHR;
- Developed a draft analytical report «Review of the Disciplinary Practice regarding Judges in Ukraine»; and
- Presented the report during the roundtable organized in cooperation with the HQC.

The HQC leadership was satisfied with the research as it was the first assessment of judicial discipline practice in Ukraine. The results showed many gaps in the judicial discipline practice that should be avoided.

Also, according to the above mentioned research, in many cases judicial disciplinary inspectors failed to gather some facts while conducting investigations, procedural documents were poorly drafted, etc. Therefore, in order to train judicial disciplinary inspectors and Commissioners how to communicate effectively, prepare and draft clear and concise procedural documents and judicial disciplinary decisions, verify evidence, and effectively identify grounds for judicial discipline, FAIR, in cooperation with the HQC, conducted a workshop on practical aspects of investigating allegations on judicial misconduct. FAIR experts Richard Hyde, Commissioner of the Georgia

Judicial Qualifications Commission, USA, and Mario Belo Morgado, Justice of the Supreme Court of Portugal, Former Disciplinary Inspector of the High Council of Justice of Portugal, as well as local expert Vasyl Filatov, retired Supreme Court Justice contributed to the workshop. Since being appointed to their positions judicial disciplinary inspectors have not being trained. For this reason the workshop included many practical exercises during which, disciplinary inspectors and Commissioners:

- defined major functions of a disciplinary inspector according to Ukrainian laws;
- discussed key competencies of judicial disciplinary inspectors;
- developed a plan for verifying evidence and data on the availability of grounds for judicial discipline;
- developed a plan for interviewing a judge and other disciplinary proceedings participants;
- evaluated findings of data verification based on hypothetical situations; and
- drafted different procedural documents of the HQC based on hypothetical situations.

As a result of the successfully conducted workshop, the HQC Head Ihor Samsin suggested that there is a necessity for improving HQC internal documents governing the judicial discipline procedure and organize trainings for judicial disciplinary inspectors on a permanent basis.

DEVIATIONS IN IMPLEMENTATION OF THE WORK PLAN: During the reporting period, FAIR planned to update and disseminate a leaflet on judicial discipline procedures with copies of the judicial misconduct complaint form to all courts, through the SJA. However, after the workshop on practical aspects of investigating allegations on judicial misconduct only one application, the HQC leadership decided to establish a working group with the aim of improving current procedures. Therefore, the leaflet shall be updated with regards to amended HQC documents. FAIR will accomplish this activity once the HQC documents are amended.

For the same reason FAIR has not finalized the manual for judicial disciplinary inspectors. The draft manual developed by local expert Vasyl Filatov may become outdated once the HQC amend its documents. The HQC leadership agreed to update the manual after amending its internal documents, as a result FAIR will accomplish this task in the next reporting period.

EXPECTED RESULT 2.3: THE REGULATORY AND INSTITUTIONAL FRAMEWORK FOR JUDICIAL ACCOUNTABILITY AND INTEGRITY IS STRENGTHENED

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: During the reporting period, FAIR concentrated its efforts on assisting the COJ in amending the Code of Judicial Ethics to bring it in line with European standards of judicial conduct and developing a plan for its implementation. In previous reporting periods, FAIR supported the COJ in launching a series of regional discussions on the draft Code aimed at presenting it to judges and obtaining their support in developing amendments to the draft. As a result of these regional events, the Code was widely discussed and accepted by the judicial community. Judges participating in all regional roundtable discussions supported the suggestion that the new Code be based on the U.N. Bangalore Principles of Judicial Conduct and developed recommendations to the draft Code.

Milestone Progress ER 2.3

- Held seven stakeholder discussions on draft Code of Judicial Ethics.
- Revised amendments to Code of Judicial Ethics submitted to COJ for approval.
- Supported COJ International Conference on Judicial Ethics.
- Congress of Judges adopted the Code of Judicial Ethics.

On November 13 and 14, 2012, the COJ, with FAIR support, conducted the international conference *Judicial Ethics: Maintaining Public Trust and Confidence*. The conference was aimed at discussing proposals on the new draft of the Code of Judicial Ethics prepared pursuant to the

assignment of the COJ and approved based on the results of seven regional discussions conducted with FAIR support from May to October 2012. Conference speakers included members of the COJ, specialized councils of judges, representatives of high judicial bodies, the Supreme Court of Ukraine, H CJ, H QC, NSJ, judges of trial and appellate courts, representatives of civil society organizations, international donor organizations, academia, and representatives of judiciaries in Europe and the United States. During the conference, the participants provided the following recommendations to improve the draft Code of Judicial Ethics: (1) review the Code to eliminate ambiguities; (2) include judicial competency principles to maintain consistency with national legislation; (3) specify activities for which a current judge may receive payment; and (4) specify the provisions of the Code preventing a judge and/or his/her family members from accepting gifts, loans and testaments. Participants also stressed the need to establish a committee within the COJ that would interpret provisions of the Code and develop a commentary to the Code of Judicial Ethics that would facilitate interpretation and improve practical implementation in day-to-day operations.

As a result of the conference, the amended draft Code of Judicial Ethics was approved by the COJ on December 21, 2012 and was submitted to the Congress of Judges. On February 22, 2013, the XI Congress of Judges approved the Code of Judicial Ethics.

In order to familiarize all judges of Ukraine with provisions of the Code of Judicial Ethics, FAIR supported the COJ in publication of the code. FAIR in cooperation with the COJ and SJA will disseminate the brochures between all judges of Ukraine and will provide partners with them as well.

During the session, the Congress of Judges also elected members to the COJ. Seven current and four new COJ members will hold their positions for a two year period. The new composition of the COJ conducted its first meeting right after the Congress of Judges on February 22, 2013. At the meeting, the leadership of the COJ was elected. Judges Raissa Khanova and Tetiana Kozyr who have actively cooperated with FAIR, retained their positions as Deputy Chair of the COJ and COJ Secretary respectively. Justice Vasyl Onopenko was elected as COJ Head.

In order to familiarize the new COJ Chair with joint activities, FAIR held a meeting with COJ representatives on March 20, 2013. Democracy Project Management Specialist of USAID/Ukraine’s Democracy and Governance Office Oleksandr Piskun, FAIR COP David Vaughn, FAIR DCOP Nataliya Petrova, and FAIR Judicial Accountability Coordinator Ashot Agaian met with COJ Head Justice Vasyl Onopenko and COJ members Halyna Kanygina and Inna Aleieva. Participants of the meeting discussed future cooperation between FAIR and the COJ in the following areas:



Participants of the conference on “Judicial Ethics: Maintaining Public Trust and Confidence” discuss the draft Code of Judicial Ethics in order to define key ethical rules for judges in Kyiv

- Implementation of the Code of Judicial Ethics and development of Commentary to the Code;
- Designing training programs for judges and judicial candidates on judicial ethics;
- Revising the structure of the COJ and promoting establishment of committees within the COJ;
- Building COJ capacity as the highest judicial self-government body;
- Implementation of the Strategic Plan for the Ukrainian Judiciary; and
- Court performance evaluation; and case-weighting study implementation.

DEVIATIONS IN IMPLEMENTATION OF THE WORK PLAN: In the previous reporting period, FAIR planned to support the NSJ in updating curricula on judicial ethics for judges and to develop an online course. More information on these activities can be found under ER 3.1.

EXPECTED RESULT 3.1: THE SKILLS AND COMPETENCIES OF UKRAINIAN JUDGES ARE BOLSTERED THROUGH MODERN, DEMAND-DRIVEN INITIAL AND ONGOING JUDICIAL TRAINING PROGRAMS

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS:

During the reporting period, FAIR continued to support the NSJ in its institutional development to build capacity to accomplish provisions foreseen by the Law on the Judiciary and Status of Judges. Under the provisions, the NSJ is to ensure the training of highly skilled personnel for the judicial system of Ukraine and to meet different audiences training needs through conducting initial training programs for judicial candidates and designing ongoing training programs for sitting judges and court employees.

FAIR International judicial expert Patricia Noonan conducted an audit of the NSJ leadership’s management skills to identify problems, gaps, and determine the scope of training needs. Her findings were reported in the NSJ’s “Institutional and Training Needs Assessment Report.” At the request of the HQC and NSJ, FAIR assisted these institutions in implementing the recommendations provided by the FAIR expert. On March 12 and 14, 2013, the expert met with the NSJ leadership and the Working Group on Strategic Planning to discuss issues with the development of the Strategic Plan for 2014-2016 (structure, strategic issues, etc.). The expert instructed them on how to manage the drafting of the Plan. On May 15-17, 2013, based on the audit results and identified problems. FAIR in cooperation with the Canadian Embassy/National Judicial Institute of Canada Judicial Education for Economic Growth Project conducted a workshop for the NSJ and HQC leadership on strengthening of leadership and management skills. Experts present at this event included Judicial Training and Institutional Development expert Patricia Noonan, Senior Director of the National Judicial Institute of Canada George Thomson, and the Director of Legal Education for the National Judicial Institute of Canada Donald Chiasson. In their report on the workshop they stated that the three day workshop on strategic planning was a success. They noted that planners took on the task with professional enthusiasm and worked very hard to lay a foundation for concrete

Milestone Progress ER 3.1

- Institutional needs assessment of the NSJ completed (achieved).
- Judicial training needs assessment completed on behalf of the NSJ (achieved).
- Working group established to develop curricula for the judicial candidates’ initial training program (not yet achieved). This milestone was amended to be based on the EU Twinning project “Support to the Academy of Judges of Ukraine;”
- Second edition of the Judicial Opinion Writing Handbook published (achieved).
- Benchbook printed (not achieved).
- Three curricula for the initial training on Rule of Law and Human Rights, Opinion writing, and Judicial Ethics are developed and presented to the key stakeholders (achieved).
- Curriculum on Rule of Law and Human Rights for on-going training is developed and presented to the key stakeholders (achieved).
- Curricula on Opinion Writing and Judicial Ethics for ongoing training are updated and presented to the key stakeholders (achieved).
- At least 20 judge trainers are trained to lecture on Rule of Law and Human rights (not achieved).
- Develop E-version of the Curricula on Rule of Law and Human Rights, Opinion Writing, Judicial Ethics, and Communications (Public Outreach in Courts) for initial and on-going trainings and disseminate between NSJ faculties and its branches (achieved).

progress to address the competing issues facing the NSJ. During the workshop, teams created a set of strategic planning documents: 1) a vision statement for the NSJ; mission statement; statement of goals; Strengths, Weaknesses, Opportunities, and Threats (SWOT) Analysis and 2) Action plans related to redesigning the program for newly appointed judges; organizational strengthening; increasing judicial involvement in the work of the School; distance education; and physical facilities. More information can be found at the following links:

http://www.fair.org.ua/index.php/en/index/news_single/129; <http://www.nsj.gov.ua/ua/news/15-travnnya-2013-r-s-glibivka/>; <http://www.nsj.gov.ua/ua/news/17-travnnya-2013-r-s-glibivka-na-kiiivshini/>; <http://www.vkksu.gov.ua/ua/news/mijnarodni-eksperti-dopomogli-natsionalniy-shkoli-suddiv-sformuvati-plan-diy-na-nastupni-dva-roki/>
<http://www.vkksu.gov.ua/ua/mijnarodne-spivrobotnitstvo/proekt-agenstva-ssha-z-mijnarodnogo-rozvitku-spravedlive-pravosuddya/usaidnsj/>.



Participants are developing the action plan related to NSJ organizational strengthening during the workshop for the NSJ and HQC leadership on Strengthening of Leadership and Management Skills in Glibivka on May 15-17, 2013.

assess learner needs; establish goals and objectives of this plan; identify resources - human, financial and facility; formulate lesson plans; identify teaching methods and faculty and develop an evaluating mechanism.

In the previous reporting period, FAIR and Ukrainian authors prepared the second edition of the *Judicial Opinion Writing Handbook* which will help the judges to improve their skills to clearly and correctly compile judicial opinions, logically put down their thoughts, give legal justification, and keep the proper style. In March 2013, FAIR disseminated an electronic version of the Handbook, and 2,000 CDs were delivered to the NSJ and HQC. Also, it was posted on the NSJ and FAIR websites as well as the USAID Facebook page.

<http://www.fair.org.ua/index.php/index/library/2>; <http://nsj.gov.ua/ua/science/prints/890/>

To support the institutional development of the NSJ, FAIR awarded a grant to the Ukrainian Legal Foundation (ULF) on October 1, 2012. The purpose of the grant was to develop new and/or update curricula concerning the Rule of law and human rights, with practical emphasis on the European Convention on Human Rights and Fundamental Freedoms on the case-law of the European Court of Human Rights. Curricula will also cover judicial opinion writing and judicial ethics for initial and ongoing training for judges. On August 7, 2013, Director of the ULF, Oksana Syroid, presented the abovementioned curricula to the HQC and NSJ leadership. In September 2013, FAIR provided the NSJ with e-versions and hard copies of the curriculum. More information can be found at the following links: <http://www.nsj.gov.ua/ua/news/7-serpnya-2013-roku-v-natsionalniy-shkoli-suddiv-ukraini-vidbulosya-obgovorennya-program-rozroblenih-ukrainskou-pravnichou-fundatsieu-za-grantom-proektu-usaid-spravedlive-pravosuddya/>.

The Head of the HQC, Mr. Samsin, requested FAIR's support in developing distance learning capacity of the NSJ to deliver quality educational programs to judges in an efficient and cost-effective manner. To train the faculty of the NSJ and its branches on how to assess, design, and lead distance learning training modules, FAIR brought the international expert Hope Kentnor (Lecturer and Director, MSLA Program, University of Denver Sturm College of Law, Colorado, USA) who conducted two events: 1) a roundtable on Online Learning Methodology for selected NSJ faculty, representatives of the HQC and the State Judicial Administration (SJA) to introduce them a Draft Distance Learning Methodology and Model Curricula applicable to distance learning courses held on February 25, 2013; and 2) Online Learning Methodology Training and Workshop for NSJ Trainers and Support Staff in designing and presenting e-learning methodology held on February 26–28, 2013. During this event 24 participants had the opportunity to familiarize themselves with techniques and tools of online education. During group work, they developed and designed four draft online courses on Judicial Ethics, based on the new Code of Judicial Ethics adopted on February 22, 2013. More information can be found at the following link: <http://www.vkksu.gov.ua/ua/mijnarodne-spivrobitnitstvo/proekt-agenstva-ssha-z-mijnarodnogo-rozvitku-spravedlive-pravosuddya/22-travnja-2013-roku-zustrich-z-usaid-nsj/>

FAIR continued to support Ukrainian judges in preparing to address the challenges they faced after the new Criminal Procedure Code (CPC) came into force in November 2012.

On March 15, 2013, the High Civil and Criminal Court (HCCC) with support from FAIR and U.S. Department of Justice - Overseas Prosecutorial Development, Assistance and Training (OPDAT) conducted a roundtable on the application of the new CPC provisions (Chapter 20. Investigative (Detective, Search) Actions and Chapter 21 Cover Investigative (Detective) Actions. Appellate court judges, trial court judges, representatives of the General Prosecutor's Office, Security Service, Ministry of Interior, Ministry of Income and Fees, State Penitentiary Service of Ukraine, and judicial bodies of various instances attended the event. Overall, there were approximately 100 participants at the roundtable and 500 participated via video-conferencing. The roundtable participants discussed issues of the first months CPC implementation and HCCC judges answered questions raised by the representatives of the courts of appeals via video conferencing. Acting Chief Judge of the HCCC Stanislav Mishchenko ensured that the HCCC will take into account all proposals and comments on improving the implementation of the procedure while developing relevant clarifications and interpretations. More information can be found at the following link: http://sc.gov.ua/ua/golovna_storinka/u_vssu_vidbuvsja_kruglij_stil_z_pitan_zastosuvannja_polozh_en_kriminalnogo_procesualnogo_kodeksu_ukra.html.

