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

**ANNUAL PROGRESS REPORT
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EXECUTIVE SUMMARY

Year 4 of USAID’s Fair, Accountable, Independent, and Responsible (FAIR) Judiciary Program in Ukraine was marked by continued political instability. Despite this challenging operating environment, FAIR continued to make 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 now more than ever, and the project’s achievements to date continue to advance this objective in the face of ongoing challenges.

Unfortunately, the Ukrainian judiciary has responded poorly throughout this crisis period and remains subject to weak judicial leadership and institutions with limited capacity to fully defend judicial independence and uphold human rights. However, President Petro Poroshenko’s leadership has led to progress in judicial reform, especially on the development of proposed amendments to the Constitution and adoption of amendments to the Law on the Judiciary and Status of Judges. Building on the continued public demand for judicial reform, FAIR provided critical support to the judiciary, government and civil society in Year 4 in the following key areas:

Legal Framework Reform. In year 4, the project focused particularly on the Constitutional framework of the judicial reform. The Constitutional Commission, created by the President of Ukraine on March 3, 2015, worked to develop amendments to the Constitution of Ukraine in the human rights and justice sector area. The Project provided technical support to the Constitutional Commission, namely by involving US experts, supporting public discussions, and working to raise public awareness about the constitutional reform.

Judicial Selection and Evaluation. In Year 4, the project continued its 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 training of test writers to prepare future judicial selection tests. FAIR also supported the HQC in the development of new regulations governing the evaluation of sitting judges.

Judicial Ethics. Ukraine’s judiciary took meaningful steps toward improving ethical practices by drafting commentary to the Code of Judicial Ethics for the Council of Judges (COJ) and launching the first online course for judges on the Code.

FAIR by the Numbers October 2011- September 2015

- 588 courts covering every region of Ukraine received assistance.
- Supported 22 government justice sector institutions.
- Targeted programming provided to 46 civil society organizations.
- Promoted eleven amendments to Ukrainian legislation to enhance judicial independence.
- Trained 2,090 judges and judicial personnel.
- 193 trainers qualified under the Training of Trainers Program.
- Developed 12 new legal courses and curricula, including a first ever in Ukraine Court Administration Certificate Program.
- 399 justice sector personnel engaged in long-term strategic planning for the judiciary.
- Supported two national tests of 3,474 and 2,348 judicial candidates respectively.
- 942 judges selected through new merit-based procedures.
- Engaged 12,790 citizens in the process of monitoring and oversight of court performance.
- Involved 261 courts in the process of court performance evaluation.
- Supported the development of more than 900 civil society recommendations to courts to improve court functions.

Judicial Discipline. This year, together with the HQC, FAIR conducted comprehensive training programs for judicial inspectors. As a result, judicial inspectors now have better training and tools to investigate allegations of judicial misconduct.

Improved Court Administration. Under the leadership of the State Judicial Administration (SJA) and the National School of Judges of Ukraine (NSJ), FAIR and Michigan State University (MSU) implemented a second round of the Judicial Administration Certificate Program for 40 new court administrators.

Engaging Civil Society. In Year 4, FAIR has remained committed to a strengthened role for civil society organizations (CSOs) as advocates for, and monitors of judicial reform. FAIR continued to support CSOs in monitoring court decisions in the area of peaceful assembly, election disputes, gender discrimination and improving court services using Citizen Report Cards (CRC). This year, the CRC survey was expanded to 20 regions of Ukraine. FAIR also supported the Ministry of Justice (MOJ) to implement the lustration of public officials laws as well increase public awareness of vetting and evaluation mechanisms.

Legal Education. FAIR continued to support the Ministry of Education (MOE), Ministry of Justice (MOJ), and leading Ukrainian law schools in modernizing legal education, bringing it in line with modern job market demands, and assuring legal education quality. To this end, FAIR continued to raise public awareness about the urgent need for comprehensive legal education reform, and implemented pilot projects to provide targeted support to leading law schools to improve legal education quality.

Assistance in these areas is still needed to ensure the above accomplishments are more fully developed, broadened and, most importantly, institutionalized so that they continue to grow and develop after project activities have ended. The report that follows describes our successes in greater detail, and provides 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 the key achievements to date, from October 1, 2014 through September 30, 2015, for each Expected Result. Deviations in the implementation of the work plan and problems requiring resolution or USAID intervention are discussed, if 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 continued to work with its partners to improve the legislative and regulatory framework for the judiciary. FAIR also continuously monitored legislative initiatives and analyzed their potential impact on judiciary operation. This activity was conducted in parallel with efforts regarding constitutional reform (see Expected Result 1.2), to utilize available resources and promote progressive justice reform changes.

Judicial reform issues remain the top priority issue during the reporting period. On January 12, 2015, the President of Ukraine approved the Sustainable Development Strategy, “Ukraine – 2020.” Judicial reform is mentioned among the key reforms that are needed to ensure the development of Ukraine towards the goal of becoming a European state governed by the rule of law. The Strategy sets the following priority areas for the reform of the judiciary: (1) renewal of the legislation to restore the trust in the judiciary, and (2) amendments to the Constitution with a review of current legislation and/or adoption of the new laws to implement these amendments. The Strategy also identifies the indicators, which will demonstrate reform successes, namely: (1) 70% of the legal professionals will trust the judiciary and (2) 70% of the court staff and judges will be renewed.

The issue of judicial reform had been on the political agenda during the campaign and coalition forming processes prior to the Parliamentary elections of October 26, 2014. The issue of judicial reform is a fixed priority of the Coalition Agreement and Action Program for the Cabinet of Ministers of Ukraine, approved by the Verkhovna Rada on December 11, 2014. The Action Program foresees the following future activities regarding the judiciary reform: (1) to adopt the new Law on the Judiciary and Status of Judges (first part of 2015); (2) to simplify the hearing process for civil and commercial cases (2015–2016); (3) to conduct Constitutional reform, including the introduction of a three-tiered judicial system with re-appointment or attestation of all judges, limitation of the scope of judicial immunity, and minimization of political influence over the selection process, promotion, and liability of judges (2016); and (4) to renew the power of the Supreme Court of Ukraine (SCU) as the highest judicial institution (2016).

The amendment of the Law on the Judiciary and Status of Judges was the key focus of FAIR during this reporting period. In early October 2014, the group of Reanimation Package of Reform Initiative experts, in cooperation with the MOJ, developed the draft Law on the Judiciary and Status of Judges. This draft called for a new wave of judicial reform.

At the same time, the Administration of the President took initial steps to reform the judiciary. On October 16, 2014, the President of Ukraine signed the Decree to establish the Judicial Reform Council (Council) as his advisory body aimed at addressing judicial reform and other related areas by developing legislative initiatives. Among Council members are the SCU Chief Justice, Head of the State Judicial Administration (SJA), chief judges of the higher courts, Head of the Council of Judges of Ukraine (COJ), Minister of Justice, Prosecutor General, representatives of legal professional NGOs, law schools, donor organizations, and other experts. Oleksiy Filatov, Deputy Head of the Presidential Administration was appointed the coordinator of the Council. The Council is tasked with: (1) developing recommendations to the President regarding the strategy of the judiciary reform; (2) coordinating reform efforts of the government of Ukraine, civil society and international institutions; (3) developing draft amendments to laws in identified areas; (4) monitoring the implementation strategy of judicial reform; and (5) communicating judicial reform issues to the public and international community. FAIR established productive working relations with Council leadership in order to be able to present information on previous efforts and provide them with the experts’ reports, opinions and analytics.

The Judicial Reform Council developed the draft Strategy Paper for Reforming Court System, Court Proceedings and Related Legal Institutions for 2015-2020, and the relevant Action Plan. FAIR experts contributed to these documents to ensure the consistency and breadth of the approach to judicial reform. On May 20, 2015, the President approved this strategy paper. The Paper contributes to the Sustainable Development Strategy “Ukraine – 2020” in the judicial sector. It provides an analysis of the current state of affairs in the judiciary, and sets priorities for the judicial reform process.

Despite significant contribution from the experts, the strategy consists of a list of declarative provisions and lacks the necessary strategic vision to effectively guide the reform process. Other deficiencies include the lack of a vision for expanding the power of the judicial self-governance, financing of the judiciary improvement, and failure to outline an affordable court structure system for the country.

On December 17, 2014, the draft Law on Amending the Law on the Judiciary and Status of Judges and Other Legislative Acts Regarding the Improvement of the Basis for Organization and Functioning of the Judiciary with Respect to European Standards (No. 1497) was registered in the Verkhovna Rada of Ukraine by the members of Parliament. The draft law had a number of positive

Milestone Progress ER 1.1

- Drafted amendments to the Law on the Judiciary and Status of Judges (amended according to Venice Commission recommendations) and introduced it 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; and December 4, 2014, Stakeholders' Platform Meeting "Lustration of Judiciary: Ukrainian and International Practices").
- The Third Annual Conference on "Judicial Training Standards: International Best Practices and Objectives for Ukraine" conducted in cooperation with the NSJ.
- Launched research on European judicial self-governance standards and best practices.
- 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.
- The Law of Ukraine on the Restoration of Trust in the Judiciary of Ukraine was adopted on April 7, 2014.
- Draft amendments to the Law on the High Council of Justice developed and introduced for the consideration of HCJ staff and newly appointed members of the HCJ.
- Chief Justice Yaroslav Romaniuk took part in the Conference of Chief Justices of Central and Eastern Europe (June 22-25, 2014, Tbilisi, Georgia).
- The Draft Law No. 1497 On Amending the Law on the Judiciary and Status of Judges and Other Legislative Acts Regarding the Improvement of the Basis for Organization and Functioning of the Judiciary with Respect to European Standards was registered in the Verkhovna Rada.
- The Draft Law No. 1656 On Ensuring the Right for the Fair Trial" Standards was registered in the Verkhovna Rada.
- The Law on Ensuring the Right to Fair Trial was adopted.
- Draft Concept Paper on Legal Education Reform developed and presented to the members of the Working Group on Legal Education Reform in Ukraine.
- International Conference "Improvement of Legal Education in Ukraine: Fundamentals" held at the Yaroslav Mydryi Kharkiv National Law Academy.
- Legal job market survey as to the legal employers' expectations regarding law graduates' knowledge, skill, professional attitudes and values conducted and the results thereof presented to the MOE, MOJ, and the public.
- Methodology for Independent External On-site Assessment of Legal Education Quality (Methodology) developed, submitted to the MOE and MOJ and publicly presented to the leadership of Ukraine's law schools.
- On-site legal education quality assessment of the LNU Law School and the CNU Law School conducted and respective assessment reports developed and publicly presented.
- 15 faculty members from ten Ukrainian law schools trained on using the Methodology.
- Nine LNU Law School faculty members received basic training on developing quality test items.
- Draft National Legal Education Standard (Bachelor's Degree) developed and internationally assessed. International expert assessment reports with recommendations on further improvement of the draft Standard prepared.
- Strategic Plan and Action Plan for the LNU Law School developed and publicly presented.
- International Conference "Modern Trends in Legal Education" held at the LNU Law School.
- Rule of Law Lecture Series launched at the UCU Rule of Law Center, four rule of law lectures delivered in Lviv and broadcast online.
- Taras Shevchenko Kyiv National University Law School team and Kyiv-Mohyla Law School teams reported on their participation in the international student competitions in law.

provisions that were developed in 2010 by local experts with FAIR support and in cooperation with the then-active National Commission for Strengthening Democracy and Rule of Law. On

December 26, 2014, the draft Law on Ensuring the Right for the Fair Trial (No. 1656), developed by the Judicial Reform Council, was registered in the Verkhovna Rada of Ukraine. FAIR cooperated with members of the Parliament to help build consensus and facilitate initiatives to ensure that the reform of the judiciary is conducted with respect to the rule of law principle.

On February 12, 2015, the Law on Ensuring the Right to a Fair Trial was adopted. This law introduced substantive changes to both the Law on the Judiciary and Status of Judges and the Law on the High Council of Justice, as well as to the relevant procedural codes. Among other results, this new law improves the disciplinary liability of judges and outlines future judiciary performance evaluations for all levels of court judges. Evaluations will be carried out through an examination of the judge's dossier, testing results and interviews and conducted by the High Qualification Commission of Judges (HQC) members. The first judges subject to evaluation are those with the Supreme Court of Ukraine and other high-level courts. The Law also introduced clarifications on the procedure for High Council of Justice (HCJ) members' nomination and appointment.

On March 23, 2015, the Venice Commission jointly with Directorate of Human Rights of the Directorate General of Human Rights and Rule of Law of the Council of Europe issued the Joint Opinion on the Law on the Judiciary and Status of Judges and amendments to the Law on the High Council of Justice of Ukraine (No. CDL-AD (2015)007). In this opinion, the Venice Commission reviewed the laws and provided feedback on the newly adopted legislation. In general, the Venice Commission considers the laws to be coherent, well-constructed, and adherent to previous recommendations. Examples of improvements in the Law as amended are: the strengthening of the role of the Supreme Court as the guarantor of the court practice unification, the emphasizing of the formal role of the President in the appointment of judges to probationary positions, the clarification of criteria, or "breach of oath" interpretation, as grounds to dismiss a judge; the limitation of discretionary powers of disciplinary authorities, the establishment of a variety of disciplinary sanctions enacting possibility to impose them based on a proportionality principle, and the detailing of provisions required for lifetime appointments or promotion of judges.

Nevertheless, the Venice Commission summarized some important concerns which remain and need to be addressed on the constitutional and legislative level: (1) More general provisions on the use of languages other than Ukrainian in courts could be envisaged as part of a more comprehensive policy; (2) The power of the President to decide on the transfer of judges without contest in the case of reorganization or liquidation of courts should be limited to judges from areas that are temporary not under the control of the Government (Crimea, some parts of the Donbas and Luhansk regions); and (3) Removing incompetent and corrupt members of the judiciary from office must be carried out in a fair and proportionate manner that does not compromise judicial independence. The qualification assessment envisaged in the transitional Article 6 should, therefore, be conducted according to substantive legal provisions and in much more detail to provide appropriate safeguards. The failure to pass the Assessment should have the consequences, which are in line with the European standards. The provisions should also be harmonized with the lustration process.

FAIR worked and continues working with its partners such as the HCJ, HQC, COJ and NSJ to ensure the implementation of the Law on Ensuring the Right to a Fair Trial is coherent and in line with the rule of law principle. During next working period, FAIR plans to assess the implementation of the Law to identify the shortcomings and gaps.

Parallel to the reforms of the judicial system, the Parliament also dealt with the related legislation. During the reporting period, the number of draft laws were registered in the Verkhovna Rada, namely the draft Law on Amendments to Article 3 of the Law of Ukraine on Access to Court Decisions regarding Unified Registry of Judgments (No. 1727), draft Law on Amending the Criminal Code of Ukraine regarding the Criminal Liability of Judges (No. 2545); draft Law on

Amending the Law on the Judiciary and Status of Judges regarding the Simplification of the Bringing the Judge to the Disciplinary Liability (No. 2542); draft Law on Amending Some Legislative Acts on Ukraine (regarding the creation of military courts and some organizational issues), draft laws “On Amending the Law on the High Council of Justice (regarding the Deadlines for the Verification)” (No. 1321), “On Amending the Law on the Judiciary and Status of Judges regarding the Establishment of the Real Liability of Judges” (No. 1585) and “On Amending the Law on the Judiciary and Status of Judges (regarding the Improvement of the Transfer of Judges)” (No. 1590) and others. It should be mentioned that these legislative initiatives have not yet been introduced by the Parliament and may lose their effectiveness if potential changes to the Constitution occur.

Pursuant to the Task 1.1.4, FAIR continued to support the inclusive development of key reform initiatives in the rule of law sector. On August 2, 2015, the President of Ukraine signed the Law on the National Police. The Law establishes a corporate paramilitary security department to administer Court Security Service (CSS), and which is under the jurisdiction and command of the SJA. The newly established body will provide security for the court premises, judges, and court staff. These functions are currently performed by Special Forces unit under the command of the Ministry of Interior. The SJA shall develop the regulation to operate this new security force, which will also be approved by the Ministry of Interior. FAIR involved Ukrainian local expert Law Professor Mykola Khavroniuk to support the SJA in developing the regulations to ensure a balanced approach to providing security to court premises and judges with respect to the open court principle.

Moreover on August 14, 2015, the draft laws on judgment enforcement reform (No. 2506a, 2507a, 2508a) were submitted to the Verkhovna Rada by the President of Ukraine. The draft laws On Enforcement Procedure, On the Bodies and Persons, Who Enforce the Court Judgments and On Amending the Tax Code (regarding the private enforcement officers) are the first step that illustrates the commitment to launching reform and calls for the immediate necessity of a wide range of actions on its implementation.

On March 24, 2015, FAIR Chief of Party David Vaughn and Minister of Justice of Ukraine Pavlo Petrenko signed the Protocol of Cooperation, which outlines a number of joint activities to support the MOJ efforts.

According to the Protocol, the MOJ and FAIR will be supporting constitutional processes, implementing legislation, improving the procedure for vetting public officials and judges, enhancing the knowledge and skills of employees in justice sector through training programs, engaging civil society in monitoring government agencies, and conducting public awareness campaigns aimed at increasing public knowledge about the undergoing reforms. Additionally, FAIR will help improve the legal literacy of Ukraine’s citizens, specifically the system of free legal aid, and will support efforts to improve the quality of legal education in Ukraine.



FAIR COP David Vaughn and Minister of Justice of Ukraine Pavlo Petrenko during signing the Protocol of Cooperation on March 24, 2015.

On April 9, 2015, the draft Law on Mediation (No. 2480-1) was registered in the Verkhovna Rada. This draft is an alternative one to the draft law on Mediation (No. 2480) from March 27, 2015. The authors of both drafts are aware of the danger of overregulating mediation and have done their best to avoid this by introducing only minimal legislative requirements. Both drafts have similar definitions of mediation, including its fundamental principles and scope of applicability. Major inconsistencies between the drafts concern the regulation of mediators and mediation during the litigation process. FAIR engaged two international experts, Ales Zalar and Bill Marsh, to provide to Ukrainian policy-makers, experts, and mediators expertise on the subject of legislative regulation of mediation. FAIR identified a non-governmental organization, National Association of the Mediators of Ukraine (NAMU), to implement the grant supported project “Promoting Mediation in Ukraine in General and Court Annexed Mediation in Particular”. The main task of the project is developing training programs for sitting judges and candidates for judicial positions. The programs will acquaint judges and candidates with the concept of mediation and its use under the current legislative framework. Another aspect of the project is to promote mediation among the judges, lawyers and court users through a media campaign. On September 14, 2015, NAMU conducted the first meeting with experts where NAMU presented the Project and its objectives, and the experts discussed the the current status and history of mediation in Ukraine and the legislative proposals (this activity is connected to Expected Result 3.1.).

Also during the reporting period, FAIR actively supported its partners to conduct activities related to the vetting and lustration of public officials and judges to ensure compliance with the rule of law principle, judicial independence, and irremovability of judges principle. This activity is linked to Task 5.1. The Law of Ukraine on the Purification of Government (Law) has been in force since October 16, 2014, and it was estimated that more than one million public officials, including some judges would fall within its scope. On December 16, 2014, the Venice Commission issued an Interim Opinion on the Law which criticized a number of its provisions which jeopardize human rights in Ukraine, according to Commission members. Subsequently, the MOJ created a working group to develop amendments to the Law, remove deficiencies, and to harmonize the law with international and European lustration standards according to Resolution 1096 of the Council of Europe Parliamentary Assembly. This process includes examining the criteria for the vetting process, as well as the public positions and individuals subject to lustration, and the subsequent outcomes. Recommendations to the Law include outlining a specific timeframe to complete the process, and requiring the establishment of an independent state agency for conducting lustration, while strengthening the role of civil society in the process. Regarding the vetting of judges, the Law does not provide procedural safeguards for judicial independence and duplicates the Law on Restoring Trust in the Judiciary, which contravenes the principle of double jeopardy.

Pursuant to Expected Result 5.1, FAIR focused on providing support to both the Government and the Parliament of Ukraine to advance the amendments to the Law on the Purification of Government and other laws related to lustration. The primary objective of this Expected Result is to help improve the Law and its relevant legislative framework by promoting the adoption of the necessary amendments and strengthening the implementation of the Law. Specifically, this will include work to help establish a firm legal basis for a fair, transparent, and inclusive process for the lustration and vetting of public officials.

In addition, the constitutionality of some provisions of the Law is currently being challenged before the Constitutional Court of Ukraine, with the constitutional petitions submitted by the SCU on November 17, 2014 and March 16, 2015, and another petition submitted by 47 Members of the Parliament of Ukraine on January 20, 2015.

As of today, the Parliament of Ukraine has registered four draft laws on amendments to the Law on the Purification of Government. Three of them propose substantial changes to the Law, as well

as to the Law on Restoration of Trust in the Judiciary of Ukraine. The proposed changes concern, criteria for lustration and public positions subject to lustration, and introduce specific provisions regarding the establishment and scope of authority of the body responsible for lustration (i.e. National Agency on Lustration Matters).

FAIR involved Dr. Stanislav Balik, Law Professor at the Faculty Law of the West Bohemian University in Pilsen (Plzeň) and a former judge of the Constitutional Court of the Czech Republic, and Head of the Czech delegation in the Council of Bars and Law Societies of Europe (CCBE). Dr. Balik is conducting an assessment and analysis of the Law on the Purification of Government and prepare drafts of amendments with specific attention to the Council of Europe Parliamentary Assembly Resolution 1096, and the Interim Opinion of the Venice Commission. He will also provide guidance to Ukrainian lawmakers through a list of recommendations on how to improve the scope and quality of draft amendments introduced to Parliament to ensure that the Law is in compliance with the Constitution of Ukraine, as well as with Council of Europe and international lustration standards. Ms. Myroslava Bilak, the local Expert, Ukrainian Constitutional Law Scholar with work experience in the Constitutional Court of Ukraine (CCU) works to support Dr. Balik. Specifically, Ms. Bilak will provide him with the Ukrainian legal context for the Constitutional Court of Ukraine procedures, prepare a written review of the Law on the Purification of Government and the proposed amendments, as well as forecast the potential CCU decision given the aforementioned international documents and constitutional provisions.

During this reporting period FAIR also worked on improving legal education in Ukraine, which is currently facing serious modernization challenges in meeting acceptable training demands of legal professionals. As of now, even recognized Ukrainian law schools have poor quality of instruction, weak links to the legal job market, and a poor understanding of the quickly changing professional environment. As a result, these law schools lack the capacity to compete in today's global world.

FAIR's efforts to address these challenges included supporting the MOE, MOJ, leading law schools, and professional associations of lawyers through the following: (1) discussing the direction of legal education reform; (2) raising public awareness about the pressing need for a comprehensive review of legal education policy at the top level of government; (3) engaging open-minded law school leaders in implementing pilot projects on legal education quality assessment as well as providing them with the follow-up expert support; (4) conducting faculty trainings aimed at fostering the culture of legal education quality as well as developing internal policies to assure it, etc.

To address these challenges, FAIR and its grantee – the Ukrainian Marketing Association (UMA) – engaged civil society to conduct a first of its kind, comprehensive survey of legal employers' expectations of recent law graduates' knowledge, skills, professional attitudes and values required to meet modern job market demands. FAIR presented the report on survey results and recommendations to the MOE, the MOJ and to legal community representatives at the public event in Kyiv on December 4, 2014. This laid the foundation for reviewing law school curricula and engaging professional lawyers associations in the legal education reform process, particularly in the development of a law student qualifications framework.

FAIR also worked to support the MOE in developing a draft National Legal Education Standard for Preparing Bachelors of Law (Standard). In cooperation with the OSCE Project Coordinator, FAIR provided expert assistance to Ivan Franko Lviv National University Law School (LNU) Dean Adnriy Boiko in designing the draft Standard, which then underwent international assessment to ensure its compatibility with European standards and guidelines for higher education quality assurance, and best practices. FAIR international legal education experts Mr. Bernd Heinrich and Mr. Delaine Swenson assessed the draft Standard. They will present their reports with recommendations to the MOE on November 9, 2015.

During the reporting period, FAIR also advocated within the MOE, the MOJ, and Ukrainian law schools improvements to the quality of legal education by promoting the Methodology for Independent External On-site Assessment of Legal Education Quality (Methodology) developed by international experts upon FAIR’s request, and tested in May 2014 at the LNU. As a result, Yuriy Fedkovych Chernivtsi National University Law School (CNU) joined this initiative and invited FAIR to organize and conduct an independent, external assessment of legal education quality at CNU. On May 18–22, 2015, FAIR’s international experts Mr. Finlay Young and Mr. Thomas Speedy Rice, with support from local legal education experts, Ms. Myroslava Antonovych and Ms. Olena Ovcharenko, conducted the on-site visit to the CNU. The experts performed the assessment, delivered a comprehensive assessment report, and presented it to the CNU administration, faculty, and students at a university-wide event on September 21, 2015.

FAIR promoted the Methodology nationwide as the only tool currently available in Ukraine to conduct a quality-based assessment of legal education at Ukrainian law schools. On May 26, 2015, Mr. Young, the Methodology co-author, presented it and analyzed its application in Ukraine for MOE officials as well as deans and vice-deans of leading Ukrainian law schools. LNU Dean Andrii Boiko and CNU Dean Petro Patsurkivskiyi shared their law schools’ experiences in undergoing independent assessments and the lessons learned while assimilating the results of the evaluation assessments. This event helped to raise awareness of the Methodology among the law schools’ leadership, broadened their understanding of it, and encouraged the leadership to use the Methodology to improve legal education quality at their law schools.

May 27–28, 2015, FAIR organized a hands-on training on the Methodology implementation for fifteen faculty members coming from ten leading Ukrainian law schools, improving the sustainability of FAIR’s efforts aimed at improving legal education quality. Local faculty will be able to conduct the assessments with minimal international expert support in the future, as a result of this training.



From left to right: FAIR COP David Vaughn, Lviv Law School Dean Andrii Boiko, Ivan Franko Lviv National University Rector Volodymyr Melnyk, and First Deputy Minister of Education and Science Inna Sovsun at the International Conference “Modern Trends in Legal Education” on June 12-13, 2015 in Lviv.

FAIR offered consistent demand-driven support to key players in legal education modernization process, implementing recommendations and coordinating with legal education initiatives. To this end, FAIR supported LNU in the following key activities:

- 1) *Program to develop the LNU Strategic Plan 2015–2020 and the Action Plan*, implemented from September 2014 to March 2015 with FAIR Local Strategic Development Expert Oleksandr Khyzniak’s facilitation and International Strategic Planning Expert Tomasz Sieniow’s supervision. The experts supported the drafting process by engaging with LNU stakeholders. As a result, the LNU Academic Council adopted both the Strategic and Action Plans and began implementation. Mr. Khyzniak developed a report describing the strategic plan development process as well as provided practical recommendations, which other law schools could use as a tool to improve education quality;
- 2) *Program to improve the quality of computer-based legal testing at the LNU*, implemented from April to September 2015. FAIR engaged its Local Test Item Policy Development Expert, Serhiy

Mudruk, who provided support to LNU leadership in building a team of nine LNU test item developers – representatives of different LNU departments – and conducted an introductory training on international standards and best practices for test item development, peer-review, approval process, calibration, test administration and monitoring. As a result, the team developed 450 quality test items covering nine legal disciplines. The review and analysis - statistical and psychometrical - followed. The expert's report on improving the quality of testing at LNU could be utilized to carry out similar programs in other schools. This program will serve as the genesis of a unified, independent, external testing of law school graduates' learning outcomes;

3) *International Conference "Modern Trends in Legal Education" on June 12 and 13, 2015.* FAIR supported LNU Law School's initiative to discuss the current state of legal education in Ukraine, contemporary trends in legal education, and best practices of legal education quality assurance. The event brought together MOE representatives, leading Ukrainian law school administrators and their counterparts from other countries, legal employers, and international legal education experts. FAIR involved two international legal education experts, Mr. Thomas Speedy Rice (U.S.) and Mr. Bernd Heinrich (Germany), who delivered presentations on contemporary trends in legal education in the U.S. and Germany respectively.

