



USAID | **UKRAINE**
FROM THE AMERICAN PEOPLE

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

**QUARTERLY PROGRESS REPORT
OCTOBER TO DECEMBER 2013**

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

January 16, 2014

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

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

CONTENTS

Project Background	4
Success Stories and Notable Achievements	4
Project Activities	6
Expected Result 1.1: Ukrainian Judicial Reform Legislation Receives Favorable Comments from the Venice Commission as Meeting International Standards and Reflects Domestic and International Expert Input	6
Expected Result 1.2: Constitutional Reform related to the Judiciary Is Pursued in an Inclusive Manner	11
Expected Result 2.1: Ukrainian Judges Are Appointed on Objective, Knowledge- and Performance-Based Criteria	13
Expected Result 2.2: Ukrainian Judges Are Disciplined in Transparent Processes	14
Expected Result 2.3: The Regulatory and Institutional Framework for Judicial Accountability and Integrity Is Strengthened	16
Expected Result 3.1: The Skills and Competencies of Ukrainian Judges and Court Staff Are Bolstered through Modern Demand-Driven Training Programs	18
Expected Result 3.2: Judicial Operations Are Evaluated and Funded According to an Objective Assessment of Needs and Performance	22
Expected Result 3.3: The SJA’s Capacity to Represent and Support the Developing Needs of Ukraine’s Judiciary Is Strengthened	26
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	27
Expected Result 4.1: Civil Society and the Ukrainian Public Are Engaged in the Judicial Reform Process	28
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	30
Donor Coordination	31
Deliverables	31
LOE Utilization	32
Annex A: Performance Management and Evaluation Summary	33

PROJECT BACKGROUND

Chemonics International signed the USAID Fair, Accountable, Independent, and Responsible (FAIR) Judiciary Program in Ukraine contract on September 19, 2011. FAIR is designed to build on initiatives implemented by the USAID Combating Corruption and Strengthening Rule of Law in Ukraine (UROL) project conducted from 2006-2011. In September 2013, USAID extended the FAIR program for an additional three years from October 1, 2013 to September 30, 2013.

The overall goal of the FAIR project is to support legislative, regulatory, and institutional reform of judicial institutions in order to build a foundation for a more accountable and independent judiciary. The project focuses on four main objectives:

- Development of a constitutional, legislative and regulatory framework for judicial reform that is compliant with European and international norms, and that supports judicial accountability and independence
- Strengthening the accountability and transparency of key judicial institutions and operations
- Strengthening the professionalism and effectiveness of the Ukrainian judiciary
- Strengthening the role of civil society organizations as advocates for and monitors of judicial reform.

FAIR by the Numbers 2012-2013

- 475 courts covering every region of Ukraine received assistance.
- Supported 15 key government justice sector institutions.
- Targeted programming provided to 14 civil society organizations.
- Promoted six amendments in Ukrainian legislation to enhance judicial independence.
- Trained 1,308 judges and judicial personnel.
- 102 trainers qualified under Training of Trainers Program.
- Developed 10 new legal courses and curricula including first-time for Ukraine Court Administration Certificate Program and online course for court staff on “Courts and Community Communications”.
- 399 justice sector personnel engaged in long-term strategic planning for the judiciary.
- Trained 220 judges in judicial self-governance mechanisms.
- Supported two national tests of 3,476 and 2,339 judicial candidates accordingly.
- Engaged 4,970 citizens in the process of monitoring and oversight of court performance.
- Involved 64 courts in the process of complex court performance evaluation.
- Supported the development of more than 900 civil society recommendations to courts to improve court functions.

SUCCESS STORIES AND NOTABLE ACHIEVEMENTS

In support of the 11th Congress of Judges decision on introducing the Public Information Officer (PIO) position in courts, the State Judicial Administration (SJA) and FAIR successfully implemented the first online course for court staff on “Courts and Community Communications” in December 2013. The course focused on building the knowledge and skills of PIOs to effectively communicate with the public, contributing to strengthening judicial transparency, increasing public awareness, and improving the quality of justice. FAIR and SJA, with support from leading PIOs, developed the course content, tests, and assignments in line with international and European standards. The course is based on the distance learning methodology and model curricula

introduced by FAIR Judicial Education Expert Hope Kentnor in February 2013 and the FAIR Court Communications Manual and Court Communications Curriculum. FAIR also engaged Training Programs Development Expert Ihor Katerniak to assist in developing the course using the web-based Moodle distance learning platform.

On November 14, 2013, FAIR and SJA finalized the course during a pilot in-class training program conducted in Lviv for 20 PIOs from different regions of Ukraine. The curriculum covers key aspects of court communications and includes five training modules: (1) introduction to the course: applying and using the principles and standards of open justice, (2) media space: the notion and specifics of making a media map,



Participant of the in-class training for PIOs in Lviv on November 14, 2013.

(3) specifics of court and media communications: making and disseminating press announcements, press releases, preparation for an interview, etc., (4) organization of the media coverage of court operations (including hearings of high-profile cases), and (5) crisis communications.

The pilot course started on November 25, 2013 on the web portal of the judiciary at <http://sdn.court.gov.ua/> and lasted through December 13, 2013. Two hundred twenty participants registered for the course, 70 of which were court staff of all levels, jurisdictions and regions of Ukraine who started and completed the first module. An unexpectedly high number of court staff registered during the first half day of the online course launch, demonstrating a clear and timely demand for such a training program. During the course, participants learned how to plan and conduct communications research, identify court communications priorities, develop a communications strategy, and draft court communications plans; master the mechanisms and tools of establishing communications between court and target audiences, and analyze their efficiency; establish cooperation with the media; and manage communications during crisis situations. They also worked in groups and discussed the issues of the course in forums on related topics. For two weeks FAIR and SJA representatives moderated and facilitated all five modules of the course, including providing feedback to participants.

Forty-three students successfully completed the entire course and received certificates (<http://court.gov.ua/76840/>) issued jointly by the SJA and FAIR. According to Ihor Katerniak's assessment report on the results of the pilot online course, half of the participants spent 2-3 hours and 30% spent more than 3 hours a day taking the course. During the first week, there were 9,100 hits and messages posted by participants. The analysis of post-training evaluation forms indicated that:

- 98% of participants were satisfied with their participation in the on-line course;
- 100% of training materials (lectures, presentations) were found useful and interesting;
- 83% of participants found forum discussions useful;
- 68% of participants found team work interesting;
- 95% of participants liked individual case-studies;

- 96% of participants want to continue to be trained in on-line format; and
- 98% of participants will recommend this format for on-going training to their colleagues.

Daria Gubchuk, Judicial Assistant at the Kosiv District Court in the Ivano-Frankivsk Oblast, expressed her opinion as a course participant by saying,

“The acquired knowledge will help me in my court press secretary job. I will be frank, I learned a lot about how to organize the work of PIO on the whole. Now I feel much more confident. All materials available to us (including lectures) were useful and interesting. The team work turned out to be also very interesting.”

Nataliia Brazhnyk, Deputy Chief of Staff at the Avtozavodskyy District Court of the City of Kremenchuk in Poltava Oblast, wrote in a forum:

“I expected of this course a lot of new information, enriched professional experience, and acquaintance with interesting people. All my expectations were met. This was my first experience in distance learning in such a format. From now on I will recommend it to all my colleagues and fellow employees.”

Another participant, Iryna Bilozir, Chief of Staff of the Radekhivskyy District Court in Lviv Oblast, highlighted that

“distance learning is really very convenient: it allows...learning in the evening at home and on weekends, it does not interfere with your main job. Lectures in the form of slides are super! They do not overload redundant information, they are concise and to the point. My conclusion is – distance learning is an advancement in education.”

This distance learning course is the first step towards the court staff education going online. The experience gained in developing and conducting the pilot course will form the basis for distance learning for judges and court staff nationwide. Starting in January 2014, this distance learning course will become mandatory for the more than 400 newly-appointed PIOs throughout Ukraine.

PROJECT ACTIVITIES

Pursuant to section F.5.C.1 of the contract, the following section contains a discussion of accomplishments, progress in milestone, progress in indicators, and upcoming plans for each Expected Result from October 1 through December 31, 2013. Changes from the activity schedule outlined in the work plan and problems requiring resolution or USAID intervention are discussed if applicable.

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

ACCOMPLISHMENTS: During the reporting period, the FAIR team worked with a variety of partners on improving the legislative and regulatory framework for the judiciary. The FAIR team continues to regularly monitor legislative initiatives to analyze potential impacts on the judiciary and launch public discussions when needed to prevent backsliding. This activity occurred in parallel with efforts regarding constitutional reform (see the Expected Result 1.2) to utilize

available resources and further advance justice sector improvements. Under this Expected Result, FAIR also worked with its partners to assist them in promoting activities in their sector. During this quarter, USAID's Democracy Project Management Specialist in Ukraine's Democracy and Governance Office Oleksandr Piskun, FAIR Chief of Party (COP) David Vaughn and Deputy Chief of Party (DCOP) Nataliya Petrova participated in the 56th Annual Meeting of the International Association of Judges (IAJ), which took place October 5 to 10, 2013 in Yalta. Over 250 delegates from 65 countries world wide, most of whom are judges of higher national courts, participated in the meeting. On October 7, 2013, a conference on "Councils for the Judiciary" took place as a part of the meeting. Its agenda included a presentation on the principles of forming the composition and the scope of authority of judicial councils (similar to the High Council of Justice in Ukraine). David Vaughn joined the panel discussion to share information on the positive changes and current status of constitutional and judicial reform in Ukraine from the donor's point of view. He also mentioned the main challenges the Ukrainian judiciary has been facing while implementing the reform. Lively debate among delegates from Chile, Mongolia, Croatia, Spain, Germany, Portugal and other countries reflected the controversy in the approach to the formation of the judicial council as a body with a majority of judge-members. The participants agreed that the council should have enough representation of judges, but at the same time, there should also be representatives of other strata of society to ensure that the council does not protect only corporate interests of the judiciary. Non-transparent procedures for electing/appointing council members and underrepresentation of lower level court judges were indicated among the threats. During the event, FAIR leadership established contacts for future cooperation with delegates of IAJ Regional Groups representing the judiciaries of different countries and identified potential experts to be involved in the FAIR Option Period activities. Also, FAIR disseminated copies of the new Code of Judicial Ethics and Strategic Plan for the Ukrainian Judiciary for 2013 to 2015 developed with FAIR support and approved by the 11th Congress of Judges of Ukraine, and DVDs with FAIR videos "Becoming a Judge: Objective Selection and Appointment" and "Courts and the Public: Civilized Engagement".