Finally, on March 28-29, 2013, FAIR in cooperation with the NSJ, HCCC, OPDAT and the Government of Denmark - COE Support of Criminal Justice Reform in Ukraine Project conducted a continuing training for trainers (TOT) workshop on "Practical Issues of Application of the New CPC" for a team of 46 judges-trainers who studied substantive issues on the CPC ideology and its novelties in September 2012. The goals of the workshop were to discuss the results of the first months of CPC application in comparison with the intention of lawmakers and the experience of implementing similar procedures in the US, to identify the problems in understanding and interpretation of certain CPC norms by judges and to find the best format of teaching new CPC to judges taking into account experience of its implementation by pre-trial investigation bodies. More information can be found at the following links:

http://sc.gov.ua/ua/golovna_storinka/pid_chas_seminaru_dlja_suddivvikladachiv_rozgljanuto_prak_tichni_aspekti_zastosuvannja_norm_kpk.html;
http://zib.com.ua/ua/15229-suddi-vikladachi_vivchayut_praktiku_zastosuvannya_norm_kpk.html.
<http://www.nsj.gov.ua/ua/news/28-29-bereznja-2013-r-seminar-dlya-suddiv-vikladachiv-iz-vivchennja-kriminalnogo-protsesualnogo-kodeksu-ukraini/>

DEVIATIONS IN IMPLEMENTATION OF THE WORK PLAN: During the reporting period, at the NSJ's request, FAIR planned to establish a working group to develop the curriculum for the judicial candidates' initial training program. Before doing so, FAIR analyzed the results of support provided to the former Academy of Judges (the present NSJ) by other international donors. This analysis showed that other donor organizations such as the EU Twinning Project Support to the Academy of Judges of Ukraine, the Joint Program between EU and COE Transparency and Efficiency of the Judicial System of Ukraine, and the COE Program Eastern Partnership Enhancing Judicial Reform in the Eastern Partnership Countries succeeded in assessing the need for initial and ongoing training of Ukrainian judges and provided key recommendations to enhance the NSJ's capacity to develop its faculty to design, implement, and evaluate training programs. However, the NSJ did not adopt these recommendations and it still lacks effective training programs. Taking all this into account, FAIR changed the milestone "Working group established to develop the curricula for the judicial candidates' initial training program" to "Based on the EU Twinning project Support to the Academy of Judges of Ukraine the model program for initial training designed and edited by practitioners of Ukraine." Thus, FAIR will continue to seek close cooperation with other donors to combine efforts and resources to support the NSJ, on its request, in developing a concept and educational programs for judicial candidates taking into account the first results of the special training in 2013.

FAIR, in cooperation with OPDAT, planned to print and disseminate in December 2012, for each judge hearing criminal cases, a CPC-related Benchbook, which includes step-by-step instructions on how to implement the new CPC in their daily work. In October 2012, taking into account expressions by the leadership of the HCCC to proofread the Draft Benchbook OPDAT sent the Draft Benchbook to the HCCC for review. In September 2013, HCCC sent to OPDAT its comments to 2 chapters only. This delay is the reason why the milestone "Benchbook printed" was not achieved.

Due to the fact that the NSJ is still in the process of forming a pool of faculty (developing the faculty selection criteria, adjusting the procedure of delegating judges for teaching at NSJ, etc.) and in order to perform the activities mentioned in the Grant Agreement # FAIR-STA-ULF-10 "National School of Judges of Ukraine institutional development support: developing of initial and ongoing trainings curricula" according to the schedule, it was decided to introduce changes into the scope of work. In particular, cancel the TOT to prepare 20 judges-trainers to lecture on the rule of law and human rights in light of the European Convention on Human Rights, and, instead, arrange and conduct the event for presenting the developed initial and ongoing trainings curricula in June 2013 with participation of NSJ and HQC representatives.

EXPECTED RESULT 3.2: JUDICIAL OPERATIONS ARE EVALUATED AND FUNDED ACCORDING TO AN OBJECTIVE ASSESSMENT OF NEEDS AND PERFORMANCE

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: The Strategic Plan for the Ukrainian Judiciary for 2013-2015 approved by the COJ in December 2012 envisages creating a national framework of court performance standards for proper court performance evaluation and planning (point 6.1. of the Strategic Plan).

During the reporting period, FAIR continued its cooperation with the COJ and SJA on developing objective criteria to measure and improve court performance and build the SJA's capacity to develop a viable long-term plan to further development of the judiciary and to formulate and substantiate needs-based budget requests. FAIR built these activities on the outcomes of its first program year when FAIR supported the Court Performance Evaluation (CPE) Working Group in cooperation with the SJA Working Group for Innovations developed the draft court performance evaluation system (CPE System) consisting of the framework for court performance standards, quality criteria, indicators and court performance measurement tools. The CPE Working Group



Internal Court Performance Evaluation: survey of court staff in Kharkiv District Administrative Court

selected 13 courts for pilot testing of court performance measurement system including 9 first instance courts and 4 courts of appeals representing three jurisdictions – general, administrative, and commercial, and six oblasts of Ukraine.

Pilot courts started pilot testing the CPE System in the first program year and finished this process in this reporting period.

The Piloted CPE system consists of four court performance evaluation modules – Court Management, Timeliness of Considering Cases, Quality of Court Decision, and Court Users Satisfaction with Court Services. The CPE System is a combination of several evaluation methodologies – internal performance evaluation through a survey of judges and court staff, expert review of selected case files and court decisions, analysis of court statistics and

external court performance evaluation through citizen report cards (CRC) survey methodology. Each of the 13 courts selected an evaluation team consisting of judges, retired judges, and court staff. The evaluation teams conducted internal evaluations of the efficiency of court administration and management, timeliness of court proceedings, and quality of court decisions. Simultaneously, these 13 courts participated in the external court performance evaluation through using CRC surveys implemented by FAIR’s NGO partner.

FAIR prepared the report on pilot testing of CPE framework in Ukrainian courts highlighting the following key sets of court performance indicators:

- 1) Adequate funding
- 2) Efficiency of resource utilization
- 3) Satisfaction of judges and court staff with working conditions
- 4) Leadership and managerial capacity of court leaders
- 5) Efficiency of judicial self-governance
- 6) Efficiency of court operations in adjudicating cases
- 7) Timeliness of court proceedings
- 8) Judicial caseload
- 9) Quality of court decision
- 10) Court user satisfaction with court performance information
- 11) Information accessibility of court.

The full version of the report on CPE system pilot testing is attached to this annual report.

Milestone Progress ER 3.2

- Developed draft framework for court performance standards and defined four quality areas (achieved).
- Identified 13 courts to pilot court performance standards (achieved).
- Performance measurement tools (with sub-criteria and indicators) are developed for each quality area in the framework (achieved).
- 46 representatives of pilot courts and the SJA trained in implementation of court performance evaluation (achieved).
- Court performance measurement framework and tools tested in 13 pilot courts (achieved).
- National court performance standards formulated and defined (ongoing).
- Court performance standards and court performance evaluation framework presented to the COJ and SJA for approval (ongoing).
- Completed assessments of the budgeting and budget justification processes; drafted recommendations for improving each (achieved).
- Prepared methodology for the collection of statistical data and a set of relevant tools required to develop case weighting standards and submitted to the SJA/COJ for review (achieved).
- Case weights resulting from case weighting study discussed, validated and submitted for SJA/COJ review (achieved for 1st round of the survey, ongoing for 2nd round).
- Training for court and SJA staff on how to prepare budget requests and conduct internal court financial audits conducted (new).
- Tools for workload-based projections of the number of judges and courts staff required per each court, as well as workload-based resource allocation designed (new).
- Training course on conduction of case weighting efforts based on methodology designed (new).

After the pilot testing of CPE System in Ukrainian courts FAIR modified it according to the results of pilot testing, CPE working group recommendations, and feedback from pilot courts. FAIR updated the draft CPE system breaking it in two-levels, specifically:

Basic court performance evaluation based on the agreed upon court performance criteria and indicators measuring the compliance with these criteria focusing on quantitative court performance indicators and the future development of so-called court performance dashboards.

Complete court performance evaluation - set of methods recommended as an additional tool of modern court administration and implemented by courts as needed and within available resources. If *basic evaluation* reveals some negative trends in the efficiency of court performance in adjudicating cases, court leadership may use tools of internal evaluation of court administration (surveys of judges and court staff) to identify the existing problems. The same with negative trends regarding timeliness of court proceedings (e.g., increase of percentage of cases with violated procedural timelines): court leadership may use evaluation module “Timeliness of Court Proceedings” through expert analysis of case adjudication.

In May 2013, FAIR presented the finalized draft CPE System and results of its pilot testing at the roundtable discussion “Draft Court Performance Evaluation System in Ukraine, its Pilot Testing in Ukrainian Courts and Issues that Lead to Delays in Court Proceedings” conducted in cooperation with the COJ and SJA. A total of 45 participants including representatives of the COJ, SJA, the Supreme Court of Ukraine, higher courts, appellate and local courts of all three jurisdictions, CSOs, local experts, and FAIR’s Court Performance Evaluation expert Pim Albers discussed the results of CPE System pilot testing and provided recommendations regarding the strengthening of the final draft. The delegated COJ representative, Secretary of the COJ, Judge of the High Commercial Court of Ukraine Tetyana Kozyr confirmed the willingness of the COJ to consider and approve the developed CPE System including the controversial Quality of Judgment evaluation module which is considered inappropriate by some representatives of the judiciary.



Judge Andriy Volkov, Member of the Administrative Courts Council of Judges, Judge Tetyana Kozyr, Secretary of the COJ, and David Vaughn, FAIR COP at the Court Performance Evaluation Roundtable on May 16, 2013.

In this reporting period, the CPE initiative started its localization immediately after the completion of pilot testing. The Ivano-Frankivsk Oblast Court of Appeals - one of FAIR’s key partner courts on this initiative - recognized the importance and effectiveness of the system for sufficient management and reporting purposes, and initiated the process of performance evaluation in all 17 general local courts of Ivano-Frankivsk Oblast. The actual implementation of this initiative was possible due to the cooperation with Ivano-

Frankivsk Oblast Territorial Office of the SJA, the NGO Zakon I Poryadok, and FAIR information and consultation support. In July 2013, the Ivano-Frankivsk Oblast Court of Appeals presented the results of the CPE System implementation in all courts of Ivano-Frankivsk Oblast to the public at the roundtable “Performance Evaluation of Local General Courts of Ivano-Frankivsk Oblast: Assessment, Results and Conclusions.” Similarly to the CPE System implementation in Ivano-

Frankivsk Oblast, this event was organized and conducted without FAIR financial support using only local resources.

Following the successful implementation of the CPE System in Ivano-Frankivsk Oblast, the Odesa Oblast Court of Appeals also started its performance evaluation using selected criteria and indicators from this system. In addition, Odesa Oblast Territorial Office of the SJA initiated the court performance evaluation process in all local general courts of the Odesa Oblast. At the moment of preparation of this annual report, the implementation of CPE System in Odesa Oblast is underway.

The Council of Judges of General Jurisdiction Courts (COJGJC) on its meeting on June 5, 2013 considered the developed Draft CPE System and the results of the pilot testing in Ukrainian courts. The decision from the COJGJC admitted the positive examples of court performance evaluation in Ukraine in order to strengthen the efficiency in delivery of justice and citizens satisfaction with court services, specifically mentioning the successful pilot testing of the CPE system lead by FAIR in 2012, performance evaluation in all Ivano-Frankivsk Oblast general courts in 2013, and started initiatives in Odesa Oblast. The COJGJC's decision also indicated that it will request the COJ to consider the developed Draft CPE System and approve it. Finally, the COJGJC decision made it obligatory for all general courts, local and appellate, to collect minimum court performance data and to publish it on court web page. This data to be published on each court website includes the following indicators:

- back-log at the beginning of six-month reporting period;
- number of cases pending for more than one year;
- number of new cases during the reporting period;
- number of considered cases during the reporting period;
- back-log at the end of reporting period;
- number of citizen complaints regarding the inappropriate court performance;
- percent of court decisions cancelled or changed by appellate and(or) higher courts; and
- court user satisfaction survey data.

With this decision, COJGJC, in fact, approved part of the basic court performance indicators recommended by FAIR making it obligatory for courts of general jurisdiction to collect the basic data, and what is the most important, to conduct court user satisfaction surveys. FAIR considers this decision of the COJGJC as one of the project's main impacts during this reporting period regarding the court performance evaluation in Ukraine.

This year, FAIR also cooperated with the SJA on improving and modernization of the judicial statistics in Ukraine. On May 21, 2013, FAIR supported the roundtable discussion "Improving Judicial Statistics in Ukraine" where representatives of the judicial statistics users inside of the justice system (SJA, COJ, courts) and outside of the justice system (Ministry of Internal Affairs, General Prosecutor Office, State Statistics Service, National Security and Defense Council, State Financial Monitoring, civil society organizations, media) participated and discussed the current structure and process of judicial statistics data collection, processing, and analysis taking into consideration the European quality standards for statistical information and the European Commission for the Efficiency of Justice (CEPEJ) guidelines for judicial statistics. In addition, at this roundtable FAIR initiated the court statistics user survey in order to assess the current level of compliance of the judicial statistics in Ukraine with the European standards and real needs of judicial statistics users in Ukraine. Based on the results of this assessment and following the SJA request, FAIR developed a Draft of the Concept Paper for the Judicial Statistics Reform and submitted it to the SJA for consideration in June 2013. The Concept Paper includes more than 25 recommendations to the SJA to modernize the judicial statistics, the most significant recommendations, among others, are:

- SJA should revise the quantity of court statistics indicators and delete those that are not used by judicial authorities (Supreme Court of Ukraine, SJA, higher courts and others) to analyze the efficiency in the delivery of justice;
- SJA should change the irrelevant indicators to more relevant (for example, use the actual number of judges instead of planned number of judges when calculating average caseload);
- To consider the experience of the International Court Excellence Consortium and European Commission for the Efficiency of Justice (CEPEJ) recommendations and introduce internationally recognized court performance indicators, among them - average caseload, clearance rate, average duration of case review, etc.;
- To revise the desegregation of statistical data by case category, leave no more than 10 of the most significant categories, including 4 categories recommended by CEPEJ;
- To improve management of the process of data provision to judicial statistics users outside of the justice system through the introduction of the regulatory mechanisms (long-term agreements, memorandums on cooperation) with clear identification of the information to be provided and frequency of provision of this information, so as to avoid the provision of the information outside of these mechanisms;
- Introduce the definition of the “available judicial statistics data” as data that exists within the current regulatory framework and do not require the additional efforts and resources for their collection and processing; and
- SJA should consider refraining from publishing the judicial statistics data semi-annually and concentrate on the annual reports only. Semi-annual data should be for SJA internal use only.

In addition, FAIR continued to support the implementation of the case weighting study designed by short-term international pro bono Case Weighting Expert Dr. Elizabeth Wiggins of the Administrative Office of the U.S. Courts. By February 2013 all the data required for the study was collected, and Ms. Wiggins started working on completing the analysis of data from the objective time study in order to finalize the case weights. FAIR expected to complete this work and finalize the case weights by July 30 at the latest. However, due to numerous conflicts in Ms. Wiggins’s working schedule, the final case weights still remains to be produced.

FAIR also utilized short-term expert Elaine Borakowe to work together with Ms. Wiggins on a manual on case weighting, which could be given to the SJA and COJ should they need to undertake additional case weighting efforts. By August 30, Ms. Borakowe prepared the draft of the manual, which was then reviewed and commented by FAIR. However, as Ms. Borakowe’s assignment is linked to the final results of the study to be produced by Ms. Wiggins, FAIR decided to postpone the completion of this assignment until the end of October 2013.

DEVIATIONS IN IMPLEMENTATION OF THE WORK PLAN: This reporting year, FAIR faced significant delays in formulating and defining court performance standards and, further, in presenting the CPE System to the COJ for consideration and approval. The reason for this delay is absence of a common vision of court performance standards among the key counterparts – COJ and SJA. While SJA considers the standards as quantitative targets for court operations and performance (for example, targets for average duration of court proceedings, caseload per judge, number of cases considered per judge), the COJ considers broader court performance standards, including a higher number of the quantitative targets (for example, cost per case, clearance rate etc.) and qualitative characteristics including active judicial self-governance, satisfactory working conditions for judges and court staff, user satisfaction with court services and others. Even within the COJ there are different views on certain quality criteria. Certain members of the COJ are in favor of evaluating the quality of judgment while other members consider it inappropriate. In order to overcome this challenge FAIR introduced more changes to the final draft of the CPE System,

incorporating comments and recommendations from the different counterparts and allowing a certain level of flexibility when using court performance criteria and indicators.

At the time of this reports writing, FAIR is preparing the CPE System for final submission to the COJ for consideration and approval. The CPE system places emphasis on internationally recognized court performance indicators taking into account CEPEJ reports and recommendations and promoting the definition of court performance standards as a set of quality criteria and indicators to measure the level of court compliance with these criteria.

As noted above, FAIR faced a significant (over three months) delay with the completion of the case weighting study for general jurisdiction trial courts, caused by the extremely busy schedule of Ms. Wiggins. While in Washington, D.C. on an Open World trip in the end of September 2013, FAIR Legal and Judicial Administration Specialist met with Dr. Wiggins to discuss this issue. According to Ms. Wiggins, she needed just a couple of days to finalize the work. However, FAIR is still waiting to receive the final data. It appears that the root of the problem is the pro bono nature of Dr. Wiggins's contract with FAIR, which makes it more difficult for FAIR to require results to be produced within a certain timeframe. As both the COJ and SJA are very interested in continuing the work on case weighting and including the administrative courts of Ukraine into a follow-up project, in order to avoid such delays in the future FAIR plans to involve Dr. Wiggins only in the design phase of the new study, while the data analysis will be conducted either internally by FAIR, or by using a services of a paid short-term expert.