Following Ukrainian Catholic University (UCU) Vice-Rector Taras Dobko's request to support the UCU Rule of Law Center, FAIR established the Rule of Law Lecture Series at UCU and organized four lectures by international experts on the following rule of law issues:

1. On May 25, 2015, "The Rule of Law: Is its future secure?" by FAIR International Rule of Law Expert, Thomas Speedy Rice;
2. On June 10, 2015, "The Rule of Law in the US Criminal Justice System" by U.S. Federal Judge Laurel Beeler;
3. On August 27, 2015, "The Ukrainian Constitutional Reform Process: Challenges to the process and substance from an outsider's perspective" by UNDP Ukraine Democratic Governance Advisor, Marcus Brand;
4. On September 16, 2015, "Standards of Judicial Discipline: What Works" by FAIR International Judicial Discipline Expert, Richard Hyde.

The lectures brought together more than 200 law students, academics, and legal practitioners, including judges, with international rule of law experts to improve understanding of the rule of law. FAIR supported the online broadcast of all lectures, garnering more than 1,200 unique online viewers. The Rule of Law Lecture Series has contributed to the promotion of quality legal education and the advancement of both judicial and legal reforms in line with international and European standards.

FAIR also worked to improve legal education quality by providing targeted support directly to teams of law students following their applications for funding. In particular, FAIR sponsored a team from Taras Shevchenko Kyiv National University Law School to participate in the International Moot Court Competition on World Trade Organization Law held on March 23-27, 2015 in Halle, Germany. FAIR also sponsored three teams from the Kyiv-Mohyla Academy Law School, which participated in the following competitions:

1. International Rounds of the 2015 Brown Mosten International Client Consultation Competition conducted on April 15–18, 2015 in Lincoln, Nebraska, US;
2. Telders International Law Moot Court Competition held on May 5–8, 2015 in The Hague, the Netherlands; and
3. International Bar Association Mediation and Negotiation Competition, which took place on July 1–4, 2015 in Vienna, Austria.

This support allowed the team to represent Ukraine at high-level international competitions and contributed to the education of highly skilled Ukrainian law students. The students developed key legal skills, such as oral presentation, litigation, counseling, mediation, and negotiation. All the teams reported on the results of their participation and the lessons learned during the competitions.

On September 4, 2015, FAIR and the OSCE Project Coordinator met with First Deputy Minister of Education, Inna Sovsun. The meeting outlined the following objectives for further cooperation: (1) develop a Legal Education Reform Strategy and Action Plan; (2) develop a National Legal Education Standard for Preparing Bachelors of Law (Standard); and (3) improve both internal and external mechanisms of legal education quality assurance.

In pursuit of education quality assurance mechanisms, Ms. Sovsun asked for support in developing a database of quality test items covering main legal disciplines. The goal of this MOE initiative is to use legal education as the impetus for introducing independent, external testing in all higher education. On September 14, 2015, FAIR hosted a coordination meeting to discuss this idea with representatives of the MOE and its Center for Education Quality Evaluation, the MOJ, the OSCE Project Coordinator in Ukraine, and leading law schools. As a result, the MOE and the MOJ will establish a working group to proceed with the further implementation of this initiative. Following FAIR's communication with the MOJ, the MOJ representatives including First Deputy Minister of Justice Nataliya Sevostianova, confirmed the pressing need for the Standard, and proposed to establish a working group that would be officially in charge of developing this document. FAIR will continue to support the MOE, MOJ, and leading law school in their efforts to reform legal education and enhance its quality by providing expert assistance to implement pilot projects

On September 21 and 22, 2015, FAIR conducted working meetings with CNU and LNU leadership on the integration of these law schools and the implementation of international educational programs. As a result, FAIR will support these law schools' efforts to improve academic and legal integrity by the following means: (1) collaborative development of Codes of Conduct for Law School Administration, Students, Faculty, and Staff; and (2) involvement of both CNU and LNU students and faculty in an international online anticorruption course. Mr. Thomas Speedy Rice, Professor at the Washington and Lee Law School (W&L), Lexington, Virginia, US, will teach this course for his students in class, and online for Ukrainian students.

In addition, FAIR will continue to support LNU in developing internal policies and guidelines for legal education quality assurance, including further improvement of computer-based testing, periodic review of law curricula, and methods of teaching to modern job market demands.

DEVIATIONS IN THE IMPLEMENTATION OF THE WORK PLAN: The implementation schedule of FAIR activities under the Constitutional reform activities of Expected Result 1.2 are delayed. Some of the activities under Expected Result 1.1 are postponed until the next period, as soon as Constitutional reform is prioritized by both FAIR and its partners. FAIR keeps working actively to promote the needed legislative amendments. According to President Poroshenko, reform of the judiciary remains a top priority of the GOU's agenda.

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

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: In the reporting period, there were formidable challenges working towards this Expected Result. The issue of the constitutional reform was discussed extensively during the elections campaign. Nevertheless, not much progress was achieved.

Only on March 3, 2015, did the President of Ukraine signed Decree No. 119/2015 to establish the Constitutional Commission. The decree stated that the Constitution Commission will: (1) analyze the implementation of the Constitution and existing gaps; (2) develop proposals and recommendations for needed amendments; (3) ensure the widest possible public discussion of the proposals; and (4) develop a draft law with amendments to the Constitution. The Speaker of the Verkhovna Rada was appointed the Head of the Commission. At the moment, the Commission consists of 63 members, including members of the Parliament, academics, judges, prosecutors, lawyers, and CSO representatives.

On April 6, 2015, the Constitutional Commission held its first meeting. The President of Ukraine attended the meeting and outlined the three major priorities to be the focus of the Commission’s activity: (1) decentralization, (2) reforming the judiciary, and (3) improving civil rights and liberties guarantees. The Commission organized its activity by dividing into three working groups to address each of the identified areas. The Deputy Head of the Constitutional Commission, retired judge of the European Court of Human Rights (ECHR) Volodymyr Butkevych was appointed as the Head of the Human Rights Working Group; the Secretary of the Constitutional Commission, Deputy Head of the Presidential Administration Oleksiy Filatov was appointed as the Head of the Judicial Reform Working Group; and the Head of the Constitutional Commission, Speaker of the Verkhovna Rada Volodymyr

Groysman was appointed as the Head of the Decentralization Working Group. Each working group proceeded with developing amendments to the relevant chapters of the Constitution.

FAIR was invited to observe the Constitutional Commission’s activity and provide technical support on an as-needed basis. Under an agreement with the Constitutional Commission leadership, FAIR supports two out of three working groups of the Constitutional Commission: Judiciary Working Group and Human Rights Working Group. During the reporting period, FAIR supported 29 meetings of the Human Rights Working Group and 12 meetings of the Judicial Reform Working Group.

Members of the Human Rights Working Group reviewed the provisions of the current Constitution of Ukraine, comparing them to the texts of the Convention on Protection of Human Rights and Fundamental Freedoms and EU Human Rights Charter (2000) to ensure they address the current Ukrainian Constitution gaps.

FAIR supported a number of regional events to present Working Group activity outcomes and discuss human rights issues nationwide. These events included expert panels and public

Milestone Progress ER 1.2

- Independent Madrid University Law Professor Lorena Bachmaier developed and presented her expert opinion on the Constitution of Ukraine Gap Analysis with a focus on rule of law principle implementation.
- The draft law on Amendments to the Constitution Strengthening the Independence of Judges is developed by the Presidential Administration and submitted to Verkhovna Rada for first reading consideration.
- The concept paper Improvement of the Constitutional Regulation of Justice in Ukraine was incorporated into the draft General concept paper of Constitutional Changes to be presented during the fourth CA plenary meeting.
- Independent Madrid University Law Professor Lorena Bachmaier developed and presented her expert opinion on the improved concept paper on Justice Sector Amendments.
- The draft concept paper on Constitutional Changes was discussed at the June 21, 2013 CA plenary session and was sent for further improvement.
- The CA coordination bureau adopted decision No. 21 to recommend that the CA approves the revised and improved content of the draft general concept paper on Constitutional Changes.
- The European Commission for Democracy through Law (the Venice Commission) issued an opinion on the draft law on Amendments to the Constitution Strengthening the Independence of Judges.
- Two meetings with the Interim Special Commission members were held to provide them with expert recommendations regarding areas to be addressed in implementing the rule of law principle in the constitutional reform process.
- Four public discussions held on the Proposed Amendments to the Constitution (June 8, 2015 in Rivne, June 9, 2015 in Ivano-Frankivsk, June 10, 2015 in Uzhhorod, and June 24, 2015 in Dnipropetrovsk).

discussions. The goal of the events was to provide a forum to exchange opinions, identify priority areas, and develop recommendations for the Human Rights Working Group. The Group was able to share the product of their work and receive feedback, solicit Ukrainian society's expectations of the Constitutional Commission's activity, and inform participants how the proposed amendments are addressing existing problems and gaps in regulations regarding human rights.

Currently, the Human Rights Working Group members are incorporating and finalizing the text of the proposed amendments, which will be submitted for the consideration of the Constitutional Commission.

The Judiciary Working Group undertook a different approach to their Constitutional amendments. The members of the working group and other interested parties submitted their proposals to the secretariat of the working group, who summarized their input in a number of issue areas. During the working group meetings, the members and the experts discussed the proposals in order to reach consensus and develop joint statements, which will be submitted for the Constitutional Commission's consideration. Among the developed proposals, some bear mentioning: (1) elimination of the role of the Verkhovna Rada in the career of a judge; (2) minimization of political involvement in the judicial career; (3) stronger guarantees for judicial independence; (4) elimination of the initial appointment; (5) raising the minimum age for the judicial candidates; and (6) improvement of the judicial immunity definition, which currently prevents judges from being held liable for court decisions, if there was no abuse or criminal behavior. Thusly, Ukraine is implementing the key recommendations of the Venice Commission experts.

When the working group finalized the draft of the amendments, it requested the Venice Commission to review the preliminary draft. On July 24, 2015, the Venice Commission issued the Preliminary Opinion on the Proposed Constitutional Amendments Regarding the Judiciary of Ukraine (CDL-PI(2015)016). The opinion was generally positive and described the proposed amendments as well constructed, and deserving of support. According to the experts, the adoption of the amendments would be an important step forward towards the establishment of a truly independent judicial system in Ukraine. The Venice Commission welcomes in particular: (1) removal of the power of the Verkhovna Rada to appoint the judges; (2) abolition of probationary periods for junior judges; (3) abolition of the "breach of oath" as a ground for dismissal of judges; (4) reform of the Public Prosecutor's Office, the guarantees for its independence (notably the removal of the power of the Verkhovna Rada to express no confidence in the Prosecutor General) and the removal of its non-prosecutorial supervisory powers.

At the same time, the Venice Commission underlined that the text had shortcomings, especially with respect to the powers of the main state bodies in this field. The Venice Commission formulated the following main recommendations: (1) while the ceremonial role of the President to appoint judges seems well justified, his power to dismiss judges is not, and should be removed from the text; (2) not only the President, but also the Verkhovna Rada should have a role in the election/ appointment of a limited number of members of the High Judicial Council.

The Working Group considered the recommendations, amended the draft accordingly, and agreed to present the draft amendments to the Constitutional Commission. On September 4, 2015, the Constitutional Commission held its plenary meeting. The members of the Constitutional Commission discussed the proposals for the judicial sector amendments developed by the Judiciary Working Group. The meeting was attended by the President Petro Poroshenko. The main issues that were discussed during the meeting were: (1) the way of the judicial corps purification; (2) the justification of defense bar monopoly in clients' representation before the court; (3) and the limitation of the court jurisdiction to the disputes only (unlike jurisdiction over all the relations as it is currently). The proposals developed by the working group were approved anonymously and it was agreed that they would be sent to the Venice Commission for final review.

Strong public demand resulted in legislative ideas regarding the total renewal of the judicial corps. The Reanimation Package of Reforms developed and presented the relevant proposal. The members of the Constitutional Commission Member of Parliament (MP) and Deputy Speaker Oksana Syroid and MP Leonid Yemets are very supportive of a proposal to dismiss all sitting judges in Ukraine due to the significant changes and lack of public trust in domestic judicial system. Their proposal was agreed by the Constitutional Commission to be forwarded as well to the Venice Commission consideration to check if it is appropriate in democratic society.

To promote the developed amendments, FAIR supported a series of events to present the results of Judiciary Working Group activity and solicit feedback on the proposed amendments to the Constitution regarding the judiciary. The events were attended by representatives of the judiciary, local activists, and media. This series will be continued in the next reporting period.

Additionally, FAIR monitored the legislative initiatives to amend the Constitution in other related areas. On January 16, 2015, the draft law on Amending the Constitution of Ukraine regarding the immunity of judges and members of the Parliament limitation (No. 1776) was submitted to the Parliament by President Poroshenko. The draft law proposes to amend the relevant articles of the Constitution in order to (1) lift all the restrictions for holding MPs criminally liable, detained, or arrested; (2) amend the procedure so that a judge can be detained with the HCJ consent, with the exception of detention during the commitment or immediately after the commitment of a grave crime against life and health of a person. Moreover, the draft law proposes that judges shall not be brought to legal liability for acts on the bench while administering justice, except in the cases of adopting a knowingly illegal court decision, breach of judicial oath, or committing a disciplinary offence. This draft was included in the agenda of the Verkhovna Rada and submitted to the CCU for review.

On June 16, 2015, the CCU issued an opinion on the Draft Constitutional Amendments on the Scope of Immunity of Members of Parliament and Judges of Ukraine (No. 1776) and concluded that it is in line with the Constitution. On June 19, 2015, the Venice Commission issued an opinion as well, and welcomed that the draft amendments included provisions to shift power to lift judges' immunity from Parliament to the HCJ. Now the draft law is pending in the Parliament.

On January 16, 2015, the draft law on Amending Article 124 of the Constitution of Ukraine regarding the recognition of the Rome Statute Provisions, No. 1788, was registered in the Verkhovna Rada by a group of MPs. The draft law currently awaits consideration in the Verkhovna Rada.

On July 1, 2015, the President Poroshenko submitted to the Verkhovna Rada the Draft Law on Amending the Constitution of Ukraine regarding decentralization (No. 2217a). The draft was included in the agenda of the Verkhovna Rada and sent to the CCU and Venice Commission. The CCU approved the changes as compliant with the current Constitution, and the Venice Commission provided concurrence. On August 30, 2015, the draft law was adopted in the first reading by the 265 members of Parliament. The lack of consensus in the Parliament and controversial content of amendment led to protest and resulted in a clash of the activists and police officers, with four officers killed. The tragedy helped to realize the necessity for open dialog to reach consensus on the Constitutional reform process.

During the reporting period, FAIR involved international experts to support the Constitutional Commission and its members with the expertise of the leading experts in judiciary and constitutional spheres.

On June 15-20, 2015, FAIR pro bono expert U.S. federal court Judge Bohdan Futey visited

Kyiv to provide expertise and assistance to the Constitutional Commission members regarding the Constitutional amendments related to the judiciary. Judge Futey attended the meeting of the Judiciary Working Group and commented on the proposed amendments. Later, the Judge provided the Commission with his recommendation on how to improve the proposed amendments.

On September 15-18, 2015, U.S. Constitutional Law Experts Prof. Louis Aucoin of the Fletcher School of Law and Diplomacy at Tufts University and Prof. Christie Warren of the William and Mary School of Law visited Kyiv to present to key Ukrainian policymakers the findings of their comparative analysis of the judiciary chapter of the Constitution of Ukraine with similar chapters of constitutions in Moldova, Romania, Poland, Lithuania, Georgia and Kosovo. Prof. Warren and Prof. Aucoin initially were involved to develop a comparative constitutional analysis. The experts reviewed developed reports, gap analyses, and assessments related to the constitutional reform process in Ukraine, including the Council of Europe and Venice Commission opinions and the FAIR experts “Opinion on the Constitution of Ukraine with a Focus on Rule of Law Principles”. Experts have been asked to include examples of well-drafted constitutional chapters and provisions from Moldova, Romania, Poland, Lithuania, Georgia, and Kosovo. They prepared the report, which was translated into Ukrainian and distributed among the members of the Constitutional Commission. To promote the justified need for constitutional reform to the general public and legal community, FAIR decided to support the nationwide information campaign with CSO involvement. Jointly with USAID/UNITER Project FAIR announced the request for proposal and now is in negotiations with the selected potential grantee.

DEVIATIONS IN THE IMPLEMENTATION OF THE WORK PLAN: The beginning of the reporting period was marked by stagnation in the Constitutional reform sphere. While amending the Constitution was continuously on the agenda, there was no significant progress. After the creation of the Constitutional Commission, the process was launched. FAIR actively supported the Constitutional Commission activity and the operation of its working groups to ensure the consistency of all new initiatives with the previous expert opinions. The main task that remains is to ensure that any proposed changes to the respective sections of the Constitution are in line with international and European standards regarding judicial independence and human rights. Although Constitutional reform is a controversial and challenging issue, FAIR is working to create a neutral discussion platform for the participation of all stakeholders to ensure that the process is conducted in an inclusive manner.

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

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: On December 9, 2014, the HQC conducted its first meeting with new members as a result of implementation of the Law on Restoring Trust in the Judiciary, and elected attorney Sergiy Koziakov, appointed as a member of the HQC by the Minister of Justice of Ukraine, as a Chairman.

This reporting period FAIR proceeded with building relationships with the newly appointed members of the HQC, introducing them to the main objectives of the project’s activity and outlining areas for further cooperation. On December 29, 2014, FAIR and the HQC signed a Protocol of Cooperation outlining areas for improving judicial selection and discipline through September 30, 2016 (see: <http://www.vkksu.gov.ua/ua/news/komisiya-prodovjuvatime-spivpratsuz-agentstvom-ssha-z-mijnarodnogo-rozvitku-usaid/>).

On February 19 and 20, 2015, FAIR in cooperation with the HQC conducted an orientation workshop on “Judicial Selection and Discipline: Best Achievements, Experience of the HQC and its Activity under New Conditions” for the newly appointed members of the HQC. The workshop

presented international best practices and lessons learned on judicial selection and discipline; discussed issues and challenges facing the HQC's judicial selection competence and discipline issues, particularly in the light of legislative amendments; identified ways to further implement the use of information technologies and automation at the HQC; and identified next steps in the institutional development of the HQC. More than 70 representatives of different judicial institutions including HQC, HCJ, NSJ, SJA, representatives from international projects, NGOs, and experts in judicial selection and discipline from the US, Netherlands, Romania, Portugal and Poland participated in the workshop (see: <http://www.vkksu.gov.ua/en/news/the-results-of-the-first-day-of-the-workshop-judicial-selection-and-discipline-achievements-experience-and-activity-of-the-high-qualification-commission-in-the-new-environment/>; <http://www.vkksu.gov.ua/en/news/the-commission-learned-from-international-experience-of-selection-of-judges-and-disciplinary-practices/>).

The Law on Ensuring the Right to a Fair Trial was adopted by the Parliament on February 12 and came into force on March 28, 2015. It introduces a new version of the Law on the Judiciary and Status of Judges, including a number of significant changes in the structure of the HQC and approach to its formation, as well as some new authorities of the HQC, such as keeping judges' dossiers and evaluating sitting judges.

According to Article 102 of the Law on the Judiciary and the Status of Judges, the HQC shall be composed of 14 members. By the end of September 2015, twelve members of the HQC have been appointed and two members still need to be appointed by the Congress of Judges to have the HQC fully formed. This Congress is planned for November 11 and 12, 2015,

The Law stipulates an evaluation of judges' qualifications to determine their professional levels for transfers, lifetime appointments, and disciplinary sanctions. The Law also mandates an initial qualifications evaluation of all sitting judges in Ukraine, which determines whether they are capable of administering justice in the relevant courts. The qualifications evaluation will be comprised of two stages: (1) anonymous testing and a case study exercise, and (2) a review of the judge's dossier and interview. According to the Law, the HQC will conduct the initial qualifications evaluation of all justices of the SCU and all judges of the high specialized courts of Ukraine by the end of September 2015. The evaluations of the judges of the courts of appeals should be conducted

Milestone Progress ER 2.1

- Held three working meetings with the HQC.
- HQC formed a 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 HQC members on case study writing evaluation methodology.
- Developed recommendations for improving the judicial vacancy application, test administration, and scoring processes.
- Drafted a handbook for test item developers.
- Held training for developers of test items on developing test questions for evaluating skills at high cognitive levels.
- Drafted a manual for anonymous test administrators (proctors).
- Drafted a report with recommendations and necessary next steps to automate the qualification exam.
- Conducted an Analysis of Judicial Practice, and presented and promoted its results.
- Identified EU and international standards and practices for transferring judges.
- Conducted training for test items writers.
- Developed a manual for test items writers based on the training and expert materials developed in the previous reporting period.
- Updated manual for judicial anonymous test proctors (administrators).
- Conducted training for the expert group of test items evaluators.
- Conducted workshop on "Judicial Selection and Discipline: Best Achievements, Experience of the HQC and its Activity under New Conditions".
- Held Analysis of Judicial Practice (Administrative and Commercial specializations), presented and promoted the results.
- Conducted international roundtable on "Judicial Performance Evaluation".
- Sub-agreement to purchase equipment for automating the judicial qualifications exam awarded.
- Training for test items writers and test items evaluators on developing test items for evaluating skills at high cognitive levels developed and conducted.

by the end of March 2017. The HQC should determine the timeline of evaluations for all trial judges, including judges who have applied for a lifetime judicial position.

In addition, the law outlines four types of regular evaluations of judges, which shall be conducted (1) by teachers (trainers) of the NSJ based on the results of judicial training, (2) by other judges of the relevant court, (3) through self-evaluation, and (4) by relevant NGOs. These evaluations will help identify each judge's individual needs for improvement, motivate a judge to maintain his/her qualifications at an adequate level, and stimulate a judge's professional growth. All four types of regular evaluations shall be conducted through questionnaires. According to the law, the HQC is also responsible for developing all procedures and methodologies for judicial evaluation.



Members of the HQC during the Judicial Selection and Discipline workshop on February 19 and 20, 2015.

Considering these new procedures introduced by the law, FAIR and the HQC agreed to cooperate on developing clear and transparent evaluation criteria and procedures and administering judicial performance evaluation in Ukraine.

Thus, on March 12, 2015, FAIR organized a series of meetings with FAIR's international expert on judicial evaluation, Dr. Pim Albers, to introduce HQC and NSJ representatives to the international and European standards for judicial evaluation and to present lessons learned and best practices from neighboring countries' experiences (see: <http://nsj.gov.ua/ua/news/viyavleniya-individualnih-potreb-dlya-profesiynogo-zrostannya-suddi/>).

To ensure the development of efficient and transparent judicial evaluation in Ukraine, FAIR translated into Ukrainian and shared with HQC and NSJ two main US guidelines for developing judicial evaluation: (1) blueprint for judicial performance evaluation, developed by the Institute for the Advancement of the American Legal System of the University of Denver and (2) American Bar Association (ABA) guidelines for the evaluation of judicial performance (with commentary).

Also, FAIR experts provided support to HQC in developing Regulation on the Procedure for the Judicial Dossier Administration, which was approved by the COJ at its meeting on June 6, 2015, and Draft Procedure and Methodology for judicial qualification evaluation.



The Secretary of the Qualifications Chamber of the HQC, retired justice of the Supreme Court of Ukraine Stanislav Schotka is signing the Draft Regulation on the Procedure for the Judicial Dossier Administration to be sent to the Council of Judges for final consideration and approval during the Workshop on Judicial Performance Evaluation on April 24, 2015.

On April 24, 2015, FAIR conducted a workshop on “Judicial Performance Evaluation” with the OSCE Office for Democratic Institutions and Human Rights (ODIHR), and EU Project “Support to Justice Sector Reforms in Ukraine.” The aim of the event was to provide a platform to

share and discuss international and European lessons learned and best practices regarding judicial performance evaluation, focusing on standards, criteria, and methods; discuss challenges and possible risks associated with judicial performance evaluation, including the case law of the ECHR; and support the HQC in developing a sound framework and procedures for judicial performance evaluation in line with international and European standards. More than 100 representatives of different judicial institutions including the HQC, HCJ, NSJ, SJA, representatives from international projects, NGOs, and local and international experts in judicial performance evaluation from the Netherlands, Serbia, Lithuania, Australia, and Moldova participated in the workshop (<http://www.vkksu.gov.ua/en/news/the-high-qualification-commission-of-judges-of-ukraine-and-foreign-experts-discussed-international-experience-of-judicial-performance-evaluation/>).

On September 17, 2015, FAIR conducted a meeting for key Ukrainian stakeholders and decision makers with Judge Artur Dionisio Oliveira, Chief Judge of the Braga Court (Portugal), a former elected member of the Portuguese Judicial High Council and representative of Portugal in the European Network of Councils for the Judiciary. During the meeting, key elements of the report developed by the European Network of Councils for the Judiciary “Minimal Standards for Judicial Performance Evaluation and Irremovability of Judges” and the Portuguese experience in judicial performance evaluation were presented. Also discussed were the ways to reach consensus on introducing judicial performance evaluation in Ukraine. The representatives of the HQC, NSJ, SJA, HAC, SCU, Department for Legal Policy of the Presidential Administration of Ukraine and NGOs participated at the meeting.

Also, FAIR’s international expert on judicial evaluation Dr. Pim Albers presented the research on international best practices and lessons learned on the preferred approaches and practical usage of the four types of evaluations provided for by the Law on Ensuring the Right to a Fair Trial: (1) by teachers or trainers; (2) by other judges; (3) by the judge him/herself; and (4) by NGOs. FAIR will organize the translations of the research and provide it to HQC and NSJ.

FAIR is assisting the HQC in developing and implementing transparent, objective, knowledge- and performance-based judicial selection criteria and procedures through an anonymous test and qualifications exam for judicial candidates.

Since 2010, with FAIR support, the HQC has completed three rounds of judicial selection resulting in the appointment of 942 new judges. The reserve list, which is used to fill vacant positions, includes 1,197 judicial candidates. On May 14, 2015, the HQC announced a competition for judicial candidates to fill 154 vacant positions in local courts. As of September 30, 90 judicial candidates from the reserve list were recommended by HQC for initial appointment after more than one year’s break as a result of the political developments in the country.

During the reporting year, FAIR focused on providing technical assistance to the HQC and the NSJ in developing a bank of test items for judicial testing, as well as in establishing a quality pool of judicial test item writers and training them. On November 25 and 26, 2014, FAIR conducted a training program for the expert group of test evaluators on “The Quality of Test Items: Methodology, Stages and Control” in cooperation with the HQC and the NSJ (see: <http://www.nsj.gov.ua/ua/news/prodovjennya-roboti-nad-udoskonalennyam-testovih-zavdan/>). This expert group of test item evaluators was created in November 2013 as a joint initiative of the HQC and the HCJ to ensure quality control in test items, and developed case studies. As a result, three justices of the SCU, six judges of the High Commercial Court of Ukraine (HCC), four judges of the HAC, and four judges of the High Civil and Criminal Court of Ukraine (HCCC) participated in the training. Representatives from the NSJ and the HQC test item writers also participated in the event. During the training, participants were acquainted with national and international standards of professional examinations, baselines for the test and test item, practical rules for test developers

and evaluators, and the process of planning, developing and revising tests, and evaluating test items' quality. Through practical exercises and group work, the participants revised more than 50 test items and improved their skills and abilities to identify problems in the quality of the tests and correct errors in compliance with quality indicators. Also, FAIR presented a Manual for Test Item Writers, which participants actively used during the training. Participants expressed interest in continuing cooperation to further enhance the skills of test evaluators in revising and improving test items.

As the new Law on the Judiciary and Status of Judges calls for a qualifications evaluation comprised of two parts: (1) anonymous testing and a case study exercise, and (2) review of the judge's dossier and interview, the HQC and NSJ are now facing the challenge of developing valid test items and case studies for

evaluating judges in the short-term and according to the specific level of their court and specialization. To meet the needs of the HQC and NSJ in this process, FAIR conducted introductory training on the methodology of developing skills-based test items for test writers on April 15, 2015, (<http://nsj.gov.ua/ua/news/trivae-robotanad-uprovadjennyam-pervinnogo-kvalifikatsiynogo-otsinuvannya-suddiv/>).