Milestone Progress ER 1.1

- Drafted amendments to the Law on the Judiciary and Status of Judges (amended according to Venice Commission recommendations) introduced to the President's office for consideration.
- Draft Law on the Bar and Advocates activity was submitted to the Verkhovna Rada of Ukraine on April 28, 2012, adopted on July 5, 2012, in force from August 15, 2012.
- Held three public discussions on pending judicial reform legislation.
(December 20 and 21, 2011, Conference on Judicial Reform in Ukraine and International Standards for Judicial Independence; October 5, 2012, Conference on Constitutional and Legal Status of the High Council of Justice: Theory and Practice; March 21, 2013 Conference on Role and Place of High Councils of Justice in Forming the Judicial Corps).
- Concept Paper on Legal Education Reform developed and presented to the members of the Working Group on Legal Education Reform in Ukraine.
- The Third Annual Conference on "Judicial Training Standards: International Best Practices and Objectives for Ukraine" conducted in cooperation with the NSJ.
- FAIR has 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.

On October 28 and 29, 2013, FAIR DCOP Nataliya Petrova and other FAIR representatives participated in the 3rd Annual International Conference "Legal Status of the High Qualification Commission of Judges of Ukraine: Ways to Improve Qualification and Disciplinary Institutions in light of Constitutional Reform." Among the participants of the conference were members of the HQC, High Council of Justice (HCJ), justices of the Supreme Court of Ukraine (SCU) and Constitutional Court of Ukraine (CCU), representatives of the SJA, Council of Judges of Ukraine

(COJ), judges of high specialized courts, courts of appeal and local courts, Members of Parliament, representatives of the Presidential Administration, Prosecutor General's Office, and other state bodies, NGOs and academic institutions, as well as numerous representatives from foreign judicial institutions and international organizations. The conference was organized by the HQC with the support of the Council of Europe (COE) Project "Strengthening the Independence, Efficiency and Professionalism of the Judiciary in Ukraine" and the Embassy of Sweden in Ukraine. In his opening remarks, Ihor Samsin, Chairman of the HQC, and Justice of the SCU, emphasized the importance of constitutional reform envisaged in the Draft Law on Strengthening Guarantees of Judicial Independence to enhance the guarantees of judicial independence. Mr. Samsin also informed the participants about the considerable positive changes introduced in the system of judicial selection that have become possible thanks to continuous support and expert assistance of FAIR. Nataliya Petrova presented the results of longstanding collaboration between FAIR and the HQC in implementing a standardized, transparent and objective procedure for disciplining judges. In order to expose the audience to international experience in this field, FAIR invited to the conference a prominent US expert Richard Hyde, member of the Judicial Qualifications Commission of the State of Georgia, who presented to the participants the standards for disciplining judges in his home state.

FAIR continued efforts to strengthen cooperation with the political forces in the Verkhovna Rada by presenting members with FAIR program activities and proposing expert support in areas of cooperation. On November 4, 2013, FAIR leadership and experts as well as leadership of the USAID Office of Democracy Governance (ODG) represented by ODG Deputy Director Kira Mitre and ODG Democracy Project Management Specialist Oleksandr Piskun met with the Head of the Verkhovna Rada of Ukraine Committee on Rule of Law and Justice Serhiy Kivalov and key officials from the Committee's Secretariat. The main purpose of the meeting was to present planned activities of the FAIR Option Period. Participants of the meeting discussed the fields of cooperation between FAIR and the Committee, including joint efforts to improve the current draft law No. 2522-a on Amending the Constitution and the list of potential changes to other relevant laws after the draft law is adopted.

Regarding judiciary operations during the reported period, FAIR analyzed a draft law on extension of the SCU's powers (registration No. 3356) introduced to Parliament on October 4, 2013. This draft law serves as an opportunity for cooperation between FAIR and the EU Project of Support to Justice Sector Reforms. Thus, FAIR held a meeting with Judge Virgilijus Valancius, Key Expert on Independent Judiciary within the EU Project. As a result, preliminary recommendations to improve the status of the SCU have been developed. FAIR submitted the analysis and comments to the draft law for the Parliamentary Committee on the Rule of Law and Justice to consider. Mr. Kivalov was briefed on the issues in the bill and he expressed an interest to hold a joint event to discuss the standards on the role and scope of power for such top level courts. MP Kivalov also informed the meeting participants on the intention to introduce some changes into the new Criminal Procedure Code (CPC) as a necessary next step. He noted that representatives of the Presidential Administration have not yet prioritized revising the Law (CPC), nevertheless, the changes are needed and are requested by both the law enforcement bodies and judiciary. Mr. Kivalov shared his concern about some gaps present in the Law On the Constitutional Court of Ukraine. In addition, as President of the National University "Odesa Law Academy", Mr. Kivalov expressed interest in establishing academic cooperation linking the Academy and Michigan State University with relevant judicial institutions in order to develop faculties and curricula to implement a court administration program for court staff in Ukraine. More information about this program can be found under Expected Result 3.1.

From November 13-15, 2013, FAIR's DCOP participated in the third round of training of trainers (ToT) for judges on new CPC implementation conducted in partnership with the U.S. Department

of Justice - Overseas Prosecutorial Development, Assistance and Training (OPDAT) and the Government of Denmark – COE Project "Support of Criminal Justice Reform in Ukraine". During the three-day event, some issues related to judicial independence have been raised. More information can be found under Expected Result 3.1. FAIR is working on the list of recommendations to amend the Law on the Judiciary and Status of Judges in order to introduce effective guarantees for judges against groundless criminal investigation.

On November 21-22, 2013, FAIR supported an HQC roundtable on “Theoretical and Practical Aspects of Judicial Disciplinary Proceedings” to discuss the controversial judicial discipline issues with academic and practitioners’ participation. More information about the event can be found under Expected Result 2.2. HQC members identified some gaps in the related legal framework and have been seeking the expert support in legal provision interpretation and improvement. As a result of this event, the FAIR team will be developing the list of recommendations for legislative initiatives to proceed with Parliament. During the reporting period, FAIR short-term local expert Mykola Khavronyuk started to develop the content of legislative proposals to amend the current regulatory framework to fill in the gaps and bring certain number of legislative provisions regarding disciplinary responsibility of judges in conformity with the rule of law principle in light of the findings of the European Court of Human Rights case *Oleksandr Volkov v. Ukraine*.

To enhance the role of judicial self-governance, FAIR has launched research on European judicial self-governance standards and best practices. The research results will be presented first of all to COJ leadership and some members of the Parliament who initiated the judicial self-governance improvement. In light of interim findings of the research, FAIR has analyzed a draft law on strengthening judicial self-governance in Ukraine (registration No. 3678) amending the Law on the Judiciary and Status of Judges introduced to Parliament on November 22, 2013. This draft law can be used as a means to raise stakeholders’ awareness about the problems related to judicial self-governance as well as promote workable solutions to them.

Also this quarter, FAIR continued its commitment to promote improvements to legal practice education in Ukraine. On April 25 and 26, 2013 in Kharkiv FAIR supported the national conference “Legal Education Reform Efforts” in cooperation with the Organization for Security and Co-operation in Europe (OSCE) Project Coordinator in Ukraine, Ministry of Education of Ukraine (MOE), and National Law University. Building upon the results of this conference, from November 14 to 16, 2013 FAIR participated in the “Legal Education in Ukraine: Content of and Teaching Methodology for Legal Disciplines,” a major legal education reform event. The FAIR partners involved in organizing this event were the OSCE Project Coordinator in Ukraine, MOE, Taras Shevchenko National University of Kyiv, and Ukrainian Legal Foundation (ULF). The conference focused on fundamental issues to improve the teaching quality and methodologies. The agenda included an overview of the ongoing research on legal education reform in Ukraine and its current results. The breakout sessions focused on legal theory, constitutional and human rights law, administrative law and justice, criminal law and justice, and quality of education. The conference resulted in recommendations for the improvement of legal education in Ukraine, and in particular, measures to ensure quality of legal education. The conference participants recommended introducing a unified external evaluation examination system to guarantee that every Ukrainian law graduate possesses knowledge, skills and abilities corresponding to minimum requirements enshrined in the legal education standard which is to be developed in cooperation with the MOE and Ministry of Justice (MOJ) of Ukraine. According to the conference recommendations there should be an independent body responsible for external evaluation of legal education quality in Ukraine and, importantly, this body has to operate outside of the MOE system. The conference participants agreed that not only should the quality of legal education be ensured externally, but with the aim to have positive external evaluation results also internally, whereby law schools can

manage and evaluate their own programs with respect to program content and faculty development.

Another platform to discuss higher education reform matters, which are particularly crucial to legal education reform, is a series of educational law and policy seminars organized by USAID, American Councils, and USETI Alliance. Policymakers, professors, and experts from civil society organizations participated in the discussion and share their views on the way in which the education reform in Ukraine should be realized. During the reporting period, FAIR participated in the sessions conducted on November 12 and December 24, 2013 at the Taras Shevchenko National University of Kyiv where issues of education finance and education quality assurance were discussed, respectively. As a result, the participants have identified current higher education problems, developed a better understanding thereof, and communicated possible solutions to policymakers such as Lilia Grunevych, Head of the Parliamentary Committee for Science and Education. At the end of the series of educational law and policy seminars all the materials discussed during the seminars will be published to raise public awareness about the higher education reform efforts in Ukraine by fall 2014.