EXPECTED RESULT 3.3: THE SJA'S CAPACITY TO REPRESENT AND SUPPORT THE DEVELOPING NEEDS OF UKRAINE'S JUDICIARY IS STRENGTHENED

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: Throughout the reporting period, FAIR worked jointly with the SJA to finalize the Court Automation Strategy, prepared by the SJA and FAIR. FAIR finalized the draft based on the results of three focus groups conducted in the previous period and submitted the draft to the SJA. The SJA initiated a number of changes to the draft, including a procedure for updating the Strategy, also prepared by FAIR. On June 25, 2013, the Council of Judges of General Jurisdiction Courts passed the decision to approve the draft National Court Automation Strategy jointly prepared by the SJA, FAIR, and the COJ GJC more information is available at the link:

<http://court.gov.ua//userfiles/52vukonannj%20rishen.pdf>.

The draft was subsequently re-formatted by the SJA into a detailed Concept paper as per the requirements of Ukrainian regulations, and sent for approval to the National Agency for Science, Innovations, and Informatization of Ukraine for approval. On September 3, 2013, the SJA published on its web-site the official information on the approval of the Strategy:

<http://court.gov.ua/49271/>.

FAIR also prepared a concept for implementation of online/electronic kiosk court fee payments in the courts and submitted it for review to the SJA. During the option period, FAIR plans to complete the concept and start working with the SJA on its implementation.

Milestone Progress ER 3.3

- Strategic plan drafted and discussed by key stakeholders (achieved).
- Content for SJA manual on human resources determined (achieved).
- Strategic Plan for the Judiciary finalized and submitted for COJ and SJA approval (achieved).
- Congress of Judges adopted the Strategic Plan for the Judiciary (achieved).
- Manual on human resources printed and sent to all courts (achieved).
- Three HRM trainings conducted for chiefs of staff (achieved).
- Functional descriptions, structure and staff qualifications requirements for the establishment (re-design) of departments for Human Resource Management, Court Automation and Strategic and Long-Term Planning at the SJA prepared and submitted to the SJA for implementation (cancelled).
- National Court Automation Strategy approved by the SJA's Innovations WG (achieved).
- Concept for collection of electronic court fees drafted and submitted to SJA (achieved).



US Ambassador John Tefft (right) visiting Donetsk Oblast Court of Appeals on April 5, 2013.

Under the framework of the SJA’s Working Group for Innovations, FAIR contributed to the preparation of a draft implementation plan for the Strategic Plan for the Judiciary. FAIR proposed a framework and language for the draft, and expects to continue this work over the next period.

In April 2013, FAIR supported the visit of U.S. Ambassador John Tefft to the Donetsk Oblast Court of Appeals. During the visit, Ambassador Tefft was acquainted with the work of the case management system installed by the USAID Ukraine Rule of Law Project

(UROL) in the court, and had the opportunity to assess the progress that the court had made towards transparency and timeliness of operations as a result of its automation.

DEVIATIONS IN IMPLEMENTATION OF THE WORK PLAN: FAIR did not face any deviations in implementation of the Work Plan.

EXPECTED RESULT 4.1: CIVIL SOCIETY AND THE PUBLIC HAVE EFFECTIVE MEANS TO ENGAGE IN DIALOGUE WITH DECISION MAKERS REGARDING JUDICIAL REFORM

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: During the last reporting year, FAIR participated in certain number of public outreach events organised by and in cooperation with partner ROL implementing projects.

On March 5-6, 2013, FAIR participated in the 6th Verkhovna Rada Information Fair 2013 organized by the USAID Parliamentary Development Project (PDP II). The fair provided a great opportunity for Members of Parliament, their assistants and Parliament staff to become familiar with implementers of international technical assistance projects and Ukrainian organizations that are actively engaged in the improvements and support of judicial reform and the legislative processes in Ukraine. FAIR presented and disseminated all recently published materials such as the Judicial Opinion Writing Handbook (the second edition), court users satisfaction survey results, public awareness materials, as well as the video “Courts and the Public: Civilized Engagement” covering new aspects of implementing citizen report cards (CRC) methodology in Ukrainian courts. Two-day Information Fair allowed FAIR representatives to update and strengthen decision makers dialogue with civil society regarding judicial reform.

- | Milestone Progress ER 4.1 |
|--|
| <ul style="list-style-type: none"> • Grant agreement signed. • One public awareness leaflet and two stickers produced and disseminated. • Two public awareness videos produced and broadcasted. • Nine roundtables conducted. • Ten informational stands produced and disseminated. |

USAID Field Days tour allowed FAIR to widely present its activities and achievements in partner regions. FAIR

participated in two out of four USAID Field Days – in Ivano-Frankivsk on May 11, 2013 and in Vinnytsia on September 7, 2013. Both field days were conducted in conjunction with City Days. It was meant to be a great opportunity for FAIR to present locally-centered activities and successes at booths, involve local beneficiaries and engage partner civil society organizations in dialogue with local decision makers. FAIR presented and



Regional Mission Director of the United States Agency for International Development (USAID) for Ukraine, Moldova, Belarus and Cyprus Jed Barton, FAIR DCOP Nataliya Petrova and Chief Judge of the Vinnytsia Appellate Administrative Court Vitalii Kuzmyshyn near the FAIR booth during the USAID field day in Vinnytsia on September 7, 2013.

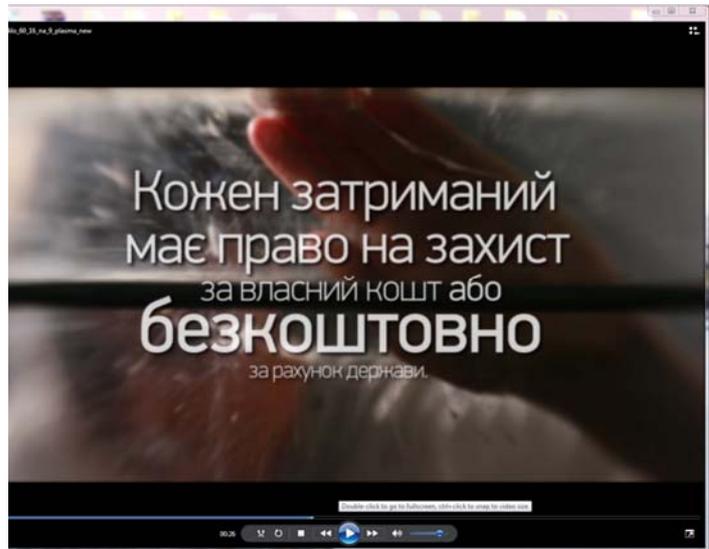
demonstrated new videos “Becoming a Judge: Objective Selection and Appointment” and “Courts and the Public: Civilized Engagement” produced by FAIR. During the event DVDs of the videos were disseminated. Additionally the participation of representatives of the Ivano-Frankovsk Court of Appeals and Vinnytsia Appellate Administrative Court gave a presentation of court’s public awareness activities and representatives of the CSOs - FAIR grantees presented on their recent activities in these cities (CRC survey, assessment of the CRC program, assessment of access to justice for persons with disabilities, activities under the grant program “Civil Society Involvement in the Process of Establishing the Free Legal Aid System”). FAIR disseminated public awareness materials on the benefits and achievements of Judicial Reform and arranged the consultations of the advocates-representatives of Vinnytsia and Ivano-Frankivsk Centers for Secondary Free Legal Aid Providing.

In addition, FAIR representatives took part in the International Scientific Conference *Sustainable Development Community - Basis of National Regional Development Strategy 2020* organized by the Vinnytsia Oblast State Council on May 17, 2013. FAIR disseminated information materials about FAIR activities in the field of judicial reform implementation and established new working contacts with representatives of the CSOs in the region. FAIR representatives also gave a presentation on the benefits of judicial reform and shared the information regarding civil society engagement into the judicial reform process during section meeting “Civil society involvement into self-governance development strategy process.”

During the reporting period, FAIR grantee Ukrainian Legal Aid Foundation (ULAF) successfully implemented a grant program on Civil Society Involvement in the Process of Establishing the Free Legal Aid System. Under this grant program ULAF jointly with the Coordinating Centre for Free Legal Aid Providing of the Ministry of Justice of Ukraine (MOJ) conducted the roundtable discussions on “Experience of Implementing New Criminal Procedure Legislation Based on the Practice of Providing Free Secondary Legal Aid” in Vinnytsia, Kirovohrad, Kherson, Uzhhorod, Donetsk, Rivne, Ivano-Frankivsk, Kharkiv, and Simferopol. During the roundtable discussions participants discussed the practice of implementing new criminal procedure legislation in the process of providing free secondary legal aid based on the principles of rule of law and fair justice. Representatives of Oblast Centers for free secondary legal aid providing, judges, lawyers, representatives of human rights organizations, and academics in the field of criminal law and

process participated in the roundtable discussions. As a result, a set of recommendations regarding improving cooperation between all participants of the process of providing free secondary legal aid and proposals regarding amendments in relevant legal framework were developed by the Coordinating Centre for Free Legal Aid in cooperation with FAIR grantee. This report on recommendations and proposals regarding amendments in secondary free legal aid providing legal framework was submitted to FAIR and presented together with all public awareness materials developed in terms of grant program “Civil Society Involvement in the Process of Establishing the Free Legal Aid System” implementation.

During the last quarter of the reporting year, FAIR grantee ULAF produced the leaflet “The right on free legal aid in criminal proceedings” and two types of stickers regarding the rights of detained people and disseminated them throughout 2,000 advocates providing secondary free legal aid; prepared 10 information stands and disseminated them throughout partner regional Centers for Secondary Free Legal Aid Providing with the highest number of notifications; and produced two TV spots on the rights on free legal aid for detained persons and broadcasted throughout regional and central TV channels, social networks and websites of civil society organizations <http://www.legalaid.gov.ua/>.



TV spots on the rights on free legal aid for detained persons produced by FAIR grantee

DEVIATIONS IN IMPLEMENTATION OF THE WORK PLAN: During the last reporting year, FAIR has redrafted the RFA on Civil Society Involvement on Proposed and Pending Judicial Reform Legislation to foster public input in the lawmaking process. Although a significant part of draft legislation was adopted by the previous Parliament convocation, FAIR opted to redraft the RFA to accommodate possible PM changes following parliamentary elections. To foster better results and increase cost efficiency, it was planned that grant activities should include a research on the status and content of pending judicial reform legislation and associated roundtables. Such research should include analysis of the amendments to the Law on the Judiciary and Status of Judges on how these amendments reflect Venice Commission Recommendations.

Despite the necessity for such research and appropriate grant activity, it could not be implemented and prepared during the reporting period as the authority of the Verkhovna Rada of 6th convocation expired and accordingly to the parliamentary rules, “The bills introduced but not adopted in first reading before the expiry of powers of the Verkhovna Rada of the respective convocation deemed to be withdrawn.” Therefore, the major part of pending judicial reform legislation was considered withdrawn and could not be considered by the Verkhovna Rada of the 7th convocation.

FAIR decided to reformat its approaches to the civil society engagement in dialogue with decision makers regarding judicial reform and announced the RFA on Civil Society Involvement in the Process of Establishing the Free Legal Aid System and selected ULAF as grant implementer. Because of some internal institutional problems that occurred in ULAF during the grant implementation process and changes in leadership, some slippage in the grant implementation plan occurred. Also, public awareness deliverables produced by ULAF which were planned to be posted in preliminary detention centers required exception to USAID marking and branding requirements that caused a slippage of the grant implementation plan. In order to perform all planned activities at the appropriate level and develop all initially planned materials with appropriate quality, FAIR decided to prolong the grant implementation schedule until the end of September 2013.

EXPECTED RESULT 4.2: THE UKRAINIAN PUBLIC IS ENGAGED IN THE JUDICIAL REFORM PROCESS THROUGH CIVIC EDUCATION AND ADVOCACY ACTIVITIES

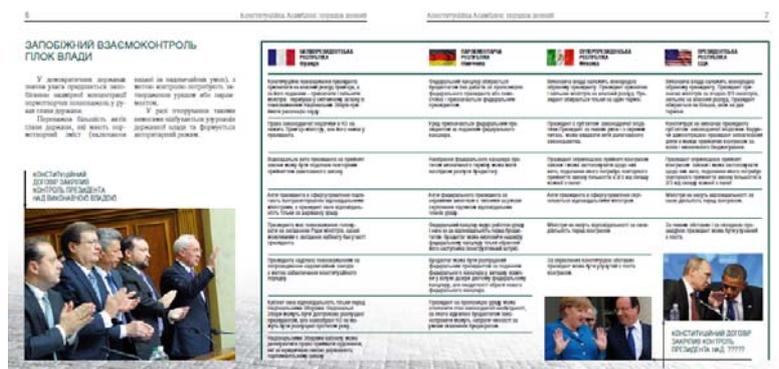
CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: During the reporting period, FAIR continued supporting civil society involvement in judicial and constitutional reform process. FAIR supported the Constitutional Assembly in improving communications and interaction with civil society by supporting the grant activity on civil society involvement in constitutional reform process. In November 2012, FAIR signed the grant agreement with Non-Government Organization Fund for Facilitation of Constitution Reforms in Ukraine (FFCR). The objective of this grant was to improve the effectiveness of interaction between civil society and decision-makers, and to support civil society involvement in the Constitutional reform process. This was necessitated by the need to conduct public education efforts to explain why without respective changes to the Constitution of Ukraine the completion of the judicial reform is not possible in order to bring it to Council of Europe standards.

Milestone Progress ER 4.2

- Initiated development of three new civic education materials (achieved. 4 instead of 3).
- Finalized and submitted Public Information Officer job instructions to the COJ (achieved).
- Finalized and submitted Guidelines on Courts and Media Relations to the COJ (achieved).
- COJ Communications strategy approved by Congress of Judges of Ukraine (achieved).
- COJ website developed (achieved).
- Court communications manual and court communications training curriculum developed and approved by NSJ (achieved).
- CA website developed (achieved).
- At least one joint event with CSO and CA held (achieved).

FFCR prepared 4 types of TV spots which were broadcasted through central and regional TV channels more than 256 times during the reporting period: http://24tv.ua/home/showSingleNews.do?ranishe_maybutnye_ukrayini_uyavlyav_poinshomu_leonid_kravchuk&ranishe_maybutnye_ukrayini_uyavlyav_poinshomu_ikravchuk&objectId=361812. FFCR also prepared and released more than 50 publications such as interviews with the heads of appropriate commissions of the Constitutional Assembly, opinion pieces, and articles on the most topical issues of constitutional reform and its interrelation with ongoing judicial reform.

FFCR prepared, printed, and disseminated two public awareness brochures on constitutional reform and assisted with communications related to the Meeting of the Constitutional Assembly on June



Leaflet on the Constitutional Assembly developed by the FAIR grantee.

21, 2013 international scientific conference *Modern Constitutionalism: Problems of Theory and Practice* dedicated to 17th anniversary of Constitution of Ukraine adoption which was organized by the Constitutional Assembly and V. M. Koretsky Institute of State and Law of National Academy of Sciences.

FFCR as FAIR grantee successfully conducted a regional roundtable in Ostrog Academy to discuss the interrelation between the judicial reform and constitutional reform process and the role of civil society in constitutional reform. 5 key speeches with relevant proposals were collected by the grantee and were submitted to the attention of the Constitutional Assembly members. Constitutional Assembly members, CSO representatives, scientists and media participated at the discussion.

Also, FAIR supported the Constitutional Assembly in the development of a website to ensure civil society engagement in the Constitutional reform process. FAIR's subcontractor developed the Constitutional Assembly's website together with detailed documentation of individual modules, user instructions, and user manual, as well as provided training on website maintenance. The Constitutional Assembly website can be accessed through the following link: <http://cau.in.ua/>.

During the last reporting year, FAIR also supported Ukrainian civil society by conducting a grant activity program on public awareness campaign on citizens' rights, responsibilities and benefits of judicial reform. ULAF was selected as the grant implementer. The objectives of the grant activity were to raise public awareness about achievements, novelties, and the benefits of the judicial reform, citizens' rights, responsibilities, and to disseminate public awareness materials such as articles, public service announcements (PSAs), brochures and leaflets covering the most pressing issues of the judicial reform process.

The FAIR grantee developed and disseminated through partner CSOs, courts, local centers providing free legal aid, and libraries three types of leaflets; prepared and published a set of publications containing 6 articles covering the most topical issues of the judicial reform process which were published in regional and central printed and internet media.