Judge Tetyana Chumachenko, Chair of the Council of Judges Committee on Ethics, Conflict of Interests' Resolution and Professional Development of Judges, during the discussion regarding the implementation of initial qualification evaluation of sitting judges in Ukraine.

To meet the HQC and NSJ needs in developing test items for judicial selection and evaluation, on August 27 and 28, 2015, FAIR supported a training program for representatives of the HQC, NSJ as well as for the group of test item evaluators on how to develop, review and evaluate test items that measure the knowledge, skills and abilities of judicial candidates and sitting judges. During the training, HQC and NSJ test items writers and evaluators learned testing standards, rules, and how to properly develop and revise tests and evaluate test item quality. Through practical exercises and group work, participants improved their ability to identify problems in the quality of tests and correct errors in compliance with quality indicators. This effort builds greater sustainability into a fair and objective process for selecting and evaluating judges by assisting the HQC and NSJ in developing a cadre of test item writers and evaluators.

During this reporting period, FAIR grantee NGO Universal Examination Network (UENet) finished the second part of the in-depth Judicial Practice Analyses under the annual program statement (APS) grant program on “Strengthening the Role of Civil Society Organizations as Advocates for and Monitors of Judicial Reform.” On June 8, 2015, UENet presented the final report on the results of two surveys, which were conducted in 2013 among the judges with criminal and civil specializations, and in 2015 among the judges of the court of commercial and administrative specialization. The members of the HQC, representatives of the NSJ, COJ, HCJ, the high specialized courts, and NGOs participated in the event and discussed the surveys' results. The aim of the Judicial Practice Analyses was to identify judicial qualifications (competencies) as well as personal and ethical standards that ideal judicial candidates should have, and methods to evaluate them, and to identify topics for training based on input from sitting judges. 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 for evaluating judicial candidates' personal and moral qualities; (iv) ongoing trainings for sitting judges; (v) challenges in the daily work of judges; and (vi) other statistical data such as average age of sitting judges, their

education, gender, etc. The findings of the research will help the HQC develop regulations for judicial selection and evaluation, and will assist the NSJ in developing and improving training for judicial candidates and sitting judges (<http://www.vkksu.gov.ua/ua/news/priezientowano-zwit-zariezultatami-doslidziennia-kwalifikacijnich-wimog-do-kandidatiw-na-posadu-suddi/>).

Finally, FAIR moved forward with the FAIR-HQC joint activities on automating judicial exams this reporting period, including automating the exam for evaluating judges. Per HQC's request, FAIR announced an RFP to purchase laptops and other equipment for two media classrooms at the HQC, which will be used as a testing center to ensure the qualifications exam for judicial candidates and exam for the qualifications evaluation of judges are conducted in automated mode. As a result, the FAIR selection committee in cooperation with the HQC's Department of Information Technologies selected the EPOS Company to provide the equipment. On August 9, 2015, EPOS Company provided 90 laptops and other equipment for two media classrooms of the HQC.

EXPECTED RESULT 2.2: UKRAINIAN JUDGES ARE DISCIPLINED IN TRANSPARENT PROCESSES

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: During the reporting period, FAIR continued to support the HQC, as well as other partners to improve the disciplinary procedures and ensure their transparency and conformity with the best practices and international and European standards. FAIR focused particularly on developing tools for recruitment and management of inspectors responsible for complaints admissibility screening and for conducting investigations against judges.

In order to improve HQC judicial disciplinary practices in line with European and international standards and good practices, FAIR developed and submitted to the HQC the compendium of international and European standards and best practices of judicial disciplinary proceedings that includes recommendations from FAIR international experts Mr. Richard Hyde, Judge Jose Manuel Cardoso, and Judge Mario Belo Morgado. The compendium is to be used as a reference point by the HQC members and inspectors in judicial disciplinary proceedings and in drafting decisions for trying judges for misconduct. In addition, during the HQC Orientation Workshop organized and conducted by FAIR in February 19 and 20, 2015, FAIR provided the HQC members and representatives of the Secretariat with a comparative study of regulations governing judicial

Milestone Progress ER 2.2

- Documented current practices 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; the 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 on the HQC website and search tools.
- Delivered 45 laptops to the HQC.
- Improved procedures for judicial misconduct complaints verification and consideration.
- Developed and presented terms of reference for a unified integrated database to manage HQC business processes, including judicial discipline and selection processes.
- Conducted monitoring of judicial discipline decisions and appeals of HQC judicial discipline decisions.
- Developed standards and best practices for conducting preliminary screening of complaints and investigations of judicial misconduct.
- Submitted recommendations for amending the regulations governing judicial misconduct investigations, consideration of the disciplinary cases, and drafting the decisions (ongoing).
- Developed and presented recommendations for selection and performance evaluation of disciplinary inspector candidates.
- Published and presented Manual for Disciplinary Inspectors (ongoing).
- Finalized and presented curricula for initial and ongoing trainings of discipline inspectors (ongoing).
- Designed the structure of the initial and ongoing trainings of discipline inspectors (ongoing).
- Delivered 13 laptops, 15 desktop computers, server, 4 scanners, printer and software for generation of bar codes.
- Developed module for publishing HQC decisions on the official website (ongoing).

disciplinary procedures in five selected European countries, namely, France, Sweden, Lithuania, Germany and Poland.

Under the present task, FAIR also supports the HCJ in improving disciplinary practices concerning justices of the SCU and judges of the high specialized courts. Upon the request of the new HCJ leadership, FAIR provided a generalized set of materials on the disciplinary liability of judges developed by FAIR international experts in the previous years in order to share best international practice and experience in this field.

Following the Verkhovna Rada's adoption of the restated version of the Law on the Judiciary and Status of Judges (the Law), on February 12, 2015, the HQC approved the amendments to the Rules of Procedure, which govern all operations and procedures conducted by the HQC. In order to meet the HQC needs in reviewing amendments of the Rules of Procedure, FAIR recruited local experts Lidia Moskvych and Ivan Nazarov, acknowledged scholars in the field of judiciary and justice system and Professors of Law with the Kharkiv National Yaroslav the Wise Law University. The experts provided assistance by reviewing the Rules of Procedures and by examining legislative drafting techniques, conformity with current laws and regulations, and compliance with European standards to reveal potential inconsistencies, drawbacks and deficiencies. In the beginning of the next reporting period, FAIR will submit for HQC leadership consideration the integrated experts' report with recommendations on adaptations of the HQC Rules of Procedure, along with the respective comparative table that contains new wordings to the specific provisions of this instrument.

In its continued support to the HQC in improving the processes of complaints admissibility screening and investigations of judicial misconduct, FAIR finalized the draft Manual for inspectors involved in judicial disciplinary proceedings to bring it in conformity with the Law, and incorporate generalized international standards and good practices. The draft Manual was elaborated during the previous reporting period by FAIR local experts Oleksandra Yanovska, Professor of Law with the Kyiv National Taras Shevchenko University, and Ex-Justice Vasylyl Filatov, a former Member of the HQC. The Manual is tailored to serve as a practical tool for HQC inspectors to facilitate: (i) preliminary screening of complaints against judges, (ii) verification of facts of judicial misconduct, and (iii) organization of verification process. The document is supplemented with an extended list of sources and annexes with sample documents used in judicial discipline procedures. In addition, FAIR provided a gender analysis of the draft Manual with assistance of the local expert Olena Suslova. According to her, the draft Manual when taking from the gender perspective, is of a neutral nature and contains no potential risks/mismatches in following gender policies. In August 2015, FAIR agreed to the final version of the Manual with the HQC members and leadership, and selected a publishing agency to print out 150 copies of the Manual, along with the CD version, to be disseminated among the HQC members, inspectors, as well as the HCJ members and representatives of the HCJ Secretariat.

FAIR continued working with the HQC to provide expert assistance and support in organizing trainings for inspectors of the Disciplinary Chamber. For this purpose, in December 2014 FAIR involved international pro bono experts Victoria Henley, Director/Chief Council of the State of California Commission on Judicial Performance (USA), and Judge José Manuel Cardoso of the Court of Appeal of Lisbon (Portugal), who reviewed in-class curricula of initial and ongoing trainings of judicial discipline inspectors, and provided recommendations on teaching methodology and structuring training process. Moreover, in order to reflect amendments to the Law with regard to judicial disciplinary liability that concern new grounds for disciplinary liability and new disciplinary sanctions, FAIR DCOP Nataliya Petrova and Judicial Accountability Specialist Anna Sukhova reviewed and adapted drafts curricula of inspectors' trainings. In the next reporting periods, FAIR is going to involve local expert Nataliya Akhtyrskaya, Associate Professor of Law with the Kyiv National Taras Shevchenko University, to finalize the draft curricula,

elaborate upon the teaching methodology and structure the training processes for the HQC inspectors' initial and ongoing training.

In addition, Ms. Henley and Judge Cardoso formulated the desired qualifications requirements for the position of inspector. The Law envisages only two requirements for candidates to the inspector's position, namely: (1) completed higher education in law; and (2) five years of legal practice. At the same time, the Law and HQC's internal regulations are agnostic about the kind of professional experience preferable for the officers involved in investigations against judges, and about other factors to be taken into account when selecting the candidates for the inspector's position. FAIR experts' recommendations are based on generalized international experience and are aimed at assisting the HQC in selecting new inspectors for the HQC Disciplinary Chamber. The experts' report includes a set of recommendations on inspectors' performance evaluation, in particular, the frequency of evaluation, the attestation body, and the criteria, methods, and information to be used during the process of evaluation. On March 24, 2015, FAIR submitted the respective report for the HQC leadership consideration.

Following HQC specific request, on September 18 and 19, 2015 FAIR conducted the training for the HQC inspectors to improve their professional and organizational skills. FAIR involved a number of international and local experts as the trainers to this event, namely, Judge Jose Manuel Cardoso, Court of Appeal of Lisbon Judicial District (Portugal); Richard Hyde, Judicial Qualifications Commission (Georgia, USA); Lidia Moskvych, Professor of Law with the Kharkiv National Yaroslav the Wise Law University; Oleksandr Serdyuk, Director of the Analytical Center at the Institute of Applied Humanitarian Research (Kharkiv), Doctor of Law; Serhiy Mudruk, President of the International NGO "Universal Examination Network"; and Tamara Sukhenko, Certified Coach of the European Coaching Federation,

facilitator, psychologist, PhD, board member of International Association of Facilitators (Ukraine). 43 participants, including inspectors of both HQC Chambers and representatives of the Secretariat took part in the training. According to the follow-up self-assessment results, 85% of the trainees learned new information and developed professional skills in judicial performance evaluation and disciplinary proceedings against judges. In addition, the participants improved legal writing skills, as well as learned about team building, time management, work planning and effective communication. More information about the training can be found at the link: <http://vkksu.gov.ua/ua/news/triening-dlia-inspiektoriw/>.



HQC Inspectors during the training on September 18 and 19, 2015.

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In order to contribute to strengthening efficiency and transparency of the HQC internal operations, during the reporting period, FAIR supported the HQC in automating its business processes and record-keeping procedures. For this purpose, and meeting HQC emerging needs, in June-August 2015 FAIR purchased and procured laptops, printers, scanners, software and other IT equipment for a total amount of UAH 1,812,949.68 to be used by the HQC members, inspectors and office management departments of the HQC.

DEVIATIONS IN IMPLEMENTATION OF THE WORK PLAN: FAIR committed to assist HQC in drafting procedures for publishing and archiving information about judicial misconduct and discipline, including storing and providing public access to such data. However, HQC asked FAIR

to postpone this activity until the HQC members come to agreement on confidentiality issues. Another deviation happened due to the refusal of the IT expert Dmytro Vovk to accept his proposed remuneration rate, forcing FAIR to move the task related to the elaboration of the module for publishing decisions on the HQC's official website to the next 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 assisted the COJ in implementing the Code of Judicial Ethics, strengthening judicial self-

governance, and promoting court system reform in Ukraine to align it with European standards. Specifically, FAIR provided support to the COJ-established working group on developing a Commentary to the Code of Judicial Ethics. On April 9 and 10, 2015, FAIR assisted the working group in conducting its first meeting. During the meeting, the members familiarized themselves with the updated Commentary to the Code of Judicial Ethics from the United States, the report on HQC and HCJ disciplinary practices related to violations of judicial ethics rules prepared by FAIR expert Olha Shapovalova, a local judicial education and judicial ethics expert and retired SCU Justice, as well as the draft commentaries to certain articles of the Code of Judicial Ethics prepared by judges who took the online course on judicial ethics.

In addition, under the leadership of the Head of the COJ Judicial Ethics Committee Judge Tetiana Chumachenko, participants discussed the goal of the Commentary and its structure. As a result of the meeting, working group members reached consensus on the structure of the Commentary to the Code of Judicial Ethics, chose articles to comment on and agreed on the structure of the commentary to each of them. After the first draft was developed, FAIR supported the second meeting of the working group, which took place on June 23 and 24, 2015. During the meeting, the members of the working group discussed in detail the text of the Commentary, as well as examples, the preamble, and the recommended literature, and agreed on next steps in the process. FAIR will support the revision of the text by a legal editor, which will then be sent to all relevant institutions for comments. To date the revised draft Commentary has been completed, and is ready for review by the working group, which will likely take place after the elections of the new COJ.

In addition, during this reporting period, FAIR supported the COJ in developing clear procedures for its committees. In particular, FAIR shared with the COJ committees the draft Regulation on the COJ Committees developed jointly by Chief Judge of the Zaporizhzhya Oblast Court of Appeal Viktor Gorodovenko and FAIR expert Marilyn Holmes.

In August 2015, the HCJ approached FAIR with a request to support the purchasing of:

- | Milestone Progress ER 2.3 |
|--|
| <ul style="list-style-type: none"> • Seven stakeholder discussions on draft Code of Judicial Ethics held. • Amendments to the Code of Judicial Ethics revised and submitted to COJ for approval. • COJ International Conference on Judicial Ethics supported. • Congress of Judges adopted the Code of Judicial Ethics. • Experts to support a working group on developing a Commentary to the Code of Judicial Ethics preselected. • Research to assess HCJ needs with regard to its possible new composition and functions in progress. • Research on European judicial self-governance standards completed. • Amendments to the Law on the Judiciary and Status of Judges to improve judicial self-governance developed and advocated for. • Comparative analysis on best practices related to status, roles, functions, and responsibilities of advisory committees on ethics or equivalent institutions in democratic countries completed. • Amendments to the HCJ Internal Regulations proposed. • Online training program on judicial ethics for judges and judicial candidates developed. • Rules of Procedure for the Congress of Judges improved and adopted by the Congress. • Rules of Procedure for the COJ developed. • Comparative analysis of decision-making procedures within the judicial self-governance institutions conducted (ongoing). • Commentary to the Code of Judicial Ethics developed (ongoing). • Internal decision-making regulations for the HCJ improved in accordance with European standards (ongoing). • Newly elected HCJ members trained in international and European best practices for the High Councils of Justice (ongoing). |



Participants of the Working Group on developing a Commentary to the Code of Judicial Ethics meeting on April 9, 2015, in Kyiv.

- (i) Additional computers for the new HCJ members after the composition of the Council was expanded and additional staff were hired to support the new members; and
- (ii) Additional video and audio equipment for the HCJ session hall to provide quality online broadcasting of the HCJ sessions, safeguarding the transparency of HCJ's operations.

FAIR conducted a tender to purchase requested equipment and has since selected the vendors. Currently, FAIR is

preparing an ADS-548 approval request and will sign the respective contracts with the selected vendors over the next reporting period.

Further, FAIR continues to support the HCJ in developing its 2015-2019 Strategy Plan. On June 18, 2015, during a meeting with FAIR, the HCJ leadership decided to create a joint with donor organizations working group for the development of this Strategy Plan. Two HCJ members, Mr. Vadym Belianevych and Mr. Mykola Gusak, as well as the Head of the HCJ International Cooperation Department Mr. Vladyslav Gurtenko were recommended for inclusion in the working group from the HCJ side. Currently, FAIR is coordinating with the EU Project "Support to Justice Sector Reforms in Ukraine," which is also working developing a strategy plan for the judiciary, in order to select suitable experts and ensure the working group has as effective a composition as possible.

Finally, FAIR has engaged local short-term strategic planning expert Oleksandr Khyzhniak to (i) compose supporting materials about the principles, objectives, methodology, and stages of institutions' strategic planning; and (ii) draft recommendations for the HCJ 2015-2019 Strategy and Action Plan. The results of his work will be presented to the respective counterparts over the next reporting period.

DEVIATIONS IN THE IMPLEMENTATION OF THE WORK PLAN: FAIR, in partnership with the Open World Leadership Center, originally planned to support the participation of COJ members in a study tour to the United States and to introduce them to the U.S. experience of managing judicial self-government bodies and their respective committees in the current reporting period. However, due to the delay in the elections for the COJ, FAIR decided to postpone the trip in order to ensure that those judges, who will continue working on the Council are able to participate. Given that the COJ election are currently planned for November 2015, it is most likely that the study tour will take place in early 2016.

EXPECTED RESULT 3.1: THE SKILLS AND COMPETENCIES OF UKRAINIAN JUDGES AND COURT STAFF ARE BOLSTERED THROUGH MODERN, DEMAND-DRIVEN TRAINING PROGRAMS.

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: The FAIR team continued to support the NSJ in its institutional development and provided technical support to integrate a distance learning methodology in its training system. FAIR assisted the NSJ in the professional

development of judges and court staff, specifically by helping establish a pool of judge-trainers for teaching new topics. FAIR also continued to work with the NSJ, SJA, and U.S. and Ukrainian universities to further develop continuous court administration education in Ukraine.

As a result of this cooperation, the NSJ working group and FAIR expert Ihor Katerniak developed and designed an online course on judicial ethics, which was piloted from September 15 to October 7, 2014. More information about this course can be found in Annex 3. Additionally, on October 22 and 23, 2014, FAIR jointly with the NSJ conducted one more workshop for the team of six judge-trainers, administrators, moderators, and judge-students to discuss the results of the pilot and how to improve the materials of the course. As a direct result of this successful pilot, on November 10, 2014, the NSJ launched the online course on judicial ethics nationwide. The first group of judge-students took the course from November 10 to December 8, 2014, and seventy-three of them successfully completed it. In February and March of 2015, the NSJ conducted this course for a second group of 90 judge-students, and seventy-two of them successfully completed it. The judges that passed the test from both groups received certificates issued by the NSJ. More information can be found at the following links:

<http://www.nsj.gov.ua/files/141933238210.11-8.12.2014.pdf>;

<http://nsj.gov.ua/ua/news/skladovi-uspishnogo-vprovadjennya-distantsijnogo-kursu/>.

The third group of 90 judge-students will take this course from October 1 to 29, 2015. Taking into account their experience during the development and implementation of the online judicial ethics course, four out of the six judge-trainers and a few judge-students of this course were invited by the Chair of the COJ Ethics Committee Judge Chumachenko, to be members of the working group on Developing a Commentary to the Code of Judicial Ethics.

Milestone Progress ER 3.1

- Institutional needs assessment of the NSJ completed.
- Judicial training needs assessment completed on behalf of the NSJ.
- Second edition of the Judicial Opinion Writing Handbook published.
- Three curricula for the initial training on Rule of Law and Human Rights, Opinion Writing, and Judicial Ethics developed and presented to key stakeholders.
- Curriculum on Rule of Law and Human Rights for ongoing training developed and presented to key stakeholders.
- Curricula on Opinion Writing and Judicial Ethics for ongoing training updated and presented to key stakeholders.
- 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 ongoing trainings developed and disseminated between NSJ faculties and its branches.
- Draft NSJ Strategic Plan for 2014 – 2016 reviewed and adopted by the HQC.
- Online course on Judicial Ethics for judges and judicial candidates in cooperation with the NSJ and the HQC developed and piloted.
- Online course on Court and Community Communications in cooperation with the NSJ and the SJA developed and piloted.
- Electronic and printed versions of the Judge’s Book produced.
- Training programs for 15 judges and 25 court staff on mediation conducted.
- TOT program for 10 judge-trainers for teaching the interactive online course on “Environmental protection and human rights” conducted.
- Selected (competitively) CSO partner to administer the pilot court administration certificate program.
- 40 court and SJA staff competitively selected nationwide for participation in the pilot court administration certificate program.
- 40 court and SJA staff participated in court administration certificate program and earned certificates from MSU.
- Court administrator manual based on court administration certificate program curricula developed and published.
- 8 representatives from the NSJ, the SJA, and graduates of the court administration certificate program participated in the IACA international conference.
- Reunion Workshop for graduates of the 2013 Court Administration Certificate Program conducted.
- SJA representative participated in a visit to Poland regarding institutional best practices and lessons learned in court administrator trainings.
- Training of trainers on adult teaching skills for 15 competitively selected graduates of the 2013 Judicial Administration Certificate Program conducted.
- Advanced training of trainers program for current faculty of the Judicial Administration Certificate Program conducted.
- 40 court administrators for the second round of the Court Administration Certificate Program competitively selected.
- The second round of the Court Administration Certificate Program conducted in cooperation with the NSJ, the SJA and MSU.
- The Judicial Administration Certificate Program for 40 Chief Judges conducted in cooperation with the MSU, the NSJ, and the SJA.

On October 1, 2014, FAIR signed a grant agreement with Volyn Regional Nongovernmental organization “Center for Legal Aid” within the APS. The organization is implementing a 20-month project “Support to Development of Mediation in Eight Courts of Volyn Oblast as an Alternative Way of Conflict Resolution.” On December 6-9, 2014, the grantee conducted a Basic Skills in Conflict Resolution and Mediation Training for 16 competitively-selected civic activists who will conduct mediation in at least 50 court cases of Volodymyr-Volynskyy and Kivertsi City Raion Courts, Shatsk Raion Court, Kovel and Lutsk City Raion Courts, and Volyn Oblast Court of Appeals. Also during this reporting period, “Center for Legal Aid” conducted two trainings: “Mediation as an ADR Method” for 16 judges of the Volyn region on February 26-27, 2015, and “Professional Development of Mediators” for 16 previously trained mediators on March 29-31, 2015. More information can be found at the following links:

http://legaid.in.ua/news_12_326_Volinskisuddivprovadjuvatimutmediatsiyuprivirishennisprav.ht ml and

http://legaid.in.ua/news_12_345_Pidvischennyaprofesiynoimaysternostimediatorivzaradimirnog ovregulyvannyakonfliktiv.html

The Institute of Strategic Partnership, an All-Ukrainian civil society organization that implemented the FAIR grant project “Mediation as an Alternative Way of Dispute Resolution” in the Ivano-Frankivsk region from August 2014 through July 2015, focused its activities on conducting an information campaign in local courts to support the introduction of mediation. Public awareness materials prepared within the framework of the project (50 posters, 3,000 booklets, and 2,000 brochures) were posted in courts of the region. On May 18, 2015, the Institute of Strategic Partnership conducted a final roundtable to discuss the results of the grant project, the challenges, lessons learned, and recommendations on the legislative regulation of mediation in Ukraine. The mediator working on this grant project, Mr. Yuriy Mykytyn shared that 16 mediations were conducted, and 12 of them were successful and ended with the parties signing mediation agreements. During this event, participants adopted a resolution introducing amendments to the draft laws on mediation registered in the Verkhovna Rada, and requested FAIR’s support in conducting an expert analysis of these draft laws. Taking into account this request, FAIR invited two international experts: Mr. Ales Zalar (Slovenia) and Mr. Bill Marsh (United Kingdom) to share with Ukrainian stakeholders their experience and expertise as renowned European alternative dispute resolution experts. These experts will also assist the Ukrainian partners in developing a comprehensive modern regulatory framework for mediation, which would encourage disputants to opt for mediation in both the pre-filing (before court action) and the post-filing (during litigation) phase of a dispute. These activities are linked to Expected Result 1.1.



Participants of the TOT on the environmental law course are rigging a trial on the construction of the 3 and 4 blocks of the Kharkiv atomic electric power station (Lviv, Eurohotel, September 28-30, 2015).

On July 15, 2015, FAIR signed an agreement with the non-governmental organization NAMU to implement a 10-month grant project “Promoting Mediation in Ukraine in General and Court Annexed Mediation in Particular.” The main objective of the project is the development of training programs for initial and continuous trainings on mediation. The other key aspect of the project is an information campaign to promote mediation among judges, lawyers, and court users. More information can be found under Expected Result 1.1.

On November 18 and 20, 2014, FAIR grantee Election Law Institute conducted a training of trainers (TOT) for judges selected by the NSJ using the developed by the grantee curriculum “The Rule of Law and Human Rights under the Convention for the Protection of Human Rights and Fundamental Freedoms.” This event was aimed at forming a team of judge-trainers on the Rule of Law and Human Rights. Key speakers at this event were representatives of the National University “Kyiv – Mohyla Academy” Rule of Law Centre: Mr. Koziubra, Constitutional Court of Ukraine Judge (retired), Director of the Centre; Mr. Suschenko, Executive Director of the Centre; Mr. Tseliev and Mr. Venger, Experts of the Centre. At the beginning of the training, the experts introduced the results of the Centre’s analysis of 230 judgments of appellate courts, the high specialized courts, and the SCU on the implementation of the rule of law. According to this analysis, the expression “rule of law” is increasingly included in the case law – 93 percent of judgments contained such an expression, but only 15 percent of the judgments used the rule of law elements correctly while in the remaining judgments, the principle and its elements were used without any connection to the actual substance of the case. According to the participants’ feedback, the training provided useful information about the history and origin of rule of law, and the following rule of law elements: legality (supremacy of the law), legal certainty, prohibition of arbitrariness, access to justice before independent and impartial courts, respect for human rights, non-discrimination and equality before the law; as well as an opportunity to discuss with other experts some of the more ambiguous issues in the interpretation of the rule of law elements using European Court of Human Rights case law. More information can be found at the following link: <http://www.nsj.gov.ua/ua/news/verhovenstvo-prava-yak-osnova-suchasnogo-evropeyskogo-pravoporyadku/>.

During the reporting period, an electronic version of “The Judge’s Book”, a practical guide to the professional and everyday life of a judge, developed by FAIR grantee “Ukrainian Legal Foundation” within the framework of the Project’s grant activities was edited, and 1,100 copies were published 10,000 CDs were produced and disseminated to Ukrainian stakeholders.

Under the “Strengthening the Role of Civil Society Organizations as Advocates and Monitors of Judicial Reform” APS, FAIR signed a grant agreement with international charitable organization EnvironmentPeople–Law (EPL). EPL is implementing a 12-month project titled “Improvement of Access to Justice in the Sphere of Protection of Environmental Rights of Citizens and the Environment” that began in March 2015. This grant project is supporting the NSJ in elaborating the curricula on environmental law that will be used for initial and ongoing trainings and in forming a team of judge-trainers for teaching an environmental law course. To achieve this goal, from September 28 to 30, 2015 EPL conducted a training of trainers (TOT) for 11 judge-trainers from Kyiv, Lviv, Dnipropetrovsk, Kharkiv, Odessa, and Chernivtsi regions based on the above-mentioned curricula. During the training, participants became familiar with the following modules: environmental protection and human rights in international law; procedural capacity: terms, trends and international practice; and means of legal advocacy and court costs and other material factors related to access to justice in matters concerning the environment. EPL will also analyze key issues in interpreting legal norms in the environmental sphere and develop legislative proposals for the protection of environmental rights. More information can be found at the following link: <http://www.nsj.gov.ua/ua/news/ohorona-dovkillya-ta-prava-ludini/>.

During the reporting period, on June 9 and 10, 2015, FAIR, the U.S. Department of Justice Project “Criminal Justice Reform and Anti-Corruption in Ukraine” and the Government of Denmark-COE Project “Support of Criminal Justice Reform in Ukraine” conducted a seminar on Practical Issues of Application of the Criminal Procedure Code (CPC) in order to identify the problem aspects of the CPC implementation and discuss ways for addressing the challenges. During the event, Judge Laurell Beeler (USA) and Jeffrey Cole, Resident Legal Advisor, U.S. Department of Justice-OPDAT, shared the American experience with the participants. The COE was represented by Jeremy McBride, of Barrister, Monckton Chambers in London, Former Chairman of the Scientific

Committee of the Fundamental Rights Agency of the European Union and Council of Europe Advisor (Great Britain). About 70 participants (judges, prosecutors, and defense lawyers) had the opportunity to exchange opinions on the practical issues of the CPC implementation, worked to clarify its most disputed parts, and had a unique chance to receive feedback from international experts, high-level judges, prosecutors, and lawyers. In addition, the co-organizers provided participants with a set of hard copy and electronic handouts that included the CPC-based Benchbook – a step-by-step instructions guide on how to implement the new CPC in daily work.