Following the legal education reform conferences FAIR identified an opportunity to create a pilot project of a model law school implementing best education practices and recommendations developed at the conferences. To this end, FAIR launched a series of meetings with leading Ukrainian law school representatives to negotiate the possibility for such schools to participate in the pilot project. During the reporting period, FAIR conducted preliminary negotiations with Petro Patsurivskyi, Dean of the Law Faculty, Yurii Fedkovych National University of Chernivtsi, and Anatolii Miroshnuckenko, Deputy Dean for International Relations of the Law Faculty, Taras Shevchenko National University of Kyiv, who welcomed the possibility for their law schools to become model law schools. Further negotiations addressing the details of establishing model law schools are still ahead and FAIR will be working on developing such a vision and selection criteria for a potential pilot project.

Performance Indicators ER 1.1

To build a foundation to more accountable and independent judiciary FAIR supported this quarter 14 governmental legal institutions and 1 non-governmental legal association.

"Number of laws, regulations, and procedures designed to enhance judicial independence supported with USG" assistance did not change this quarter and remains at level of September 2013 baseline and is equal 13.

There are no changes in status of the indicators "Number of revised provisions enacted that reflect Venice Commission recommendations" and "Percentage of Venice Commission recommendations adopted," which are equal 3 and 6% accordingly.

In order to strengthen the effectiveness of the efforts to promote legal education reform FAIR has launched negotiations to conclude a protocol of cooperation with the MOJ, which has competence in legal education matters. In addition, FAIR has been contributing to the legal and policy analyses of draft laws on higher education currently pending. To ensure work effectiveness during the reporting period, FAIR concentrated its expert attention on the draft law (registration No. 1187-2) pre-selected for further consideration by the Parliamentary Committee for Science and Education. As a result, FAIR prepared and submitted for the Committee's consideration elaborate comments to the draft law accompanied by alternative ways proposed to regulate higher education matters in light of best education practices.

SCHEDULE CHANGES: FAIR conducted most activities according to schedule. However, actual legislative changes are still pending due to the lack of political momentum, an unstable Parliament, and the weak judiciary leadership, which lacks initiative in the judicial reform process. FAIR continues to work on promoting and fostering key reform components and focuses its efforts on building consensus and mutual understanding among stakeholders.

PROBLEMS: Although the draft law on higher education analysis provides applicable mechanisms to transform legal education in Ukraine by providing best practices of education management and education quality assurance, it currently seems to be a lack of political will to adopt this draft law. It means, that Parliamentary majority is not ready to give up the huge amount of government control over universities. In the face of this political uncertainty FAIR will continue to advocate for legislative measures to be taken to legally support the process of reforming the legal education in Ukraine.

PLANS: In the next quarter, FAIR plans the following activities:

- Enhance cooperation with Parliament and organize with the Committee on the Rule of Law and Justice joint event to discuss the standards for the role and scope of power of the SCU in January and February 2014.
- In order to develop a more comprehensive vision of creating model law schools, FAIR will consider supporting a comprehensive assessment of a leading Ukrainian law school to develop concrete recommendations, such as a road map, to make the establishment of a model law school possible. The Law Faculty of the Ivan Franko National University of Lviv with Andriy Boiko, Dean of the Law Faculty, being highly interested in conducting such an assessment of his law school, and the ULF promoting the necessity of the law school assessment may become the FAIR partner in this endeavor along with the OSCE, MOJ and MOE. Also, FAIR will consider the possibility upon expert recommendations to support the OSCE Project Coordinator in Ukraine and ULF in their efforts to publish legal text books. These text books will promote new methods of teaching legal disciplines emphasizing legal principles, processes of their implementation, and legal constructions, to move beyond replication and reiteration of statutory provisions. In addition, FAIR will consider providing support in organizing a summer school for instructors where they can learn how to use new methods of teaching legal disciplines.
- FAIR is using the internal expertise of project staff members to come up with a wide-range analysis of the judicial self-governance structure, their competence, role and scope of responsibility currently in place in Ukraine. The comprehensive report will be presented to judicial system leaders with the aim to demonstrate the insufficient capacity of judicial self-governance to support judicial independence, to be able to resist external pressure, etc. in order to lobby for necessary legislative changes.

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

ACCOMPLISHMENTS: In October 2013, FAIR provided the Constitutional Assembly (CA) leadership with the reports of European experts Lorena Bachmaier and Evgenii Petrov on the analysis of the draft General Concept Paper of Constitutional Changes proposed in June. The experts' recommendations have been considered and significant changes were introduced into a revised text of the draft. On November 27, 2013, the coordination bureau of the CA adopted decision No. 21 to recommend the CA to approve revised, improved content of the draft General Concept Paper of Constitutional Changes.

The CA plenary session was scheduled for December 6, 2013. After Prime Minister Mykola Azarov announced on November 22, 2013 that Ukraine was not going to sign the EU Association agreement in November in Vilnius, resulting in a mass protest, some prominent CA members withdrew their membership from the Assembly. FAIR will work with CA leaders to follow the future development and provide support in constitutional reform finalization (if any) on the need-driven basis. Also, FAIR is monitoring and supporting USAID as this situation with mass protest unfolds.

As was reported previously, the Presidential Office decided to deal with constitutional aspects of the justice sector as a matter of priority and submitted to the Verkhovna Rada the bill registered in Parliament under No. 2522 “On Introducing Changes to the Constitution of Ukraine regarding Strengthening Guarantees of Judicial Independence”. On September 19, 2013, the Constitutional Court of Ukraine ruled on the conformity of this bill with Articles 157 and 158 of the Constitution. On October 10, 2013, the Parliament voted on the draft law at the first reading with 244 MPs in support. At this stage the bill was sent for review to the European Commission for Democracy through Law (Venice Commission). On 10 December, 2013, the Venice Commission issued the Opinion No. 747/2013 on the draft law on Amendments to the Constitution to Strengthen the Independence of Judges adopted at its 97th Plenary Session (Venice, December 6-7, 2013) on the basis of comments by James Hamilton (Substitute Member, Ireland), Hanna Suchocka (Member, Poland), Evgenii Tanchev (Member, Bulgaria), and Kaarlo Tuori (Member, Finland). The Commission welcomed the following elements of the above-mentioned proposals:

- 1) Introduction of a right to fair trial within reasonable time;
- 2) Exclusion of the re-appointment of the Prosecutor General;
- 3) Strengthening of the role of the Supreme Court;
- 4) Recognition of the jurisdiction of the International Criminal Court at the constitutional level;
- 5) Reduction of judicial immunity;
- 6) Constitutional guarantee for the competitive selection of judges; and
- 7) Direct appointment and dismissal of judges by the HCJ.

However, the Commission criticized the following elements of the proposals:

- 1) Impeachment of judges by the Verkhovna Rada and even the direct initiation of such impeachment by citizens;
- 2) Discrimination in the retirement age between “higher” and “lower” ranking judges;
- 3) Dismissal of judges because of a “breach of oath”;
- 4) Re-qualification examination for all judges;
- 5) Dismissal of judges because of a refusal of a transfer against their will;
- 6) Remaining link between prosecution and the HCJ; and

Milestone Progress ER 1.2

- Concept paper for the Constitutional Assembly is approved by the President of Ukraine.
- Council of Europe expert Lorena Bachmaier developed and presented the Opinion on the Constitution of Ukraine with a focus on Rule of Law Principle.
- The draft law “On Amending the Constitution of Ukraine Regarding Strengthening Judicial Independence” is developed by the Presidential Administration.
- The Concept of Improving the Constitutional Regulation of Justice in Ukraine was incorporated into the General Concept of Constitutional Changes presented during the 4th CA plenary meeting.
- Council of Europe expert Lorena Bachmaier developed and presented the Opinion on the improved Concept Paper on Justice Sector Amendments.
- The draft Concept Paper on entire Constitutional Changes was discussed at the last CA plenary session and was sent for further approval.
- The coordination bureau of the CA adopted decision No. 21 to recommend the CA to approve a revised improved content of the draft General Concept Paper of Constitutional Changes.
- The European Commission for Democracy through law (Venice Commission) issued the Opinion on the draft law on Amendments to the Constitution to Strengthen the Independence of Judges.

Performance Indicators ER 1.2

During this reporting period, the status of the indicators “Number of working sessions on Constitutional reform between law makers and civil society organizations” and “Number of civil society organizations that have experience in constitutional reform participating in public events on the Constitution” did not change and stays at the level of September 2013 baseline which are equal 6 and 16 accordingly. In order to strengthen measuring performance under the ER 1.2 FAIR introduced in fiscal year 2014 the indicator “Number of revised provisions in the Constitution enacted that reflect inputs from project-supported public discussions”. The draft law that will contribute to this indicator approved at the first reading.

7) Incoherent distribution of functions between the HCJ and HQC.

FAIR will work with the Parliament and opposition members on the problem areas of the draft law. It is anticipated that the draft law will be adopted in February 2014.

PROBLEMS: Progress has been slowed under this task since active anti-government protests caused the suspension of regular government operations including CA work. FAIR continues to adjust its work based on ongoing developments and pace of partner activities.

PLANS: FAIR will be working to develop draft amendments to a number of laws to reflect and support the envisaged constitutional changes. FAIR also works with other CA Commissions to assure that changes to the Constitution are in line with the rule of law principle.

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

ACCOMPLISHMENTS: During the reporting quarter, FAIR proceeded with organizing the survey on Judicial Practice Analysis and adapting the Statistical Package for the Social Sciences (SPSS) software provided to the HQC and NSJ according to the needs of the anonymous test for judicial candidates. With these purposes FAIR received USAID approval for the short-term Testing and Training Expert Serhiy Mudruk, who adjusted the SPSS software provided to the HQC and the NSJ last year to the needs of the judicial candidates anonymous test and newly developed test items. Also, Mr. Mudruk conducted training for the HQC and NSJ personnel on how to properly use adjusted SPSS software.