As a part of the support to judicial self governance bodies and civil society involvement in the judicial reform process, FAIR provided the COJ with assistance in developing the COJ Communications Strategy that was approved on the COJ meeting on November 30, 2012. While beginning implementation of the COJ Communications Strategy, the Congress of Judges of Ukraine approved it during XI meeting on February 22, 2013. As a part of the approved COJ Communications Strategy, FAIR supported the COJ in developing the COJ website. The COJ website was developed and presented during the Congress of Judges of Ukraine. The FAIR subcontractor developed the COJ website together with user instructions and manual, and provided training on website maintenance for employees of appropriate departments of SJA on March 21, 2013. The FAIR subcontractor purchased and installed a server in order to provide sustainability of the COJ website which can be accessed through the following link: <http://rsu.court.gov.ua/>.

In December 2012, FAIR finalized the manual and curriculum on Public Relations in Courts. Both were significantly improved by FAIR legal staff, COJ, NSJ, and CJS staff. The expert from Karazin National University also contributed to the final versions of both materials.

Finally, FAIR supported inter-project cooperation within USAID projects network. In particular, FAIR supported USAID Access to Justice and Legal Empowerment Project (LEP) Eighth, Ninth and Tenth Quarterly meetings, which were held in Uzhhorod, Zaporizhzhia and Lutsk accordingly. FAIR provided presentations on the CRC methodology and CSOs engagement in judicial reform process. FAIR also engaged Judge Hanna Fazykosh from the Appellate Court of Uzhhorod oblast who made a presentation for CSO representatives on specifics of court proceedings. In

Zaporizhzhia FAIR engaged Judge Svitlana Malovichko from the Zaporizhzhia Oblast Court of Appeals to give a presentation to CSO representatives on the specifics of court proceedings and mediation. In Lutsk FAIR engaged Judge Oksana Zavydoska-Marchuk, Secretary of Civil Chamber of Volyn oblast Court of Appeals to give a presentation to CSO representatives on the representation of clients' interests in the European Court on Human Rights and arranged a court tour for Quarterly Meeting participants.

DEVIATIONS IN IMPLEMENTATION OF THE WORK PLAN: During the reporting period, after numerous postponements, only one Constitutional Assembly meeting took place on June 21, 2013. This delay in the constitutional reform public awareness campaign implementation plan required the prolongation of the grant program until the end of reporting period.

Also, numerous controversial suggestions to FAIR grantee from the beneficiary (the Constitutional Assembly) complicated the process of the approval of public awareness materials, which also contributed to the delay. Political opposition self recusal from constitutional reform led to certain gaps in public discussion, objective and independent coverage of the constitutional process.

Finally, as mentioned under previous ER, some internal institutional problems occurred in ULAF during the grant implementation in addition to changes in their leadership, caused delay in the grant implementation plan. This led to the extension of the grant implementation schedule until the end of reporting period.

EXPECTED RESULT 4.3: CIVIL SOCIETY ORGANIZATIONS HAVE MEANS AND OPPORTUNITIES TO EFFECTIVELY MONITOR THE IMPLEMENTATION OF JUDICIAL SECTOR REFORMS AND PROVIDE OVERSIGHT TO JUDICIAL OPERATIONS

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: During the reporting period, FAIR implemented the Citizen Report Cards (CRC) grant program aimed at measuring public satisfaction with court performance. CRC grantees prepared analytical reports on CRC survey results for 34 pilot courts. Also, in December 2012 –January 2013 CRC CSOs conducted 13 roundtables to present CRC survey results and over 300 recommendations on improving court services in 34 courts.

Representatives of courts, SJA territorial offices, CSOs including those representing people with disabilities, media and advocates attended the roundtables and participated in discussion of the CRC results. In general, courts positively perceived the CSOs' recommendations based on collected CRC data and mentioned that such surveys help them to identify areas where courts should focus their efforts to improve court performance. Topics and issues discussed during the roundtables the most frequently included access to court facilities and court services for people with disabilities, timeliness of court decisions, budget deficit of the judiciary and increase of the professional level of court staff. It is worth mentioning that, generally, scores for court performance quality of new CRC courts are higher in 2012 compared to those in 2009 when the CRC program started. In 2009 the scores ranged from 0.49 (lowest) out of maximum 1 to 0.78 (highest), in 2012 from 0.64 to 0.92.

Additionally, on November 22, 2012, FAIR jointly with the COJ and Centre for Judicial Studies conducted a roundtable on "Accessibility, Independence and Fairness of Justice in Ukraine: Presentation and Discussion of the Monitoring Results." At the roundtable, FAIR presented the 2012 CRC Survey results for 34 courts and CRC methodology at the national level. The Centre for Judicial Studies presented results of the monitoring of the status of judicial independence in Ukraine in 2012 and national polling of court visitors. Members of the COJ, specialized councils of judges, representatives of the Presidential Administration, high judicial bodies, SCU, HCJ, HQC, SJA, MOJ, CSOs, chief judges of Ukrainian courts, MPs and academicians participated in

the roundtable. The media also attended the event. FAIR received feedback on the CRC survey from representatives of the judiciary and civil society organizations such as Razumkov Center which conducts public opinion polls on various topics including those related to the judiciary.

In March 2013, FAIR continued activities related to the CRC surveys and launched a new grant program on evaluation of the CRC surveys implementation. This evaluation includes an examination of the recommendations and an analysis of the future viability of the CRC and similar programs in which civil society continues to partner. This activity complements the internal court performance evaluation work (CPE) under Task 3.2.1. On March 4, 2013, FAIR signed the grant agreements with Law and Democracy NGO and Creative Center CCC NGO to implement the above-mentioned grant program in 34 CRC partner courts in 13 regions of Ukraine. In March 2013, the grantees in cooperation with the FAIR team developed methodology and tools to assess CRC program impact and then conducted focus groups in 34 CRC courts to analyze the CRC implementation. In June 2013, during a roundtable Law and Democracy NGO and Creative Center CCC NGO presented reports on the FAIR CRC program impact which included an examination of the recommendations and the ability of the selected courts to implement them. According to the Law and Democracy NGO, that conducted evaluation of CRC program in 17 out of the 34 courts, the courts accepted 80.1% of recommendations and rejected only 10.2%. 88.6% of recommendations were implemented or are in the process of implementation by the courts. 61.4% of recommendations can be implemented without additional resources, and 32.9% of recommendations require additional resources in the 17 courts. Results of the assessment conducted by Creative Center CCC in another 17 courts showed that courts accepted 77% and rejected 22% of the recommendations. 1% of recommendations are under consideration. The courts completely or partly implemented 68% of recommendations. Representatives of CRC courts and territorial SJA mentioned that they continue to address CRC recommendations and are interested in future cooperation on implementation of the CRC surveys.

Results of the CRC survey indicated that access to court services and facilities for persons with disabilities is one of the critical issues. Therefore, FAIR started a grant activity aimed at evaluating the accessibility of court facilities and services for people with disabilities in 18 CRC courts. Law and Democracy NGO, in cooperation with such organizations as Lviv regional office of the National Assembly of Disabled, the Ukrainian Society of People with Impaired Vision (UTOS), and Ukrainian Society of People with Impaired Hearing, are implemented this activity. In March 2013, the grantee developed the tool that helped to evaluate access to court facilities and court services for people with disabilities and prepare

Milestone Progress ER 4.3

- CRC surveys extended to 8 new regions and 25 new courts.
- 34 courts in 13 regions of Ukraine took part in CRC surveys.
- Selected (competitively) CSO partner to administer the pilot court administration certificate program.
- Over fifty court administrators submitted the applications for participation in the court administration certificate program.
- FAIR signed the agreement with the Michigan State University (MSU) to support the pilot court administration certificate program implementation.
- FAIR issued RFA on monitoring of judicial discipline decisions.
- 40 court and SJA staff competitively selected nationwide for participation in the pilot court administration certificate program.
- MSU developed ten courses with teaching materials for the pilot court administration certificate program in cooperation with MSU.
- FAIR in cooperation with MSU, SJA and NSJ conducted the court administration certificate program faculty development training.
- 8 CSOs presented 34 CRC analytical reports and 319 recommendations on court service improvement to 34 CRC partner courts at 13 regional roundtables.
- FAIR selected CSO to conduct monitoring of judicial discipline decisions competitively selected.
- 10 subject curricula on the court administration certificate program adapted to Ukrainian context.
- 40 court and SJA staff participated in court administration certificate program and earned certificates from Michigan State University.
- Court administrator manual based on court administration certificate program curricula developed and published.
- Assessment report on impact of the CRC program implementation produced.
- Assessment report on equal access to court facilities and services for persons with disabilities produced.

assessment reports with conclusions and recommendations on equal access to court services and court facilities for persons with disabilities.

As a part of the activities aimed at evaluation of the access of court facilities and court services for disabled, Law and Democracy NGO conducted six trainings on improving the skills of court staff and Gryfon (court security service) and the quality of their work with persons with disabilities in 18 courts. The training faculty included a representative of Lviv regional office of the National Assembly of People with Disabilities (<http://pravda.if.ua/news-37930.html>; <http://pravo.prostir.ua/?news=1844&lang=ukr>; <http://rionews.com.ua/news/all/img/n139110423>; <http://karpatnews.in.ua/news/63557>; <http://zakarpattya.net.ua/News/108640-Pro-Zakarpatskyi-okruzhnyi-administratyvnyi-sud-napysaly-movoju-Brailia>). Court staff expressed interest in this topic and further expansion of the trainings. Moreover, during a rule of law donor implementers meeting in September 2013, where the NGO presented conducted grant activity on access for people with disabilities, the NSJ proposed to cooperate with Law and Democracy NGO on development of the curricula and implementation of above-mentioned trainings.

Law and Democracy NGO presented an assessment report with conclusions and recommendations on equal access to court services and court facilities for people with disabilities during the regional roundtable on June 25, 2013 in Lviv. Chief Judges of CRC pilot courts, representatives of territorial offices of the SJA, NGOs, and FAIR discussed the results of the assessments and recommendations on improving the access for the disabled. Representatives of organizations of the disabled listed the following issues to be addressed in courts:

- Training of certificated sign language translators and assigning them to each court to avoid false testimony;
- Legalizing facsimile signature to certify documents by people with impaired vision;
- Making case documentation available electronically, so that people with impaired vision can read it using specialized software;
- Filing suite by mail; and
- Responsibility for non compliance of rules of treating people with disabilities.

Also during this period, FAIR in cooperation with the Michigan State University (MSU) School of Criminal Justice, SJA, NSJ and Kharkiv City Public Organization “Institute of Applied Humanitarian Research” designed and implemented the innovative court administration certificate program (program) supported by FAIR. This program was aimed at increasing the knowledge, skills, and abilities of 40 competitively selected Ukrainian court administrators. Over 50 court administrators submitted applications to participate in the program.

In December 2012, FAIR in cooperation with SJA and NSJ competitively selected 40 chiefs of staff, their deputies, and SJA staff nationwide from the court of different jurisdictions for the court administration certificate. MSU registered and enrolled all 40 selected students for the MSU Judicial Administration Certificate Program. This was a first time that Ukrainian court administrators participated in the certificate court administration program in Ukraine.

In January 2013, in the framework of the program, MSU developed teaching materials including learning objectives, session plans, and a schedule of topics and exercises for the courses. A team of U.S. and Ukrainian faculty for the program; reviewed and updated standards for courses, leaning objectives, presentations and materials, and faculty evaluation to ensure relevance to the Ukrainian context.

From April 8, 2013 through April 19, 2013, 40 competitively selected Ukrainian court administrators participated in the Court Administration Certificate Program. During the two week program, MSU faculty co-taught with Ukrainian faculty the following courses: purposes and responsibilities of courts;

leadership; resources, budget, and finance; information technology management; human resource management; caseload management; visioning and strategic planning; court and community communications; education training and development; and essential components of courts. At the end of the program participants mentioned that they received experience, skills, and knowledge that they did not have when they entered the program. After the course delivery the participants prepared the capstone projects which required them to develop an abbreviated strategic plan to address a court improvement need. A review of the capstone summary demonstrated the strategic issues that the court administrators tackled with their new-found knowledge, skills, and confidence. The overarching theme of the capstone project was building public trust and confidence in courts; thus, increasing respect for and reliance on the judicial branch in protecting rights under the Constitution.

FAIR in cooperation with MSU faculty evaluated and approved all forty capstone projects. The court administration certificate program also included an evaluation of the faculty and the courses by the participants. On June 12, 2013, FAIR conducted a certificate graduation ceremony and roundtable in partnership with MSU, SJA, and NSJ. Chief judges of the courts whose employees participated in the program attended the ceremony and the roundtable. All 40 participants received MSU graduation certificates in judicial administration as well as certificates of the NSJ. Also the participants obtained a status of Michigan State University Judicial Administration Certificate Program participant and have a potential opportunity to continue education there and get a master's degree in judicial administration.



Dr. Maureen Conner, Director, Michigan State University Judicial Administration Program, during the Graduation ceremony of the court administration certificate program in Kyiv on June 12, 2013.

During the roundtable, participants of the event discussed lessons learned in the design and implementation of the certificate court administration program; presented Ukrainian and international best practices in the professional development of court managers; and discussed recommendations and next steps for continued development of a court administration certificate program in Ukraine. "Increasing the level of professionalism of court administrators is a pressing call of the times. This Court Administration Program is the first step towards forming innovative and relevant training programs with the aim of establishing special professional training of chiefs of staff and their deputies as court administrators," emphasized Head of the SJA Ruslan Kyrylyuk. "The near-term plans of the State Judicial Administration of Ukraine are to assign training of court administrators under this pilot project to a specialized educational institution or the National School of Judges of Ukraine. This is the best perspective," shared the SJA's next steps Ruslan Kyrylyuk. It is worth to add, that representatives of NSJ are planning to engage the program participants as faculty members for trainings and workshops conducted by NSJ (Linked to ER 3.1, ER 3.2 and ER 3.3).

Finally, FAIR produced the success story video on use of Citizen Report Cards to improve court performance entitled "Courts and the Public: Civilized Engagement." In accordance with the then Chairman of the Council of Judges Justice Romaniuk's proposal, the video was demonstrated during the Congress of Judges on February 22, 2013 and DVDs with the video were disseminated among the participants of the Congress. Also, this video was disseminated among the courts, judicial self-government bodies and CSOs. The "Courts and the Public: Civilized Engagement" video is posted at the FAIR website (<http://www.fair.org.ua/index.php/index/video/7>; <http://www.fair.org.ua/index.php/index/video/6>).

PERFORMANCE MANAGEMENT AND EVALUATION

FAIR base period results framework (Annex A, “Performance Management and Evaluation,” graphically represents our strategy to achieve the program goal, “Support legislative, regulatory and institutional reform of judicial institutions in order to build a foundation for a more accountable and independent judiciary” and provides a foundation for planning and performance monitoring, allowing each activity to link to a specific result and each result to be measured by unique indicators. FAIR base period has 35 life-of-project indicators designed to capture and communicate major project impacts, track implementation progress against targets, support project management in making informed decisions, and contribute to USAID’s own performance management and reporting needs. Annex A contains the list of FAIR indicators, grouped by project Objectives and Expected Results (ER), with target versus actual data for Program Year 1 (FY2012), Program Year 2 (FY2013) and the life of FAIR base period.

During the FY2013 in an effort to achieve the overall project objective, FAIR supported 14 governmental judicial institutions and 12 non-governmental legal associations by way of trainings, technical assistance, consultations, information and expert support, direct procurement for governmental institutions and grant funding to non-governmental associations. The actual FAIR’s FY2013 data for the indicator “Number of legal institutions and associations supported by USG” is 24, which matches FY2013 target.

FAIR-promoted changes in Ukrainian legislation came into effect with adoption of the Law on Amending Some Legislative Acts regarding anti-corruption police enforcement expanding the Council of Judges of Ukraine authority to control the conflict of interest prevention in Constitutional court contributing to the indicator “Number of laws, regulations, and procedures designed to enhance judicial independence supported with USG assistance” under its Objective 1: “The legislative and regulatory framework for judicial reform complies with European and international norms and supports judicial accountability and independence.” However, the actual outcome is below the FY2013 target of 3. No changes occurred in FY2013 under the indicators “Number of revised provisions enacted that reflect Venice Commission recommendations” and “Percentage of Venice Commission recommendations adopted.” Despite of FAIR constant promotion of the Venice Commission recommendations adoption with Ukrainian Parliament, the actual adoption of the amendments to the laws is outside of FAIR control.

To achieve its ER1.2 “Constitutional reform related to the judiciary is pursued in an inclusive manner” during the Program Year 2 FAIR involved 16 Civil Society Organizations in the process of the Constitutional Reform and supported 5 working sessions between the civil society and law makers on this topic.