On June 11, 2015, FAIR supported NSJ's working group meeting on the Judicial Ethics course for newly-appointed judges to discuss any last minute changes to the course, to review the materials and case-studies, and to distribute roles for this course approbation. The approbation was conducted for 25 judges on June 12, 2015 in the Lviv regional branch of the NSJ. Donald Chiasson, Director of the Canadian Embassy and National Judicial Institute of Canada Judicial Education for Economic Growth Project and an expert of this project and the Honorable Justice Freda M. Steel, Court of Appeal for Manitoba, who observed this event, highly praised the quality of the Judicial Ethics course and noted that it was very interactive. The experts also noted that the discussions were very interesting and would be of practical use for the judges. More information can be found at the following link:

<http://www.nsj.gov.ua/ua/news/suddivska-etika-yak-skladova-spravedlivogo-pravosuddya/>.

FAIR also continued to support Ukrainian judges in their preparation for addressing the challenges they will face after the new legislation on Presidential and Local Elections comes into force. In May 2014 in cooperation with the High Administrative Court of Ukraine (HAC), the International Foundation of Electoral Systems (IFES), and the Organization for Security and Co-operation in Europe (OSCE) Project Coordinator in Ukraine, FAIR conducted a series of five regional seminars for judges of administrative and general courts on election legislation "Application of Election Legislation at the Presidential and Local Elections." The training participants learned about the peculiarities of the application of the new election law in consideration of election disputes. The trainings were led by renowned Ukrainian experts in electoral issues and HAC judges. About 280 judges representing 142 courts from 19 oblasts of Ukraine participated in these seminars. According to the post-training evaluation forms, participants considered the seminars relevant, addressed critical issues, and were presented in a "clear, effective, and comprehensive way."

After the adoption of the new Law of Ukraine "On Local Elections," FAIR started a series of nationwide regional seminars for judges of administrative and local courts in four appeal administrative circuits of Ukraine commencing on September 25, 2015 in Lviv for judges of Lviv, Zakarpatia, Ivano-Frankivsk, Volyn, and Ternopil regions. FAIR will continue this work in Kyiv (October 13), Zhytomyr (October 15), and Vinnytsia (October 16). These events are being co-organized by FAIR, the European Union (EU) and COE Project "Consolidation of Justice Sector Policy Development in Ukraine" and the COE Project "Reform of the Electoral Practice in Ukraine" together with the HAC and the NSJ. They will give an opportunity for the participants to become more familiar with the norms of the above-mentioned Law and will contribute to the unified application and interpretation of this legislation. FAIR is also providing the participants in the regional seminars with a set of materials: the text of the Law of Ukraine "On Local Elections," and an analytical report "Ukraine's Court Performance Quality Elections Disputes" with analysis of the quality of court decisions on election disputes with quantitative and qualitative evaluation and monitoring of court proceedings. The report was developed by the FAIR grantee Kharkiv non-governmental organization "Institute of Applied Humanitarian Research" for distribution during the seminars. Also the Participants received the texts of all presentations made by experts.

FAIR continued to support activities aimed at increasing the professional level of court administrators in Ukraine and developing training programs for court staff and judges. On January 27-30, 2015, FAIR, the SJA, the NSJ, and MSU conducted a workshop for the second round of the

Judicial Administration Certificate Program (Program). During the workshop, new faculty members selected from among the 2013 Program graduates and existing faculty of the Program updated and improved the materials for the 10 courses of the second round of the Program. On April 3, 2015, 40 competitively selected Ukrainian court administrators completed 60 in-class hours that increased their knowledge, skills, and abilities to effectively manage the courts. MSU and Ukrainian faculty delivered the following courses under the program: Purposes and Responsibilities of Courts; Leadership; Resources, Budget and Finance; Information Technology Management; Human Resource Management; Case-flow Management; Visioning and Strategic Planning; Court and Community Communications; Education, Training, and Development; and Essential Components of Courts. The Ukrainian faculty consisted of court staff, the SJA leadership, Kharkiv University faculty, NGOs, and FAIR team members. During the second round of the Program, faculty applied their knowledge and interactive skills on adult teaching methodology that they had gained at the advanced TOT on teaching skills supported by FAIR in Lviv on November 19 and 20, 2014.

Following the two-week Program, the court administrators completed their capstone projects which were subsequently approved by MSU. On June 17, 2015, all 40 court administrators received MSU and NSJ certificates for their successful completion of the Judicial Administration Certificate Program. Following the graduation ceremony, FAIR conducted a roundtable on the results of the Program, lessons learned, and next steps.

Additionally, on June 16, 2015, FAIR in cooperation with the SJA and the NSJ, conducted a



Chief Judges and Faculty of the Judicial Administration Certificate Program on September 30, 2015 in Kyiv.

meeting of the faculty of the 2015 Judicial Administration Certificate Program. During the meeting, Ukrainian and MSU faculty members reviewed the results of the student evaluation of the program, discussed strengths and weaknesses of individual courses, provided general feedback to the Ukrainian

instructors on their teaching performances, and developed recommendations for future faculty development to promote sustainable judicial administration education in Ukraine. Thus, FAIR will work with MSU, Kharkiv National Law University named after Yaroslav Mudry, and the Kharkiv National University named after Karazin to find an “academic home” for the Program in Ukraine. These universities have already contributed faculty to the current Program, and on June 19, 2015, MSU faculty met with their leadership and faculty to identify sustainable approaches for conducting judicial administration training programs in the future. As a next step in building the program’s sustainability, participants at the meeting agreed to review the universities’ curricula in order to identify what necessary topics for the Program they consist.

Also during the reporting period, FAIR in cooperation with MSU, the SJA and the NSJ designed and implemented a three-day Judicial Administration Certificate Program for chief judges. The Program for chief judges is based on the 10 core competencies used for the court administrators Program, but targeted to enhance chief judge leadership capabilities and chief judge executive management skills. The SJA in cooperation with FAIR and the NSJ selected 40 chief judges for participation in the Program. The participating chief judges represented the courts where 2013 and 2015 MSU graduates work, as well as the most active courts of appeals. On September 29–October 1, 2015, 40 selected chief judges successfully completed the workshop entitled “Thinking Anew: Chief Judges Creating the Future of the Ukrainian Judiciary” and received joint MSU, NSJ and SJA certificates. The topics of the workshop included the following: Chief Judges as Leaders, Communicators, and Image Makers; Developing the Court Executive Team: Chief Judges and Chiefs of Staff; Managing People for Outstanding Performance: From Judges to Chiefs of Staff to Employees; Leading through Technology: Managing Electronic Information and Social Media; and Implementing One Idea: Action Planning for Change. The faculty consisted of three experienced MSU instructors, as well as U.S. and Canadian chief judges: Chief Judge Rosanna Peterson, U.S. Federal District Court, Washington Eastern District, Chief Judge David Nuffer, U.S. Federal District Court, Utah District, and Associate Chief Justice Frank Marrocco, Ontario Superior Court of Justice, Canada participated in the program as speakers and shared their experience and best practices with the 40 Ukrainian judges.

As result of the Program 40 chief judges reviewed their characteristics as court leaders, learned how to identify leadership strengths and gaps; drafted a plan for establishing a court executive team to improve court operations and court governance; learned how to assess the courts’ workforce needs, develop job descriptions, and recruit top candidates as well as develop performance standards and engage in performance planning; learned how to identify rewards for outstanding performance and corrective action for unsatisfactory performance; gained skills on using communication strategies that increase trust in the courts and in chief judges as court leaders; learned how to determine the type of electronic information plan for their courts and how to implement and evaluate the plan; and developed action plans using one of the workshop’s sessions, which they will implement after returning to their respective courts.

Finally, FAIR is in the process of producing a Success Story Video on the Judicial Administration Certificate Program.

DEVIATIONS IN IMPLEMENTATION OF THE WORK PLAN: Unfortunately, FAIR had to cancel a planned activity on developing a court administrator library consisting of 10 books based on the 10 court administrator competencies, because of the inactive leadership and weak capacity of the organizations that work in the area of court administration.

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: In 2015, under Expected Result 3.2, FAIR made incremental achievements in developing objective criteria to measure and improve court performance. FAIR built its programming upon the achievements made over the previous years, including the development and successful pilot testing of the draft Court Performance Evaluation System, the completion of the case weighting study for general courts, and the development of recommendations for improving court budgeting.

FAIR developed the Court Performance Evaluation (CPE) System for Ukraine in cooperation with the COJ and the SJA. The developers of CPE System considered a number of best international

measuring court performance practices including the U.S. Trial Court Performance Standards¹, the Netherlands Court quality system Rechtspraak², the International Framework for Court Excellence (IFCE)³ and others. The CPE System addressed the key recommendations of the European Commission for the Quality of Justice (CEPEJ) including the implementation of internationally-recognized court performance indicators (for example, clearance rate and average duration of court proceedings), and the implementation of regular user satisfaction surveys in courts.

Milestone Progress ER 3.2

- Court performance evaluation system developed.
- Performance indicators for general courts developed, approved by the COJ and implemented by Ukrainian courts.
- Performance indicators for all courts developed, approved by the COJ and implemented by Ukrainian courts (achieved)
- Four court performance standards formulated, defined and approved by the COJ.
- Standard-based Court Performance Evaluation (CPE) System developed and approved by the COJ.
- COJ becomes a member of the International Consortium for Court Excellence.
- Case weights resulting from case weighting study discussed, validated, and submitted for SJA/COJ review.
- Human resource management software for the SJA procured, installed, and operational.
- Developed electronic publication of CPE system available online. (ongoing)
- Guidelines for courts on implementation CPE System developed, published, and distributed to courts. (ongoing)
- CPE system published and distributed to all courts, also available on-line. (ongoing)
- Terms of reference for judicial resource management system developed, RFP for development issued (TOR developed, software development cancelled).
- Procure and provide the SJA with an unlimited license for human resource management software. (ongoing)
- Case weighting study for administrative trial courts designed and approved by the COJ. (revised)
- CPE system implemented in at least 80 courts. (ongoing)
- All courts of Ukraine implement mandatory court performance standards. (ongoing)
- Concept for judicial statistics report approved by the COJ. (ongoing)
- Case weighting study and implementation scheduled, designed, prepared, and approved by the COJ. (ongoing)
- Training curricula for the National School of Judges of Ukraine (NSJ) on court performance evaluation developed. (new)
- 80 judges and court staff trained on the implementation the CPE System. (new)

The FAIR-developed CPE System combines three mechanisms for court performance evaluation: (1) internal court performance evaluation through (a) survey of judges and court staff, (b) expert analysis of selected court decisions, and (c) expert analysis of case files; (2) external court performance evaluation through Citizen Report Card (CRC) surveys of court users; and (3) analysis of available court statistics. The proposed CPE System includes 35 performance indicators to measure court compliance with 19 evaluation criteria under six areas of evaluation formulated according to the current Ukrainian legal and regulatory provisions, as well as in accordance with the general principles of court operations in democratic societies which establish the obligation of the judicial bodies to orient their operations toward meeting public expectations for a fair, accountable, and efficient judiciary.

The FAIR-developed CPE System remained in draft-status for almost two years. Before it was officially approved by the COJ, the System received recognition in Ukraine as well as from the international community after being presented at several international conferences in Germany, Georgia, and Moldova. In addition, more than 60 courts in Ukraine have implemented the CPE System in partial or full at their own decision.

¹ <https://www.ncjrs.gov/pdffiles1/161570.pdf>

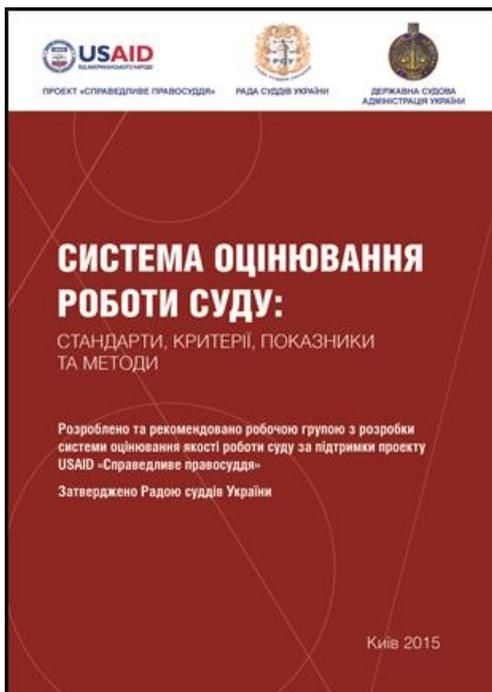
² <https://www.rechtspraak.nl/>

³ <http://www.courtexcellence.com/>

During this reporting period, at its meeting on April 2, 2015, the COJ conducted its final consideration of the CPE System and approved it as the framework for Ukrainian courts to measure their performance, and to use the performance indicators for better court management and proper reporting to the public. The final approval of the CPE System this quarter is the result of FAIR’s significant efforts to promote the system at the national level – within the COJ and the SJA, as well as at the local level – within Ukrainian courts. The final approved CPE System comprises of three evaluation modules out of the four initially included in the draft: Court Administration, Case Disposition Timeliness, and Court User Satisfaction. The COJ did not include the Quality of Court Decisions evaluation module, arguing that court decisions can only be evaluated in procedural terms, for instance by appellate or higher courts. FAIR, however, retained this evaluation module in the final publication of the CPE System for its value as an assessment tool for proper design and implementation of training programs in judicial opinion writing topics for judges and, potentially, as a contribution to the development of judicial performance evaluation criteria, indicators, and methods as described under the Expected Results 2.1 of this report.



COJ Meeting discussing and approval of the CPE System. On the photo: Judge Anatolii Babiy of the Appellate Court of Odesa Oblast, Serhii Suchenko, FAIR Court Administration Specialist, David Vaughn, FAIR COP and Judge Hryhorii Aleynikov, the Chair of COJ Committee for Judicial Administration on April 2, 2015.



Cover of the Court Performance Evaluation System approved by the Council of Judges of Ukraine.

The COJ decision of April 2, 2015 recommends that Ukrainian courts apply the CPE System at a regular interval of at least once every three years. In addition, this decision approved a list of basic court performance indicators, which all Ukrainian courts should use to analyze their activity semi-annually and then publish on their respective websites. These basic indicators are as follows:

- 1) Number and ratio of cases and materials overall timeline of which exceeds one year (e.g. backlog); recommended standard – close to zero.
- 2) Clearance rate calculated by the formula recommended by the European Commission for the Efficiency of Justice (CEPEJ); recommended standard – from 96% to 102%.
- 3) Average number of completed cases per one judge; recommended standard does not apply.
- 4) Average number of cases and materials tried within the reporting period per one judge; recommended standard does not apply.
- 5) Average case trial duration (days);

recommended standard to be set by the judicial self-governance bodies at the level of court.

- 6) Conducting court user surveys satisfaction survey; recommended standard – at least once in three years.
- 7) Publication of court user surveys satisfaction survey results on the website of court; recommended standard – every time when the survey is conducted.
- 8) Level of user satisfaction with court services assessed through unified methodology, e.g. FAIR-supported Citizen Report Card (CRC), specifically, percent of court users evaluating court performance as “good” or “excellent;” recommended standard does not apply.

The approval of the CPE System is a significant step forward for the Ukrainian judiciary. The CEPEJ attaches greatest attention to the monitoring and evaluation of court operations in the Council of Europe (COE) Member States, indicating in its documents that “... *monitoring and evaluation acquire an ever greater importance as a tool enabling to study the current state of affairs and, correspondingly, determine further steps in policy implementation and allocate resources which get ever scarcer*” and that “... *regular evaluation and monitoring of the quality of justice and the work of court are recommended as a part of court administration.*” CEPEJ also stresses the importance of conducting court user survey, as well as a survey of judges and court staff stating in its latest report “European Judicial Systems – Edition 2014: efficiency and quality of justice” that “... *information on the level of satisfaction of citizens-court users and court employees (judges and court staff) with court work as well as the level of their trust in court constitutes an expedient tool for developing policy relating to improvement of the quality of court systems.*”⁴

The FAIR-developed and COJ-approved CPE System for Ukraine addresses several key CEPEJ recommendations in terms of measuring court performance, specifically:

- 1) It enables a commonly accepted court performance measurement system in Ukraine.
- 2) It enables regular implementation of court performance indicators.
- 3) It provides courts with a unified methodology to conduct user satisfaction surveys, as well as surveys of judges and court staff.
- 4) It sets four basic court performance standards, specifically:
 - the case backlog should be close to zero;
 - clearance rate should be 96% and higher;
 - the user satisfaction surveys should take place on a regular basis;
 - the results of the user satisfaction surveys should always be published by the court on its website.

The CPE System approval also drew the attention of the International Consortium for Court Excellence (ICCE)⁵. In its May 2015 Newsletter, the ICCE published a report from FAIR about the approval and implementation of the CPE System in Ukraine.⁶ The conclusion of this publication is that the approved Ukrainian CPE System in its final version addresses seven of the eleven global measures recommended by the International Framework for Court Excellence (IFCE), particularly:

- 1) Court User Satisfaction.
- 2) Court Access Fees.
- 3) Case Clearance Rate.
- 4) On-Time Case Proceedings.
- 5) Case Backlog.

⁴ http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport_2014_en.pdf

⁵ <http://www.courtexcellence.com/>

⁶ <http://www.courtexcellence.com/~media/Microsites/Files/ICCE/ICCE%20Newsletter%20-%20No%204%20-%20V1%20-%20May%202015.ashx>

- 6) Employee Engagement.
- 7) Cost Per Case.

Taking into consideration the recent success of the Ukrainian judiciary in developing and approving the CPE System and addressing the IFCE measures, the ICCE invited the COJ to become one of the Consortium members. The COJ during its meeting on July 22, 2015 discussed this unique opportunity and made a decision to apply for ICCE membership. In its decision, the COJ confirmed its high motivation and interest to implement the IFCE recommended measures as part of the Ukrainian CPE System, its willingness to share the experience with other members of the Consortium, and its interest to have access to new methods for achieving court excellence. The ICCE Secretariat is currently in the process of finalizing the COJ membership formalities.

In this reporting period, FAIR continued to capitalize on the successful development of the case weighting study for the trial courts of general jurisdiction by committing to conduct a similar study for the remaining courts of trial and appellate instance. In order to handle this task within the remaining timeframe of the project, FAIR is currently in the process of revising jointly with the SJA the methodology of the study in order to be able to use the information from the electronic case management system of the courts directly. We expect the first draft of the methodology to be completed by the end of October 2015. Once complete, it will allow the SJA to collect the data without putting additional workload on court staff.

In order to share the results of the case weighting study for trial courts conducted in Ukraine, FAIR representative participated in the EGPA Study Group XVIII on Justice and Court Administration at the EGPA Annual Conference 2015 with a paper on court case weighting, which received high praise from the scholars.

FAIR also advocated for the implementation of the case weighting study results by the SJA, which applied the average time indicators to the total caseload of trial courts of general jurisdiction. According to this estimate, based on an 8-hour working day the number of judges in trial courts of general jurisdiction in 2013 was 20% higher than required, with a further decline in 2014. This estimate served as one of the factors that policy-makers took into account whilst considering the reduction of the number of judicial positions by about 10%. The estimates showing the excess of judicial positions also prompted a more thorough review of the open vacancies at the courts that had remained unfilled for over a year.

Additionally, the COJ and SJA reviewed the findings of the study related to the reasons causing delays in court proceedings, noted by the judges who participated in the study. Many of the responses to these questions repeated the factors that were set out in the tables above, however, additional procedural aspects were also noted. Based on these findings, in cooperation with the COJ and the SJA a list of recommendations have been formulated in order to improve court operations. Although some of these recommendations are too general by nature and may each become the subject of extensive public debate, to-date a significant number of them have been implemented in the courts. Of special note is the implementation of video conferencing to interrogate defendants in criminal cases, the use of SMS-notifications for informing the parties of hearing dates and time, the development of clear rules for the assignment of cases to judges, as well as significant improvements to the functionality of the court electronic case management system.

In addition, FAIR also supported the procurement and installation at the SJA's central office and in all courts nationwide of the Human Resource Management System "Kadry-Web", a Web-based solution which would allow the SJA and other judicial institutions to keep electronic records of all court employees, including judges, as required by the new Law on Ensuring the Right to a Fair Trial. FAIR also procured Oracle licenses and server equipment, which are required to run the

software. This hardware and software will enable keeping judicial dossiers electronically in a centralized manner, providing for quick registration of data and data exchanges.

Finally, FAIR provided support to the newly established COJ Committee on Budget and Finance, which is tasked with the development of new policies and the analysis of the budget and financing of the judiciary. FAIR supported the meetings of the Committee, as well as the publication and dissemination of an analytical report on remuneration of court staff of all court levels and jurisdictions, prepared by Committee members.

DEVIATIONS IN IMPLEMENTATION OF THE WORK PLAN: It took FAIR a while to coordinate and agree with the SJA and the COJ on the approach that would be used to conduct the case weighting study for the remaining courts of trial and appellate jurisdictions, since the initial request included only a similar study for trial administrative courts, and later grew into an effort, the scope of which was too broad for FAIR to handle within the existing project timeframe. Thus, FAIR used a flexible approach by revising the methodology of the study in order to enable an automated electronic collection of most of the data required for the study.

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 a pilot project for the installation of 42 electronic information and pay terminals in the courts, which would allow citizens to pay court fees directly at the courts and receive information on court operations. In the previous period, jointly with the SJA FAIR identified 42 court sites, which would be representative of the court system by size, location, and caseload. Initially, most of the selected courts were located in Kyiv, Odesa, Dnipropetrovsk and Kharkiv Oblast, as well as in Lviv. FAIR procured the terminals in late 2014, however, due to required changes in rules and procedures, as well as modifications to software, the terminals functioned in "information mode" only, without the ability to receive court fees. This September, the SJA finalized all the respective works, and on September 22, 21015, FAIR officially unveiled the pilot project in the course of a presentation at Kyivskiy District Court of Odessa. The pay terminals will function in testing mode for about a month, and will become fully operational by the end of October.

"The advantage of the information and pay terminal is accessibility and comfort of payment for court services for the citizens, and the reduction of workload of court staff regarding provision of information to citizens," said SJA Head Zenoviy Kholodniuk in the course of the presentation.

Additionally, FAIR continued providing support to the working group under the leadership of the COJ

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).
- Implementation plan for the Strategic Plan for the Judiciary prepared, discussed, and approved (ongoing).
- Pilot project for electronic court fee collection via pay terminals implemented (ongoing).
- Concept for online payment of court fees developed (achieved).
- Up to two working group meetings conducted to revise court administration and management policies (achieved).
- Pay terminals in courts fully operational and collecting court fees (achieved).
- "Paperless court" project implemented in up to three courts in Odessa and fully operational.
- Court Automation Strategy updated and presented to the Administration of the President of Ukraine (ongoing).

Administration Committee tasked with the development of a new case management regulation. As a result, the working group prepared a complete draft of the new regulation on electronic case management in courts, which clearly establishes the rules for assigning cases to judges, the rights and responsibilities of the users of the system, statistical reporting, and lays out the foundations for implementation of “paperless” court technologies. The draft regulation was approved by the COJ at its meeting on April 2, 2015. The final version of the regulation “On Automated Court Case Management” may be reviewed at: <http://court.gov.ua/969076/polozhenniapasds/>.

Further, in order to capitalize on the innovations introduced by the new regulation, enhance the professionalism and effectiveness of the judiciary, and support the plans of the SJA in moving towards paperless court case management, as well as to provide court users with accessible means of filing documents with the court, FAIR supported the implementation of a pilot project on transferring courts to full-fledged electronic case management, which will provide the courts with the possibility to convert any documents into electronic format, attach them to the electronic case file, and later use only these electronic versions for all internal document circulation processes. FAIR purchased computer equipment for the Kyivskiy District Court of Odesa City and Ovidiopol Raion Court of Odesa Oblast. This equipment will allow the conversion of documents filed with the court into a digital format with the aim of their use for the needs of court case management, thus reducing the workload of court administrative offices and expenses on paper case management. These courts have been selected by FAIR due to the readiness of the management of the court to participate in the pilot to introduce changes to their internal case flow processes, and the extensive support of the Head of the Odessa Territorial Department of the State Judicial Administration of Ukraine, which are critical factors for the success of this project.



September 22, 2015. Presentation of “E-Court” and “Electronic Information and Pay Terminal” pilot projects. Venue: Kyivskiy District Court of Odessa, 3b Varnenska St., Odessa.

In the first phase of the pilot project, 20 lawyers from the Secondary Legal Aid Center, as well as a number of banks and other institutions will send and receive procedural documents to the court electronically in certain pre-defined case types. In the second phase, the number of cases handled electronically, as well as the number of authorized users will increase until the complete conversion of the courts to electronic documentation. The pilot will allow identifying all the obstacles and constraints in the way of implementing this technology nationwide, and develop relevant remedies and mechanisms.

On September 22, 2015, FAIR officially unveiled the “E-court” pilot project in Kyivskiy District Court of Odessa Oblast. In the course of the presentations, guests were invited to observe live court proceedings conducted with the help of this new court technology. SJA Head Zenoviy Kholodniuk, Supreme Court Justice Vasyl Humeniuk, Deputy Minister of Justice Gia Getsadze, COJ Secretary Anatoliy Martynkevych, as well as other members of the COJ, judges and court staff attended the event.

On September 23, 2015, FAIR supported the conduction of a presentation of the “E-Court” and “Electronic Information and Pay Terminal” pilot projects for the heads of the territorial departments of the SJA in order to further raise awareness of these initiatives.

Finally, during this reporting period FAIR started cooperation with the Judicial Reform Council of Ukraine and the Presidential Administration of Ukraine in order to revise the Court Automation Strategy, previously developed by FAIR and prepare a concept for reforming the logistical infrastructure of the judiciary of Ukraine as part of the ongoing judicial reform efforts.

EXPECTED RESULT 3.4: THE CAPACITY OF COURTS AND JUDICIAL INSTITUTIONS TO COMMUNICATE EFFECTIVELY WITH THE PUBLIC IS ENHANCED, LEADING TO GREATER PUBLIC APPRECIATION OF THEIR ACTIVITIES

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: During this reporting period, FAIR continued to support the courts and judicial institutions, including the judiciary press-center, the NSJ, the SJA, and the COJ in communicating effectively with the public.

On February 24, 2015, the COJ and the SJA, with the support of FAIR and the European Union Advisory Mission to Ukraine, conducted an international conference on “Strengthening Public Trust in the Judiciary through Effective Court Communications.” The conference brought together representatives of judicial institutions and judicial self-governance bodies, including judges, public information officers (PIOs), and court staff, as well as, experts on court communications from the United States and United Kingdom. The conference participants identified ways for establishing efficient communications between the judiciary and the public to improve public awareness and to strengthen trust in the judiciary. The recommendations developed by the participants were approved by the decision of the COJ No. 14 on March 12, 2015, and may be found at <http://rsu.court.gov.ua/rsu/rishennya/qqqdwd/>.

Milestone Progress ER 3.4

- Court and Community Communications Manual finalized and published.
- Civic education materials on judicial reform and public information materials on court operations updated and included in the electronic kiosks in 42 courts.
- A conference on “Strengthening Public Trust in the Judiciary through Effective Court Communications” conducted.
- 3 grants to regional CSOs enhancing communication skills of PIOs and court staff awarded.
- Participation of Ukrainian delegates at the second and third “Judicial Images” international workshop supported (October 16 and 17, 2014 in Budapest, Hungary, and on June 25-26, 2015 in London, UK).

In the previous reporting period, FAIR supported the SJA in preparing and piloting a distance learning course for court staff on “Courts and Community Communications.” In this reporting period, FAIR renewed the preparations for the second round of this distance learning course, which was previously postponed due to changes in leadership at the COJ and the SJA. At the end of this reporting period, the NSJ finalized the curriculum and together with FAIR conducted a working group meeting, where the October to December work plan on the issue was developed.