Additionally, FAIR developed an Annual Program Statement (APS) on “Strengthening the Role of Civil Society Organizations as Advocates for and Monitors of Judicial Reform,” which envisages carrying out the second part of the survey among judges of commercial and administrative specializations to complete the Judicial Practice Analysis started under the FAIR base period. In addition, the APS provides for conducting surveys among judges on the scope of qualification requirements that judicial candidates should possess. The aim of the survey is to improve and finalize the list of personal and ethical standards that ideal judicial candidates should have, and methods to evaluate them, based on the sitting judges’ opinion.

Also this quarter, FAIR developed the draft Protocol of Cooperation with the HQC that put forward terms and conditions of collaboration during the Project’s option period. The protocol is scheduled to be signed during the next quarterly reporting period.

In addition, on November 29, 2013, the FAIR team conducted the meeting with the UENet President Mr. Mudruk to discuss the current situation with the transparent judicial selection process implementation. During the event Mr. Mudruk expressed his concerns regarding insufficiently coordinated processes of case study writing administration during the judicial qualification exam. According to him:

Milestone Progress ER 2.1

- Held Three working meetings with the HQC.
- HQC formed working group to improve selection procedures for the first appointment of judges.
- Completed Gap analyses of the judicial vacancy application, test administration, and scoring processes.
- Conducted psychometrical analysis of the qualification exam and initial test.
- Held training for the HQC members on case study writing evaluation methodology.
- Developed recommendations for improving the judicial vacancy application, test administration, and scoring processes.
- Drafted Handbook for test item developers.
- Held training on developing test questions for evaluating skills at high cognitive levels for developers of test items.
- Drafted Manual for anonymous test administrators (proctors).
- Drafted Report with the recommendations and necessary steps to automate qualifications exam.
- Held Analysis of Judicial Practice; presented and promoted it results.

“We did our best to guide HQC in administering the anonymous test, and now the testing administration is well coordinated and clearly guided. At the same time we saw a truly horrible situation with administering case study writing process during the judicial qualification exam. The HQC needs to immediately change the situation through development and implementation of manual for case study proctors/administrators. And we should support the Commission.”

During the meeting the following gaps were identified:

- The need to improve administration of the judicial anonymous test, and to add to the manual for proctors/administrators the provisions related to the case study writing;
- The need to support the NSJ in creating quality pool of judicial test items writers;
- The need to identify and train the NSJ employees responsible for initial training of judicial candidates and ongoing training of judges on duty;
- Ongoing training for the HQC members on the methodology of case study writing evaluation and the need to automate the qualification exam itself; and
- The need to update judicial qualification exam content after the Judicial Practice Analysis is completed.

Additionally, in December 2013, FAIR obtained USAID approval for Legal and Judicial Expert Graham Taylor, who will provide expertise on international and European standards for transfer of judges between courts of different jurisdiction and/or different specialization.

PROBLEMS: After the HQC changed its institutional structure, many new employees were hired with old staff resigning from the Commission at the same time. Currently FAIR faces the challenges of building relationships with the newly appointed staff members of the HQC and educating them on the issues related to proper implementation of the judicial selection process.

Performance Indicators ER 2.1

No changes in indicator status occurred this quarter on this ER. Cumulative status of the indicator “Number of merit-based criteria or procedures for justice sector personnel selection adopted with USG assistance” remains 17. Cumulative data for the indicator “Number of procedures within the judicial appointment process improved with project support” remains 5. In the fiscal year 2014 FAIR introduced the indicator “Number of Ukrainian judges appointed through project-supported objective, merit-based judicial selection process,” its September 2013 baseline is 880.

PLANS: During the next quarter, FAIR under Expected Result 2.1 will focus on:

- Awarding grants to local NGOs to conduct the second part of the in-depth Judicial Practice Analysis;
- Establishing jointly with the HQC the Working Group on developing standards for the judicial transferring process; and
- Establishing jointly with the HQC the Working group on elaboration of strategy for automating the judicial qualification exam.

EXPECTED RESULT 2.2: UKRAINIAN JUDGES ARE DISCIPLINED IN TRANSPARENT PROCESSES

ACCOMPLISHMENTS: During the reporting period, FAIR continued supporting the HQC in improvement of the legal framework and practice of judicial disciplining process in Ukraine. In particular, FAIR contributed to the proceedings of the 3rd Annual International Conference “Legal Status of the High Qualification Commission of Judges of Ukraine: Ways to Improve Qualifications and Disciplinary Institutions in Light of Constitutional Reform” mentioned under

Expected Result 1.1. As a result, FAIR will prepare recommendations for improvement of the HQC Rules of Procedure and internal regulations in light of the U.S. experience of disciplinary proceedings against judges.



FAIR international expert Grzegorz Borkowski at the HQC roundtable “Theoretical and Practical Aspects of Judicial Disciplinary Proceedings” on November 21-22, 2013.

On November 21 and 22, 2013, the HQC under FAIR financial and expert support conducted a roundtable on “Theoretical and Practical Aspects of Judicial Disciplinary Proceedings” to discuss problematic issues related to interpretation of legal grounds of judicial disciplinary liability, as well as procedural and institutional aspects of holding judges liable for disciplinary misconduct. The justices of the SCU, judges of the High Administrative Court of Ukraine (HAC), members of the HCJ, and legal scholars participated in the roundtable and contributed considerably to the discussion of topics included in the agenda. FAIR

invited to the event the pro bono Judicial Accountability Specialist Mr. Grzegorz Borkowski who acquainted the audience with the judicial discipline issues taken from Polish and European perspective.

As a result of the roundtable discussion, the HQC is currently developing recommendations for the Commissioners and disciplinary inspectors related to:

- Conducting of preliminary screening of statements and claims against wrongful actions of judges;
- Investigation of judicial misconduct and drafting procedural documents;
- Drafting conclusions on existence of grounds for bringing judges to disciplinary liability; and
- Consideration of disciplinary case and drafting the decisions of holding judges liable for disciplinary offense.

Also, the HQC is preparing recommendations for a proposal for lawmakers to put forward amendments to the Law on the Judiciary and Status of Judges and the Law on the High Council of Justice.

In order to continue supporting the HQC in improving its regulations governing investigation of judicial misconduct, FAIR involved Legal and Judicial Expert Graham Taylor, who will provide FAIR with basic expert research of judicial disciplinary procedure rules that are currently applied in selected EU jurisdictions.

Milestone Progress ER 2.2

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

Also during the next quarter, FAIR will provide the HQC with technical support to develop an integrated e-system to manage the judicial discipline process, judicial candidate selection, judicial training and transferring processing. Finally, FAIR will work with the HQC to further elaborate rules and framework of the disciplinary inspectors training and performance evaluation, and to enhance transparency of the judicial discipline liability procedures through improvement of the HQC website and developing of a brochure on disciplinary liability in electronic format.

PLANS: During the next quarter, FAIR under Expected Result 2.2 will focus on:

- Conducting comparative research of the judicial disciplinary procedure rules in selected European countries;
- Gathering proposals from parties interested in creating an integrated e-system to manage the judicial discipline process, judicial candidate selection, judicial training and transfer processing;
- Developing proposals for performance evaluation of judicial discipline inspectors; and
- Working out proposals for public awareness enhancement of judicial discipline accountability.

Performance Indicators ER 2.2

The indicator “Number of criteria, standards and regulations adopted to govern judicial misconduct investigations” did not change and remains 7 as in the previous quarter. “Per cent of judicial misconduct complaints submitted to the HQC using the standardized form” this quarter is 9.6%. “Per cent of judicial discipline decisions posted on HQC website” is 73% this quarter which is lower than in the end of the previous fiscal year. The decrease happened due to the technical and organizational issues within the HQC.

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

ACCOMPLISHMENTS: During the reporting period, FAIR continued assisting the COJ in implementing the Code of Judicial Ethics, strengthening judicial self-governance, and promoting court system reform in Ukraine to align with European standards.

Having 15,000 hard copies of the Code of Judicial Ethics printed during the previous reporting period, FAIR began to disseminate these to partners and the judiciary. In cooperation with the SJA, FAIR delivered printed copies of the Code of Judicial Ethics to the SJA’s territorial units in order for them to disseminate the copies among judges working in respective regions of Ukraine.

In order for the Code of Judicial Ethics to be fully implemented, not only does the Code need to be adopted and handed in to all the judges of Ukraine, but it also needs to be annotated and, therefore, equipped with comprehensive comments and case studies elaborating on international and European standards for judicial ethics. To this end, FAIR has started to support the COJ in establishing a working group on developing a Commentary to the Code of Judicial Ethics. FAIR identified potential experts who will be able to contribute to the development of such commentary. In particular, FAIR expects to involve Pavlo Pushkar, Senior Lawyer at the European Court of Human Rights, so that Mr.

Milestone Progress ER 2.3

- Seven stakeholder discussions on draft Code of Judicial Ethics held.
- Amendments to 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. Analyses of and elaboration on the content of an on-line course for judges and judicial candidates on judicial ethics is in progress.
- Experts to support a working group on developing a Commentary to the Code of Judicial Ethics preselected.
- Research to contemplate amendments necessary to improve COJ roles and responsibilities is in progress.
- Research to assess HCJ needs with regards to possible new composition and functions is in progress.

Pushkar can include in the Commentary references to and analysis of the Court’s clear-cut case law, including cases against Ukraine, related to judicial ethics. Bearing in mind a special status of the Court’s case law in Ukraine, a substantial injection of the Court’s case law into the Commentary will significantly elevate its authority. In addition, FAIR is also contemplating the possibility to involve Mark Harrison, Chair of the American Bar Association’s Commission on the Model Code of Judicial Conduct, an eminent expert who can bring US experience on the matter to the Commentary.

To enhance the role of judicial self-governance, FAIR initiated research on European judicial self-governance standards and best practices. The research results will be presented to all the stakeholders. Based on interim findings of the research, FAIR has analyzed a draft law on strengthening judicial self-governance in Ukraine (registration No. 3678) amending the Law on the Judiciary and Status of Judges introduced to Parliament on November 22, 2013. This draft law can be used as a means to raise stakeholders’ awareness about the problems related to judicial self-governance as well as promote workable solutions to them.