FAIR made important, tangible, measurable changes under the Objective 2: “The accountability and transparency of key judicial institutions and operations are strengthened.” FAIR supported the development and promoted the adoption of 6 judicial selection criteria, 8 criteria to evaluate the case studies during the judicial qualification exams and the regulation on the procedure of conducting training for candidate judges contributing to the indicator “Number of merit-based criteria or procedures for justice sector personnel selection adopted with USG assistance”. FAIR achieved measurable outcomes in increasing the transparency of judicial discipline process through promoting the use of standardized judicial misconduct complaint form that is available for public download from the web-sites of the High Qualifications Commission of Judges (HQC) and the High Council of Justice (HCJ). In the beginning of the FY2013 8,9% of judicial misconduct complaints were submitted using the standardized form and in the end of the FY2013 this indicator increased to 9.6%.

In FY2013 Congress of Judges approved the new Code of Judicial Ethics developed with FAIR support. Before the adoption FAIR facilitated the involvement of more than 220 judges from all regions of Ukraine (57 judges in FY2013) in the process of discussion and providing feedback to the development of the new Code.

The most significant FAIR impact under the Objective 3: “The professionalism and effectiveness of the Ukrainian judiciary are strengthened” is the Strategic Plan for the Judiciary for 2013-2015 contributing to the indicator “Number of project-supported new or improved policies within the SJA.”

Another significant impact under this objective is the fact that 30 FAIR partner courts improved their case management and service provision in FY2013. These 30 courts are participants of citizen report cards (CRC) surveys implemented by FAIR partner NGOs in FY2012 and the improvements are resulted from the implementation of NGO recommendations. Samples of improvements include case documents availability to parties upon request, efficient compilation of statistical data, decrease the preparation time for case consideration, court staff performance and other.

FAIR supported the development of 6 new curricula and trained 57 judge trainers for the National School of Judges (NSJ). Meanwhile, FAIR did not meet its targets on the indicator “Number of judges and judicial personnel trained with USG assistance,” (actual 365 against target of 400) due to the fact that NSJ started the implementation of its training programs for judges using its own resources.

FAIR supported the development of the national Court Performance Evaluation (CPE) system and engaged 13 courts in its pilot testing. In addition, 18 courts implemented the CPE system per their own initiative and using only their own resources, thus FAIR significantly exceeded its target for the indicator “Number of courts involved in piloting court performance standards.” In the meantime the Council of Judges of Ukraine (COJ) and the State Judicial Administration of Ukraine (SJA) are considering the draft of CPE System, thus FAIR did not meet its target for the indicator “Number of court performance standards adopted.”

The average CRC score for participating courts in the FY2013 is 0.80 which is below target of 0.87. In addition, FY2013 CRC score is also lower than the one in FY2012. The decrease is caused by the new 17 courts participated in this initiative in FY2013.

Under Objective 4: “The role of civil society organizations as advocates for and monitors of judicial reform is strengthened,” FAIR exceeded its target for the indicator “Number and percentage of courts in which there are active CSO court performance evaluation programs,” where actual data is 51 (6.8%) against the 34 (4.5%) target. FAIR also exceeded its target for the indicator “Number of media outlets used by project-supported CSOs to disseminate judiciary related information” (actual 84 against target 50).

However, the actual percentage of CSO performance improvement recommendations implemented by courts is 39% which is lower than targeted (50%).

At the end of this section, we summarize the key factors of FAIR performance during its two year base periods. The table below represents FAIR’s actual progress against its FY2013 targets, disaggregated by four project objectives:

FAIR Objectives	Number of indicator targets for Year 1	Targets met and exceeded	Targets met	Changes made, below target	No changes
Program Goal	1	1	-	-	-
Objective 1	6	1	1	2	2
Objective 2	11	1	1	8	1
Objective 3	12	5	-	5	2
Objective 4	5	3	-	1	1
TOTAL	35	11	2	16	6
<i>TOTAL (Percent)</i>	<i>100%</i>	<i>31.43%</i>	<i>5.71%</i>	<i>45.71%</i>	<i>17.14%</i>

As we see, FAIR met or exceeded 12 of the 35 indicator targets set for its two-year base period, made an impact but did not achieve targets for 20 indicators, and made no progress on 3 indicators.

Where FAIR exceeded its targets, it did so for the following reasons:

- Strengthened collaboration with Ukrainian partners, specifically the SJA, HQC, NSJ, COJ, Ukrainian Legal Foundation (ULF), and others.
- Strengthened collaboration and resource-sharing with other international donors, including the U.S. Department of Justice, the European Union, and the Council of Europe.
- Greater interest of Ukrainian justice sector personnel in participating in FAIR initiatives.
- Greater interest of courts in participating in FAIR pilot projects.
- Diversifying resources, e.g. using international know-how and expertise suitable to Ukrainian reality and focusing on mobilization of Ukrainian resources as much as possible.

Where FAIR did not meet its targets, it was for the following reasons:

- Lack of political will on the part of lawmakers to consider the recommendations from the international community (particularly, from the Venice Commission) and make the appropriate legislative changes.
- Ukrainian judicial institutions delaying judicial reform activities for various reasons, ranging from inadequate state funding to lack of consensus among and within institutions.
- Issues concerning involving CSOs in judicial reform; on one hand, the number of CSOs capable of working on this issue is very limited, on the other, judicial institutions are sometimes reluctant to cooperate with CSOs.

For the next program year, FAIR will strengthen its activities to mitigate the impact of negative factors:

- FAIR will promote consensus building on implementation of judicial reform between stakeholder institutions and individuals.
- FAIR will intensify the process of involving CSOs in all aspects of judicial reform by working directly with CSOs on building their capacity and promoting cooperation with civil society among judicial institutions and policymakers.
- FAIR will seek to forecast possible project delays and prepare alternative solutions to achieve project expected results, if such delays become probable.

assessment of continued political will to pursue meaningful reforms in the judicial sector, a re-affirmation of the United States Government priorities in the sector and an evaluation of the program performance in the Base Period (October 1, 2011-September 30, 2013), on September 19, 2013, FAIR was extended for additional three years from October 1, 2013 to September 30, 2016. USAID and Chemonics International Inc. signed the Modification No 2 which reflects the amended SOW, extension of the Project duration, revised Level of Effort, as well as introduced some amendments to the several clauses of the Contract.

PROJECT REGISTRATION AND PROTOCOLS OF COOPERATION. At the end of September 2013, Project started to work on Project re-registration in Ukraine for the Option Period. With this respect FAIR initiated a meeting with Head of the SJA Ruslan Kyryliuk. As a result, on September 26, 2013, Deputy Director of USAID/Ukraine's Democracy and Governance Office Kira Mitre, Democracy Project Management Specialist of USAID/Ukraine's Democracy and Governance Office Oleksandr Piskun and FAIR COP David Vaughn met with Mr. Kyryliuk to discuss the results of cooperation during the FAIR Base Period and possible areas and coordination of cooperation during the Option Period. As a result of the meeting, SJA sent the letter to the Ministry of Economic Development and Trade of Ukraine (MOEDT) with request to clarify the legal grounds for re-registering FAIR for Option Period with support of SJA as the Project beneficiary. Additionally, FAIR drafted Protocol of Cooperation between FAIR Project and SJA and translated into Ukrainian the Project SOW for the Option Period. These documents are required for Project re-registration under the amended Cabinet of Ministers' Regulation No 153, dated February 15, 2002, on Creating the Unified System of Attracting, Utilizing, and Monitoring International Technical Assistance (Regulation No 153).

EXPAT REGISTRATION IN UKRAINE. At the end of September 2013, FAIR started to work on the issue related to extension of temporary stay of FAIR COP David Vaughn in Ukraine since October 1, 2013 as his Ukrainian visa and temporary residence permit expire on September 30, 2013. Since the Project is in the process of obtaining the official re-registration in Ukraine and Project Registration Card has not been updated with Option Period information yet, it is not possible to obtain a Ukrainian visa for COP or register him in Ukraine. Due to the fact that Ukrainian legislation doesn't have clear provisions on this issue, FAIR was working with USAID and State Immigration Service of Ukraine to find a solution. Additionally, Project requested SJA to write a letter of support to extend Mr. Vaughn's temporary stay in Ukraine till December 31, 2013.

WORK PLANNING. FAIR conducted one Work Planning Workshop in the end of February – beginning of March 2013, related to Work Plan 4 period.

PROJECT MONITORING. Per SJA request, FAIR provided detailed reports on project activities with regard to planned events and technical expertise for each project task for the second half of 2012 and first half of 2013.

STAFFING AND EXPERTS. FAIR signed employment agreement with an Administrative Assistant on November 19, 2013. By the end of the Base Period, FAIR had not hired a Judicial Accountability Specialist to replace Oleksiy Gotsul who accepted the position of Assistant Lawyer at the European Court of Human Rights starting on October 1, 2012. During FAIR Base Period, Project involved 24 U.S. Experts and 19 Third Country Nationals (TCN) Experts from the following countries: Hungary, Lithuania, Poland, Georgia, Portugal, France, Ireland, Italy, Netherlands, the United Kingdom, Germany, Bulgaria, Romania, Spain; as well as 19 Ukrainian Short-Term Local Experts.

COST CONTROL. FAIR saves USG resources by attracting non-federal in-kind or cash inputs from local partners or other international donors when organizing and conducting trainings, conferences, roundtables and study tours. In addition, the Contractor leverages its resources with

other USG-funded projects. The European Union (EU), the Council of Europe (COE), the Organization for Security and Cooperation in Europe (OSCE), U.S. Department of Justice - Overseas Professional Development and Training (DOJ/OPDAT), the Open World Program, the USAID Community Connections Program and Access to Justice and Legal Empowerment Project shared the level of effort of their consultants, trainers and experts with FAIR and assisted with training materials and other resources for FAIR-supported events. When conducting procurements with Ukrainian vendors, FAIR involves representatives of partner organizations to take part in tender review/selection panels to make the tender process open, fair and obtain partners' expertise as well.

VAT. In this reporting period, FAIR submitted twelve informational reports regarding all VAT-exempted purchases from September 2012 to August 2013 to the Shevchenkivska Tax Inspection in Kyiv City. Administrative staff enters into efficient negotiations with new vendors and subcontractors on VAT exemption and encourages them to sign special provisions in agreements and follow the VAT exemption procedure in order to save project funds. The exemption procedure requires vendors to track all the exempted operations and spend some additional time and human resources to report on exempted VAT operations, that is why it is difficult for them to cooperate under such conditions. In spite of this, FAIR signed service agreements with 9 new vendors whom Project engaged to follow the VAT-exemption procedure for the first time in the vendors' business practice. In the reporting period, FAIR Project submitted to USAID the Report on Taxation of U.S. Foreign Assistance for the period from October 1, 2011 to September 30, 2012 as required by clause H21 of the Contract.

FINANCE, ACCOUNTING, ADMINISTRATION. To ensure efficient grant programs implementation and following new USAID regulations, FAIR project reviewed financial reports of grantees on a monthly basis. Administrative staff also participated in the field trips and conducted internal financial reviews of the grantees' financial reports and documents in order to improve reporting process and provide follow-up training on USAID regulations and FAIR Grant manual. FAIR Project Administrative Teams went through Automated Directives System (ADS) 548 review process and received post-approval and good recommendations from the USAID Bureau for Management/Chief Information Office (M/CIO). During the Option Period work-planning and budgeting FAIR Administrative Team has applied this experience and recommendations as a procurement planning tool for future tenders in the framework of Project implementation. FAIR translation unit contributed to smooth organization of project events by providing timely and quality translations of various related materials. During the reporting period, FAIR translators have translated about 2,000 pages and outsourced 845 pages of project-related documents.

DONOR COORDINATION

This reporting period, the FAIR team hosted nine Rule of Law Donors and Implementers meetings:

- The meeting on October 3, 2012 focused on the role of civil society in judicial reform in Ukraine, including encouraging dialogue between civil society and decision makers on draft and pending judicial legislation, involvement of the public in the judicial reform process through civic education and advocacy activities, and providing civil society organizations with means to advocate for and monitor the judiciary. Featured speakers included Natalia Vereshchynska, Director of the Center for Judicial Studies, Iryna Soldatenko, Associate Professor of the Karazin Kharkiv National University Department of Applied Sociology, Oleksandr Serdyuk, Director of Analytical Centre of the Institute of Applied Humanitarian Research, and Vasylyna Yavorska, Rule of Law Program Manager of the International Renaissance Foundation.

- On November 7, 2012, Judge Nadiya Stefaniv, Chief Judge of Ivano-Frankivsk Oblast Court of Appeals, discussed their efforts to improve the quality of court services. The meeting also included a presentation by Volodymyr Kupriy, Executive Director of the “CCC Creative Center”, on NGO partnership with the Ivano-Frankivsk Oblast Court of Appeals as a part of the pilot program “Using Citizen Report Card Surveys to Improve Court Performance”.
- On December 5, 2012, Serhiy Trotsenko, Head of the Department of Innovations and Free Legal Aid System Development of the Coordinating Center for Legal Aid Providing, provided information on the center’s activities and plans on forming the legal aid system.
- On February 6, 2013, Volodymyr Kolesnychenko, Head of the HCJ, informed about the HCJ’s activity on forming judicial corps in Ukraine and approaches undertaken to reform the HCJ as a part of constitutional reform, and Volodymyr Butkevych, Law professor, retired judge of the European Court of Human Rights (1998-2008), Member of the Constitutional Assembly and Head of its Commission on Human Rights, made an update on the activity of the Commission on amending the “Human Rights” section of the Constitution of 1996.
- The meeting on March 13, 2013 was dedicated to discussing the experience of the first months of implementing the new Criminal Procedure Code and relevant provisions of the Law on Free Legal Aid in Ukraine. Stanislav Mishchenko, acting Chief Judge of the High Specialized Civil and Criminal Court, provided information about the success and challenges judges faced in applying the new CPC provisions, and Andrii Vyshnevskiy, Director of the Coordinating Center for Legal Aid Providing, informed about the activities and plans of the Coordinating Center in launching the secondary free legal aid system in Ukraine.
- On April 3, 2013, Supreme Court Justice Galyna Kanygina of the COJ presented the plans and priorities for the COJ. This included implementation of the Strategic Plan for the Judiciary for 2013 to 2015 and the Code of Judicial Ethics both of which were approved by the Congress of Judges in February 2013.
- On June 11, 2013, Dr. Maureen Conner of Michigan State University presented the lessons learned in designing and implementing the pilot court administration certificate program with the State Judicial Administration and the National School of Judges. In addition, Pam Harris, President of the National Association for Court Management, discussed the importance of promoting professional development of court staff.
- On July 3, 2013, FAIR NGO partners Law and Democracy Regional Public Charitable Foundation and Charity Fund “CCC Creative Center” presented the results of the Assessment of the Equal Access to Justice for Persons with Disabilities and evaluation of the Citizen Report Card (CRC) Program in 34 courts. Featured speakers were Andriy Buryi, the coordinator of the Project “Evaluating Implementation of the Citizen Report Card (CRC) Program and Preparing an Assessment Report on Equal Access to Justice for Persons with Disabilities” from the Law and Democracy NGO, and Volodymyr Kupriy, Director of “CCC Creative Center”.
- On September 4, 2013, FAIR grantee the Universal Examination Network (UENet), an international civil society organization, presented the results of an opinion survey of approximately 600 judges from throughout Ukraine regarding the knowledge, skills and abilities that judicial candidates should possess to be effective on the bench. The featured speaker was Serhii Mudruk, UENet President.

In November 2012, FAIR provided a list of nominees for the Open World Local Legislators (Local and regional governments) Program in 2013, and 4 out of 5 advised by FAIR nominees were approved by the vetting committee in December 2012. In December 2012, FAIR provided a list of nominees for the Open World Civic Rule of Law Program in 2013 and 19 out of 23 advised by FAIR nominees were approved by the vetting committee. In January 2013, FAIR provided a list of

nominees for the Open World (Rule of Law Judges) Program in 2013, and all 7 advised by FAIR nominees were approved by the vetting committee in March 2013. Also in June 2013, FAIR nominated lawyers, legal clinics staff, civic activists, law professors in civil law for the 2013 Open World Program.

FAIR continued to conduct coordinating meetings with donors, in particular with new projects, to share its experience regarding cooperation with Ukrainian partners in field of judicial reform and to explain roles of all relevant institutions in ensuring of functioning of judiciary:

- On February 13, 2013, FAIR met with representatives of the Swedish International Development Agency (SIDA), which funds a new project - Strengthening the Independence, Efficiency and Professionalism of the Judiciary in Ukraine - implemented by the Council of Europe (COE). Additionally, on February 25, 2013, FAIR met with the Manager of this project from the COE side.
- On February 13, 2013, FAIR met with leadership of the new Canada-Ukraine Judicial Education for Economic Growth Project funded by the Canadian International Development Agency (CIDA).