To boost transparency and accountability, FAIR is also assisting the COJ in further improving its website by making it more informative and user-friendly. FAIR, together with the COJ leadership, selected Kitsoft IT company, which will be completing the improvements of the COJ website by the end of 2015.

Although it has been more than two years since the PIO positions were introduced, very few officers possess the knowledge and skills required to perform their duties. In most cases, the PIOs are selected among regular court staff with legal education and no special public relations training. To date, the only communication trainings conducted were occasional trainings by FAIR as well as the “Court and Community Communications” online course, developed by FAIR in 2013 to teach employees public relations skills. FAIR updated the manual on “Courts and Community Communications” (first prepared and printed in 2009), which will be distributed in each court of

Ukraine so that each PIO and judge-speaker can consult it during their day-to-day activities. The updated manual includes references to the most recent legislature, sample documents, recommendations by many renowned lawyers and communication specialists, as well as materials provided by Gary Hengstler, the former director of the Reynolds National Center for Courts and the Media (USA).

FAIR is also working on updating the in-class curriculum “Courts and Community Communications,” which will be finalized during the next quarter, and has scheduled 3 regional trainings, for October 12 in Lviv, for October 14 in Kharkiv, and for October 16 in Odessa for PIOs and judge-speakers.



Participants of the training for PIOs conducted by the Non-governmental Organization Law Society of the Odessa Oblast on March 13, 2015 in Odessa doing a group exercise.

The significance of the grantee’s activities was notable at the project summary roundtable, which gathered 45 participants, including heads of courts of Odessa city, Odessa region, as well as other regions of Ukraine, representatives of the Territorial Department of the SJA of Odessa Region, the NSJ, and representatives of mass media and civil society organizations. The event was covered in 12 reports by the Odessa local media.

From January through September 2015, FAIR grantee non-governmental organization “Center for Regional Policy Studies” established a Regional Center For Public-Courts Communication in Sumy. The grantee created 12 analytical video-programs, which are stored at the website of the local media agency at <http://sumynews.com/special-projects/sud> and at the YouTube playlist at http://www.youtube.com/playlist?list=PLyWqV19l_qPGY5MEIW7Q7Okjmq0lsW_WH. The grantee has been also been supporting the Regional Center Facebook Account at <http://www.facebook.com/prosudsumy>.

Another FAIR grantee, charity foundation “CCC Creative Center” began implementing its grant project on March 16, 2015, monitoring the informational content and compliance with national legislation on the courts’ websites to ensure access to public information. The grantee also conducted a regional conference on courts communications, which was attended by 43 participants, including Cherkasy courts’ staff, local media, and civil society organizations. The results of a study on the perception of courts by citizens and the perception of citizens by courts staff that “CCC Creative Center” had conducted, and the conclusions and recommendations developed were presented during the conference.

During the reporting period, FAIR supported the participation of Ukrainian judiciary delegates in international conferences on communications. With FAIR’s support, then Judge Mykhailo

In addition, to enhance the communication skills of PIOs and court staff, during the reporting period, FAIR awarded three grants to Ukrainian civil society organizations. The non-governmental organization “Law Society” of the Odessa oblast implemented grant activities during March-July 2015, conducting 4 trainings for PIOs and 3 trainings for office employees, including bailiffs and the Special Battalion of Court Militia “Griffon” of 38 courts in Odessa region, each attended by 16 to 34 participants. The

Zhernakov of the Vinnytsa Circuit Administrative Court and Judge Svitlana Zakharchuk of the Podil District Court of the City of Kyiv attended the 2nd Annual European Conference on Courts and Communication “Images of Justice” which was held on October 16 and 17, 2014 in Budapest, Hungary. FAIR also facilitated the participation of Mariia Fomina, Chief of Staff of the Komsomolskii District Court of Kherson City and 2015 Judicial Administration Certificate Program graduate, in the workshop on “The Consumption of Judicial Images”, the third of the “Judicial Images” workshop series, conducted on June 25-26, 2015 in London, UK. Ms. Fomina shared the Ukrainian perspective on the consumption of judicial images with participants from the UK, Australia, Brazil, Germany, Portugal and other countries, and delivered a presentation on the efforts to engage court users and promote public trust and confidence in the judiciary and courts through public outreach and strategic communications.

DEVIATIONS IN THE IMPLEMENTATION OF THE WORK PLAN: During this reporting period, FAIR planned to conduct the second round of the distance learning course on “Courts and Community Communications.” However, due to changes in the leadership of the SJA and NSJ there was no consensus on the ownership of the program. In order to continue offering the “Courts and Community Communications” course, FAIR is working with the above mentioned stakeholders.

In addition, due to the political situation in Ukraine, and as the SJA and the COJ were focused on solving urgent issues related to judicial activities, the regional trainings for PIOs to be conducted nationwide with the COJ and the SJA involvement using the FAIR developed Manual and Curriculum were not conducted in the current reporting period. For the same reason, the Court and Communities Curriculum was not finalized. FAIR plans to perform these activities in the next reporting period.

EXPECTED RESULT 4.1: CIVIL SOCIETY AND THE UKRAINIAN PUBLIC ARE ENGAGED IN THE JUDICIAL REFORM PROCESS

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: During the reporting period, FAIR collected, reviewed and proceeded applications within the APS "Strengthening the Role of Civil Society Organizations as Advocates for and Monitors of Judicial Reform". The APS addressed the engagement of civil society and the public in the judicial reform process in Ukraine. It was designed to combine policy analysis and advocacy with organizational development of civil society organizations and their engagement in judicial reform implementation. Under the APS FAIR awarded nineteen grants.

Milestone Progress ER 4.1
<ul style="list-style-type: none"> • Conducted meetings with potential CSO grantees regarding research on pending legislation. • Prepared APS on pending legislation. • Updated 19 leaflets and 3 manuals on access to justice. • Nineteen grants awarded that engage civil society and the public in the judicial reform process. • At least two new civic education materials on judicial reform developed and disseminated. • Specialized research and policy proposals related to pending judicial reform legislation developed. • At least two joint events with CSOs and Parliament held. • Mechanism of sustainable advocacy campaigns for pending judicial reform legislation adoption prepared.

During reporting period, FAIR grantee NGO “Institute Republic” conducted four events in Cherkasy (December 2 and 3, 2014) and Kharkiv (November 12 and 13, 2014), including two roundtables with judges, civic activists, and local self-governance representatives, as well as a two workshops for judges, lawyers, and city administration staff to advance their understanding of the importance of the freedom of peaceful assembly right as a core value for the democratic society.

On March 25, 2015, “Institute Republic” conducted a roundtable in cooperation with the Verkhovna Rada Committee on Human Rights, National Minorities, and Interethnic Relations to present the results of the monitoring and to make recommendations to amend legislation to support the right of peaceful assembly for judges, MPs, law enforcement bodies, local authorities’

representatives, and civic activists. Institute Republic also presented and distributed a manual on peaceful assembly for judges, civic activists, and local authorities. “Institute Republic” developed recommendations for improving the legislation on peaceful assembly and sent them to MPs of the Parliamentary Committee on Human Rights, National Minorities, and Interethnic Relations.

On April 28, 2015, FAIR grantee Kharkiv NGO “Institute of Applied Humanitarian Research” (IAHR) presented the analytical report “Public Monitoring of Court Performance in Hearing Election Disputes in Ukraine” for MPs, judges, representatives of the HAC, and the NSJ. The NGO analyzed 770 court cases, conducted interviews, and made observations of election cases within the framework of the initiative. Participants discussed areas for ongoing training for judges who hear election disputes; the administration of court operations during election campaigns; the improvement of the legislation applicable in hearing election disputes; and increasing the capacity of civil society organizations in monitoring court operations. The report was recommended for inclusion in trainings of judges who will hear disputes from the local elections in October 2015.

On December 8-13, 2014, FAIR supported and participated in the Ukrainian Week of Law “Lawyers to Society” initiated by the MOJ in cooperation with the Coordination Council of Young Lawyers under the MOJ. During the event, FAIR disseminated information materials on access to justice and court operations among citizens, pro bono lawyers, and students. FAIR has also continued to support the initiatives of the Coordination Council of Young Lawyers under the MOJ. FAIR supported and participated in the 5th All-Ukrainian Winter Law School event (February 4-7, 2015), where FAIR representatives presented on “Court Performance Evaluation using the CRC Methodology” and “Women’s Access to Justice,” and informed the school participants about the opportunity for young lawyers to participate in the Parliamentary Internship Program supported by USAID. On April 3-4, 2015, FAIR representatives delivered presentations on “Courts and the Public Communication” discussing aspects of strategic communications for courts, FAIR’s efforts in developing, piloting, and implementing communications strategies for courts, as well the history of judicial reform in Ukraine, for participants of the Spring Judiciary School. From September 15 to 17, 2015, FAIR supported the Autumn Law School for young lawyers.

On May 25-26, 2015, FAIR in cooperation with the USAID RADA Program (RADA) conducted a workshop to raise the awareness of judicial bodies about gender and gender mainstreaming as applicable to the justice system and judicial reform. Representatives of the judicial, executive, and legislative branches participated in the event. As a result of their joint effort during the workshop, the participants developed recommendations for action plans (i.e. ministerial programs) to incorporate the provisions of the Law on Ensuring the Equal Rights and Opportunities for Women and Men into human resources policies, and to include gender modules into the education programs of judicial system bodies, as Head of the Human Resource Department of the HQC proposed to do.



Judges, representatives of law enforcement bodies, and local authorities discussed peaceful assembly issues with civic activists in Kyiv on March 25, 2015

FAIR grantee all-Ukrainian civic organization “Association of Judges of Ukraine” in partnership with Uzhgorod National University conducted an international conference on “Independence of Judiciary in Ukraine” in Uzhgorod (June 13-14, 2015). Judges from Ukraine, Moldova, Estonia, and Georgia, as well as academics and public activists participated in the event. Participants

discussed the incorporation of recommendations on judicial independence from legislature and executive, principles of discipline of judges developed by the International Association of Judges and the European Association of Judges into the current legislation of Ukraine regarding judicial reform. In addition, the “Association of Judges of Ukraine” conducted an international workshop to discuss the application of norms of criminal process and the implementation of international standards on criminal proceeding by Ukrainian courts (Odessa, September 18-19, 2015). Further, the “Association of Judges of Ukraine” conducted two roundtables “On Participation of Judges in Law Drafting Process” (June 30, 2015) and “On Reforming of Justice System of Ukraine, Changes for Constitution and Laws of Ukraine” (September 28, 2015) to present the draft amendments to the constitution in the justice sector approved by the Constitutional Commission, and to discuss them with judges, lawyers, and CSO representatives.

The USAID Field Days tour offered FAIR an opportunity to share and present its activities and achievements in several partner regions. During the reporting period, FAIR participated in three USAID Field Days - in Ternopil on August 28, in Sumy on September 5, and in Chernihiv on September 19, 2015. FAIR presented the initiatives and the organizations that cooperate with the project and implement their activities directly in Ternopil, Sumy, and Chernihiv and the surrounding communities. More than 1,200 Chernihiv, Sumy, and Ternopil cities and oblast residents visited the FAIR booths and obtained public awareness materials about the Ukrainian judiciary as well as DVDs with FAIR videos about the Ukrainian judiciary and the basic principles of its operations, the survey of citizens (litigants) regarding their satisfaction with court performance, and the new improved judicial selection procedures. FAIR engaged representatives of its grantees regional public charitable foundation “Law and Democracy”, the CSO “Civil Society Headquarter” (in Ternopil), Sumy oblast SCO “League of Social Workers” (in Sumy), and “Human Rights Protection Committee” (in Chernihiv), which presented on the results of the CRC surveys in the courts of these oblasts. In addition, at the invitation of FAIR, the lawyers from the grantee NGOs provided free legal consultations for all interested visitors.

Finally, FAIR supported two CSOs “Women’s Perspective” (from Lviv) and “Public Alternative” (from Kharkiv) to conduct monitoring of court decisions regarding gender discrimination in civil and criminal processes, focusing on the application of Ukrainian legislation and international laws. Grantees will conduct trainings for judges and lawyers to train using of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), European Convention on Human Rights, Equal Rights legislation of Ukraine in court proceeding as well as prepare tool for judges to identify gender discrimination in court cases, etc.

EXPECTED RESULT 4.2: 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: Under the APS released in 2013, FAIR awarded three grants for CSOs to conduct CRC surveys in fifteen courts. During the reporting period, FAIR grantees charity organization “All-Ukrainian Coalition for Legal Aid,” NGO “Podilska Human Rights Foundation,” and charity organization “Intelektualna Perspektyva” conducted CRC surveys in four courts in the Rivne region, five courts in the Khmelnytsky region, three courts in the Kyiv region, one court in the Volyn region, one court in the Chernihiv region, and one court in the Mykolaiv region. The CSOs presented the results of the surveys and recommendations on how to improve court performance to chief judges, judges, representatives of the SJA, and the public in the Kyiv region (February 13, 2015), Khmelnytsky region (March 27, 2015), Chernihiv (May 12, 2015), Mykolaiv (April 28, 2015), Khmelnytsky city (April 23, 2015), and Rivne (April 17, 2015).

During the reporting period, FAIR selected seven NGOs to conduct a survey aimed at measuring citizen satisfaction with court performance using the CRC methodology in all the courts of Ivano-Frankivsk, Lviv, Cherkasy, Chernivtsi, Odessa, Sumy, and Kharkiv oblasts in cooperation with the courts and the SJA. On

February 18-19, 2015, FAIR conducted education event on the CRC methodology, data collection and analysis for representatives of relevant regions in Kyiv. FAIR grantees CSOs, judges, and the SJA and its territorial departments' participated in the event.

FAIR also conducted orientation meeting on grant implementation, and grants' monitoring and evaluation. For the first time, FAIR asked the grantees to include a gender component in their analyses of the data, and to include a presentation on gender in the CRC surveys. More than 60 participants, including judges,

civic activists, and court administrators from the relevant oblasts discussed why court performance should be evaluated by the public. They also discussed the planning of the CRC surveys, the method of conducting the surveys, and the preparation of reports and presentation of recommendations to public, SJA and its territorial departments, and courts. FAIR presented and discussed with participants the updated Manual on Court Performance Evaluation Using the Citizen Report Card Methodology.

Milestone Progress ER 4.2

- CRC surveys extended to 20 new regions and 307 courts.
- 14 CSOs presented analytical reports covering court performance evaluation in 103 courts. These reports contains more than 1,000 recommendations to improve court performance.
- 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.
- Results of assessment report on equal access to court facilities and services for persons with disabilities presented at the conference on "Access to Justice and Court Services."
- NGO selected to implement grant program to increase disabled people's access to courts.
- Monitoring of the access of courts and court services for people with disabilities conducted in 20 courts.
- Brail materials on the judiciary prepared.
- Four roundtables on the results of the monitoring of access to courts and court services for people with disabilities conducted.
- Analytical report on the results of the monitoring of access to courts and court services for people with disabilities prepared.
- NGO selected to develop and implement a training program for court staff on improving the level of communication skills and skills of working with people with disabilities.

FAIR also provided expert support to the selected seven NGOs to conduct CRC surveys in Lviv, Cherkasy, Chernivtsi, Ivano-Frankivsk, Sumy, Odessa, and Kharkiv oblasts. On April 27, 2015,

FAIR conducted a training on data entering and analysis for the data operators of the NGOs implementing the CRC surveys, where FAIR CRC expert Maryna Ogay conducted an offline webinar on data entering and analysis of CRC survey data.



Volunteer invites court visitor to participate in a CRC survey in April

On September 25, 2015, FAIR grantee Kharkiv NGO "Institute of Applied Humanitarian Research" presented an analytical report on the findings and recommendations of the CRC surveys conducted in 38 courts of Kharkiv oblast.

Further expanding activities under this expected result, in September 2015, FAIR supported five more CSOs to conduct CRC surveys in all courts of Chernihiv, Kherson, Ternopil, Volyn, and Khmelnytska oblasts and several courts of Mykolaiv and Kyiv Cities in cooperation with the courts and the SJA.

In addition, FAIR finalized the updated version of the CRC Manual in Ukrainian and English, where for the proofreading of the the English version the project involved Peace Corp volunteers in Ukraine.

Finally, FAIR issued an RFA for Ukrainian non-governmental organizations to conduct a survey aimed at measuring citizen satisfaction with court performance using the CRC methodology in all courts of Chernihiv, Kherson, Ternopil, Volyn, and Khmelnytska oblasts and several courts of other oblasts.

During this reporting period, FAIR grantee NGO “Law and Democracy” completed its grant program on monitoring the access and services for people with disabilities in 20 courts. The grantee conducted four roundtables on the results of its monitoring activities in Ternopil, Uzhgorod, Vinnytsya, and Odessa. Specifically, during the roundtables, the grantee presented results of the monitoring in the Ternopil Administrative Circuit Court, Ternopil City Rayon Court, Mukachevo City Rayon Court of Zakarpattya Region, Tyachiv Rayon Court of Zakarpattya Region, Vinnytsya Appellate Administrative Court, Vinnytsya Circuit Administrative Court, Odessa Circuit Administrative Court, Prymorsky District Court of Odessa, and Ovidiopolsky Rayon Court of Odessa Region. The grantee discussed recommendations on how to improve access to courts and court services for people with disabilities with courts’, judicial bodies’, self-governance bodies’ and civil society representatives. The main recommendations were as follows:

- 1) Provide architecture access for people with disabilities:
 - set parking lots for people with disabilities;
 - set ramps;
 - low pavement curbs;
 - set a button next to the entrance for calling court staff in order to provide convenient access for submission of documents;
 - set signal orientation system next to the entrance and inside the court building for better orientation for people with sight impairments;
 - locate registry office and rooms for hearings on the first floor;
 - mark steps with yellow lines for people with sight impairments; and
 - set WC for people with disabilities.
- 2) Provide information access:
 - provide for participation of a certified gest language interpreter at the hearings where parties include people with hearing impairments;
 - provide technical conditions and separate rooms for reviewing the case documentation by people with disabilities who take part in the hearing;
 - create new position of assistant for people with disabilities in the court;
 - duplicate court information in Brail; and
 - place court information in bright locations of the court and print it in a larger font.
- 3) Provide legal access:
 - Introduce changes in the legal framework on the following issues: reviewing case documentation before hearings by people with disabilities; signing of documents by people with disabilities; train certified gest language interpreters; duplicate court information in audio format on court web sites; use video-conference for cases where one of the parties is disabled; and providing free legal aid for people with disabilities.

NGO “Law and Democracy” also prepared signs in Brail for the courts and materials on the judiciary in Brail, and distributed them in libraries for people with sight impairments and pilot courts which participated in the monitoring. The grantee also developed an analytical report on the

monitoring of access to justice for people with disabilities. The report, with recommendations on the necessary changes to the legal framework, will be presented to Parliament members, representatives of the judicial bodies, and civil society organizations during a roundtable in November 2015. The National Assembly of Disabled will be engaged in this activity as well.

In addition, FAIR issued an RFA and selected NGO Law and Democracy to develop and implement a training program for court staff on improving their communication skills and skills of working with people with disabilities. This activity will be implemented in cooperation with the NSJ.

Finally, on November 26 t-28, 2014, FAIR supported the participation of two FAIR grantee representatives – Vitaly Razik of the “Law and Democracy Foundation” and Kateryna Ievdokimova of “All-Ukraine Coalition for Legal Aid Provision” – at the OSCE/ODIHR Annual Trial Monitoring Meeting in Tbilisi, Georgia. They shared their experience of using the CRC methodology in partnership with the courts to improve court user satisfaction and court operations, as well as lessons learned from FAIR activities that supported the monitoring of election and peaceful assembly cases in the courts. FAIR COP David Vaughn presented on “Bridging the Gap between Courts and Civil Society: Using Citizen Report Cards to Improve Access to Justice.” During the meeting, Mr. Razik, Ms. Ievdokimova, and COP Vaughn were exposed to a wide range of practical tools through engaging an international community of experts, gained practical knowledge focused on devising solutions to common challenges and utilizing already-developed tools, gained exposure to new methodologies, and accessed best practices that can be applied in Ukraine.

DEVIATIONS IN IMPLEMENTATION OF THE WORK PLAN: Due to the changes in SJA leadership which occurred in 2014, FAIR postponed the conduct of CRC surveys in all courts of five regions originally planned for 2014. The surveys were conducted in 2015 instead, and the number of regions was increased from the planned five to 12.

NGO “Law and Democracy” has postponed a roundtable on the lobbying campaign for necessary changes on improving access to courts and court services for people with disabilities to the legal framework for November 2015 that was originally planned for May 2015. The reason is the busy schedule of the Parliament Committee on Matters of Veterans, Combatants, Participants of Antiterrorist Operation, and Persons with Disabilities, which is supposed to participate in this activity in cooperation with the National Assembly of Disabled.

EXPECTED RESULT 5.1: THE LAW ON THE PURIFICATION OF GOVERNMENT AND RELEVANT LEGISLATIVE FRAMEWORK IMPROVED

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: The FAIR team supported its Ukrainian partners in improving the legal framework for lustration and vetting procedures to ensure it is in line with international and European standards.

In response to the Council of Europe Venice Commission “Interim Opinion on the Law on Government Cleansing (Lustration Law)” issued on December 16, 2014, the MOJ established a working group to develop amendments to the Law on Purification of Government and the Law on the Restoration of Trust in the Judiciary. Members of the working group included representatives of the MOJ and members of the Verkhovna Rada and the Public Council on Lustration. The working group has developed draft amendments. FAIR also provided the MOJ with its

Milestone Progress ER 5.1

- Draft legislative recommendations on the needed amendments to the Law on the Purification of Government formulated and submitted to Ukrainian counterparts.
- Amendments to the Law on the Purification of Government in the context of existing legislation and recommendations to improve it in line with international and European standards supported (ongoing).

comments on the draft amendments and recommendations to improve the legislation. Members of the working group later on participated in conferences, presentations, and study tours organized by FAIR.

Numerous legislative initiatives related to purification procedures and specifically to the vetting of judges were registered in the Parliament over the reporting period. On January 29, 2015, MP Oksana Syroid and Viktor Chumak registered in the Verkhovna Rada the draft law on Amending Some Legislative Acts of Ukraine regarding the Improvement of the Restoration of Trust in the Judiciary Mechanism (No. 1881). The authors of the draft law propose to amend the Law on the Purification of Government and Law on the Restoration of Trust in the Judiciary to eliminate duplication. One key change proposed by the draft law is to exclude judges from the scope of the Law on the Purification of Government and place them solely under the scope of the Law on the Restoration of Trust in the Judiciary. Additionally, the draft law proposes to extend the list of cases subject to the jurisdiction of the Interim Special Commission of the Vetting of Judges (ISC); to decrease the composition of the ISC down to 11 members, excluding the Parliament quota for the Commission; and to establish the ISC as the permanent judicial vetting body with a three-year authority.

Following this legislative initiative, on April 21, 2015, the draft Law on Amending Some Legislative of Ukraine regarding the Purification of Government was registered in the Verkhovna Rada of Ukraine (No. 2695). The following core FAIR recommendations were taken into consideration in this draft:

- Judges are excluded from the Law on Purification of Government and are placed under the Law on Restoration of Trust in the Judiciary.
- A preamble to explain the social context of the Law on Purification of Government is introduced.
- A single independent body is created to oversee and coordinate lustration.
- Terminology is clarified.
- Administrative responsibility for violations of the lustration legislation is introduced.
- The authority of the ISC is prolonged for three years.
- The ISC will conduct vetting of all judges that issued questionable decisions during the Euromaidan protests, not just those where an application for verification was submitted.
- The members of the ISC will work full-time and receive a salary comparable to that of Supreme Court justices.
- The ISC activity is coordinated with the work of the HCJ and HQC.

Along with the above-mentioned draft law No. 2695, the alternative drafts No. 2695-1, 2695-2, and 2695-3 were registered in the Verkhovna Rada. These draft laws take on a similar approach to the amendments, with a slightly different focus. Currently, all four drafts are under consideration by the Verkhovna Rada Legal Policy and Justice Committee.

To ensure the fair and transparent implementation of lustration and vetting processes against public officials and judges, FAIR provided MPs, the MOJ, and other Ukrainian partners with expert support and materials in amending the Law on the Purification of Government, including translations of Venice Commission opinions on lustration laws in Moldova and Albania, and relevant case law of the European Court of Human Rights. FAIR also translated a timely and relevant new Polish publication on judicial accountability entitled, “*Crimen Laesae Iustitiae: Criminal Liability of Judges and Prosecutors for Court Crimes under German, Austrian and Polish Law*” by Prof. Witold Kulesza. Currently, the Ukrainian translation of the book is undergoing proofreading, while the FAIR team is resolving copyright issues in order to be able

to publish the book during the next reporting period.

FAIR engaged a number of international experts to share their experience in lustration legislation, focusing on human rights issues, different European countries' approaches, and the case law of the European Court of Human Rights. On February 9-13, 2015, FAIR hosted leading international lustration experts Mr. Jacek Wygoda, Prosecutor at the Lustration Department of the Polish Institute of National Remembrance, Prof. Roman David, author of "Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary and Poland", Mr. Radosław Peterman, Deputy Director, Vetting Office of the Polish Institute of National Remembrance, and Dr. Pavel Zacek of the Czech Institute for the Study of Totalitarian Regimes. These experts participated in a number of one-on-one and small group discussions with key stakeholders and institutions related to lustration and vetting, including the MOJ Lustration Department, the MOJ Public Council of Lustration, the SC, and MP Leonid Yemets, who is one of the main authors of Ukraine's lustration laws. The experts also met with civil society organizations active in lustration issues, such as the Ukrainian Helsinki Human Rights Union.

During these meetings, the experts and participants alike raised a number of issues regarding the lustration and vetting processes; specifically raised was the necessity to clearly identify lustration criteria as well as a list of the positions that are subject to lustration. The experts also emphasized the importance of avoiding vague and questionable criteria, as well as making positions that are not crucial for national security and democracy subject to lustration. The other point emphasized by the experts was the need to approach the vetting of judges with due respect of judicial independence guarantees. The practical implementation aspects of lustration and vetting were also discussed, where experts proposed considering the establishment of a single body responsible for lustration to ensure consistency and uniformity in the application of procedures.

On February 12, 2015, in an effort to further provide for greater consensus building, FAIR jointly with the USAID RADA Program, the Open Dialog Foundation (Poland), and the Ukrainian Helsinki Human Rights Union conducted an expert discussion on ways to improve the legal framework for lustration to bring it in line with international and European standards. Participants included representatives of the MOJ, ISC, Verkhovna Rada, HQC, HCJ, SJA, State Fiscal Service, and civil society organizations. As a result of the working group discussions, the participants developed numerous recommendations to improve lustration legislation in the areas of:

- Formation and operations of the body responsible for lustration;
- Financial disclosure, and the verification and publication of data;
- Protection of human rights in the process of lustration and vetting; and
- Criteria and procedures for the lustration and vetting process.

At the end of the discussions, participants also identified a number of general recommendations regarding the legislative framework for lustration, including:

- The Venice Commission should take into consideration not only European standards, but also the current social and political situation in Ukraine.
- It is important to explain to the public the role of the Venice Commission and the meaning of the Venice Commission recommendations, so that there is no manipulation or sabotage.
- Ukrainian diplomacy should work to explain the Ukrainian context abroad.
- Lustration is an opportunity to purify the government and establish new standards for human rights protection.

- The objectives of the law should be clearly identified.

These recommendations were shared with Venice Commission experts, including Judge Gerhard Reissner (Austria), Veronica Bilkova (Czech Republic), and Judge George Papuashvili (Georgia).