To institutionalize judicial self-governance, FAIR continues to promote the establishment of structural units within the COJ, including an Advisory Committee on Ethics. To this end, FAIR will use international expertise on the matter which is expected to be provided by one US and one Polish judge having experience in workings of such a Committee in respective countries. In addition, FAIR has started to study best international and European operation standards for Committees on Judicial Ethics in order to present its findings to the COJ and thus provide it with possible modes of the Advisory Committee’s functioning.

PROBLEMS: FAIR foresees the possibility that the COJ will not be willing to establish a working group on developing a Commentary to the Code of Judicial Ethics since there is not enough case law on implementation of the Code. In order to overcome this difficulty FAIR will conduct comprehensive consultations with the COJ whereby trying to persuade the COJ leadership that the Commentary is a necessary prerequisite for the Code of Judicial Ethics be applied uniformly as well as to function effectively.

FAIR also is concerned that the COJ may be reluctant to support establishment of its structural units. To overcome this difficulty FAIR will hold comprehensive consultations with the COJ whereby trying to persuade the COJ leadership that the internal institutional transformations are vital to the judicial self-governance capacity building. Furthermore, the establishment of the Advisory Committee on Ethics is necessary to ensure effective implementation of the Code of Judicial Ethics.

<p style="text-align: center;">Performance Indicators ER 2.3</p> <p>No changes occurred this quarter under the ER2.3. Code of Judicial Ethics remains the changed the only data for the indicator “Number of judicial self-governance mechanisms revised with project support”. The work on developing the Commentary to the Code of Judicial Ethics is in progress.</p>

PLANS: During the next reporting period, FAIR plans the following activities in order to attain Expected Result 2.3:

- Support the COJ and the NSJ in developing an online training program on Judicial Ethics (linked to the Task 3.1.5);
- Support the COJ in the establishment of a working group on developing a Commentary to the Code of Judicial Ethics;
- Work with the COJ and promote the establishment of structural subject matter units within the COJ;

- Advocate for legislative amendments related to improving judicial self-governance, including COJ roles and responsibilities;
- Assist in assessing HCJ needs with regards to possible new composition and new functions. Familiarize the HCJ with the best practices of judicial appointment and judicial discipline process; and
- Assist the HCJ in developing a strategic plan.

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

ACCOMPLISHMENTS: During this reporting period, the FAIR team continued to support the NSJ in its institutional development and enhancing its capacity to conduct effective strategic planning processes to meet the training needs of different audiences.

As results of FAIR and Canadian Embassy/ National Judicial Institute of Canada Judicial Education for Economic Growth Project joint efforts in conducting the Workshop for the NSJ on Strengthening of Leadership and Management Skills (see information in the previous reports) in May 2013, the NSJ leadership developed a Draft Strategic Plan. On October 11, 2013, the HQC approved the Strategic Development Plan for the National School of Judges of Ukraine for 2014 to 2018 which is a long-range plan based on intermediate goals that the NSJ has identified based on the development strategy for the judicial branch in Ukraine. Achieving the plan’s strategic goals and focus areas will serve as an impulse for development of the school’s activities in the judicial sector, use of international best practices, and improvement of administration.

To continue the series of events on the key aspects of the new CPC conducted by the NSJ with FAIR, the OPDAT, U.S. Embassy in Ukraine and COE Projects from 2012-2013, FAIR together with OPDAT and the Government of Denmark - COE Project “Support of Criminal Justice Reform in Ukraine” supported the NSJ in conducting a ToT from November 13 to 15, 2013, for

Milestone Progress ER 3.1

- Institutional needs assessment of the NSJ completed (achieved).
- Judicial training needs assessment completed on behalf of the NSJ (achieved).
- Second edition of the Judicial Opinion Writing Handbook published (achieved).
- Three curricula for the initial training on Rule of Law and Human Rights, Opinion writing, and Judicial Ethics are developed and presented to the key stakeholders (achieved).
- Curriculum on Rule of Law and Human Rights for on-going training is developed and presented to the key stakeholders (achieved).
- Curricula on Opinion Writing and Judicial Ethics for ongoing training are updated and presented to the key stakeholders (achieved).
- Develop E-version of the Curricula on Rule of Law and Human Rights, Opinion Writing, Judicial Ethics, and Communications (Public Outreach in Courts) for initial and on-going trainings and disseminate between NSJ faculties and its branches (achieved).
- Draft NSJ Strategic Plan for 2014 – 2016 reviewed and adopted by the HQC (achieved).
- Online course on Judicial Ethics for judges and judicial candidates in cooperation with the NSJ and the HQC developed (ongoing).
- Online course on Court and Community Communications in cooperation with the NSJ and the SJA developed and piloted (achieved).
- Selected (competitively) CSO partner to administer the pilot court administration certificate program.
- Over fifty court administrators submitted the applications for participation in the court administration certificate program.
- FAIR signed the agreement with Michigan State University (MSU) to support the pilot court administration certificate program implementation.
- 40 court and SJA staff competitively selected nationwide for participation in the pilot court administration certificate program.
- MSU developed ten courses with teaching materials for the pilot court administration certificate program in cooperation with MSU.
- FAIR in cooperation with MSU, SJA and NSJ conducted the court administration certificate program faculty development training.
- 10 subject curricula on the court administration certificate program adapted to Ukrainian context.
- 40 court and SJA staff participated in court administration certificate program and earned certificates from Michigan State University.
- Court administrator manual based on court administration certificate program curricula developed and published.
- 8 representatives of NSJ, SJA, and graduates of the court administration certificate program participated in the IACA international conference.

judges-trainers on "Practical Issues of Application of the New Criminal Procedure Code of Ukraine" in Lviv. The agenda of the event has been developed based on about 200 topical questions preliminarily received from the participants. During the training, 53 judges-trainers had an opportunity to discuss issues of pre-trial investigation, evidence and proof, plea and reconciliation agreements, preparatory hearing and trial with international (U.S. judge John O'Sullivan) and Ukrainian experts, including judges of the High Civil and Criminal Court. As a result of the ToT, the participants are expected to conduct such trainings for their colleagues in appellate courts and NSJ regional branches. For more information please follow the links: <http://helpcoe.org/national-page/ukraine>; <http://www.legalaid.gov.ua/ua/holovna/lystopad-2013/na-seminari-dlia-suddiv-vykladachiv-obhovoryly-problemnykh-pytan-nadannia-bezoplatnoi-pravovoi-dopomohy>; <http://www.nsj.gov.ua/ua/news/13-15-listopada-2013-r-mlviv-pidgotovka-vykladachiv-na-seminari-na-temu-problemni-pitannya-zastosuvannya-kriminalnogo-protseusalnogo-kodeksu-ukraini/>.

On November 18, 2013, the HQC appointed Mykola Onishchuk to the position of a Rector of the NSJ. During 2007–2010 Mykola Onishchuk had been the Minister of Justice of Ukraine and Chairman of the National Commission for Strengthening Democracy and Rule of Law. Since 2010 Mr. Onishchuk has been a President of the Institute of Legal Policy. More information can be found at the following link: <http://www.vkksu.gov.ua/ua/news/mikola-onishuk-rektor-natsionalnoishkoli-suddiv-ukraini/>. On November 22, 2013, FAIR COP David Vaughn met with Mykola Onishchuk to discuss the results of cooperation between FAIR and the NSJ during the Option Period and discuss further areas of cooperation for the next 6 months. Mr. Onishchuk also expressed his willingness to cooperate with FAIR in the future. For more information please follow the link: <http://www.nsj.gov.ua/ua/news/22-listopada-2013-roku-v-natsionalniy-shkoli-suddiv-ukraini-vidbulasya-zustrich-iz-kerivnistvom-proektu-usaid-spravedlive-pravosuddya/>

On December 19, 2013, the NSJ with FAIR support and in cooperation with the SCU conducted an international scientific and practical conference on "Standards of Judicial Training: International Best Practices and Tasks for Ukraine" on the occasion of its third anniversary. Representatives of the Administration of the President of Ukraine, Members of Parliament of Ukraine, leadership of the SCU and high specialized courts, HCJ, HQC and COJ, judges, representatives of law schools, international and civil society organizations participated in the conference. Mr. Onishchuk introduced to the audience his vision of reforming special training for judicial candidates, in particular, with regard to increasing its duration up to 18 months, developing criteria of judicial selection and curricula, etc. During the conference, FAIR COP David Vaughn made a presentation on "Judicial Competencies: International Experience and Its Application". Also, Director of Michigan State University (MSU) Judicial Administration Program Maureen Conner presented the experience in training court administrators and the results of the pilot Court Administration Certificate Program implemented by the SJA and NSJ in cooperation with FAIR. More information can be found at the following links: http://www.fair.org.ua/index.php/index/news_single/155; <http://www.nsj.gov.ua/ua/news/19-grudnya-2013-roku-m-kiiv-mijnarodna-naukovo-praktichna-konferentsiya-standarti-pidgotovki-suddiv-mijnarodniy-dosvid-zavdannya-dlya-ukraini/>; <http://pravo.ua/news.php?id=0039879>; <http://www.nsj.gov.ua/ua/news/press-about-us/-shkolu-suddiv-chekaut-zakonodavchi-zmini-zakon-i-biznes-/>;

On November 14, 2013, the SJA with FAIR support conducted in-class training for PIOs within preparation of the online distance learning course on the “Court and Community Communications” in Lviv. PIO participants of the training, SJA and FAIR representatives finalized the content of the syllabus prepared on the basis of the FAIR manual and curriculum “Public Relations in Courts” and put it online. Participants piloted distance learning course functions and abilities. More information can be found at the following link:

<http://www.apcourtkiiev.gov.ua/apcourtkiiev/uk/publish/article/100356>. Starting from November 25, 2013, the pilot distance learning course on “Court and Community Communications” was opened for registration of the participants. Further information about this course can be found above in the Success Stories and Notable Achievements section of this report.