In April 2013, USAID also approved proposal for a Community Connections program theme “Improving Public Satisfaction with Court Services through the Professional Development of Court Staff in Partnership with Judicial Institutions, Associations, and Universities” submitted by FAIR. This will include a possible visit to the National School of Judiciary and Public Prosecution in Lublin and Krakow (Poland), as well as a possible visit to Warsaw (Poland) to meet with representatives of the Warsaw High School, which has launched a new specialization program on court administration. The participants will be selected among representatives of leading national judicial institutions and associations, including the SJA and NSJ, and the Ukrainian Association for Court Advancement with a focus in Kharkiv Oblast and possibly Odesa Oblast.

On June 18, 2013, FAIR participated in launching the new Project on Strengthening the Independence, Efficiency and Professionalism of the Judiciary in Ukraine (funded by the Government of Sweden through the SIDA, implemented by the Council of Europe).

Finally, during this reporting period, the FAIR team attended Parliamentary Technical Assistance Organization Coordination Meetings in October, November and December 2012, January, February, April, May, and June 2013.

LIST OF ANNEXES

- Annex 1: Performance Management and Evaluation Summary
- Annex 2: List of Counterparts/Beneficiaries Actively Involved in the Project
- Annex 3: Success Story “Ukrainian Judges Approved Modern Code of Judicial Ethics”
- Annex 4: Success Story “Certified Court Administrators Improve the Quality of Court Services”
- Annex 5: Strategic Plan for the Ukrainian Judiciary (Eng.)
- Annex 6: Strategic Plan for the Ukrainian Judiciary (Ukr.)
- Annex 7: Code of Judicial Ethics (Eng.)
- Annex 8: Code of Judicial Ethics (Ukr.)
- Annex 9: Court Automation Strategy (Ukr.)
- Annex 10: Report on Judicial Practice Analysis (Ukr.)
- Annex 11: The National School of Judges of Ukraine: Comments on Two Week Training For New Judges & Institutional Management Capacity (Eng.)
- Annex 12: Curricula for Initial Training on Rule of Law and Human Rights, with Practical Emphasis on the European Convention on Human Rights (Ukr.)
- Annex 13: Curricula for Initial Training on Judicial Opinion Writing (Ukr.)
- Annex 14: Curricula for Initial Training on Judicial Ethics (Ukr.)
- Annex 15: Curricula for Ongoing Training for Judges on Rule of Law and Human Rights, with Practical Emphasis on the European Convention on Human Rights (Ukr.)
- Annex 16: Curricula for Ongoing Trainings for Judges on Judicial Opinion Writing (Ukr.)
- Annex 17: Curricula for Ongoing Trainings for Judges on Judicial Ethics (Ukr.)
- Annex 18: Judicial Opinion Writing Handbook (*second edition*) (Ukr.)
- Annex 19: Addendum to the Council of Judges of Ukraine Decision No. 72 from November 30, 2012 - Communications Strategy for the Ukrainian Judiciary (Ukr.)
- Annex 20: TV Spot on the Rights on Secondary Free Legal Aid for Detained Persons (“Indylo”) (Ukr.)
- Annex 21: TV Spot on the Rights on Secondary Free Legal Aid for Detained Persons (“Kairo”) (Ukr.)

Annex 22: Report on Recommendations regarding Improving Cooperation between All Participants of the Process of Providing Secondary Free legal Aid and Proposals regarding Amendments in Relevant Legal Framework (Ukr.)

Annex 23: Sticker “Right on Free Legal Aid for Detained Persons”, type 1 (Ukr.)

Annex 24: Sticker “Right on Free Legal Aid for Detained Persons” type 2 (Ukr.)

Annex 25: Leaflet “Right on Free Legal Aid in Criminal Proceedings” (Ukr.)

Annex 26: Leaflet “Preventive Measures in Criminal Proceedings” (Ukr.)

Annex 27: Leaflet “What to Do if You are Detained in Criminal Accuse” (Ukr.)

Annex 28: Leaflet “Constitution is Written by People” (Ukr.)

Annex 29: Leaflet “Kernel of Constitution” (Ukr.)

Annex 30: Leaflet “What is the Plea Agreement” (Ukr.)

Annex 31: Brochure “Good Practices in Communications” (Ukr.)

Annex 32: Brochure “Guide in Criminal Process” (Ukr.)

Annex 33: Leaflet “Rights of Suspects and Accused in Criminal Process” (Ukr.)

Annex 34: Leaflet “How to Appeal against the Decisions of Pretrial Authorities, Prosecutor Office and Court” (Ukr.)

Annex 35: List of CRC Partner Courts

Annex 36: Analysis of the Organization of Court Administration in Ukraine (Eng.)

Annex 37: The State Judicial Administration of Ukraine: Structural Assessment and Recommendations (Eng.)

Annex 38: FAIR Success Story Video "Courts and the Public: Civilized Engagement", 20 min. (Ukr. with Eng. subtitles)

Annex 39: FAIR Success Story Video "Courts and the Public: Civilized Engagement", 12 min. (Ukr. with Eng. subtitles)

Annex 40: FAIR Success Story Video “Becoming a Judge: Objective Selection and Appointment”, 13 min. (Ukr. with Eng. subtitles)

Annex 41: Analytical Report on Monitoring Judicial Discipline Decisions (Ukr.)

Annex 42: Court Administration Manual “Chief of Court Staff: Introduction to the Profession” (Ukr.)

Annex 43: Citizen Report Cards Methodology Survey (4th Round): Appellate Court of Ivano-Frankivsk Oblast, Ivano-Frankivsk City Court (Ukr.)

Annex 44: Citizen Report Cards Methodology Survey (4th Round): Chornobayivskyy Raion Court of Cherkasy Oblast, Appellate Court of Cherkasy Oblast (Ukr.)

Annex 45: Citizen Report Cards Methodology Survey (4th Round): Prymorsky District Court of the City of Odesa (Ukr.)

Annex 46: Citizen Report Cards Methodology Survey (4th Round): Lychakivskyy District Court of the City of Lviv, Chervonograd City Court of Lviv Oblast, Drohobyt'sky City-Raion Court of Lviv Oblast (Ukr.)

Annex 47: Citizen Report Cards Methodology Survey (4th Round): Appellate Court and Hlybotsky Raion Court of Chernivtsi Oblast, Pershotravnevy and Shevchenkivskyy District Courts of the City of Chernivtsi (Ukr.)

Annex 48: Citizen Report Cards Methodology Survey (4th Round): Lviv, Zakarpattya and Khmelnytsky Circuit Administrative Courts (Ukr.)

Annex 49: Citizen Report Cards Methodology Survey (4th Round): Commercial Court of Dnipropetrovsk Oblast (Ukr.)

Annex 50: Citizen Report Cards Methodology Survey (4th Round): Appellate Court of Donetsk Oblast, Petrovskyy District Court of the City of Donetsk, Ordzhonikidzevskyy District Court of the City of Mariupol (Ukr.)

Annex 51: Citizen Report Cards Methodology Survey (4th Round): Kharkiv Appellate Administrative Court, Kharkiv Circuit Administrative Court (Ukr.)

Annex 52: Citizen Report Cards Methodology Survey (4th Round): Appellate Court of Volyn Oblast, Lutsk City-Raion Court of Volyn Oblast, Kovel City-Raion Court of Volyn Oblast, Ivanychivskyy Raion Court of Volyn Oblast (Ukr.)

Annex 53: Citizen Report Cards Methodology Survey (4th Round): Vinnytsia Circuit Administrative Court, Vinnytsia Appellate Administrative Court (Ukr.)

Annex 54: Citizen Report Cards Methodology Survey (4th Round): Appellate Court of Khmelnytsky Oblast, Kamyanets-Podil'sky City-Raion Court of Khmelnytsky Oblast (Ukr.)

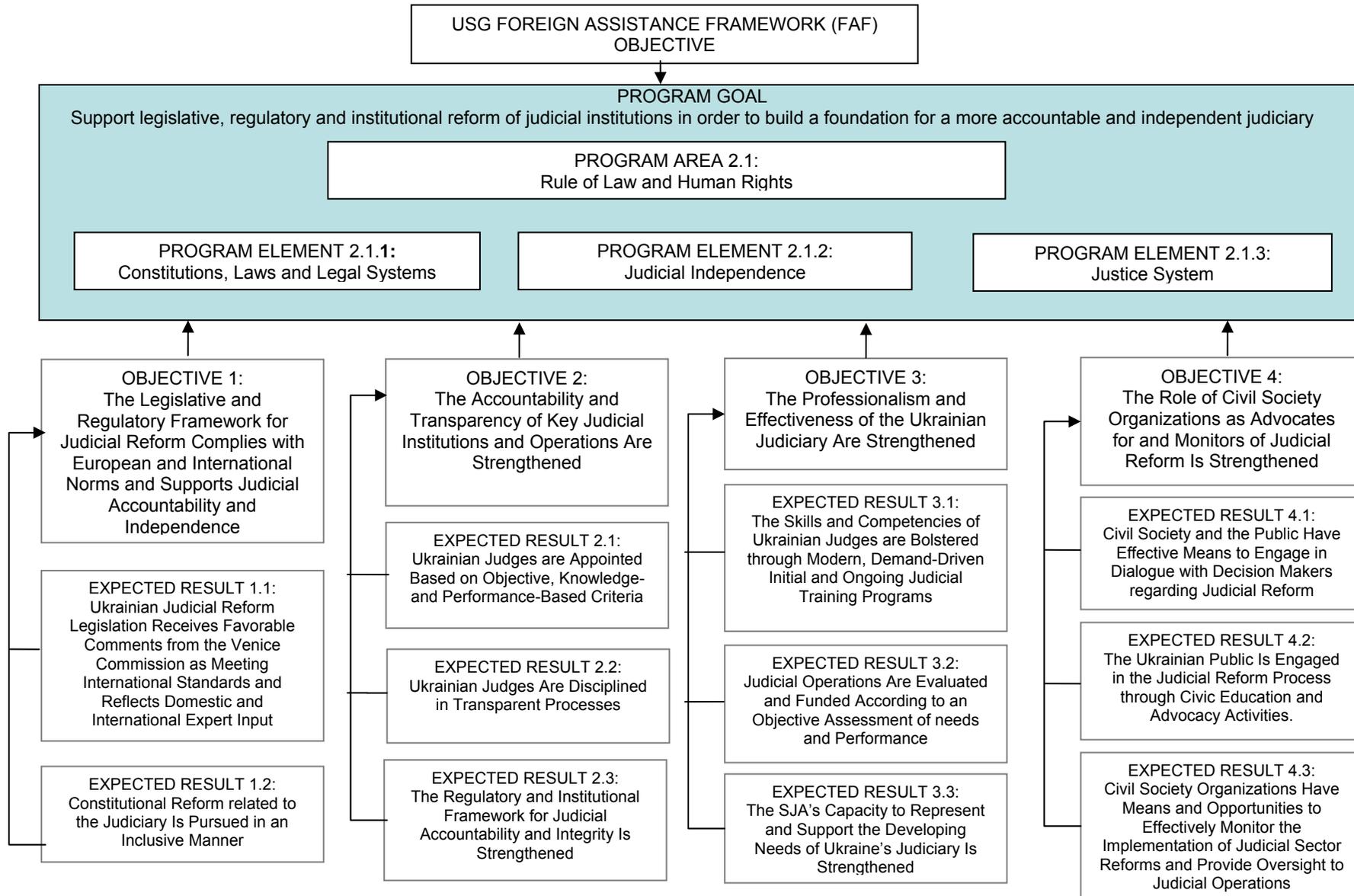
Annex 55: Citizen Report Cards Methodology Survey (4th Round): Appellate Court of Kirovohrad Oblast (Ukr.)

Annex 56: Citizen Report Cards Methodology Survey (4th Round): Leninskyy and Kirovskyy District Courts of the City of Kirovohrad, Kirovohradskyy Raion and Oleksandriysky City-Raion Courts of Kirovohrad Oblast (Ukr.)

Annex 57: Assessment Report on Access to Justice for People with Disabilities (Ukr.)

ANNEX 1: PERFORMANCE MANAGEMENT AND EVALUATION

USAID Ukraine FAIR Project Results Framework



PERFORMANCE INDICATORS	BASELINE DATA		2012		2013			Cumulative Project End Base Period		Notes and Explanations
	Month/Year	Value	Annual Target	Annual Actual	Annual Target	Actual quarter 4	Annual Actual	Target ¹	Actual ²	
Program Goal: Support legislative, regulatory and institutional reform of judicial institutions in order to build a foundation for a more accountable and independent judiciary										
1. Number of legal institutions and associations supported by USG	Oct'11	30	24	22	24	15	26	30	28	During the FY2013 FAIR supported 14 governmental judicial institutions (SJA, COJ, NSJ, HQC etc) and 12 non-governmental legal associations. <i>Annual FY2013 target exceeded by 8%</i>
Objective 1: The legislative and regulatory framework for judicial reform complies with European and international norms and supports judicial accountability and independence										
Expected Result 1.1: Ukrainian judicial reform legislation receives favorable comments from the Venice Commission as meeting international standards and reflects domestic and international expert input										
2. Number of laws, regulations, and procedures designed to enhance judicial independence supported with USG assistance	Oct'11	8	2	4	2	0	2	14	14	During this reporting period the Parliament adopted the Law on Amending Some Legislative Acts regarding anti-corruption police enforcement expanding the Council of Judges of Ukraine authority to control the conflict of interest prevention in Constitutional court. In addition, FAIR supported the development and adoption of the new Code of Judicial Ethics. <i>Annual FY2013 target achieved.</i>
3. Number of revised provisions enacted that reflect Venice Commission recommendations	Oct'11	0	22	3 ³	19	0	0	22	3	No changes occurred this reporting period due to complicated situation in Ukrainian Parliament. Indicator status remains the same as annual 2012. <i>Annual FY2013 target is not met.</i>

¹ Cumulative project end targets revised based on 2012 results.

² "Cumulative project end base period" targets and actual data in this table are not only those that related to FAIR project. It also counts "Baseline" data which is related to FAIR predecessor USAID Ukraine Rule of Law Project.

³ Data revised in January 2013 based on the analysis of Venice Commission Recommendations and legislative changes

PERFORMANCE INDICATORS	BASELINE DATA		2012		2013			Cumulative Project End Base Period		Notes and Explanations
	Month/Year	Value	Annual Target	Annual Actual	Annual Target	Actual quarter 4	Annual Actual	Target ¹	Actual ²	
4. Percentage of Venice Commission recommendations adopted	Oct'11	0	47% ⁴	6%	41%	0	0	47%	6%	No changes occurred this reporting period due to complicated situation in Ukrainian Parliament. Indicator status remains the same as annual 2012. <i>Annual FY2013 target is not met.</i>
Expected Result 1.2: Constitutional reform related to the judiciary is pursued in an inclusive manner										
5. Number of project-supported communication products issued by civil society organizations on constitutional reform	Oct'11	0	2	0	4	0	2	4	2	During this reporting period FAIR grantee the Foundation for Support Constitutional Reforms in Ukraine issued the Constitutional Assembly website and booklet. <i>Annual FY2013 actual is below target by 50%.</i>
6. Number of working sessions on Constitutional reform between law makers and civil society organizations	Oct'11	0	2	1	3	0	5	4	6	This reporting period we count four meeting of the Constitutional Assembly that took place during September 2012 – June 2013 and Conference “Modern constitutionalism: problems of theory and practice” <i>Annual FY2013 target exceeded by 67%</i>
7. Number of civil society organizations who have experience in constitutional reform participating in public events on the Constitution	Oct'11	0	15	7	30	16	16	30	16	FAIR counts civil society organizations whose representatives participate in the Constitutional Assembly activity and FAIR partner Foundation for Support Constitutional Reforms <i>Annual FY2013 actual is below target by 47%.</i>
Objective 2: The accountability and transparency of key judicial institutions and operations are strengthened										

⁴ In January 2013 FAIR conducted analysis of Venice Commission Recommendations regarding not only the Law on the Judiciary and the Status of Judges, but also other laws related to the judicial reform including the Constitution of Ukraine. FAIR counted 47 recommendations and revised its target and the actual data on the indicator “Percentage of Venice Commission recommendations adopted”