To further the exchange of lessons learned and best practices in designing and implementing lustration systems, FAIR jointly with Open Dialog Foundation conducted a study visit to Warsaw, Poland on March 15-19, 2015. The Ukrainian delegation for the study visit included representatives of all key stakeholders in lustration and vetting processes, namely, the Verkhovna Rada, MOJ, HQC, HCJ, and ISC. The study visit provided the Ukrainian delegation with best practices and lessons learned in conducting lustration and vetting of public officials and judges, including a hands-on visit to the Institute of National Remembrance in Warsaw. The



Participants of the study visit to Prague, Czech Republic on April 26-30, 2015.

visit also included meetings at the Anti-Corruption Bureau, the Supreme Court, and the National School of Public Administration, as well as a discussion of case law for the European Court on Human Rights in lustration cases with defense lawyers at the Polish Bar Council, and meetings with the authors of the lustration legislation and NGOs involved in the monitoring of the government and courts.

Within the frame of its cooperation with the MOJ in the field of lustration, FAIR conducted a study visit to Prague, Czech Republic on April 26-30,

2015 with the aim to familiarize Ukrainian stakeholders with the Czech experience in the field of lustration and vetting processes, and its relevance to Ukraine. The Ukrainian delegation for the study visit was comprised of representatives of all key stakeholders in the lustration and vetting processes, namely, the Verkhovna Rada, MOJ, HQC, HCJ, and ISC. This visit provided the Ukrainian delegation with the opportunity to study best practices and lessons learned in conducting lustration and vetting of public officials and judges, and included a hands-on visit to the Institute for the Study of Totalitarian Regimes, where participants observed firsthand the step-by-step lustration processes. The study visit also included meetings at the Czech Parliament, the Ministry of Interior, and the Anticorruption and Financial Crimes Unit of the Ministry of Interior. Participants of the study tour had the possibility to meet retired Constitutional Court Judge Stanislav Balik, member of the Venice Commission, and other key stakeholders in the lustration process in the Czech Republic.

On May 27, 2015, FAIR representatives participated in a roundtable discussion with the MOJ's Lustration Department and Public Council of Lustration, and representatives of the ISC, the State Fiscal Service, and civil society organizations on the Draft Amendments to the Law On the Purification of Government. Participants discussed their proposals for the future implementation of existing lustration legislation.

On May 29, 2015, FAIR supported the participation of two members of the ISC as part of a

delegation of Ukrainian officials at the Session of the Venice Commission in Strasbourg in order to enable key stakeholders to provide input to the Venice Commission opinion on the Law on the Purification of Government before its adoption. The participants discussed the key urgent issues with European experts, including with regard to the final Venice Commission opinion. The discussion also included critical amendments to the Law on Restoration of Trust in the Judiciary, to ensure its compliance with European standards.

On June 19-20, 2015, FAIR supported the participation of a member of the Civic Lustration Council under the MOJ as part of a delegation of Ukrainian officials at the working session of the Venice Commission experts, to provide a civil society perspective to the discussions. As a result of the Session, the final Venice Commission opinion on the Law on the Purification of Government (including the amendments submitted to the Verkhovna Rada on April 21, 2015) was adopted. The Venice Commission supported the right of Ukraine to determine requirements for access to public service to protect society from individuals who, due to their past behavior, could pose a threat to the newly established democratic regime. The Venice Commission also welcomed some of the improvements proposed in the draft law No. 2695 recommended by FAIR, such as the creation of a central executive body for lustration and the changes to the uniform register. Yet, according to the Venice Commission, the Law on Purification of Government – even if amended – still has certain shortcomings, including:

- Absence of an individual approach in prohibition to hold certain positions in public sector after being lustrated;
- Combining the lustration and anti-corruption activities which are different in timing and procedures and should be implemented separately.
- Mentioning of the judicial positions subject to lustration in the Law, whereas they are to be subject solely to the regime of the Law on the Restoration of Trust in the Judiciary of Ukraine.
- Lack of centralization in the administration lustration.



Gender working meeting participants on April 1-2, 2015 in Kyiv region.

The Venice Commission also underlined that lustration must never replace structural reforms aimed at strengthening the rule of law and combatting corruption, but may complement them as an extraordinary measure of a democracy defending itself, to the extent that it respects European human rights and European rule of law standards.

The constitutionality of some provisions of the Law on the Purification of Government is currently being challenged before the

Constitutional Court of Ukraine (CCU) with constitutional petitions submitted by the SCU on November 17, 2014 and March 16, 2015, and by the 47 Members of the Parliament of Ukraine on January 20, 2015. On April 16, 2015, the CCU conducted first hearing which resulted in adopting of the decision by the Court to postpone proceedings until expert conclusions from the leading constitutional experts Mr. Mykola Kozyubra and Ivan Dombrovskyi will be provided. Currently, FAIR expert Mr. Stanislav Balik, a Law Professor of Charles University in Prague and former judge of the Constitutional Court of the Czech Republic, is conducting an assessment and analysis of the Law on the Purification of Government and will prepare a report

with a particular focus on the SCU and MPs group submissions to reveal any gaps and issues in the light of the Constitution of Ukraine, the Council of Europe Parliamentary Assembly Resolution 1096 provisions, the reservations in the Final Opinion of the Venice Commission No. CDL-AD(2015)012, and the ECHR lustration related case law. The expert will also prepare a list of recommendations to improve the nature and quality of the amendments to be introduced to the Law on the Purification of Government, to ensure it is harmonized with the Constitution of Ukraine and COE and international lustration standards.

In addition, on April 12, 2015, FAIR in cooperation with the USAID RADA Project and Verkhovna Rada focal points conducted working meetings on gender issues related to the Law on the Purification of Government. As a result, the representatives of the MOJ Lustration Department and the ISC increased their awareness of gender and gender mainstreaming, and studied and analyzed the provisions of the lustration legislation that should comply with the principle of equal rights and opportunities for men and women. Participants proposed amendments to the Law to bring it in line with this principle. They also proposed to involve all interested parties in the implementation of judicial reform with a view to equal representation of men and women, and asked event organizers to keep continue to conduct the trainings on gender analysis of legal documents for different stakeholders, including NGOs engaged in overseeing the implementation of lustration laws.

Finally, FAIR short-term lustration expert Myroslava Bilak completed an analysis of the Law On Purification of Government identifying the controversial provisions in the context of the constitutional petitions pending with the CCU. The project shared this analysis with FAIR expert Mr. Balik so that he may develop his recommendations on improving the Law based on Ms. Bilak conclusions as well as best EU practices. Both experts' conclusions and deliverables will be presented to the key Ukrainian counterparts during the next reporting period.

EXPECTED RESULT 5.2: INSTITUTIONS, PROCEDURES AND REGISTRY FOR THE LUSTRATION AND VETTING OF PUBLIC OFFICIALS AND JUDGES STRENGTHENED

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: During this reporting period, FAIR provided expertise and assistance in assessing the MOJ Unified Registry of Persons to Whom Provisions of the Law on Purification of Government Have Been Applied (the MOJ Registry), related regulations.

<p>Milestone Progress ER 5.2</p> <ul style="list-style-type: none"> • Recommendations for improving procedures for vetting developed. • Assessment of the Registry conducted (ongoing). 	<p>FAIR translated and conducted an initial review of the existing regulations adopted pursuant to the Law on the Purification of Government, including the Cabinet of Ministers Resolution No. 563 of October 16, 2014 on “Certain Provisions Regarding the Implementation of the Law on the Purification of Government”, Cabinet of Ministers Decree No. 1025 of October 16, 2014 “On Approving the Plan for Conducting Vetting Pursuant to the Law on the Purification of Government”, and Ministry of Justice Order No. 1280/26057 of October 16, 2014 “On Adopting Regulations on the Unified State Registry of Individuals to Whom Provisions of the Law on the Purification of Government are to be Applied.” FAIR also facilitated expert consultations to ensure the procedures stipulated in those regulations reflect international and European standards and model procedures and forms from other European countries, including Poland and the Czech Republic.</p>
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Created by the Law “On Restoration of Trust in the Judiciary,” ISC began operations five months later than the law prescribed and over the one-year period of its work received 2,192 complaints regarding judges who handled protest cases between November 2013 and February 2014. The majority of the complaints were dismissed right away due to improper jurisdiction. However, the

ISC initiated investigations against 331 judges, which resulted in submitting materials to the HCJ for further proceedings of 46 cases due to judges' breach of oath and 12 cases due to judges' disciplinary misconduct. At the time the ISC mandate expired, 265 verifications were pending. Based on the submissions of the ISC, the HCJ opened disciplinary cases against 46 judges. To date, one judge was recommended by the HCJ to be dismissed by the President; and two cases were reclassified as the HCJ did not find sufficient evidence of breach of oath. Materials against those two mentioned above judges were remitted to the HQC for proper disciplinary measures to be taken. The remaining cases are still pending with the HCJ. The cases submitted to the HQC were dismissed based on the expiration of the one-year prescription period for holding judges liable for disciplinary offence.

FAIR supported the ISC members with expert consultations, discussions, and a study visit to Poland as presented above under Expected Result 5.1. Presently the term of the ISC accreditation provided by the Law has expired, while legislative initiatives to extend this term and to institute the ISC as a full-time lustration body are still pending with the Parliament.

Further, FAIR short-term international expert Mr. Radoslaw Peterman, Head of the Lustration Department within the Institute of National Remembrance in Poland and FAIR short-term local expert Ms. Olena Ovcharenko, Assistant Professor at the National Law University named after Yaroslav Mudry, conducted an assessment and provided recommendations for improving the MOJ Registry to safeguard public interest and protect personal data, as well as to align the MOJ Registry with European best practices, recommendations of Resolution 1096 of the Council of Europe Parliamentary Assembly, and the case law of the ECHR on lustration cases. FAIR conducted a meeting with Mr. Peterman and Ms. Ovcharenko, and representatives of the Lustration Department of the MOJ with the aim to present experts recommendations and to discuss the regulatory framework, content, and organization and structure of the MOJ's Registry. Participants agreed to continue cooperation with the aim to improve MOJ's Registry content and the need to improve MOJ Department on Lustration staff professionalism through organizing appropriate trainings and seminars.

EXPECTED RESULT 5.3: IMPROVED KNOWLEDGE, SKILLS AND ABILITIES OF KEY STAKEHOLDERS AND PERSONNEL TO CONDUCT THE LUSTRATION AND VETTING OF PUBLIC OFFICIALS AND JUDGES PROFESSIONALLY, FAIRLY AND IMPARTIALLY

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: FAIR continued to support the MOJ in enhancing the knowledge and skills of employees in the justice sector through training programs, engaging civil society in monitoring government agencies, and conducting public awareness campaigns aimed at increasing public knowledge about the undergoing reforms. Specifically, FAIR supported the MOJ in building the capacity of its Lustration Department, which is responsible for coordinating the lustration and vetting of public officials pursuant to the Law on the Purification of Government.

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| <p>Milestone Progress ER 5.3</p> <ul style="list-style-type: none"> • Training program for the MOJ Department on Lustration conducted. • Expert discussion on lustration and vetting with the MOJ Lustration Department and Public Council on lustration organized. • Resource materials assembled and disseminated. (ongoing) • Ukrainian delegation supported in participation at a conference and study visit to Romania. Follow-up event conducted. • First session of the Modern Management Training Program for the MOJ personnel conducted. |
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On February 5, 2015, FAIR in cooperation with the Open Dialog Foundation conducted a training program on internal and external communications, time management and work planning, team building, and conflict of interest. To design and implement this training program, FAIR engaged experts from Ukraine, Poland, and the U.S., including Pamela Daniels, an American business process specialist, Małgorzata Skawińska of the Polish School of Public Administration, and Ukrainian trainers Oleksandr Ladyhin and Anatoliy Tykhonchuk. According to the training evaluations, participants



Markiyan Halabala, Deputy Head of the ISC, speaking at the conference on “Stronger Judiciary in Eastern Europe” in May 2015 in Bucharest, Romania.

assessed the program positively, with a majority considering knowledge received to be very or mostly useful in their work, rating the trainers highly.

On February 11, 2015, FAIR supported a small group substantive discussion on lustration for members of the Public Council on Lustration and staff of the Lustration Department of the MOJ with international lustration experts Professor Roman David, Mr. Radoslaw Peterman, Mr. Jacek Vygoda of the Polish Institute of National Remembrance, and Mr. Pavel Zacek of the Czech Institute for the Study of Totalitarian Regimes. During this discussion,

participants learned about international and European best practices and lessons learned in the vetting and lustration of public officials and judges.

FAIR also assembled a variety of resource materials to support members of the Public Council on Lustration and staff of the MOJ Department on Lustration, including model forms and procedures from Poland and the Czech Republic.

From May 11 to 15, 2015, FAIR supported the participation of a Ukrainian delegation in a study visit to Bucharest, Romania, which included participation in the “Stronger Judiciary in Eastern Europe” conference organized by the Expert Forum of Romania under the Black Sea Regional Cooperation Fund Grant. The conference addressed issues related to combatting corruption, including the design and implementation of anti-corruption strategies, developing anti-corruption training programs, handling anti-corruption cases, and asset disclosures and asset recovery. The Ukrainian delegation included representatives of all key stakeholders in lustration and vetting processes: the HQC, HCJ, ISC, NSJ, COJ, SJA, SCU and Constitutional Commission. As the result of the visit, the Ukrainian delegation was able to share the Ukrainian experience, as well as to learn about the activities of key Romanian anti-corruption institutions, and their lessons learned and best practices.

On June 24, 2015, FAIR in cooperation with the Romanian Expert Forum Association conducted a roundtable with Ukrainian lustration stakeholders and international donors, as a follow-up to the May conference and study visit to Bucharest. As a result of the meeting, participants shared possibilities of implementation lessons learned received as a result of the participation in the Forum and discussed possibilities for future cooperation in the area of anti-corruption.



Participants of the first session of the Modern Management Training Program for heads and deputy heads of regional headquarters at the MOJ, and managers of the State Enforcement Agency on September 26, 2015 in Odessa

Finally, in consultation with the MOJ, FAIR designed a skills-based professional development training program on human resource management, time management, effective communications, and strategic planning for the MOJ personnel. From September 24 to 26, 2015, FAIR conducted the first session of the Modern Management Training Program for the MOJ. The participants of the Program were heads and deputy heads of the MOJ regional departments and managers at the MOJ’s State Enforcement Agency. The program was implemented by the Ernst and Young Academy of Business. Minister of Justice of Ukraine Pavlo Petrenko, Deputy Minister of Justice of Ukraine Gia Getsadze, FAIR Chief of Party David Vaughn, Chair of the Ernst and Young Academy of Business Natalia Kopylenko and Partner of the Ernst and Young Business Consulting Department Konstantin Nevyadomskyi participated in the opening of the event. In his welcoming remarks to the participants of the training and media, Minister Petrenko commended the USAID support by emphasizing that he greatly appreciates FAIR’s efforts in conducting such a timely and necessary training for the MOJ staff. According to the training evaluations of the first session, all participants found the training useful for their professional work, highly rated the trainers’ performance, and suggested that such trainings should be conducted in systematic manner.

EXPECTED RESULT 5.4: PROMOTE PUBLIC AWARENESS AND CIVIL SOCIETY ENGAGEMENT IN THE PROCESS OF LUSTRATION AND VETTING OF PUBLIC OFFICIALS AND JUDGES TO BOLSTER PUBLIC TRUST AND CONFIDENCE

CURRENT STATUS OF AFFAIRS AND KEY ACHIEVEMENTS: FAIR continued to support civil society organizations in raising public awareness about and monitoring the lustration and vetting process in Ukraine.

FAIR selected ten civil society organizations with already-demonstrated ability, knowledge, and successes in monitoring government, and supported them in overseeing and reporting on the lustration and vetting process, as well as in implementing public awareness and advocacy campaigns.

The grantee activities include the design and distribution of informational materials about the objectives, mechanism, challenges, and outcomes of the lustration and vetting process in Ukraine. All materials will be distributed to the public at large from state institutions, such as the MOJ, and local administrations through public service announcements on television, radio, and the internet. These civil society organizations will also produce television and radio programs with involvement of national experts on lustration and civil society activists. In addition, grantees will monitor lustration court hearings and the implementation of the vetting process by local authorities.

On August 4-5, 2015, FAIR conducted a seminar on “Civil Society Involvement in Lustration Process in Ukraine” for Project grantees. Key speakers were Volodymyr Moisyk, Head of the ISC, Markkian Halabala, Deputy Head of the ISC, Tetyana Kozachenko, Director of the Department on Lustration of the MOJ, and Maksim Mankovskyi, Representative of the

Milestone Progress ER 5.4
<ul style="list-style-type: none"> • Six civil society organizations selected and supported in implementing public awareness campaign on lustration and vetting process. • Four civil society organizations selected and supported in implementing monitoring and overseeing of lustration and vetting process. • One civil society organization selected and supported in implementing monitoring of administrative services provided by the MOJ. • One civil society organization selected and supported in raising public awareness on administrative services provided by the MOJ. • Seminar on civil society involvement in the process of purification of government for project grantees conducted. • National survey on public opinion regarding democratic, economic, and judicial reforms, including implementation of the Law on Purification of Government conducted. • Organization to implement judges opinion survey regarding the implementation of the Law on Purification of Government and the Law on Restoration of Public Trust in the Judiciary selected. • Organization to implement court staff opinion survey regarding the improvement of court administration in Ukraine and professional development of court staff selected.

Public Council on Lustration under the MOJ. FAIR experts Roman David and Radoslaw Peterman presented their international experience in conducting lustration. As a result of the meeting, participants shared Project partners' and grantees' experience, expectations, and plans for future cooperation within the framework of civil society involvement in the process of lustration and vetting of government. In addition, participants were able to learn about lustration and vetting processes from national and international experts' perspective.



Participants of the seminar “Civil Society Involvement in Lustration Process in Ukraine” on August 4 in Kyiv.

During the reporting period, FAIR selected and supported two civil society organizations to implement public awareness about and monitoring of administrative services provided by the MOJ. The “Center of Political and Legal Reforms” will conduct monitoring of administrative services provided by the MOJ in four pilot regions (Odesa, Lviv, Dnipropetrovsk, Kharkiv) and in Kyiv city. The grantee will present its recommendations on how to improve the services provided by the MOJ to both the MOJ and the public at large. The “Center of Ukrainian Legal Reforms” will conduct a

nationwide public awareness campaign “Electronic governance simplifies communication” aimed to inform citizens about the list of online services provided by the MOJ.

Finally, FAIR selected organizations to conduct three surveys: 1) National Public Opinion Survey on Democratic, Economic and Judicial Reforms including Implementation of the Law on Purification of Government; 2) Judges Opinion Survey regarding implementation of the Law on Purification of Government and the Law on Restoration of trust to the Judiciary; and 3) court staff survey regarding improvement of court administration that include opinions by the public and judges on the lustration process, and court staff regarding the improvement of court administration in Ukraine and professional development of court staff.

During the reporting period, FAIR designed and implemented a National Public Opinion Survey regarding Democratic, Economic, and Judicial Reforms, Including Implementation of the Law on Purification of Government aimed to survey the level of awareness of the public at large on lustration and vetting of public officials and judges, its satisfaction with the process, and its expectations about future democratic and economic reforms in Ukraine. The survey was implemented by the GFK Ukraine in July. The survey results show that 84 percent of Ukrainians believe that the lustration and vetting process is needed and 89% that it is necessary to “purify” the Ukrainian judiciary by means of vetting and lustration. However, the majority believe that the lustration process is not proceeding in line with public demands. Meanwhile, 61 percent of respondents do not even know who the authority responsible for lustration processes is. The majority of Ukrainians also believe that lustration should be implemented by an independent body that consists mostly of representatives of civil society and international organizations. FAIR will use the results of the survey in formulating expert recommendations about improving national legislation and policy, and in supporting CSOs to implement monitoring and public awareness initiatives. Results of the court staff survey will be used to improve training programs for court staff.

DEVIATIONS IN IMPLEMENTATION OF THE WORK PLAN: During the reporting period, FAIR selected an organization to implement a judges' opinion survey regarding the implementation of the Law on Purification of Government and the Law on Restoration of Public Trust in the Judiciary. In preparation for the survey implementation, a draft of the questionnaire was developed

and sent to the COJ. Preliminary agreement to conduct the survey was received, however, the questionnaire was not approved by the COJ within the current reporting period. Therefore, FAIR plans to conduct the survey during the next reporting period.

PERFORMANCE MANAGEMENT AND EVALUATION

FAIR NEW MONITORING AND EVALUATION (M&E) PLAN FOR 2015-1016. In December 2014, USAID expanded the FAIR program portfolio by adding additional resources to support the effective implementation of the Law on Purification of Government. This activity includes comprehensive support to the GOU and Ukrainian civil society in to ensure a transparent, fair, and effective process of vetting public officials and judges in response to the 2014 Revolution of Dignity. In response to the expansion of the Project portfolio, we added Objective 5 “The Lustration and Vetting of Public Officials and Judges Implemented Fairly, Transparently and Effectively and in Compliance with International and European Standards” and four new Expected Results (ERs) under this Objective to FAIR Result Framework (see Annex 1 for details). The Contract Modification signed on Dec 17, 2014 required, among others, to replace the existing Performance Monitoring and Evaluation Plan (PMEP) with the new Monitoring and Evaluation (M&E) Plan. FAIR developed the new M&E Plan and submitted it to USAID on January 23, 2015. The new M&E Plan included a comprehensive strategy for monitoring and reporting progress towards all FAIR purposes and results.

USAID reviewed the submitted M&E Plan and proposed that FAIR integrates a number of additional indicators to help USAID measure the immediate activity results under Objective 5. Specifically, USAID proposed tracking data on: a) number and percent of judges that have been screened for corruption and participation in politicized justice during the Revolution of Dignity; b) number and percent of judges that have not passed the review for corruption and participation in politicized justice; and c) number and percent of judges that have been dismissed out of those that were screened for corruption and did not pass the review. With the understanding that the activity measured by these indicators is outside of the control and scope of FAIR, but the Project still has an impact on these processes, we added two indicators in the revised version of the M&E Plan:

- percent of public officials and judges screened through vetting procedures in accordance with the Law on Purification of Government;
- percent of judges screened for corruption and participation in politicized justice in accordance with the Law on Restoration of Public Trust in the Judiciary.

Both indicators measure percent data, and also include the absolute units of measure (numbers) and segregates those individuals that have not passed the screening and have been dismissed.

The final version of the FAIR M&E Plan contains 45 indicators to measure progress toward achieving 15 ERs under 5 Objectives. In line with the United States Government Foreign Assistance Framework (FAF) and associated operational planning and monitoring procedures, we have included the indicators for Program Area 2.1, Rule of Law and Human Rights and Program Area 2.2 Good Governance:

- number of USG-supported public sessions held regarding proposed changes to the country’s legal framework;
- number of laws, regulations, and procedures designed to enhance judicial independence supported with USG Assistance;
- number of USG-assisted courts with improved case management;
- number of judges and judicial personnel trained with USG assistance;
- number of training days provided to executive branch personnel with USG assistance;
- number of USG-supported anti-corruption measures implemented.

Considering the availability of data over the past several years and the validity of these indicators for FAIR project management and reporting, we proposed additional custom indicators for USAID external reporting purposes under the Program Area 2.1, Rule of Law and Human Rights taking into account their usefulness in managing results:

- number of legal institutions and associations supported by the USG;
- number of new legal courses or curricula developed with USG assistance;
- number of merit-based criteria or procedures for justice sector personnel selection adopted with USG assistance;
- number of courts that have active court monitoring programs;
- number of people engaged in the monitoring and performance oversight of Ukrainian courts;
- percent of judges and judicial personnel trained with USG assistance reporting application of skills and knowledge gained in their judicial practices or teaching activities.

Per Contract Modification No.4 requirements we incorporated in our M&E Plan seven indicators specific to the USAID Ukraine Complex Crisis Fund (CCF) that provides the resources related to FAIR Objective 5:

- number of recommendations to improve the Law on the Purification of Government and relative legislative framework formulated;
- percent of recommendations formulated that are passed into law or adopted as regulations;
- number of procedures for lustration and vetting of public officials developed;
- number of training programs on implementation of the lustration and vetting processes in compliance with international and European standards developed with project support;
- number of people trained with newly developed programs on implementation of the lustration and vetting processes in compliance with international and European standards;
- number of civil society organizations participating in and contributing to the process of lustration and vetting of public officials;
- percent of Ukrainian citizens who are confident that the lustration and vetting processes are properly implemented and lead to purification of government.

In addition to those listed above, we proposed 24 performance indicators for project activity management. The full list of indicators is available in Annex 1.

STATUS OF FAIR PERFORMANCE INDICATOR TARGETS IN 2015. In Program Year Four (FY2015), FAIR has 40 indicators with annual targets designed to track implementation progress, capture and communicate project impact, support project management in making informed decisions, and contribute to USAID's own performance management and reporting needs. Five indicators in our M&E Plan do not have an annual target for FY2015 because a) the related activity is scheduled for next year, or b) the related processes are not within FAIR control (as mentioned in the example above). Annex 1 contains the list of FAIR indicators, grouped by project Objectives and ERs, with target versus actual data for FY2015, cumulative actual data for FY2012-2015, annual targets for FY2016, and FY2016 and cumulative project end target.

During FY2015, in an effort to achieve the overall project objective, FAIR supported 15 governmental judicial institutions, two public law schools, and 22 non-governmental legal associations. The means of support included trainings, technical assistance, consultations, information and expert support, direct procurement for governmental institutions, and grant funding to non-governmental associations. The actual FAIR FY2015 data for the indicator

“Number of legal institutions and associations supported by USG” is 37, exceeding the FY2015 target by 54%.

FAIR-promoted changes supporting judicial independence in Ukrainian legislation came into effect with adoption of the Law on the Purification of Government, the Law on Ensuring the Right to Fair Trial, the Law on the Restoration of the Trust in the Judiciary, and the Strategy for Reforming the Judiciary. These laws and regulations contribute to the indicator “Number of laws, regulations, and procedures designed to enhance judicial independence supported with USG assistance” under FAIR Objective 1: “The legislative and regulatory framework for judicial reform complies with European and international norms and supports judicial accountability and independence.” Meanwhile, the development of secondary legislation to implement the new provisions of the Law on the Judiciary and the Status of Judges⁷ is delay by Project partners including the HQC and the HCJ. Thus, the FY2015 actual data is below target by 40 percent. In FY2015, changes occurred under the indicators “Number of revised provisions enacted that reflect Venice Commission recommendations” and “Percentage of Venice Commission recommendations adopted” that are also relate to Objective 1. Both indicator targets were exceeded by 20 percent as the above-mentioned adopted laws address a significant number of Venice Commission recommendations related to judicial reform legislation.

Under the Objective 2: “The accountability and transparency of key judicial institutions and operations are strengthened” FAIR faced several challenges to achieving significant measurable progress in FY2015. Most of the FAIR activities under this Objective directly involve the HQC as a key partner. The new composition of the HQC began operations in December 2014 and taking into consideration the preceding 8-month break (since April 2014), for most of 2015, the HQC was catching up with previously postponed priorities. Thus, FAIR had to postpone a number of activities related to the development and improvement of the HQC case management system. Meanwhile, the HQC approved the FAIR-supported Regulations on Judicial Dossier contributing to the indicator “Number of merit-based criteria or procedures for justice sector personnel selection adopted with USG assistance.” In addition, in FY2015 the “Percent of judicial misconduct complaints submitted to the HQC using the standardized form” increased significantly from 11 to 29 percent (the indicator FY2015 target increased by 93 percent).

In FY2015, FAIR made significant impacts under the Objective 3: “The professionalism and effectiveness of the Ukrainian judiciary are strengthened.” We exceeded the annual target for the indicator “Number of USG-assisted courts with improved case management” by 32 percent, which counts 66 actual data against 50 planned. The actual data counts 42 courts where FAIR provided information kiosks with pay terminals and 24 courts that implemented recommendations developed by FAIR CSO-partners as the result of conducting court user satisfaction (citizen report cards) surveys. Under this Objective, we trained 695 judges and judicial personnel in various topics including Communications, Judicial Ethics, Evaluation of Judges, Gender Policy, European and International Standards for Vetting and Lustration, Court Administration, Judicial Testing and others, contributing to the FAF indicator “Number of judges and judicial personnel trained with USG assistance.” Cooperation and sharing resources with other international organizations as well as with local partners resulted in exceeding the 2015 target for this indicator by 130 percent. FAIR conducted post-training survey of judges, court staff, and other justice sector personnel who participated in FAIR-supported trainings in 2015. 224 out of 279 (80.3 percent) respondents admitted that they use the new knowledge and skills gained in their work, which contributes to the indicator “Percent of judges and judicial personnel trained with USG assistance reporting application of skills and knowledge gained in their judicial practices or teaching activities.”