Participants of the ToT «Practical issues of application of the new Criminal Procedure Code of Ukraine» discuss topical questions of the CPC implementation in Lviv on November 13 - 15, 2013.

FAIR continues to improve court administration in Ukraine through introducing court administrators to best international practices and professional development programs. This quarter, FAIR supported a delegation of representatives of the SJA, NSJ, graduates and faculty of the 2013 MSU Court Administration Certificate Program to participate in the International Conference “Court Excellence in Changing World” organized by the International Association for Court Administration (IACA) in Dubai, United Arab Emirates from December 9 to 11, 2013. Conference participants included legal and judicial institutions comprising judges, lawyers, legal consultants, academics, and other judicial bodies from more than 50 countries. During the conference, FAIR presented results and lessons learned in designing MSU’s Judicial Administration Certificate Program conducted with the SJA and NSJ in Ukraine in 2013. Also, during the conference the Ukrainian delegation was exposed to a wide range of practical tools through engaging an international community of expertise, gaining practical knowledge focused on devising solutions to common challenges, utilizing already developed tools, gaining exposure to new methodologies, and accessing best practices that can be applied in Ukraine. Volodymyr Kutsenko, Head of the Territorial Office of the SJA in Odesa oblast, shared his ideas: *“I liked the presentation of case filing system “Alsalfa”, particularly court fee payment and obtaining archive documents patch. I am going to send an official letter to developers of the similar Ukrainian software system to create the same patch.”* *“The session on identifying of legal status of court administrator with participation of Sonja Gruyevska (Macedonia) was most interesting for me. This issue is extremely vital for Ukraine today,”* mentioned Yana Masharova, Head of Professional Development Department of the SJA. The SJA representatives are planning to follow on with Sonja Gruyevska, Secretary General of the Supreme Court of Republic of Macedonia in order to learn more about their experience on legalizing profession of court administrator. In addition, a delegation visited Dubai courts and Dubai International Financial Centre (DIFC) Courts. The participants learned about advanced case management systems and approaches in abovementioned courts. In particular they liked such approaches as putting public satisfaction surveys into the court information kiosks, having transparent windows in court room doors and displays with video translation of court hearings in court corridors. FAIR plans to support Ukrainian courts in incorporating a simplified CRC questionnaire on court users’ satisfaction into the court information kiosks.

To promote the sustainability of the 2013 Court Administration Certificate Program, FAIR conducted meetings with representatives of Ukrainian leading law universities including the National Law University named after Yaroslav Mudry (Kharkiv) and National University “Odesa Law Academy”. During the meetings with universities’ leadership and professors Also Dr. Maureen Conner (MSU) delivered a presentation on MSU’s judicial administration program and introduced the results and lessons learned of the 2013 Court Administration Certificate Program implemented by MSU, FAIR, SJA and NSJ. FAIR shared plans to work in the following areas in order to improve court administration in Ukraine: develop skills and knowledge of the program faculty members; adopt the program’s context to Ukrainian reality; find academic partners for the program and continue cooperation with NSJ and SJA on professional development for court staff. Mr. Komarov, Dean of the National Law University named after Yaroslav Mudry (Kharkiv) and Mr. Kivalov, Rector of the National University “Odesa Law Academy” expressed a great interest in developing, designing and launching court administration programs in cooperation with MSU and SJA with further sustainable implementation of this program as a certificate course and master degree in the above mentioned Universities. *“We have necessary resources and it is in line with our plans to create faculty and Bachelor/Master degree on court administration,”* said Mr. Komarov. *“Well trained court staff means efficient court,”* mentioned Mr. Kivalov during the meeting. Both universities agreed to participate in second round of the Court Administration Certificate Program in 2014. Also, representatives of the universities will take part in the meeting of 2013 court administration certificate program graduates.



Visit to Dubai Courts on December 11, 2013.

In addition Dr. Conner visited the Kharkiv Circuit Administrative Court where she met with one of the graduates of 2013 Certificate Court Administration Program and evaluated the impact of the court administration program in this court. A complete report on evaluation of impacts of all participants’ capstones will be available in March 2014.

Finally, FAIR coordinated efforts with the USAID Participant Training Program to visit the Polish National School of Justice and Prosecution to learn about institutional best practices and lessons learned in court administrator training. The coordination included contribution in drafting solicitations, determining topics for the training program, dissemination of the announcement between potential participants of the program in Kharkiv and Odesa cities and regions.



Meeting with Mr. Kivalov in Kyiv on December 18, 2013.

PLANS: During the next reporting period, FAIR plans the following activities in order to achieve Expected Result 3.1:

- Continue to work with the NSJ in developing the capacity for distance learning by providing technical support to the NSJ to integrate a distance learning methodology; procuring a server and laptops for NSJ; and assisting the NSJ in developing the curricula for courses offered through distance learning;

- Continue to support the NSJ in incorporating the proposed changes in the training curricula of the judicial ethics course, which will be introduced to the judicial training programs. The experience gained as a result of developing and piloting the online course “Court and Community Communications” will be used to develop an online course of judicial ethics;
- Conduct a meeting of the graduates of the court administration certificate program to present results of the capstone project implementation (February 18-19, 2014);
- Select Ukrainian and US Universities to design a second in-class court administration certificate program together with NSJ, SJA. Identify faculty (March 2014);
- Coordinate with the USAID Participant Training Program to conduct a regional study tour to Poland focused on institutional best practices in court administrator training. The coordination will include support in evaluating, interviewing and selecting participants for the program (January to February 2014); and
- In addition to the group of 10 participants competitively selected in Kharkiv and Odesa regions by the USAID Participant Training Program, FAIR will support the participation of up to 4 national level representatives of the NSJ and SJA (March 2014).

Performance Indicators ER 3.1

FAIR made measurable progress during this reporting period under the Expected Result 3.1. FAIR trained 167 judges and judicial personnel this quarter contributing to the indicator “Number of judges and judicial personnel trained with USG assistance”. FAIR made progress on the indicator “Number of new legal courses or curricula developed with USG assistance” where 1 new legal course approved by the SJA and successfully piloted. In addition, this quarter FAIR trained 53 judges-trainers on application of the CPC and 20 trainers on “Courts and Community Communications” contributing the indicator “Number of ToT trainers created.” The HQC approved this quarter the FAIR-supported Strategic Development Plan for the NSJ which is the progress made on the indicator “Number of project-supported new or revised policies for judicial and court staff training institutions.”

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

ACCOMPLISHMENTS: During the period from October to December 2013, FAIR built its programming upon the achievements made over the last two years. These achievements include the development and successful pilot testing of the draft Court Performance Evaluation (CPE) System, the developing concept paper for judicial statistics reform, the completion of the case weighting study for general courts and developing recommendations for improving court budgeting.

Clear, commonly understood and practical court performance standards, criteria and indicators will support the effective and transparent resource planning in the Ukrainian court system including budget preparation, forecasting, and financial controls from one point and, from another point, will supply the roadmap for court managers to improve court services for citizens for further increasing public trust in the judiciary.

In this period, FAIR continued working with the COJ and SJA on building consensus on formulating court performance standards due to the absence of a common vision between the COJ and SJA in this regard. After the addressing the number of recommendations to the CPE System, FAIR continues providing the support to those courts that implement the system at their own initiative as the

Milestone Progress ER 3.2

- Court performance evaluation system developed and tested in 30 Ukrainian pilot courts (achieved)
- National court performance standards formulated and defined (ongoing).
- Standard-based court performance evaluation system presented to the COJ and SJA for approval (ongoing).
- Court Performance Evaluation (CPE) system approved by the Council of Judges of Ukraine (new)
- Developed electronic publication of CPE system available on-line (new)
- Concept paper for judicial statistics reform finalized (ongoing)
- Case weights resulting from case weighting study discussed, validated, and submitted for SJA/COJ review (ongoing).
- Terms of reference for judicial resource management system developed (ongoing).

modern court administration tool. Meanwhile, FAIR is preparing the CPE System for final submission to the COJ for consideration and approval, emphasizing internationally recognized court performance indicators taking into account the European Commission for the Efficiency of Justice (CEPEJ) reports and recommendations, and promoting the definition of court performance standards as a set of quality criteria and indicators to measure the level of court compliance with these criteria.

On October 31, 2013, FAIR met with Head of the COJ Inna Otrosh to discuss possible areas of cooperation between FAIR and the COJ during 2013-2016, including implementation of the court automation strategy, approval and implementation of FAIR-supported court performance evaluation system and conducting public satisfaction surveys in general courts.

On November 13, 2013, FAIR signed a Protocol of Cooperation with the COJ that sets forth, among others, the following key priorities for cooperation:

- Completing the development of the national CPE System;
- Promoting the approval of the developed CPE System by the COJ;
- Implementation of the CPE System in Ukrainian courts under the COJ oversight and with SJA support; and
- As part of the implementation of the CPE System, in cooperation with the COJ and SJA conducting the survey of court users regarding their satisfaction with court services and trust to courts.

As part of the implementation of the CPE system in the Ukrainian court of general jurisdiction, COJ of General Courts initiated the national survey of court users and requested FAIR support in the design and implementation of this survey. The base for this survey is the same set of the evaluation criteria as Citizen Report Cards (CRC) surveys implemented with FAIR support since 2008: level of comfort in court house, completeness and accessibility of the information, timeliness of court proceedings, court staff performance, judicial performance and quality of court decisions. In addition, FAIR initiated the inclusion of measuring court user perception of the judicial independence and fairness as the pre-requisite for the public trust in the judiciary. The aim of this survey is different from CRC surveys that became the well-proven performance evaluation tool in the last several years. While CRC aims at the improving performance of the specific court through developing and further implementation the specific recommendations, the upcoming survey of court users aims to measure the level of public satisfaction with court services and public trust in courts in all oblasts of Ukraine and at the national level.