PERFORMANCE INDICATORS	BASELINE DATA		2012		2013			Cumulative Project End Base Period		Notes and Explanations
	Month/Year	Value	Annual Target	Annual Actual	Annual Target	Actual quarter 4	Annual Actual	Target ¹	Actual ²	
8. Number of new properties and functions surrounding judicial selection and discipline introduced to HQC website with project support	Oct'11	0	10	1	14	0	0	15	1	No changes occurred this reporting period. Indicator status remains the same as annual 2012. <i>Annual FY2013 target is not met.</i>
Expected Result 2.1: Ukrainian judges are appointed based on objective, knowledge- and performance-based criteria										
9. Number of merit-based criteria or procedures for justice sector personnel selection adopted with USG assistance	Oct'11	2	10	2	18	0	15	20	19	In 2013 FAIR counts the following criteria and procedures approved by the HQC: - 6 judicial selection criteria: 1) theoretical legal knowledge, 2) ability to apply knowledge in practice and correctly draft procedural documents, 3) ability to effectively listen, 4) communicative skills, 5) ability to resist influence and pressure, 6) ability to resolve conflicts, altogether with ability to think logically and analytically; - 8 criteria to evaluate case studies during judicial qualification exams (2 criteria for each case study); - regulation on the procedure of conducting training for candidate judges. <i>Annual FY2013 actual is below target by 17%.</i>
10. Number of procedures within the judicial appointment process improved with project support	Oct'11	0	4	4	5	0	1	9	5	In the FY2013 FAIR supported the improving of the judicial qualification exam procedure. <i>Annual FY2013 actual is below target by 80%.</i>

PERFORMANCE INDICATORS	BASELINE DATA		2012		2013			Cumulative Project End Base Period		Notes and Explanations
	Month/Year	Value	Annual Target	Annual Actual	Annual Target	Actual quarter 4	Annual Actual	Target ¹	Actual ²	
11. Number of judicial test developers trained with project support	Oct'11	0	20	11	20	0	11	25	18	During the reporting period project trained 11 justice sector personnel, representatives of the National School of Judges of Ukraine and High Qualifications Commission of Judges of Ukraine as judicial test developers (November 5-7, 2012) <i>Annual FY2013 actual is below target by 45%.</i>
Expected Result 2.2: Ukrainian judges are disciplined in transparent processes										
12. Number of criteria, standards and regulations adopted to govern judicial misconduct investigations	Oct'11	0	4	0	8	0	1	8	1	FAIR supported the developing of the Procedure of Verification and Decision-Making in Disciplinary Proceedings against Judges, and Preparation and Retaining Documents. This procedure approved in October 2012. <i>Annual FY2013 actual is below target by 87%.</i>
13. Per cent of judicial misconduct complaints submitted to the HQC using the standardized form	Oct'11	2%	3%	8,9%	10%	9%	9,6%	10%	9,3%	During this reporting period HQC received 18,467 judicial misconduct complaints, including 1,771 using the standardized form (9,6%). Cumulatively during the period of performance HQC received 30,529 complaints including 2,841 using the standardized form (9,31%). <i>Annual FY2013 actual is below target by 4%.</i>
14. Number of government institutions placing judicial misconduct complaint form on their website.	Oct'11	1	1	2	2	2	2	1	2	High Qualifications Commission of Judges (HQC) and High Council of Justice (HCJ) have judicial misconduct complaint form on their websites. Links are http://vkksu.gov.ua/ua/distsiplinarne-provadjennya/zayava-shodo-nepravomirnoipovedinki-suddi/ and http://www.vru.gov.ua/complaint <i>Annual FY2013 actual is met.</i>

PERFORMANCE INDICATORS	BASELINE DATA		2012		2013			Cumulative Project End Base Period		Notes and Explanations
	Month/Year	Value	Annual Target	Annual Actual	Annual Target	Actual quarter 4	Annual Actual	Target ¹	Actual ²	
15. Per cent of judicial discipline decisions posted on HQC website	Nov'11	47%	80%	81%	100%	0%	72,4%	100%	77.7%	During the FY2013 HQC made 152 judicial discipline decisions and 110 of them are available on the HQC web-site which is 72.4%. Cumulatively, during the LOP HQC made 385 judicial discipline decisions, 299 (77,7%) of them are on HQC website. <i>Annual FY2013 actual is below target by 27,6%.</i>
16. Number of judicial disciplinary inspectors trained with project support	Nov'11	0	30	2	30	27	27	30	27	During FY2013 FAIR supported training for 27 disciplinary inspectors including 12 men and 15 women (44% and 56% accordingly)
Expected Result 2.3: The regulatory and institutional framework for judicial accountability and integrity are strengthened										
17. Number of judicial self-governance mechanisms revised with project support	Oct'11	0	1	0	3	0	1	3	1	During this reporting period FAIR supported the development, discussion and adoption of the new Code of Judicial Ethics. <i>Annual FY2013 actual is below target by 67%.</i>
18. Number of judges providing feedback to revisions of judicial self-governance mechanisms	Oct'11	0	100	160	100	0	57	200	217	During the FY2013 FAIR involved 57 judges in the process of discussion the new Code of Judicial Ethics. <i>Annual FY2013 actual is below target by 43%, however, the project end cumulative base period target exceeded by 8,5%.</i>
Objective 3: The professionalism and effectiveness of the Ukrainian judiciary are strengthened										
19. Number of USG-assisted courts with improved case management	Oct'11	14	20	22	20	32	30	30	30	FAIR CSO partners assessed changes occurred in 34 courts participated in citizen report cards (CRC) survey program in 2012 and identified that at least 32 courts improved their case management. <i>Annual FY2013 target exceeded by 60%.</i>
Expected Result 3.1: The skills and competencies of Ukrainian judges are bolstered through modern, demand-driven initial and ongoing training programs										

PERFORMANCE INDICATORS	BASELINE DATA		2012		2013			Cumulative Project End Base Period		Notes and Explanations
	Month/Year	Value	Annual Target	Annual Actual	Annual Target	Actual quarter 4	Annual Actual	Target ¹	Actual ²	
20. Number of judges and judicial personnel trained with USG assistance	Oct'11	2,946	300	875	400	51 (27 men, 24 women)	365 (207 men, 24 women)	3,500	3,737	<p>Cumulative number for FAIR project FY2012-2013 base period is 1,206 representatives of Ukrainian justice sector trained including 548 men (45%) and 658 women (55%). It is necessary to note that in this table cumulative project end base period number includes the baseline number which is achieved under the FAIR predecessor USAID Ukraine Rule of Law (UROL) project.</p> <p><i>Annual FY2013 actual is below target by 9%.</i></p>
21. Number of new legal courses or curricula developed with USG assistance	Oct'11	8	3	3	3	0	6	14	17	<p>During the reporting period NSJ approved 6 FAIR-developed curricula: 1) Rule of Law and Human Rights for initial training, 2) Rule of Law and Human Rights for ongoing training, 3) Judicial Proceedings and Opinion Writing for initial training, 4) Judicial Proceedings and Opinion Writing for ongoing training, 5) Judicial Ethics for initial training, and 6) Judicial Ethics for ongoing training</p> <p><i>Annual FY2013 target exceeded by 100%.</i></p>
22. Number of TOT trainers created	Oct'11	187	30	59	30	0	57	70	82	<p>FY2013 data counts 17 Ukrainian trainers certified for the 1st national Court Administrators Certification Program and 40 judge trainers for the NSJ.</p> <p><i>Annual FY2013 target exceeded by 90%.</i></p>

PERFORMANCE INDICATORS	BASELINE DATA		2012		2013			Cumulative Project End Base Period		Notes and Explanations
	Month/Year	Value	Annual Target	Annual Actual	Annual Target	Actual quarter 4	Annual Actual	Target ¹	Actual ²	
23. Number of judges trained with USG assistance	Oct'11	1,700	200	664	300	11 (10 men, 1 woman)	85 (58 men, 27 women)	2,200	2,169	<p>Cumulatively during the life of project (FY2012-2013) FAIR trained 710 judges including 393 men (55%) and 317 women (45%).</p> <p>Cumulative project end base period number however includes the baseline data which is related to FAIR predecessor USAID UROL Project.</p> <p><i>Annual FY2013 actual data is below target by 72%.</i></p>
Expected Result 3.2: Judicial operations are evaluated and funded according to an objective assessment of needs and performance										
24. Number of court performance standards adopted	Oct'11	0	0	0	5	0	0	5	0	<p>Draft of the Court Performance Measurement (CPE) system is developed and implemented in 31 courts. CPE system is under the Council of Judges consideration.</p> <p><i>Annual FY2013 target is not met.</i></p>
25. Number of courts involved in piloting court performance standards	Oct'11	6	12	13	12	0	31	12	31	<p>FY2013 actual data includes 13 pilot courts initially selected by the FAIR supported CPE Working Group, 17 courts of Ivano-Frankivsk Oblast who implemented the CPE system at their own initiatives and Odessa Oblast Court of Appeals who is currently in the process of implementing the developed CPE System.</p> <p><i>Annual FY2013 target exceeded by 158%.</i></p>

PERFORMANCE INDICATORS	BASELINE DATA		2012		2013			Cumulative Project End Base Period		Notes and Explanations
	Month/Year	Value	Annual Target	Annual Actual	Annual Target	Actual quarter 4	Annual Actual	Target ¹	Actual ²	
26. Annual citizen report cards score of participating courts	Oct'11	.77 (out of max score of 1)	.82	.82	.87	.77	.80	.87	.80	In addition to the FAIR-funded 2012-2013 citizen report cards (CRC) survey in 34 courts (average score 0.82), 17 local courts of Ivano-Frankivsk Oblast participated in CRC in FY2013 with average score of 0.77. The total score during FY2013 is 0.8 for 51 courts. <i>Annual FY2013 actual data is below target by 8%.</i>
Expected Result 3.3: The SJA's capacity to represent and support the developing needs of Ukrainian judiciary is strengthened										
27. Number of data-fed analytical techniques incorporated into judicial budgeting	Oct'11	0	3	0	3	0	0	3	0	Case weighting research phase one completed. Phase two is underway. No changes in the indicator status occurred during the FY2012-2013. <i>Annual FY2013 target is not met.</i>
28. Number of project-supported organizational structures within the SJA for the support of information technology, procurement, capital improvement, human resources, statistical collections and analysis activities within the courts	Oct'11	1	7	7	7	3	4	7	8	During this reporting period FAIR supported SJA case management and court statistics department and three sub-groups within the SJA Working Group for Innovations. <i>Annual FY2013 actual data is below target by 43%.</i>

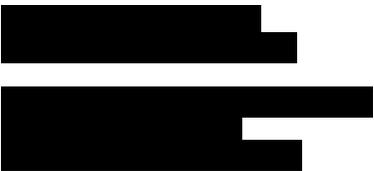
PERFORMANCE INDICATORS	BASELINE DATA		2012		2013			Cumulative Project End Base Period		Notes and Explanations
	Month/Year	Value	Annual Target	Annual Actual	Annual Target	Actual quarter 4	Annual Actual	Target ¹	Actual ²	
29. Number of project-supported new or improved policies within the SJA for the support of information technology, procurement, capital improvement, human resources, statistical collections and analysis activities within the courts.	Oct'11	0	4	0	7	0	2	7	2	During the FY2013 FAIR supported Strategic Plan for Judiciary and Court Automation Strategy. Both plans are approved by the Council of Judges and currently are implemented by the SJA. <i>Annual FY2013 actual data is below target by 71%.</i>
30. Number of justice sector personnel constructively engaged in long term strategic planning for the judicial branch	Oct'11	0	200	389	0	0	17	200	399	Project end target exceeded.
Objective 4: The role of civil society organizations as advocates for and monitors of judicial reform is strengthened										
Expected Result 4.1: Civil society and the public have effective means to engage in dialogue with decision makers regarding judicial reform										
31. Number of project-supported public events organized by Civil Society Organizations on judicial reform	Oct'11	0	10	0	20	10	11	20	11	During the FY2013 FAIR counts the Conference “Modern constitutionalism: problems of theory and practice” organized jointly by Constitutional Assembly of Ukraine and FAIR grantee “Fund for Facilitating Constitutional Reform in Ukraine”, 9 regional roundtables on free legal aid experience exchange organized by the Ukrainian Legal Aid Foundation NGO. <i>Annual FY2013 actual data is below target by 45%.</i>
Expected Result 4.2: The Ukrainian public are engaged in the judicial reform process through civic education and advocacy activities										

PERFORMANCE INDICATORS	BASELINE DATA		2012		2013			Cumulative Project End Base Period		Notes and Explanations
	Month/Year	Value	Annual Target	Annual Actual	Annual Target	Actual quarter 4	Annual Actual	Target ¹	Actual ²	
32. Number of media outlets used by project-supported CSOs to disseminate judiciary related information	Oct'11	0	50	0	50	84	84	50	84	FAIR partner NGOs involved the following media outlets this quarter to disseminate constitutional and judicial reform information: 6 information agencies, 21 internet resources, 8 daily national newspapers, 12 national weekly magazines, 2 national TV channels, 28 regional TV channels, 4 local newspapers, 3 national radio stations <i>Annual FY2013 target exceeded by 68%.</i>
33. Number of courts offering CSO-produced legal education materials to court visitors	Oct'11	0	20	0	30	0	0	30	0	Activity delay. No changes occurred this reporting period. <i>Annual FY2013 target is not met.</i>
Expected Result 4.3: Civil society organizations have means and opportunities to effectively monitor the implementation of judicial sector reforms and provide oversight to judicial operations										
34. Number and percentage of courts in which there are active CSO court performance evaluation programs	Oct'11	20 (2,6%)	20 (2,6%)	34 (4,5%)	34 (4,5%)	51 (6,8%)	51 (6,8%)	34 (4,5%)	51 (6,8%)	During the FY2013 8 FAIR CSO partners completed the implementation of external court performance evaluation by way of citizen report cards (CRC) surveys in 34 courts. In addition 17 local general courts of Ivano-Frankivsk Oblast participated in CRC surveys this year as part of the Court Performance Evaluation System pilot testing initiated by the Ivano-Frankivsk Oblast Court of Appeals. . Total number of courts in which there are active CSO court performance evaluation programs became 51 which is 6.8% of all courts in Ukraine. <i>Annual FY2013 target exceeded by 50%.</i>

PERFORMANCE INDICATORS	BASELINE DATA		2012		2013			Cumulative Project End Base Period		Notes and Explanations
	Month/Year	Value	Annual Target	Annual Actual	Annual Target	Actual quarter 4	Annual Actual	Target ¹	Actual ²	
35. Percentage of partner Civil Society Organizations' performance improvement recommendations implemented by judicial institutions	Oct'11	30%	40%	30%	50%	39%	39%	39%	39%	As the result of 2012 citizen report cards surveys in courts, CSO partners prepared 319 recommendations to courts to improve performance and presented them to courts. In 2013 FAIR CSO partners monitored the process of the implementation of recommendations and identified that 125 recommendations implemented in full (39%) <i>Annual FY2013 actual is below target by 20%.</i>

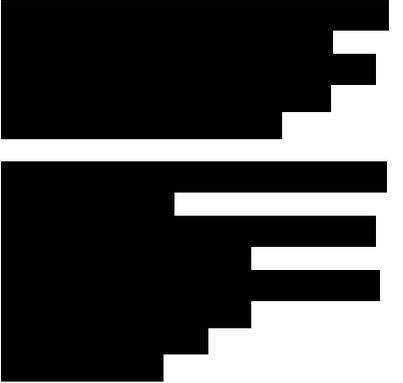
ANNEX 2. LIST OF COUNTERPARTS/BENEFICIARIES ACTIVELY INVOLVED IN THE PROJECT

Counterpart/Beneficiary	Counterpart/Beneficiary Description	Importance to the Project/ Role in the Project	Contact Information
<p>Presidential Administration (PA)</p> <p>(National policymaker)</p>	<ul style="list-style-type: none"> Administrative office of the President of Ukraine Established to provide organizational, legal, advisory, informational, expert and analytical, and other support in the realization of Presidential powers as stipulated by the Constitution of Ukraine Principal FAIR's counterparts - the Main Department for the Judiciary chaired by Andrii Portnov and Main Department for Constitutional and Legal Modernization chaired by Maryna Stavniichuk 	<p>High:</p> <ul style="list-style-type: none"> The main state body formulating all national policies regarding the judiciary 	<p>[REDACTED]</p> <p>[REDACTED]</p>
<p>Verkhovna Rada of Ukraine (VR)</p> <p>(National policymaker)</p>	<ul style="list-style-type: none"> The Parliament of Ukraine - the sole body of legislative power in Ukraine Participates in formation of the judiciary – appointment of one-third of the Constitutional Court composition, lifetime appointment of judges Principal FAIR's counterparts - the VR Judiciary and Legal Policy Committees 	<p>High:</p> <ul style="list-style-type: none"> The Verkhovna Rada is responsible for adoption of the laws of Ukraine 	<p>[REDACTED]</p> <p>[REDACTED]</p>
<p>Constitutional Assembly (CA)</p> <p>(National policymaker)</p>	<ul style="list-style-type: none"> The advisory body created by the President of Ukraine to undertake constitutional reform and bring Ukrainian legislation in line with EU and COE standards The first President of Ukraine Leonid Kravchuk (1991-1994) was appointed as the Chairman of the CA The assembly consists of 94 members, including representatives of parliamentary factions and groups, political parties, the National Academy of Sciences, academic research institutions, and civil society organizations 	<p>High:</p> <ul style="list-style-type: none"> The main state advisory body drafting the Concept Paper on needed constitutional changes including constitutional reform in the judicial area 	<p>[REDACTED]</p> <p>[REDACTED]</p>

<p>Commission for Strengthening Democracy and Rule of Law</p> <p>(National policymaker)</p>	<ul style="list-style-type: none"> • Advisory body created by the President of Ukraine • Aimed at drafting amendments to the key judicial legislation prompted by recommendations of the Venice Commission • Co-chaired by MP Serhiy Holovaty and Presidential Adviser, Presidential Administration Main Office for Constitutional and Legal Modernization Head Maryna Stavniichuk 	<p>High:</p> <ul style="list-style-type: none"> • One of the main parties to promote the rule of law and key judiciary reform initiatives 	
<p>Supreme Court of Ukraine (SCU)</p> <p>(Judicial body)</p>	<ul style="list-style-type: none"> • The highest judicial body in the system of general jurisdiction courts • Within its scope of competence the Court shall (among others) apply to the Constitutional Court of Ukraine for constitutionality of laws or other legal acts as well as for the official interpretation of the Constitution and laws of Ukraine • Composed of twenty judges: five judges representing each specialized jurisdiction (civil, criminal, commercial and administrative) from among whom the Chief Justice of the Supreme Court of Ukraine and his/her deputy are elected 	<p>High:</p> <ul style="list-style-type: none"> • The Supreme Court of Ukraine is an ultimate judicial body in Ukraine • FAIR and the SCU have signed a Protocols of Cooperation 	
<p>High Qualifications Commission of Judges of Ukraine (HQC)</p> <p>(Body within the judiciary)</p>	<ul style="list-style-type: none"> • The body operating on a permanent basis in the judiciary. The HQC's main functions are (1) judicial selection and recommending for appointment, and (2) disciplining judges of first instance and appellate courts • The HQC composed of eleven members: <ol style="list-style-type: none"> 1) six judges appointed by the Congress of Judges of Ukraine; 2) two persons appointed by congress of representatives of higher law schools and scientific institutions; 3) one person appointed by the Minister of Justice of Ukraine; 4) one person appointed by the Ombudsman of the Verkhovna Rada of Ukraine; 	<p>High:</p> <ul style="list-style-type: none"> • One of the most important FAIR's partners. Cooperation between FAIR and the HQC aimed at improving judicial selection and discipline processes and procedures. 	