⁷ In 2015 the Law on the Judiciary and the Status of Judges was amended by the newly adopted Law on Ensuring the Right to Fair Trial. The new provisions include the judicial performance evaluation, the new composition of the Council of Judges, and others.

Other achievements under Objective 3 include the COJ approval of the Court Performance Evaluation (CPE) System that contains four court performance standards contributing to indicator “Number of court performance standards adopted” and to eight mandatory performance indicators for Ukrainian courts. In total, during FY2015, Ukrainian courts implemented 21 performance indicators⁸ contributing to the indicator “Number of court performance indicators implemented.” The COJ approval of the CPE System resulted in a significant increase in its implementation by Ukrainian courts in FY2015 – 218 courts this year, against 64 a year ago, implemented selected evaluation modules of the FAIR-developed CPE System contributing to the indicator “Number of courts implementing project-supported performance measurement system” where the FY2015 target increased 5.6 times.

Under Objective 4: “The role of civil society organizations as advocates for and monitors of judicial reform is strengthened,” in FY2015 FAIR provided funding and training assistance to the CSO-partners “Institute Republic” and “Institute of Applied Humanitarian Researches.” These CSOs drafted and submitted to the Verkhovna Rada two policy proposals with recommendations to amend the Constitution, the Law on the Judiciary and the Status of Judges, and other legislation and regulations contributing to the indicator “Number of CSO-produced policy proposals related to pending judicial reform legislation.” FAIR-supported Citizen Report Card (CRC) surveys took place in 197 courts including all courts of Lviv, Chernivtsi, Kharkiv, Sumy, Ivano-Frankivsk, Cherkassy, and Odessa Oblasts contributing to the indicator “Number and percentage of courts in which there are active CSO court performance evaluation programs” and exceeding the indicator target by 120 percent.⁹ FAIR-supported court user surveys engaged more than 12,000 court users in the process of monitoring and performance oversight of Ukrainian courts exceeding the target for the indicator “Number of people engaged in the monitoring and performance oversight of Ukrainian courts” by 49 percent. Meanwhile, the initially planned for FY2015 assessment of the implementation of CSO recommendations by Ukrainian courts measuring the indicator “Percentage of partner Civil Society Organizations’ performance improvement recommendations implemented by judicial institutions” is rescheduled for next year, thus data on this indicator is not available for FY2015.

As for the Objective 5 “The Lustration and Vetting of Public Officials and Judges Implemented Fairly, Transparently and Effectively and in Compliance with International and European Standards,” in FY2015 FAIR developed and submitted to the GOU 20 recommendations to improve the Law on the Purification of Government, 15 recommendations to improve the Law on the Restoration of Public Trust in the Judiciary, and 7 recommendations to improve regulations on lustration and vetting. This activity contributes to the indicator “Number of recommendations to improve the Law on the Purification of Government and relative legislative framework formulated” and exceeded the FY2015 target by 320 percent. Meanwhile, the developed recommendations remain under GOU consideration thus, there is no progress under the indicator

⁸ In 2014 the COJ of General Courts approved 17 court performance indicators for general courts developed with FAIR support. In FY2015, the Council of Judges of Ukraine approved the FAIR-developed CPE System which includes eight basic performance indicators applicable to all courts – general, administrative, and commercial. Ukrainian courts currently implement both sets of indicators – approved in 2014 and in 2015. Four indicators overlap between the two sets, thus the total number of indicators is 21.

⁹ It is necessary to note that this indicator overlaps with the indicator “Number of courts implementing project-supported performance measurement system” because the court user surveys by way of CRC methodology became one of the COJ-approved Court Performance Evaluation modules. However, the actual data of the indicator “Number of courts implementing project-supported performance measurement system” is always higher than the indicator “Number of courts in which there are active CSO court performance evaluation programs” because there are also other evaluation modules that courts can implement – timeliness of court proceeding and effectiveness of court administration.

“Percent of recommendations formulated that are passed into law or adopted as regulations” this year.

FAIR met its FY2015 target for the indicator “Number of institutions that implement vetting and lustration of public officials and judges supported by the project” by providing support to the Lustration Department of the MOJ, the ISC, and the HQC. However, the activity contributing to the indicators “Number of judicial performance indicators to evaluate sitting judges in Ukraine developed with project support,” “Number of recommendations to improve the Unified Registry of Vested Persons functioning formulated with project support and adopted as regulations,” and “Number of project-supported newly developed or improved procedures for vetting and lustration of public officials and judges” is still in progress and no changes related to these indicators in FY2015 have been achieved.

FAIR trained 145 representatives of the GOU executive branch (e.g. Ministry of Justice of Ukraine) in European standards and practices for lustration and vetting, gender issues, and organizational development. This number includes 75 women and 70 men, and contributes to the indicator “Number of people trained with newly developed programs on implementation the lustration and vetting processes in compliance with international and European standards” exceeding the FY2015 target by 107 percent. FAIR also exceeded its FY2015 target on the indicator “Number of civil society organizations participating in and contributing to the process of lustration and vetting of public officials” by 43 percent. This is the result of providing support to 10 CSOs implementing monitoring of lustration and vetting and conducting public awareness campaigns on these issues.

Annex 1 provides more details regarding the status of the FAIR performance indicators as of the end of FY2015. The table below summarizes FAIR’s actual progress against its 40 FY2015 targets, disaggregated by the five project objectives:

FAIR Objectives	Number of indicators	Number of indicator targets for FY2015	Targets met and exceeded	Targets met	Changes made, below target	No changes
Program Goal	1	1	1	-	-	-
Objective 1	5	4	3	0	1	0
Objective 2	7	7	1	0	1	5
Objective 3	12	12	5	2	4	1
Objective 4	4	4	3	0	0	1
Objective 5	16	12	5	2	1	4
TOTAL	45	40	18	4	7	11
<i>TOTAL (Percent)</i>		<i>100%</i>	<i>45%</i>	<i>9%</i>	<i>17.5%</i>	<i>27.5%</i>

As we can see, FAIR met or exceeded 22 of the 40 indicator targets set for FY2015 (54%), made an impact but did not achieve targets for 7 indicators (17.5%), and made no progress on 11 indicators (27.5%).

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

- Rapidly increased public demand for the GOU to proceed with judicial reform and to implement vetting of public officials and judges which further led to consolidated GOU efforts to develop and adopt judicial reform legislation (for example, the Law on Ensuring the Right to Fair trial).

- Strengthened collaboration with Ukrainian partners, specifically the Presidential Administration, SJA, HQC, NSJ, COJ, and others.
- Strengthened collaboration and resource-sharing with other international donors, including the European Union, and the Council of Europe.
- Greater interest of Ukrainian justice sector personnel and their growing needs to learn the international standards and best practices regarding judicial independence, accountability, transparency, efficiency and other issues which lead to increased motivation of FAIR Ukrainian counterparts' representatives to actively participate in FAIR initiatives.
- Greater interest of Ukrainian CSO in monitoring of courts, judicial, and other governmental institutions.

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

- Political and civil unrest in Ukraine impacted the GOU agenda and all activities linked to it.
- Ukrainian judicial institutions delaying judicial reform activities for various reasons, ranging from inadequate state funding to lack of consensus among and within institutions.
- Operational delays of newly created or reformed institutions responsible for FAIR-supported processes; for example, the newly created ISC under the HCJ started its operations almost one year after the adoption of the relevant legislation, as it took eleven months to finalize its composition).
- Lack of political will on the part of lawmakers to consider the recommendations from the international community, including FAIR recommendations, and enact the appropriate legislative changes.

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

- FAIR will continue to promote consensus building on the implementation of judicial reform between stakeholder institutions and individuals.
- FAIR will seek to forecast possible project delays and prepare alternative solutions to achieve project expected results, if such delays become probable.

BUDGET EXECUTION AND LOE UTILIZATION

[REDACTED]			
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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ADMINISTRATION AND PROJECT MANAGEMENT

CONTRACT AND OPTION PERIOD. On December 18, 2014, USAID signed Modification No. 04 to Contract No. AID-121-C-11-00002 (Contract) to add lustration and vetting to the scope of the FAIR program to support the implementation of the newly adopted Law on the Purification of Government. The purpose of this modification is to increase the Total Estimated Cost by [REDACTED], revise the Statement of Work and Level of Effort, provide incremental funding, and introduce various administrative changes.

PROJECT REGISTRATION AND PROTOCOLS OF COOPERATION / INTENSIONS. During the reporting period, FAIR signed protocols of cooperation with its two counterparts MOJ and HQC, and protocols of intentions with 29 NGO grantees that also provided letters of support to the FAIR Project. The Project worked with the Ministry of Economic Development and Trade of Ukraine (MOEDT) to reflect the new beneficiaries and recipients in the following FAIR registration cards:

- 1) registration card No. 2601-05 as of October 03, 2014:
 - All-Ukrainian Civil Society Organization “Institute of Strategic Partnership”;
 - Charity Foundation “Intelektualna Perspektyva”;
 - Charity Organization “All-Ukrainian Coalition for Legal Aid”;
 - Civil Society Organization “Podilska Human Rights Foundation”;
- 2) registration card No. 2601-06 as of December 29, 2014:
 - Volyn Regional Nongovernmental Organisation “Center for Legal Aid”;
 - Civic Association “Ukrainian Helsinki Human Rights Union”;
 - Non-governmental Organization “Andriyivsko-Peizazhna Initsiatyva”;
- 3) registration card No. 2601-07 as of April 15, 2015:
 - Sumy City Non-governmental Organization “Center for Regional Policy Studies”;
 - Charity Foundation “CCC Creative Center”;
 - Charity Organization Charity Foundation for Development of Ukraine “Oriyana”;
 - Civic Organization "Center for Social Adaptation";
 - Kharkiv City Civic Organization “Institute for Applied Humanitarian Research”;
 - Charity Organization “Your Right”;
 - Civic Organization “Community Consulting Group “Partner”.

Through Registration card No. 2601-07 FAIR also completed a full Project re-registration process, reflecting the provisions of Modification No. 04. With this regard, on December 29, 2014, FAIR signed a Protocol of cooperation with the HQC; the HQC provided a letter of its agreement to be a Project recipient. Additionally, FAIR received two SJA letters, confirming its agreement to be a FAIR beneficiary and recipient, and the SJA approved the updated Procurement Plan of goods, works, and services to be purchased at the expense of international technical assistance during the FAIR Option Period. On March 24, 2015, FAIR signed a Protocol of cooperation with the MOJ, which is valid until the end of the Option Period, and also obtained two MOJ letters confirming its agreement to be a FAIR beneficiary and recipient. This resulted in the MOEDT including the SJA and MOJ as FAIR beneficiaries in the registration card.

4) registration card No. 2601-08 as of August 31, 2015:

- CCC Creative Center Charity Foundation;
- Sumy Oblast Civic Organization of Social Workers League of Ukraine “Professional League of Social Workers of Sumy Region”;
- International Charitable Organization “Environment – People – Law”;
- Non-governmental Organization “Law Society of the Odesa Oblast”;
- All-Ukrainian Civic Organization “Association of Judges of Ukraine”;
- Civic Organization “National Association of Mediators of Ukraine”;
- All-Ukrainian Civil Society Organization "Institut Respublika";
- International Public Organization “Universal Examination Network”;
- Charitable Organization “Ukrainian Coalition for Legal Aid”;
- Non-governmental Organization “Law Society of the Odesa Oblast”;
- All-Ukrainian Non-Governmental Organization “Committee of voters of Ukraine”;
- Public Association “Open Dialog Foundation”;
- Non-Governmental Organization “Civic Lustration Committee”;
- All-Ukrainian Charitable Foundation “Ukrainian Legal Foundation”;
- Civic Organization “Center for Civil Liberties”.

Additionally, FAIR drafted a Memorandum with the Presidential Administration of Ukraine and submitted it for endorsement with the counterpart.

WORK PLANNING. FAIR conducted two Semi-Annual Work Plan (WP) Workshops to prepare WP8 for the period from April 1, 2015 to September 30, 2015, and WP9 for the period from October 1, 2015 to March 31, 2016. Pursuant to Section F.5.B of the Contract, FAIR submitted the work plans to USAID and USAID approved WP8; WP9 is under USAID consideration.

PROJECT MONITORING BY BENEFICIARY. Per SJA’s request, FAIR provided detailed reports on FAIR activities with regard to planned events and technical expertise for each Project task for the second half of 2014 year and the first half of 2015.

STAFFING AND EXPERTS. To support the new Project Objective 5, FAIR hired six new employees and signed employment agreements with the following staff members: Sergey Roshchuk, FAIR Grants and Procurement Administrative Support Specialist; Roman Falfushynskyi, FAIR Legal Specialist; Valentyna Mudrik, FAIR Civil Society Specialist; Natalia Polyanska, FAIR Administrative Assistant; Olena Zadorozhna, FAIR Legal and Civic Advocacy Specialist; and Miroslava Vorontsova, FAIR Legal Specialist. FAIR terminated the employment agreement with Roman Falfushynskyi on the grounds of mutual agreement. Two FAIR employees resigned from the project: Natalia Polyanska, FAIR Administrative Assistant; and Ashot Agaian, FAIR Legal and Civic Advocacy Specialist. During this reporting period of the project Option Period, the Project involved the expertise of Short-Term Technical Assistance (STTA) Expatriates on paid basis, STTA Pro Bono Expatriates, and STTA Cooperative Country National (CCN) experts. The STTA

Expatriates represented the following countries: U.S. Experts and Third Country National (TCN) Experts from the Czech Republic, the Netherlands, Germany, Poland, Portugal, Italy, the United Kingdom, Moldova, Slovenia, and Romania. FAIR obtained prior USAID approval for all STTA experts' assignments, as well as for their international travel as needed.

COST CONTROL. FAIR saves USG resources by attracting non-federal in-kind or cash contributions from local partners or other international donors while organizing and conducting its activities, trainings, conferences, roundtables, and study tours. FAIR shares its resources with other USG-funded projects, other international donor organizations, as well as its counterparts. In 2014 and 2015, the Project shared the LOE of consultants, trainers, and experts and contributed training materials and other resources to FAIR-supported events in cooperation with the EU, COE, Canadian Embassy, the OSCE, the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine), the Local Self-Government and the Rule of Law in Ukraine, The Folke Bernadotte Academy (FBA), the Konrad-Adenauer-Stiftung Ukraine Foundation, the Deutsche Stiftung für Internationale Rechtliche Zusammenarbeit e.V., the International Renaissance Foundation, the International Client Consultation Competition (ICCC) Commission, the American Bar Association Rule of Law Initiative (ABA ROLI), U.S. Department of Justice Regional Legal Advisor (RLA), the OPDAT Project, the Commercial Law Center (CLC), the USAID RADA Project, the USAID-PC Local Capacity Development Program (LCDP), the USAID Public Private Partnership Development Program (P3DP), the USAID Ukraine National Initiatives to Enhance Reforms (UNITER) Project, and the Ukrainian Helsinki Human Rights Union. When contracting Ukrainian vendors, as well as when providing grants to local NGOs, FAIR involves representatives of local and international partner organizations to take part in the selection committee meetings to make the competition process open and fair, as well as to obtain partners' expertise. The Project always strives to get the lowest rates and conducts market research related to the procurement of goods and services. FAIR shares its vendors' database with other international technical assistance projects. FAIR's Home Office (HO) and Field Office (FO) monitor the Project budget on a monthly basis in order to ensure effective cost management. In August-September 2015, the HO conducted an on-site finance and compliance review of the Project to support the financial and compliance activities of the field office by obtaining reasonable assurance that the Project is in compliance with Chemonics and USAID financial and operational policies and contractual requirements.

VAT. FAIR submitted twelve informational reports regarding all VAT-exempted purchases done from September 2014 to August 2015 to the Shevchenkivska Tax Inspection in Kyiv City in this reporting period. FAIR continues to enter into efficient negotiations with new vendors and subcontractors on VAT exemption, and encourages them to sign special provisions in agreements to 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, which is why it is often difficult for them to cooperate under such conditions. In spite of this, FAIR signed service agreements with thirteen new vendors that the Project engaged to follow the VAT-exemption procedure for the first time in the vendors' business practices. FAIR ensures that the VAT exemption is provided even for day-to-day operational micro-procurements. FAIR submitted the Report on Taxation of U.S. Foreign Assistance for the period from October 1, 2013 to September 30, 2014 to USAID, as required by clause H.21 of the Contract.

FINANCE, ACCOUNTING, ADMINISTRATION. FAIR submitted the Accruals in a timely manner according to the requirements of clause F.9 of the Contract. To ensure efficient grant programs implementation and following new USAID regulations, FAIR reviewed financial reports of grantees on a monthly basis. The Project also participated in the field trips and conducted internal financial reviews of the grantees' financial reports and documents in order to improve the reporting process and provide follow-up training on USAID regulations and the FAIR Grants

Manual. FAIR procures all commodities in the most efficient manner possible in compliance with applicable Federal Acquisition Regulation (FAR), USAID Acquisition Regulation (AIDAR), Code of Federal Regulations (CFR), and relevant ADS polices to the greatest degree possible. As such, FAIR selects vendors and issues orders on a competitive basis to the maximum practical extent. During the reporting period, FAIR went through four Automated Directives System (ADS) 548 review requests for programmatic and operational IT procurements and received advance-approval and good recommendations from the USAID Bureau for Management/Chief Information Office (M/CIO):

- On May 18, 2015, the Project received approval for the sixth iteration of the ADS 548 submission to procure additional IT equipment for the FAIR Project office, including hardware and software to support the implementation of the newly adopted Law of Ukraine on the Purification of Government, as well as to help manage the program and support program activities.
- On June 13, 2015, FAIR received approval for the seventh iteration of the ADS 548 submission on a procurement related to supporting the HQC and two selected Ukrainian courts (the Kyivskiy District Court of Odessa City and the Ovidiopol Raion Court of Odessa) in building their operational capacity to ensure effective processes of case management, processing of incoming and outgoing correspondence, streamlining business processes, and converting documentation into digital format.
- On July 29 2015, the Project received approval for the eighth iteration of the ADS 548 submission to 1) support the HQC by automating the qualifications exam for judicial candidates, by procuring the necessary hardware and software; 2) retrofit of the website of the COJ by improving the website's functionality to meet new emerging needs of the COJ; and 3) support the FAIR office needs to procure an additional desktop computer with software, and a high-speed scanner for the administrative needs of the Project.
- On September 11, 2015, the Project received approval for the ninth iteration of the ADS 548 submission to procure the Human Resource Management System and server for the SJA.

To continue to operate effectively during the remaining time period of the Project through September 2016, and in light of the additional scope of work regarding lustration and vetting, FAIR rented the additional office space needed to accommodate new staff, additional furniture, and IT equipment, including hardware and software, to help manage the Project's activities.

During the reporting period, FAIR continued to provide quality consultations to other USAID-funded projects (USAID Public Private Partnership Development Program (P3DP) and the USAID Systems for Improved Access to Pharmaceuticals and Services Program (SIAPS) implemented by the Management Sciences for Health), to the National Democratic Institute and ABA/ROLI on the new GOU regulations related to project registration, procurement plan, VAT exemption procedure, expats registration in Ukraine, employment, etc. FAIR also advised key project partners on logistical and administrative issues concerning the implementation of their respective events and activities.

BUSINESS CONDUCT. In this reporting period, FAIR staff successfully completed the Chemonics business conduct training.

DONOR COORDINATION

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

- On October 8, 2014, Markiyana Halabala, Deputy Chair of the Interim Special Commission for Vetting of Judges of General Jurisdiction Courts (ISC), provided an update on the work of the ISC and shared plans and priorities for the future of the Commission, which was established pursuant to the Law on Restoring Trust in the Judiciary.
- On December 3, 2014, Kostiantyn Krasovskii, Secretary of the Judicial Reform Council of the Presidential Administration, shared plans and priorities for the Judicial Reform Council.
- On February 4, 2015, Sergii Koziakov, Chair of the HQC, provided an update on the work of the HQC and shared his plans and priorities for the future of the HQC in selecting and disciplining judges.
- On March 11, 2015, Mykola Onishchuk, Rector of the NSJ, provided an update on the work of the NSJ and shared his plans and priorities for the future of professional development for judges and court staff.
- On April 1, 2015, Gia Getsadze, Deputy Minister of Justice of Ukraine, provided an update on reforms being undertaken by the MOJ, including on issues related to registration services and the enforcement of court judgments.
- On June 3, 2015, Professor Andriy Boiko, Dean of the Lviv Ivan Franko National University (LNU) Law School and newly appointed Member of the HCJ, shared his vision regarding the challenges and opportunities for legal education reform in Ukraine. The meeting also included a presentation via Skype by Hamid M. Khan, Deputy Director of the Rule of Law Collaborative at the University of South Carolina on “A Forum on Eliminating Corruption and Promoting Economic Development in Ukraine.” This forum took place in Prague, Czech Republic on July 20-21, 2015.
- On July 8, 2015, HCJ members Oleksiy Malovatskyi, Secretary of the HCJ Judicial Appointments and Dismissals Unit, and Vadym Belianevych, Member of the Judicial Reform Council under the President of Ukraine and Member of the Constitutional Commission under the President of Ukraine, shared their views concerning issues and priorities facing the new composition of the HCJ.
- On September 2, 2015, FAIR presented: (1) the results of a national public opinion survey on democratic, economic, and judicial reforms, including implementation of the Law on the Purification of Government conducted by FAIR and GfK Ukraine in July 2015 to identify the level of public awareness and public opinions about the lustration and vetting of public officials and judges; the level of satisfaction with the government’s response to public demands following the Revolution of Dignity; and general trends in the level of public trust in the government and the judiciary (presenters were Tamila Konoplytska, GfK Ukraine Project Manager and Tomas Verteletsky, FAIR Monitoring, Evaluation and Court Performance Specialist); and (2) an analysis on guaranteeing equal access to justice for persons with disabilities, conducted in 20 courts in 10 oblasts throughout Ukraine (presenter: Andriy Buryy, Chairman of the Board of the Regional Public Charitable Foundation “Law and Democracy”).

In addition, FAIR representatives participated in the meetings on International Parliamentary Technical Assistance Coordination conducted by the USAID RADA Program in January, March, May, July, and September 2015.

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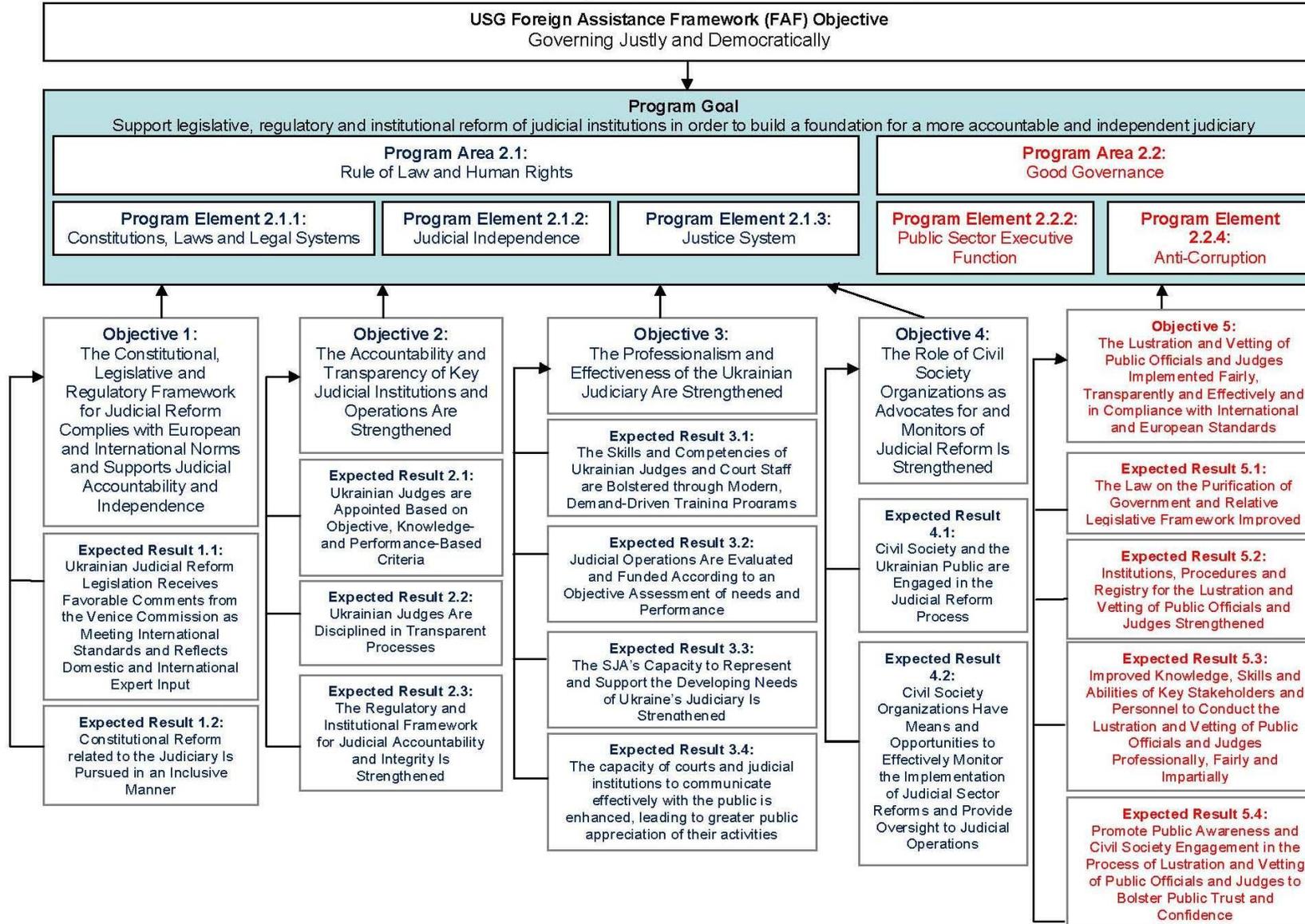
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ANNEX 1: FAIR FY2015 PERFORMANCE MANAGEMENT AND EVALUATION SUMMARY

USAID Ukraine FAIR Project Results Framework 2015-2016



PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
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	Dec 2014	38 ¹⁰	24	24	37	49	24	45	In the last quarter of FY2015 FAIR supported eight governmental judicial institutions and 16 non-governmental legal associations. During FY2015 FAIR supported 15 governmental judicial institutions, including two law schools, and 22 non-governmental legal associations. FY2015 target exceeded by 54%
Objective 1: The constitutional, legislative and regulatory framework for judicial reform complies with European and international norms and supports judicial accountability and independence									
2. Number of laws, regulations and procedures designed to enhance judicial independence supported with USG assistance (FAF)	Dec 2014	17 ¹¹	5	0 (4)	3 (4) ¹²	19 (19) ¹³	3	25	In FY2015 FAIR supported the adoption and implementation of the Law on Purification of Government, the Law on Ensuring the Right to Fair Trial, and the Strategy for Reforming the Judiciary. In addition, FAIR supported the implementation of the Law on Restoration of Trust in the Judiciary adopted in FY2014. FY2015 indicator is below target by 40%.
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									

¹⁰ Total since 2006, comprised of support by the USAID Ukraine Rule of Law Project (UROL) and FAIR

¹¹ Total since 2006, comprised of 8 under the UROL project and 9 under the FAIR project

¹² The first number – 3 – is the number of adopted laws, regulations and procedures. The second number (in parentheses) is the number of implemented laws regulations and procedures and includes units from the previous reporting period.