FAIR developed the draft of the national court survey questionnaire and submitted it to the COJ of General Courts for consideration and approval. On December 26, 2013, the COJ of General Courts approved this questionnaire and set up the date for conducting the national survey of court users as for March 26, 2014. COJ of General Courts still, however, has to decide whether this survey will take place in all 665 general local courts and 27 appellate courts of general jurisdiction or it will take place in a selected number of general courts to ensure the representative sampling at the oblast level. This decision depends of the COJ of General Courts' goal for this survey – to receive the data at the oblast and the national levels, or, in addition, to receive the data at the level of each individual court. At the time of preparation this report, FAIR continues working with the COJ of General Courts on addressing these issues.

Following the successful pilot testing of the developed CPE System in 30 courts in 2012-2013 (FAIR pilot courts and 17 general jurisdiction courts of Ivano-Frankivsk oblast), the Odesa Oblast Territorial Branch of the SJA (Odesa SJA) conducted the internal court performance evaluation in all 33 general courts of the Odesa oblast. Odesa SJA implemented the internal part of the CPE

system through an on-line survey of judges and court staff measuring judges' and court staff satisfaction with working conditions, effectiveness of court leadership and judicial self-governance, performance of judges and court staff and other components of the internal court performance evaluation. FAIR will present the details on CPE implementation in Odesa oblast in the next quarterly report.

One of FAIR's significant achievements during this reporting period is the progress made towards the judicial statistics reform, which is an important part of developing the SJA capacity to effectively measure the performance of the Ukrainian court system and manage it for better results. In addition, reform of judicial statistics in Ukraine is part of the Strategic Plan for the Ukrainian Judiciary for 2013 to 2015. Per SJA request, FAIR developed the Draft of the Concept Paper for the Judicial Statistics Reform in July 2013. The SJA considered and approved the Draft with smaller revisions and submitted it in October 2013 for consideration and concurrence to the COJ of General Courts, COJ of Administrative Courts and COJ of Commercial Courts. The SJA revision to the initial FAIR-developed draft are small and did not impact the key FAIR recommendations for reforming the judicial statistics in Ukraine which are based on the best international practices and the CEPEJ guidelines to the judicial statistics. These key recommendations to the SJA include the following:

- Decrease the quantity of court statistics indicators, delete those that are not used by the judicial authorities (SCU, SJA, higher courts and COJ) to analyze the efficiency in the delivery of justice;
- Change the current irrelevant indicators to more relevant, one of the most significant examples is using the actual number of judges instead of planned number of judges when calculating average caseload;
- Introduce internationally recognized court performance indicators as part of the judicial statistics system in Ukraine including the average caseload per judge, clearance rate and average duration of case review¹;
- Revise the desegregation of statistical data by case category, leave no more than 10 of the most significant categories, including 4 categories recommended by CEPEJ;
- Introduce the regulatory mechanisms of the data provision to judicial statistics users outside of the justice system through the introduction of long-term agreements or memorandums on cooperation with clear identification of the information to be provided and frequency of provision of this information, so as to avoid the provision of the information outside of these mechanisms;
- Introduce the definition of the "available judicial statistics data" as data that exists within the current regulatory framework and do not require the additional efforts and resources for their collection and processing; and
- Refrain from publishing the judicial statistics data semi-annually and concentrate on the annual reports only; currently collected semi-annual data should be for SJA internal use only.

Per SJA's request FAIR supported the two-day TOT on December 17 and 18, 2013 to improve the process of judicial statistics reporting. The need for this TOT derived from the two issues - introduction of changes in the current process of the judicial statistics reporting in accordance with the implementation of the new CPC and the need to introduce the Draft Concept Paper for Judicial Statistics Reform to judicial statistics practitioners. 54 representatives of the appellate courts and territorial branches of the SJA became acquainted with the new requirements for criminal proceedings data collection and reporting and specifics of using the existing case management

¹ These indicators are part of CEPEJ guidelines and their relevance and effectiveness proven by the experience of the International Court Excellence Consortium.

system in courts for these purposes. The participants of this TOT also discussed the mentioned above Draft Concept Paper and provided their comments and practical recommendations for its improvement. FAIR and SJA will address these recommendations when finalizing the Concept Paper after the receiving concurrence from the COJ. After the TOT, its participants conducted one-day trainings on improving the judicial statistics reporting for representatives of court staff from all 665 local general courts.



Training of trainers "Improving the Judicial Statistics Reporting" on December 17, 2013 in Kyiv.

During this reporting period, FAIR continued to support the implementation of the case weighting study designed by short-term international pro bono Case Weighting Expert Dr. Elizabeth Wiggins of the Administrative Office of the U.S. Courts. Ms. Wiggins is currently working on completing the analysis of data from the objective time study in order to finalize the case weights, and FAIR received the preliminary report on December 31, 2013. Once the report is translated, FAIR will present the results to the SJA and COJ, and organize a focus group discussion of the case weights. FAIR will then submit the results to the COJ for approval.

FAIR also hired short-term expert Elaine Borakowe to work together with Ms. Wiggins on a manual on case weighting, which could be given to the SJA and COJ should they need to undertake additional case weighting efforts. Ms. Borakowe prepared the first draft of the manual, however, in order to complete her assignment she needs data from the case weighting study. Thus, FAIR expects this work to be completed shortly after the case weighting study is finished by the end of February 2014.

The SJA also requested FAIR assistance with the development of a software application for judicial resource management to be used in each court. FAIR agreed to support this process via the development of a Terms of Reference (ToR) document for this system, and is currently waiting for the SJA to provide additional details on the functions and design of the system. Upon the development of the ToR, FAIR will determine the possibility to provide any further support with this issue.

PROBLEMS: The COJ and the SJA still have a different vision for court performance standards. The SJA considers the standards as quantitative targets for court operations and performance (for example, targets for average duration of court proceedings, caseload per judge, number of cases considered per judge), etc. The COJ considers broader court performance standards, including a higher number of the quantitative targets (for example, cost per case, clearance rate, etc.) and qualitative characteristics including active judicial self-governance, satisfactory working conditions for judges and court staff, user satisfaction with court services and others. Even within the COJ there are different views on certain quality criteria. Certain members of the COJ are in favor of evaluating the quality of judgment while other members consider it inappropriate. In order to overcome these challenges FAIR continues introducing more changes to the final draft of the

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

The processing of data for the case weighting study is complicated by the huge number of input errors revealed when FAIR ran the results through a set of checks. Most of these errors are mere typos, but each needs to be corrected manually, causing a delay in the completion of the study. Besides, due to the pro bono nature of her contract, Ms. Wiggins had other simultaneous commitments while completing the study. For any subsequent case weighting efforts FAIR plans to use the services of a paid expert in order to avoid similar delays in the future.

SCHEDULE CHANGES: During this reporting period, FAIR did not face any significant deviations in implementation of the work plan regarding the Expected Result 3.2.

As noted above, FAIR has experienced a huge delay with the completion of the case weighting study, however, FAIR received the report and is now moving forward to completing this work.

PLANS: In the next quarter, FAIR plans the following activities in order to achieve the Expected Result 3.2:

<p style="text-align: center;">Performance Indicators ER 3.2</p> <p>During reporting period FAIR involved 33 more courts in the process of implementation of court performance evaluation system contributing to the indicator “Number of courts implementing project-supported performance measurement system.” No changes were made this quarter on indicator “Number of court performance standards adopted”, “Number of court performance indicators implemented” and “Average annual citizen report cards score of participating courts.”</p>

- Complete formulating court performance standards in cooperation with the COJ and SJA (February 2014);
- Submit CPE System to the COJ for consideration and approval (February 2014);
- In cooperation with the COJ of General Courts, SJA and civil society partner selected through the FAIR APS, conduct a survey regarding user satisfaction with court services and perception of judicial independence and fairness of justice (March 2014);
- Assist the COJ of General Courts and the SJA in developing standardized court performance report form (February to March 2014);
- Assist the SJA in finalizing the concept paper for the judicial statistics reform taking into consideration approved CPE System and international experience (February to March 2014, pending of COJ approval of the CPE System);
- Complete the case weighting study that is currently underway for the 665 trial courts of general jurisdiction, taking into account gender in the course of measuring workload, and presenting results to SJA/COJ for approval;
- Discuss resulting case weights in focus groups;
- Finalize and present resulting case weights to SJA/COJ for approval;
- Finalize and submit to the SJA the training course on case weighting based on the methodology designed by FAIR;
- Based on the results of the previous case weighting study, initiate a similar effort for the administrative courts of Ukraine; and
- Begin the development of the ToR for the software application for judicial resource management upon receipt of all relevant documentation from the SJA.

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

ACCOMPLISHMENTS: Throughout the reporting period, FAIR worked jointly with the SJA in order to determine the sites for installation of 42 information/pay terminals which would allow citizens

to pay court fees directly at the courts and receive information on court operations. Most of the selected courts are located in Kyiv, Odesa, Donetsk and Kharkiv Oblast, as well as in Lviv. The main criteria for the selection of sites included high caseload in civil and administrative cases (where court fees are paid) as well as physical possibility to install the terminal and connect it to the court's network. Currently FAIR is in the process of negotiating with the SJA a separate agreement on the installation of the terminals, which would clearly spell out the responsibilities of both parties in this effort.

FAIR also started working to provide the SJA with a set of international court building standards. FAIR identified two documents from California and Utah, which contain standards for the courts of these jurisdictions. FAIR currently is in the process of translating these documents into Ukrainian, and expects to transfer them to the SJA by the end of January 2014. Additionally, at SJA's request FAIR offered support with the development of an implementation plan for the Strategic Plan for the Judiciary, a concept for online payment of court fees, as well as drafting accessibility standards for court buildings in conjunction with Expected Result 4.2. However, FAIR currently awaits feedback from the SJA on the approaches proposed to meet these issues, and is thus unable to take any specific steps in this regard, as we have received information that the SJA might propose changes to the suggested approach.

- 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 (ongoing).

SCHEDULE CHANGES: FAIR does not foresee any significant changes of schedule.