	<p>5) one person appointed by the Head of State Judicial Administration</p> <ul style="list-style-type: none"> The Service of Disciplinary Inspectors is also established within the HQC and includes 33 disciplinary inspectors, three inspectors assigned to each HQC member 		
<p>High Council of Justice (HCJ) (Body within the judiciary)</p>	<ul style="list-style-type: none"> The HCJ is a collegial independent body established according to democratic procedure. Constitutional composition of the HCJ comprises 20 members Taking into account specific powers and assignments of the HCJ, it is formed by the President of Ukraine, legislative and judiciary branch, as well as the prosecution system and civil society institutions – the bar, educational and scientific legal bodies The principal function of the HCJ is to form in cooperation with other bodies the highly professional judicial corps capable of professional administering justice in a highly qualified, diligent and unbiased manner The HCJ considers judges’ and prosecutors’ incompatibility and disciplinary issues 	<p>High:</p> <ul style="list-style-type: none"> One of the FAIR’s counterparts in the areas of legislative framework for the judiciary and constitutional reform 	 
<p>Council of Judges of Ukraine (COJ) (Judicial self-governance body)</p>	<ul style="list-style-type: none"> The highest judicial self-governance body during the period between the Congresses of Judges, developing and providing for the implementation measures to ensure judicial independence and considering issues related to legal and social protection of judges Performs control over the organization of courts activities and submits suggestions with respect to court operation matters to the state authorities and local self-governance bodies, executes other powers stipulated by law and included in the COJ terms of reference The primary FAIR’s counterpart is the COJ Expert Group on the Code of Ethics 	<p>High:</p> <ul style="list-style-type: none"> Determines the policy of judicial self-governance Is responsible for developing and submitting to the Congresses of Judges the main documents within FAIR’s scope of work: the Strategic Plan for the Judiciary, Code of Judicial Ethics, Court Automation Strategy, Communications Strategy for the Judiciary Plays an important role in piloting of court performance evaluation standards 	 

<p>National School of Judges of Ukraine (NSJ)</p> <p>(Body within the judiciary)</p>	<ul style="list-style-type: none"> • The NSJ is a state body with special status in judicial system of Ukraine, which provides courts with qualified judicial and court staff, conduct trainings, scientific and research activity in field of judiciary • The NSJ is established by the decision of the HQC 21.12.2010 № 822\p.4-3 	<p>High:</p> <ul style="list-style-type: none"> • One of the most important FAIR’s counterparts in the area of training of judicial candidates and ongoing training of judges and court staff • FAIR and the NSJ have signed a Protocols of Cooperation 	
<p>State Judicial Administration of Ukraine (SJA)</p> <p>(Body within the judiciary)</p>	<ul style="list-style-type: none"> • The state agency responsible for administrative, logistic, financial and other support to the judiciary • The primary FAIR’s counterpart is the SJA working group on innovations and court performance evaluation sub-group 	<p>High:</p> <ul style="list-style-type: none"> • Main distributor of funding to courts • Main performer of all statistical, IT and other administrative work • Developer and implementer of all related policies • Has huge influence on courts despite its service status 	
<p>Local and appellate courts of all jurisdictions</p>	<ul style="list-style-type: none"> • Courts of the first and second instances within judicial system of Ukraine 	<p>High:</p> <ul style="list-style-type: none"> • This cooperation gives possibility to work not only at top, but also at grass roots level in practical implementation of all activities 	
<p>U.S. Department of Justice Overseas Professional Development and Training division (OPDAT)</p> <p>(ROL donor and implementer)</p>	<ul style="list-style-type: none"> • Provides assistance to Ukrainian legal and law enforcement counterparts primarily on criminal procedure as well as on combating such transnational crimes as human trafficking and money laundering • The OPDAT’s efforts have resulted in the production of a new CPC replacing the CPC which dates back to the 1960’s 	<p>High:</p> <ul style="list-style-type: none"> • One of the most important FAIR’s counterparts in the area of new CPC implementation 	
<p>USAID Legal Empowerment Project (LEP)</p>	<ul style="list-style-type: none"> • Works to improve access to justice in the areas of employment, healthcare, and property rights by increasing the 	<p>High:</p> <ul style="list-style-type: none"> • LEP can provide FAIR with information 	

(Donor project)	<p>availability of <i>pro bono</i> legal services and the impact of legal and advocacy organizations in Ukraine</p> <ul style="list-style-type: none"> • Builds the capacity of three-tiered specialized advocacy network, which connects students' legal clinics, advocacy NGOs and private attorneys to provide public consultations and legal representation and runs public information campaigns about the legal rights of citizens • Connects private sector lawyers (27 private law firms) with clients in need of legal assistance, and provides quality and timely assistance to vulnerable underrepresented groups 	<p>and ideas on practical issues of free legal aid providing for free legal aid legislation drafting</p> <ul style="list-style-type: none"> • Another common area of FAIR and LEP is public awareness campaigns on rights, responsibilities and benefits of judicial reform • LEP's NGOs database can be a source on potential grantees for FAIR 	
<p>Council of Europe (COE)</p> <p>(Donor)</p>	<ul style="list-style-type: none"> • Based in Strasbourg (France) covers virtually the entire European continent, with its 47 member countries • Seeks to develop throughout Europe common and democratic principles based on the European Convention on Human Rights and other reference texts on the protection of individuals 	<p>High:</p> <ul style="list-style-type: none"> • The COE can provide support in expert assessment of key judicial legislation and conducting events 	
<p>Organization for Security and Cooperation in Europe (OSCE) Project Coordinator in Ukraine</p> <p>(Donor)</p>	<ul style="list-style-type: none"> • The OSCE Project Coordinator is the second OSCE field operation to have been established in Ukraine for the purpose of carrying out tasks related to the new form of co-operation between Ukraine and the OSCE. This co-operation consists of the planning, implementation and monitoring of projects between relevant authorities of Ukraine and the OSCE and its institutions. Such projects may cover all aspects of OSCE activities (including rule of law and human rights) and may involve governmental as well as non-governmental 	<p>High:</p> <ul style="list-style-type: none"> • FAIR achieved cooperation with the OSCE Project Coordinator in Ukraine in legal education reform initiatives 	

	bodies of Ukraine.		
Ministry of Justice of Ukraine (MOJ) (Governmental body)	<ul style="list-style-type: none"> The principal body within the central executive system responsible for implementation of the state legal policy and coordinated by the Cabinet of Ministers of Ukraine Resolves the issues arising from generally accepted provisions of the international law and international treaties of Ukraine acknowledged as binding by the Verkhovna Rada Judicial system comprises the MOJ and its territorial bodies. The powers of the MOJ spread over notary, scientific institutions of forensic examinations, enterprises, institutions and organizations The coordinating Center for Free Legal Aid Providing acts under the MOJ 	<p>Medium to high:</p> <ul style="list-style-type: none"> Partnership and cooperation with MOJ will contribute to forming of an effective free legal aid system in Ukraine and legal education reform 	<p>[REDACTED]</p> <p>[REDACTED]</p>
American Bar Association Rule of Law Initiative (ABA ROLI) (Professional association)	<ul style="list-style-type: none"> A mission-driven, non-profit program promoting rule of law Implements legal reform programs in more than 40 countries in Africa, Asia, Europe and Eurasia, Latin America and the Caribbean, and the Middle East and North Africa Has more than 400 professional staff working in the U.S. and abroad, who, since the program's inception, have contributed more than \$200 million in pro bono technical legal assistance 	<p>Medium to high:</p> <ul style="list-style-type: none"> One of the important FAIR's counterparts in the area of bar 	<p>[REDACTED]</p> <p>[REDACTED]</p>
Ministry of Education and Science of Ukraine (Governmental body)	<ul style="list-style-type: none"> The central executive body coordinated by the Cabinet of Ministers of Ukraine A part of the central executive authority of Ukraine and the main body responsible for the central executive development and implementation of national policy in education and science (including issues of innovation and information technology, and intellectual property rights), youth, physical culture and sport 	<p>Medium:</p> <ul style="list-style-type: none"> FAIR expects to achieve cooperation in the area of legal education 	<p>[REDACTED]</p> <p>[REDACTED]</p>

<p>Ukrainian Bar Association (UBA)</p> <p>(Professional association)</p>	<ul style="list-style-type: none"> • All-Ukrainian public organization, founded in 2002 to bring together lawyers for a strong and influential professional community, which would become a powerful voice of the legal profession of Ukraine • The UBA is committed to the development of the legal profession, improvement of legislation, implementation of ethical standards in provision of legal services, protection of professional rights of the UBA members and human rights in general • Unites over 3,000 lawyers from all regions of the country, including attorneys, notaries, scholars, judges, civil servants, MPs and well-known scientists in the field of law; student division of the UBA consists of more than 1,500 future lawyers from more than 50 educational institutions 	<p>Medium:</p> <ul style="list-style-type: none"> • One of the most dynamic and active organization of lawyers in Ukraine expanding activities abroad and taking a proactive stance on many issues of legal life in Ukraine • FAIR cooperates with the UBA in the areas of the bar, free legal aid and legal education 	<p>[REDACTED]</p> <p>[REDACTED]</p>
<p>Ukrainian Association for Court Advancement (UACA)</p> <p>(Professional association)</p>	<ul style="list-style-type: none"> • A newly-established organization with the main goal to enhance court advancement • Called to protect court employees' interests, improve their qualification and help Ukrainian courts in getting international best practice • Attracts active representatives of Ukrainian judicial system longing for raising efficiency of court functioning, improving professional skills of court employees and introducing positive changes into judiciary 	<p>Medium:</p> <ul style="list-style-type: none"> • May be a good resource for organizing various training programs at local court level 	<p>[REDACTED]</p> <p>[REDACTED]</p>
<p>American Chamber of Commerce in Ukraine (ACC)</p> <p>(Professional association)</p>	<ul style="list-style-type: none"> • One of the most active non-governmental and non-profit business organizations operating in Ukraine • Represent the internationally orient investment community and facilitate the entrance of potential new investors in the market • Advocates on behalf of its members from more than 50 nations to the Ukrainian 	<p>Medium:</p> <ul style="list-style-type: none"> • The ACC provides opportunity to promote the rule of law in business community 	<p>[REDACTED]</p> <p>[REDACTED]</p>

	<p>government and other governments-economic partners of Ukraine on matters of trade, commerce, and economic reform</p> <ul style="list-style-type: none"> • The Anti-Corruption and Bar Legislation Working Groups established within the ACC 		
<p>Councils of judges (Judicial self-governance bodies)</p>	<ul style="list-style-type: none"> • Bodies of judicial self-governance (administrative, commercial, civil and criminal jurisdictions) 	<p>Low to high:</p> <ul style="list-style-type: none"> • Implements the policies of judicial self-governance • Importance for the projects differs subject to jurisdiction: civil and criminal – high, administrative – medium, commercial - low 	
<p>High Administrative Court of Ukraine (HAC) (Judicial body)</p>	<ul style="list-style-type: none"> • Administrative courts adjudicate all cases on the disputes of individuals or legal entities with the authorities regarding appeal against their decisions, acts or omissions; cases on public services, execution of powers by the authorities and disputes on legal relations connected with election process and referendum • The HAC considers administrative cases in cassation in compliance with procedural law; analyzes court statistics; examines and generalizes case law; provides assistance to lower courts with the aim of unified application of norms of the Constitution and laws of Ukraine in case; and provides lower courts with advisory clarifications regarding application of law • In events prescribed by procedural law the HAC acts as a court of appeal 	<p>Low to medium:</p> <ul style="list-style-type: none"> • The HAC is the third element of a system of administrative courts and is designed to safeguard the right to appeal in cassation against decisions delivered by appellate administrative courts • FAIR and the HAC have signed a Protocols of Cooperation 	<p>[REDACTED]</p> <p>[REDACTED]</p>
<p>High Civil and Criminal Court of Ukraine (HCCC) (Judicial body)</p>	<ul style="list-style-type: none"> • The HCCC considers civil and criminal cases in cassation in compliance with procedural law; analyzes court statistics; examines and generalizes case law; provides assistance to lower courts with the aim of unified application of norms of the 	<p>Low to medium:</p> <ul style="list-style-type: none"> • The HCCC is the third element of a relevant system of specialized courts and is designed to safeguard the right to appeal in cassation against decisions delivered by 	<p>[REDACTED]</p> <p>[REDACTED]</p>

	Constitution and laws of Ukraine in case; and provides lower courts with advisory clarifications regarding application of law	<p>appellate courts</p> <ul style="list-style-type: none"> FAIR and the HCCC have signed a Protocols of Cooperation 	[REDACTED]
<p>Canadian International Development Agency (CIDA) Judicial Education for Economic Growth Project</p> <p>(Donor project)</p>	<ul style="list-style-type: none"> Lunched by CIDA in 2012 and implemented by the Canadian National Judicial Institute The project has been designed to assist Ukraine with the effective training for in-service judges, as well as candidate judges to be developed at the NSJ with the HQC oversight Its main partners include the HQC, NSJ, pilot courts in Odesa and Ivano-Frankivsk, as well as the Office of the Commissioner for Federal Judicial Affairs in Canada 	<p>Low to medium:</p> <ul style="list-style-type: none"> Possible cooperation may be established in the judicial training area 	[REDACTED]
<p>Association of Judges of Ukraine</p> <p>(Professional association)</p>	<ul style="list-style-type: none"> Association is designed to support the establishment of civil society in Ukraine, development of democratic legislation and justice, enhancement of authority of the judiciary and strengthening of judicial independence, development of legal theory and legal education, advancement of professional judicial qualification and organization of experience exchange with judges from other countries, meeting the information, cultural, educational and other needs of judicial corps and protection of common interests of its members 	<p>Low to medium:</p> <ul style="list-style-type: none"> Currently, FAIR and the Association of Judges of Ukraine have not identified a direct projects for cooperation, although, this may occur in the future 	[REDACTED]
<p>High Commercial Court of Ukraine (HCC)</p> <p>(Judicial body)</p>	<ul style="list-style-type: none"> The HCC considers commercial cases in cassation in compliance with procedural law; analyzes court statistics; examines and generalizes case law; provides assistance to lower courts with the aim of unified application of norms of the Constitution and laws of Ukraine in case; and provides 	<p>Low:</p> <ul style="list-style-type: none"> The HCC is the third element of a relevant system of commercial courts and is designed to safeguard the right to appeal in cassation against decisions delivered by appellate courts 	[REDACTED]

	lower courts with advisory clarifications regarding application of law		
--	--	--	--