¹³ Total since 2006, comprised of 8 under the UROL project and 11 under the FAIR project

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
3. Number of revised provisions enacted that reflect Venice Commission recommendations	Dec 2014	6	20	0	24	30	10	36	The Law on the Right to Fair Trial, adopted in FY2015, amends the Law on the Judiciary and the Status of Judges, the Law on the High Council of Justice, and other legislation. The 24 revised provisions in these laws reflect Venice Commission recommendations. Note that 14 recommendations were addressed in full and 10 were addressed partially. FY2015 target exceeded by 20%.
4. Percentage of Venice Commission recommendations adopted	Dec 2014	12% ¹⁴	43%	0%	51%	64%%	21%	77%	Out of 47 Venice Commission recommendations to the legislation related to the judiciary, Ukrainian law makers adopted 24 in FY2015, which represents 51% of the total. FY2015 target exceeded by 19%.
Expected Result 1.2: Constitutional reform related to the judiciary is pursued in an inclusive manner									
5. Number of USG-supported public sessions held regarding proposed changes to the country's legal framework.	Dec 2014	6	2	1	5	10	3	11	In FY2015 FAIR supported five regional discussions on proposed amendments to the Constitution, including three on human rights issues in Rivne, Ivano-Frankivsk, and Uzhgorod and two on judicial reform issues in Dnipropetrovsk and Odesa. FY2015 target exceeded by 150%.
6. Number of revised provisions in the Constitution enacted that reflect inputs from project-supported public discussions	Dec 2014	0	N/A	0	0	0	7	7	Activity is in progress and proposed constitutional amendments have been formulated, although they remain in draft law status at the end of FY2015. Target is not applicable to this FY.

¹⁴ 12% baseline refers to 6 Venice Commission recommendations addressed by changes in laws dated 2013-2014 out of a total 47 recommendations provided

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
Objective 2: The accountability and transparency of key judicial institutions and operations are strengthened									
7. Number of new properties and functions surrounding judicial selection and discipline introduced to HQC management system with project support	Dec 2014	1	9	0	0	1	0	10	The HQC did not operate from May to December 2014 due to the lustration of its previous members and delays with selection current members. During 2015 the new composition of the HQC has been catching up with delayed priorities and dealing with new urgent priorities linked to vetting judges. Taking this into account FAIR postponed a number of joint activities with the HQC, including those related to the HQC case management system. No progress made in this FY.
Expected Result 2.1: Ukrainian judges are appointed based on objective, knowledge- and performance-based criteria									
8. Number of merit-based criteria or procedures for justice sector personnel selection adopted with USG assistance	Dec 2014	17	8	1	1	18	0	25	In FY2015 the HQC approved the FAIR-supported Regulation on the Procedure for the Judicial Dossier contributing to this indicator. FY2015 actual value is below target by 87.5%.
9. Number of Ukrainian judges appointed through project-supported objective, merit-based judicial selection process	Dec 2014	942	50	0	0	942	50	1042	No new judges appointed in FY2015.
Expected Result 2.2: Ukrainian judges are disciplined in transparent processes									

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
10. Number of criteria, standards and regulations adopted to govern judicial misconduct investigations	Dec 2014	1	7 ¹⁵	0	0	1	0	8	No changes this quarter. Developing standards for conducting preliminary screening of complaints and investigation of judicial misconduct, amending the regulations governing judicial misconduct investigation, and developing standards and criteria for selection, training, and performance evaluation of disciplinary inspector candidates are in progress.
11. Percent of judicial misconduct complaints submitted to the HQC using the standardized form	Dec 2014	11%	15%	32%	29%	13.3%	20%	20%	During FY2015 the HQC received 7,772 judicial misconduct complaints including 2,232 on the standardized form. The annual indicator status is 29%. FY2015 target exceeded by 93%.
12. Percent of judicial discipline decisions posted on HQC website	Dec 2014	79.5%	100%	0%	0%	73%	100%	100%	During FY2015 the HQC did not publish the judicial discipline decisions on its website. FY2015 target not met.
Expected Result 2.3: The regulatory and institutional framework for judicial accountability and integrity is strengthened									
13. Number of judicial self-governance mechanisms revised with project support	Dec 2014	5	1	0	0	5	TBD	TBD	In FY2015 FAIR has worked on the Commentaries to the Code of Judicial Ethics and improving internal decision-making regulations for the High Council of Justice. This activity is still ongoing. FY2015 target not met.
Objective 3: The professionalism and effectiveness of the Ukrainian judiciary are strengthened									

¹⁵ FY2015 target revised based on FY2014 actual indicator status

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
14. Number of USG-assisted courts with improved case management (FAF)	Dec 2014	62	50	66	66	139	60	80	In FY2015 66 FAIR-assisted courts improved case management. This indicator refers to 42 courts where FAIR provided information kiosks with pay terminals and 24 courts that implemented recommendations developed by FAIR CSO-partners through the CRC surveys. FY2015 target exceeded by 32%.
Expected Result 3.1: The skills and competencies of Ukrainian judges and court staff are bolstered through modern, demand-driven training programs									
15. Number of judges and judicial personnel trained with USG assistance (FAF)	Dec 2014	4,331 ¹⁶	300 50% men and 50% women	225 64% men and 36% women	695 48.5% men and 51.5% women	2,090¹⁷ 44% men and 56% women	300	4,700 ¹⁸	In FY2015 FAIR trained 695 justice sector personnel (337 men and 359 women) in areas including communications, judicial ethics, evaluation of judges, gender policy, European and international standards for vetting and lustration, court administration, judicial testing and other topics. This number includes 293 judges (177 men and 116 women). FY2015 target exceeded by 130%.

¹⁶ Total since 2006 under the UROL project (2,946) and the FAIR project (1,630), double counting excluded

¹⁷ Cumulative LOP number refers only to the FAIR project from October 2011 to September 2015

¹⁸ Taking into account that this is FAF indicator, the cumulative project end target includes the UROL project and the FAIR project

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
16. Percent of judges and judicial personnel trained with USG assistance reporting application of skills and knowledge gained in their judicial practices or teaching activities.	Dec 2014	78%	83%	80.3%	80.3%	80.3%	88%	85%	FAIR conducted post-training surveys of judges, court staff and other justice sector personnel who participated in FAIR-supported trainings in 2015. 224 out of 279 (80.3%) respondents stated that they use new knowledge and skills gained in their work. Below FY2015 target by 3%.
17. Number of new legal courses or curricula developed with USG assistance	Dec 2014	19 ¹⁹	2	0	2	12 (20) ²⁰	1	22	FY2015 data includes an online training course in judicial ethics and an online training course in communications. FY2015 target met.
Expected Result 3.2: Judicial operations are evaluated and funded according to an objective assessment of needs and performance									
18. Number of court performance standards adopted	Dec 2014	0	7	4	4	4	0	7	The COJ-approved the FAIR-developed Court Performance Evaluation (CPE) System, and approved the following court performance standards based on the system: 1) Number of cases where overall consideration timeline exceeds one year (backlog): should be zero or almost zero; 2) Clearance rate: 96-102%; 3) Conduct user satisfaction survey in courts every three years; 4) Publish user satisfaction survey results on court website. Below FY2015 target by 43%.

¹⁹ Total since 2006 under the UROL project (8) and the FAIR project (11)

²⁰ 8 under the UROL project and 12 under the FAIR project

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
19. Number of court performance indicators implemented	Dec 2014	17	17	21	21	121	31	31	In 2014 the COJ of General Courts approved 17 court performance indicators developed with FAIR support for general courts. In FY2015 the COJ of Ukraine approved the FAIR-developed CPE System, which includes eight basic performance indicators applicable to all courts – general, administrative and commercial. Ukrainian courts currently implement both sets of indicators – those approved in 2014 and in 2015. Four indicators overlap between the two sets, thus the total number of implemented indicators is 21. See sample at http://zr.su.court.gov.ua/sud1805/inf_grom/pokazd FY2015 target exceeded by 24%.
20. Number of courts implementing project-supported performance measurement system	Dec 2014	64	50	172	218	261	100	100	In FY2015 we counted those courts that implement the FAIR-developed Court Performance Evaluation (CPE) System in full, or use selected CPE modules (e.g. court user satisfaction surveys). We also counted those courts that implement FAIR-developed and COJ-approved mandatory court performance indicators that are part of mentioned above CPE System FY2015 target exceeded by 5.6 times (462%).

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
21. Average annual citizen report cards score of participating courts	Dec 2014	.80 (out of max. score of 1)	.80	.83	.83	.82	.82	.82	In 2014-2015 FAIR supported the implementation of CRC surveys in 197 courts. Out of these, 155 courts finished survey data collection and processing; 42 courts are still completing the survey. The FY2015 indicator data represents 155 courts that completed surveys. FY2015 target exceeded by 3.5%.
Expected Result 3.3: The SJA's capacity to represent and support the developing needs of Ukrainian judiciary is strengthened									
22. Number of data-fed analytical techniques incorporated into judicial budgeting	Dec 2014	1	3	0	0	1	0	4	No changes this reporting period after the case weighting studies for general first instance courts were completed and approved by the COJ in 2014. FY2015 target not met.
23. 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	Sept 2013	2 ²¹	2	0	1	3	3	7	FAIR-supported Regulation on Electronic Case Management in Courts approved by the COJ in this reporting period. FY2015 actual value is below target by 50%.
Expected Result 3.4: The capacity of courts and judicial institutions to communicate effectively with the public is enhanced, leading to greater public appreciation of their activities									

²¹ Baseline comprised of Strategic Plan for the Judiciary (approved in 2012) and Court Automation Strategy (approved in 2013)

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
24. Number of communication strategies implemented by courts and judicial institutions	Dec 2014	4	2	2	2	6	3	9	In this reporting period FAIR assisted the development and promoted the approval of the Communication Strategy for the Commercial Court of Lviv Oblast and Appellate Court of the City of Kyiv. FY2015 target met.
25. Number of courts offering legal education materials to court visitors	Dec 2014	42	50	43	43	42	60	60	FAIR provided information and pay terminals to 42 courts. Terminals contain the electronic versions of all civic education materials developed by FAIR and its CSO partners, including materials on judicial reform and court operations, and information on how to file a case, access court decisions, and file a complaint against a judge. In addition, we counted two courts implementing FAIR-supported e-court pilot projects, one of which overlaps with the aforementioned courts equipped with information kiosks. FY2015 actual value is below target by 14%.
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 Ukrainian public are engaged in the judicial reform process									

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
26. Number of CSO-produced policy proposals related to pending judicial reform legislation	Dec 2014	2	1	1	2	3	TBD	TBD	FY2015 data refers to policy proposals containing recommendations to amend the judicial reform legislation. These proposals were developed and submitted to the legislator by FAIR CSO partners “Institute of Republic” and “Institute of Applied Humanitarian Researches.” FY2015 target exceeded by 100%.
Expected Result 4.2: Civil society organizations have means and opportunities to effectively monitor the implementation of judicial sector reforms and provide oversight to judicial operations									
27. Number and percentage of courts in which there are active CSO court performance evaluation programs	Dec 2014	47 (6%)	85 (11%)	182 (24%)	197 (26%)	204 (27%)	85 (11%)	120 (16%)	During FY2015 FAIR-supported CRC surveys took place in 197 courts, including all courts of Lviv, Chernivtsi, Kharkiv, Sumy, Ivano-Frankivsk, Cherkasy and Odesa oblasts. This number represents 26% of all courts in Ukraine. ²² FY2015 target exceeded by 120%.
28. Number of people engaged in the monitoring and performance oversight of Ukrainian courts	Dec 2014	7,173	8,500	10,859	12,793	18,775 ²³	8,500	12,000	During FY2015 FAIR supported court user satisfaction surveys in 197 courts; 155 of these completed the survey and related data processing. These 155 courts involved 12,307 citizens in the process of court monitoring and developing recommendations to improve court functions. FY2015 target exceeded by 49%.

²² Including occupied territories, the denominator of this ratio is comprised of 767 courts.

²³ 18,775 includes citizen report cards (CRC) surveys conducted in 2012 (34 courts), 2013 (17 courts), 2014 (15 courts) and 2015 (88 courts out of 182).

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
29. Percentage of partner CSOs' performance improvement recommendations implemented by judicial institutions	Dec 2014	39%	50%	N/A	N/A	39%	55%	50%	FY2015 data not available due to the rescheduling the related activity, e.g. the research into the CSO recommendations implementation by Ukrainian courts for FY2016.
Objective 5: The Lustration and Vetting of Public Officials and Judges Implemented Fairly, Transparently and Effectively and in Compliance with International and European Standards									
30. Number of USG-supported anti-corruption measures implemented (CCF Indicator)	Dec 2014	0	1	1	1	1	TBD	TBD	In this reporting period, FAIR provided support to the GOU on implementation of financial disclosure for public officials. FY2015 target met.

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
31. Percent of public officials and judges screened through vetting procedure in accordance with the Law on Purification of Government	July 2015	11.9% / 0.2% ²⁴	N/A	12.7% / 0.03%	24.6% / 0.2%	24.6% / 0.2%	N/A	N/A	<p>In FY2015 the GOU checked 93,529 officials and judges in accordance with the Law on Purification of Government. Data source: http://lustration.minjust.gov.ua/main/checking/47.</p> <p>To calculate the percent we use the Ukrainian State Statistics Service Data as the denominator, which was comprised of 380,257 officials and judges in the beginning of 2015.</p> <p>The number of individuals that did not pass the vetting procedure and have been dismissed is 779 which equals 0.2%. Data source: http://lustration.minjust.gov.ua/register FY2015 target not applicable.</p>
32. Percent of judges screened for corruption and participation in politicized justice in accordance with the Law on Restoration Trust in the Judiciary	July 2015	3.5%	N/A	0	3.5%	3.5%	N/A	N/A	<p>The baseline figure is calculated by dividing the total number of judges screened by the Interim Special Commission for Judiciary (ISC), 331 by the total number of judges in Ukraine (8,931). ISC mandate expired in July 2015 and has not been extended yet. Thus the annual FY2015 figure is equal to baseline figure. FY2015 target not applicable.</p>

²⁴ Baseline percentage corrected October 20, 2015. Denominator used is 380,257, based on 2015 annual data from the Ukrainian State Statistics Service www.ukrstat.gov.ua

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
Expected Result 5.1: The Law on the Purification of Government and Relative Legislative Framework Improved									
33. Number of recommendations to improve the Law on the Purification of Government and relative legislative framework formulated	Dec 2014	0	10	0	42	42	N/A	10	The indicator status refers to 20 recommendations to improve the Law on Purification of Government, 15 recommendations to improve the Law on Restoration of Trust in the Judiciary, and seven recommendations to improve regulations on lustration and vetting. FY2015 target exceeded by 320%.
34. Percent of recommendations formulated that are passed into law or adopted as regulations	Dec 2014	0	70%	0	0	0	N/A	70%	Developed recommendations are currently under the consideration. Ten FAIR-developed recommendations to amend the Law on the Purification of Government included in the current Draft Law Amendment. FY2015 target not met.
Expected Result 5.2: Institutions, Procedures and Registry for the Lustration and Vetting of Public Officials and Judges Strengthened									
35. Number of institutions that implement vetting and lustration of public officials and judges supported by the project	Dec 2014	0	3	3	3	3	TBD	TBD	FY2015 data comprised of: 1) the Lustration Department of the Ministry of Justice of Ukraine; 2) Interim Special Commission for Vetting Judges under the High Council of Justice (ISC); and 3) High Qualifications Commission of Judges. FY2015 target met.

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
36. Number of judicial performance indicators to evaluate sitting judges in Ukraine developed with project support	Dec 2014	0	N/A	0	0	0	TBD	TBD	No changes in FY2015. FAIR supports the development of judicial performance indicators by the High Qualifications Commission of Judges. This activity is currently underway. FY2016 target will be set after consultations with Ukrainian counterparts. FY2015 target not applicable.
37. Number of recommendations to improve the function of the Unified Registry of Vetted Persons formulated with project support and adopted as regulations	Dec 2014	0	7	0	0	0	7	7	No changes this reporting period. Registry assessment and development of recommendations is in progress. FY2015 target not met. FY2016 target revised accordingly.
38. Number of project-supported newly developed or improved procedures for vetting and lustration of public officials and judges	Dec 2014	0	3	0	0	0	3	3	No changes this reporting period. FAIR is in the process of developing procedures for vetting and evaluating sitting judges. FY2015 target not met. FY2016 target revised accordingly.
Expected Result 5.3: Improved Knowledge, Skills and Abilities of Key Stakeholders and Personnel to Conduct the Lustration and Vetting of Public Officials and Judges Professionally, Fairly, and Transparently									

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
39. Number of training days provided to executive branch personnel with USG assistance	Dec 2014	0	38	3	13	13	12	25	In the quarter July-September 2015 FAIR conducted the advanced Organizational Development Training for the Ministry of Justice of Ukraine (3 training days). FY2015 data also counts the Study Tour to Czech Republic on Lustration and Vetting (3 training days), the study tour to Poland on lustration best practices and lessons learned (4 days), the training on Gender Issues (2 training days) and the training on Basics of the Institutional Development (1 training day). Annual FY2015 actual data is below target by 65%, the cumulative Project End target revised accordingly. Below FY2015 target by 64%.
40. Number of training programs on implementing the lustration and vetting processes in compliance with international and European standards developed with project support	Dec 2014	0	3	1	4	4	0	4	For July-September 2015, FAIR data was comprised of the development and implementation of the Organizational Development Training for the Ministry of Justice of Ukraine. In addition, FY2015 data includes the study tour to Poland on lustration best practices and lessons learned, the study tour to the Czech Republic on lustration approaches, and training on gender issues for the Ukrainian government. FY2015 target exceeded by 33%.

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
41. Number of people trained with newly developed programs on implementing the lustration and vetting processes in compliance with international and European standards	Dec 2014	0	70	70 (35.7% women, 64.3% men)	145 (51.7% women, 48.3% men)	145 (51.7% women, 48.3% men)	70	100	In this reporting period, FAIR trained 145 individuals in European standards and practices for lustration and vetting, gender issues, and organizational development. This number includes 70 men and 75 women. FY2015 target exceeded by 107%.
42. Percent of people trained who report improved knowledge and skills to proceed with lustration and vetting public officials in compliance with international and European standards	Dec 2014	0	75%	100%	97%	97%	80%	80%	According to post training evaluations, all participants in the study tour to the Czech Republic on lustration and vetting reported that they increased their knowledge and skills to proceed with vetting and lustration in compliance with European standards. The annual data also includes the post-training evaluation of the study tour to Poland on lustration best practices and lessons learned. FY2015 target exceeded by 29%.
Expected Result 5.4: Promote Public Awareness and Civil Society Engagement in the Process of Lustration and Vetting of Public Officials and Judges to Bolster Public Trust and Confidence									
43. Number of project-supported public events on lustration and vetting process involving civil society activists	Dec 2014	0	15	0	0	0	11	26	The related activity started in the last quarter of the FY2015. Ten CSOs were selected for lustration monitoring and public awareness campaigns implementation. The campaigns are currently in progress although their outputs delay due to the later than planned start of the activity. FY2015 target not met.

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		Quarter Jul-Sep 2015	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
44. Number of CSOs participating in and contributing to the process of lustration and vetting of public officials	Dec 2014	0	7	10	10	10	5	9	In the last quarter of the FY2015 we facilitated contributions of ten CSOs to the lustration and public officials' vetting process. These organizations implemented monitoring of lustration and vetting, and public awareness campaigns on these issues. FY2015 target exceeded by 43%.
45. Percent of Ukrainian citizens who are confident that the lustration and vetting processes are properly implemented and lead to purification of government	Dec 2014	0	TBD	17%	17%	17%	TBD	TBD	FAIR conducted the national public opinion survey in July 2015. This indicator is comprised of the percent of survey respondents who completely agree or mostly agree with the statement: "The process of purification of government (lustration) in Ukraine takes place in line with the demands of society." In addition, 62% of survey respondents agree that the "purification of government (lustration) in Ukraine will surely lead to improvement of the social, economic and political situation."

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
Presidential Administration (PA) (National policymaker)	<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 	<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>[REDACTED]</p>
Verkhovna Rada of Ukraine (VR) (National policymaker)	<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 Rule of Law and Judiciary Committee, and Legal Policy Committee 	<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>[REDACTED]</p>
Constitutional Commission (Advisory body for the President of Ukraine)	<ul style="list-style-type: none"> Advisory body for the President of Ukraine Was created by the President of Ukraine on March 3, 2015. Consists of 63 members, including members of the Parliament, academics, judges, prosecutors, and lawyers. 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 	<p>High:</p> <ul style="list-style-type: none"> The Constitution Commission will: (1) analyze the implementation of the Constitution and existing gaps; (2) develop proposals and recommendations regarding needed amendments; (3) ensure the widest possible public discussion of the proposals; and (4) develop a draft law with amendments to the Constitution. 	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
Judicial Reform Council (Advisory body for the	<ul style="list-style-type: none"> Advisory body for the President of Ukraine Was created by the President of Ukraine 	<p>High:</p> <ul style="list-style-type: none"> The Council is tasked with: (1) developing 	<p>[REDACTED]</p> <p>[REDACTED]</p>

<p>President of Ukraine)</p>	<p>on October 24, 2014</p> <ul style="list-style-type: none"> • Consists of 42 members, including members of the Parliament, academics, judges, prosecutors, lawyers and representatives of the international donors' community. • Established to address the reform of the judiciary and other related areas 	<p>recommendations to the President regarding the strategy of the judiciary reform; (2) coordinating reform efforts of the government of Ukraine, civil society and international institutions; (3) developing the draft amendments to the laws in the identified areas; (4) monitoring the implementation of the strategy of judicial reform; and (5) communicating judicial reform issues to the public and international community.</p>	<p>[REDACTED]</p>
<p>Supreme Court of Ukraine (SCU) (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 forty eight judges 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>[REDACTED]</p>
<p>High Qualifications Commission of Judges of Ukraine (HQC) (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, (2) judicial qualifications evaluation and (3) disciplining judges of first instance and appellate courts • The HQC composed of fourteen members: <ol style="list-style-type: none"> 1) eight judges appointed by the Congress of Judges of Ukraine; 2) two persons appointed by the Congress of representatives of higher law schools and scientific institutions; 3) two persons appointed by the Congress of Lawyers; 4) one person appointed by the Ombudsman of the Verkhovna Rada of Ukraine; 5) one person appointed by the Head of State Judicial Administration 	<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>[REDACTED]</p>

	<ul style="list-style-type: none"> The Service of Disciplinary Inspectors is also established within the HQC and includes 42 disciplinary inspectors, three inspectors assigned to each HQC member 		
<p>High Council of Justice (HCJ)</p> <p>(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 <p>The HCJ considers judges’ and prosecutors’ incompatibility and disciplinary issues</p>	<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>[REDACTED]</p>
<p>Interim Special Commission for Vetting of Judges of General Jurisdiction Courts (ISC)</p> <p>(Body within the judiciary)</p>	<ul style="list-style-type: none"> The body operating with the HCJ on a temporary basis. Legislatively, ISC’s should operate from July 2014 till July, 2015. However, on June 6, 2015 ISC by its own decision ISC extended this term until November 12, 2015. The ISC’s main functions are (1) vetting of judges according to the Law on Restoration of Trust in the Judiciary of Ukraine, and (2) making conclusion upon the results of the vetting. The HQC composed of fifteen members: <ol style="list-style-type: none"> five retired judges elected by the Plenum of the Supreme Court of Ukraine; five persons appointed by the Government Representative for Anticorruption Police of Ukraine; five persons appointed the Verkhovna 	<p>High:</p> <ul style="list-style-type: none"> One of the most important FAIR’s partners. Cooperation between FAIR and the ISC aimed at assuring transparent and due judicial vetting processes to guarantee independence of judges and judiciary. 	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

	Rada of Ukraine.		
Council of Judges of Ukraine (COJ) (Judicial self-governance body)	<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 implementing the Strategic Plan for the Judiciary, Code of Judicial Ethics, Court Automation Strategy, Communications Strategy for the Judiciary developed in cooperation with FAIR. • Plays an important role in piloting of court performance evaluation standards 	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
National School of Judges of Ukraine (NSJ) (Body within the judiciary)	<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 	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
State Judicial Administration of Ukraine (SJA) (Body within the judiciary)	<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>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

Local and appellate courts of all jurisdictions	<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>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<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>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<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 bodies of Ukraine. 	<p>High:</p> <ul style="list-style-type: none"> FAIR achieved cooperation with the OSCE Project Coordinator in Ukraine in legal education reform initiatives 	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<p>Ministry of Justice of Ukraine (MOJ)</p>	<ul style="list-style-type: none"> The principal body within the central executive system responsible for 	<p>High:</p>	<p>[REDACTED]</p> <p>[REDACTED]</p>

<p>(Governmental body)</p>	<p>implementation of the state legal policy and coordinated by the Cabinet of Ministers of Ukraine</p> <ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • Partnership and cooperation with MOJ will contribute to improving administrative services, forming of an effective free legal aid system in Ukraine and legal education reform • FAIR and the MOJ have signed a Protocols of Cooperation 	<p>[REDACTED]</p>
<p>Press-center of the Judiciary (department of the SJA)</p>	<ul style="list-style-type: none"> • Coordinates communication activities of courts • Implements state information policy of the judiciary <p>Was established by the COJ decision No. 61 as of 5 June 2015</p>	<p>High:</p> <ul style="list-style-type: none"> • One of the primary FAIR’s counterparts in enhancing the communication skills of the judiciary 	<p>[REDACTED]</p>
<p>American Bar Association Rule of Law Initiative (ABA ROLI)</p> <p>(Professional association)</p>	<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>Ministry of Education and Science of Ukraine</p> <p>(Governmental body)</p>	<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 	<p>Medium:</p> <ul style="list-style-type: none"> • FAIR cooperates with the MOE in the area of legal education reform 	<p>[REDACTED]</p>

	education and science (including issues of innovation and information technology, and intellectual property rights), youth, physical culture and sport		██████████ ██ ████████████████████
Ukrainian Bar Association (UBA) (Professional association)	<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 	██ ██ ██ ██ ██
Ukrainian Association for Court Advancement (UACA) (Professional association)	<ul style="list-style-type: none"> • An 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 	██ ██ ██ ██
American Chamber of Commerce in Ukraine (ACC)	<ul style="list-style-type: none"> • One of the most active non-governmental and non-profit business organizations operating in Ukraine 	<p>Medium:</p> <ul style="list-style-type: none"> • The ACC provides opportunity to promote 	██ ██ ██

(Professional association)	<ul style="list-style-type: none"> • 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 government and other governments-economic partners of Ukraine on matters of trade, commerce, and economic reform • The Anti-Corruption and Bar Legislation Working Groups established within the ACC 	the rule of law in business community	[REDACTED]
Councils of judges (Judicial self-governance bodies)	<ul style="list-style-type: none"> • Bodies of judicial self-governance (administrative, commercial, and general jurisdictions) 	Low to high: <ul style="list-style-type: none"> • Importance for the projects differs subject to jurisdiction: general – high, administrative – medium, commercial - low 	[REDACTED]
High Administrative Court of Ukraine (HAC) (Judicial body)	<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 	Low to medium: <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 	[REDACTED]

	<p>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</p> <ul style="list-style-type: none"> • In events prescribed by procedural law the HAC acts as a court of appeal 		
<p>High Civil and Criminal Court of Ukraine (HCCC)</p> <p>(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 Constitution and laws of Ukraine in case; and provides lower courts with advisory clarifications regarding application of law 	<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 appellate courts • FAIR and the HCCC have signed a Protocols of Cooperation 	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<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 informational, 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, the Association of Judges of Ukraine implements the FAIR grant project “Elaboration and Implementation of National Standards of Ukrainian Judges’ Independence on Basis of International and European Standards and Experience of World Judicial Systems” 	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<p>Ivan Franko Lviv National University, Law School</p>	<ul style="list-style-type: none"> • A leading Ukrainian law school • Has been actively participating in a number of FAIR programs and events with an impact on the nation-wide legal education system 	<p>Low to Medium:</p> <ul style="list-style-type: none"> • Participated and continues to participate in a series of FAIR pilot projects and events making an impact on the modernization of the nation-wide legal education system 	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

<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 lower courts with advisory clarifications regarding application of law 	<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 	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<p>Yuriy Fedkovych Chernivtsi National University, Law School</p>	<ul style="list-style-type: none"> A leading Ukrainian law school Participated and continues to participate in a number of FAIR programs and events with an impact on the nation-wide legal education system 	<p>Low:</p> <ul style="list-style-type: none"> Participated and continues to participate in a number of FAIR events and pilot projects making an impact on the modernization of the nation-wide legal education system 	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>