PLANS: In the next quarter, FAIR plans the following activities in order to achieve Expected Result 3.3:

- Support the drafting of the implementation plan for the Strategic Plan for the Judiciary;
- Announce a tender and procure pay terminals for electronic court fee collection; and
- Start the development of the concept for online payment of court fees.

Performance Indicators ER 3.3

No changes this quarter occurred under the indicator "Number of data-fed analytical techniques incorporated into judicial budgeting", however case weighting studies completed and we expect its implementation in 2015 budgeting period. No changes occurred under the indicators "Number of project-supported new or improved policies within the SJA" and "Percent of courts with capacity to receive court fees through electronic terminals."

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

ACCOMPLISHMENTS: During the reporting period, FAIR continued supporting SJA's Working Group on Innovations (WGI). Within WGI its Communications Subgroup has drafted the concept of a judiciary press-center in order to provide judicial leadership with the framework to more effectively communicate with the public and media. The latest version of the concept was updated in order to be presented on the WGI meeting on December 26, 2013. Following the WGI meeting, the head of the Communications Subgroup will work on the suggestions and updates. FAIR will support the concept of a Judiciary press-center development by providing local experts

Milestone Progress ER 3.4

- Finalized and submitted Public Information Officer job instructions to the COJ (achieved).
- Finalized and submitted Guidelines on Courts and Media Relations to the COJ (achieved).
- COJ Communications strategy approved by Congress of Judges of Ukraine (achieved).
- COJ website developed (achieved).
- Court communications manual and court communications training curriculum developed and approved by NSJ (achieved).
- CA website developed (achieved).
- Concept of Judiciary press-center establishment finalized and approved (partially achieved – the concept is finalized but is not yet approved).
- Distance learning course on Court and Community Communications for court staff launched (achieved).
- First PIO training conducted (achieved).

contribution in order to promote COJ leading role in Judiciary press-center establishment and communications activities.

Also, FAIR supported the SJA in preparing and launching a pilot distance learning course for court staff on “Courts and Community Communications” mentioned above.

PLANS: During the next quarter, FAIR will:

- Conduct regional trainings for PIOs nationwide with COJ and SJA involvement using the Manual, Curriculum, and online distance learning course Court Community Communications developed by FAIR (January to March 2014); and
- Assist the SJA in

Performance Indicators ER 3.4

No changes this quarter occurred under the indicators “Number of communication strategies implemented by courts and judicial institutions” and “Number of courts offering legal education materials to court visitors”.

providing courts with information kiosks that will include all civic education materials on judicial reform and public information materials on court operations (Linked to Expected Results 3.3 and 4.1.) (January to March 2014).

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

ACCOMPLISHMENTS: During the reporting period, FAIR prepared and broadly disseminated through the Project’s website, CSOs networks, civic websites the Annual Program Statement (APS) "Strengthening the Role of Civil Society Organizations as Advocates for and Monitors of Judicial Reform". The APS addresses the engagement of civil society and the public in the judicial reform process in Ukraine. It is designed to combine policy analysis and advocacy with organizational development of civil society organizations and their engagement in judicial reform implementation. FAIR anticipates awarding up to 8 grants for a total amount of UAH 2,040,000. The projects may not exceed 2 years in length, and should be completed before June 30, 2016. This APS is open from November 20, 2013 through November 20, 2014.

On November 21 and 22, 2013, FAIR participated in the Second Capacity Development Forum conducted by NGO ISAR EDNANNIA with support of the USAID implementer partner

Milestone Progress ER 4.1

- Legal aid public awareness campaign implemented (including one leaflet and two stickers produced and disseminated; two videos produced and broadcasted; nine roundtables conducted; ten informational stands produced and disseminated).
- At least one joint event with CSO and CA held (achieved).
- Conducted meetings with potential CSO grantees regarding research on pending legislation.
- Prepared APS on pending legislation.
- Updated some materials on access to justice.

In progress

- At least 2 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.
- At least two joint events CSOs and Parliament held.
- Specialized research and policy proposals related to pending judicial reform legislation developed.
- The mechanism of sustainable advocacy campaign for pending judicial reform legislation adoption prepared.

UNITER project and other donors. More than 700 participants including civic experts from all regions of Ukraine, representatives of local authorities, business companies and journalists attended the event. During the forum, FAIR promoted the civil society participation in the judicial reform including court performance evaluation. Volodymyr Kupriy, executive director of the FAIR CSO partner “Creative Center CCC” shared the experience of conducting CRC surveys among court users with CSOs which could be potential FAIR partners in conducting further CRC surveys as well as cooperating with courts in implementation of recommendations after courts monitoring in future. Also, FAIR demonstrated a success story video "Courts and the Public: Civilized Engagement" covering new aspects of implementing CRC surveys in Ukrainian courts. In addition, FAIR presented to CSOs representatives the new APS, disseminated DVDs and brochures with CRC reports. This event allowed FAIR to establish new contacts with civic activists and encouraged CSOs to propose initiatives in the framework of APS.



FAIR table during the Second Capacity Development Forum on November 21, 2013 in Kyiv.

Also, on November 27 and 28, 2013, FAIR supported the Twelfth Quarterly Meeting organized by the USAID Legal Empowerment Project in Chernivtsi. During the meeting, the USAID Legal Empowerment Project organized trainings for partner members of the pro bono legal assistance network including CSOs, legal associations, academic institutions and law clinics. The FAIR representatives assisted in arranging the network’s members meeting with Deputy Chief Judge of the Chernivtsi Oblast Court of Appeals Halyna Stankovska and Chief of Staff Ivan Sorokhan with aim to present the court’s cooperation with citizens and to receive feedback from the legal advocacy CSOs regarding public access to justice. FAIR made a presentation on civic engagement in monitoring the access to justice by using the CRC methodology as well as grant opportunities provided by FAIR to strengthen civil society participation in the judicial and constitutional reform processes for Chernivtsi region CSOs and pro bono legal assistance network. FAIR representatives met with Ivan Sorokhan to discuss the court’s experience in implementing the CRC’s survey recommendations, in particular, the creation of a special room and information tables for people with impaired vision with tables of Braille.

Finally, from December 12 to 14, 2013, FAIR participated in the exhibition forum “Lawyers to the Society” in the framework of the Ukrainian Week of Law initiated by the MOJ. FAIR disseminated information materials among citizens, pro bono lawyers and students on access to justice in particular posters, DVDs with updated Manual How to Apply to the European Court on Human Rights, Guide in Criminal Process, leaflets and FAIR videos. FAIR established new working contacts

Performance Indicators ER 4.1

No changes this quarter occurred under the indicators “ Number of public events on judicial reform organized by CSO ” and “Number of CSO-produced policy proposals related to pending judicial reform legislation”, the Annual Program Statement developed and published.

with representatives of the CSOs and legal clinics with aim to involve them in judicial reform problem solving analysis.

PLANS: During the next reporting period, FAIR plans the following activities in order to achieve Expected Result 4.1. FAIR will continue to encourage and consult CSOs to produce specialized research and policy proposals related to pending judicial reform legislation, mechanisms of sustainable advocacy campaigns for pending judicial reform legislation adoption and to apply for support through the APS. To the end of March 2014 FAIR plans to hold two roundtables with the Parliament's committees to discuss CSO recommendations.

Next quarter, FAIR team will continue to update FAIR's public awareness materials on access to justice. Also, in January 2014 FAIR will conduct the postponed training on "Interpersonal Communications" and make a presentation "Courts and the Public: Civilized Engagement" covering new aspects of implementing CRC methodology in Ukrainian courts for new selected Parliamentary interns of the 19th convocation.

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

ACCOMPLISHMENTS: On October 22, 2013, FAIR in cooperation with the Lviv Circuit Administrative Court, Territorial Office of the SJA in Lviv Oblast and "Law and Democracy" NGO conducted a conference on "Access to Justice and Court Services" aimed at discussing best practices of improving access to court and court services. Representatives of Ukrainian judicial institutions, such as the HAC, Council of Judges of Administrative Courts, SJA, NSJ, local and appellate courts, territorial offices of the SJA; representatives of civil society, including non-governmental organizations representing people with disabilities; and representatives of FAIR and media participated in the event. The participants discussed a number of issues, including judges' points of view concerning access to justice and court services, access to justice for disabled people, as well as improving access to justice through improving the quality of court services by evaluating court performance. Additionally, different aspects of communications and public outreach by courts were discussed. During the conference, the representatives of the "Law and Democracy" NGO presented the results of a grant funded program "Evaluation of CRC Program Implementation and Analysis of Equal Access to Justice for Disabled People" carried out with FAIR assistance. Andriy Maleyev, Deputy Chief Judge of the Appellate Court in Ivano-Frankivsk oblast, shared the experience of the general courts of Ivano-Frankivsk oblast related to implementing the court performance programs aimed at improving the quality of court services using their own resources and volunteer movement. The conference participants came up with recommendations for the leadership of the judiciary, specifically the COJ, SJA and courts, on improving access to justice for all the citizens. FAIR plans to address some of the recommendations through projects grant activities.

Milestone Progress ER 4.2

- CRC surveys extended to 8 new regions and 25 new courts.
- 34 courts in 13 regions of Ukraine took part in CRC surveys.
- FAIR issued RFA on monitoring of judicial discipline decisions.
- 8 CSOs presented 34 CRC analytical reports and 319 recommendations on court service improvement to 34 CRC partner courts at 13 regional roundtables.
- FAIR selected CSO to conduct monitoring of judicial discipline decisions competitively selected.
- 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".

In November 2013, FAIR presented an assessment report with conclusions and recommendations on equal access to court services and court facilities for people with disabilities to the MPs of the

Pensioners, Veterans and Persons with Disabilities Committee of the Verkhovna Rada. The report includes data on assessment of the accessibility of court facilities and services for people with disabilities in 18 courts of six regions gathered by FAIR grantee “Law and Democracy” NGO in cooperation with the National Assembly of the Disabled in 2013. The Verkhovna Rada Committee posted the report at the Rada website as recourse on improving the access to justice for people with special needs that can be used by MPs, human rights defenders and CSOs. FAIR agreed on conducting a joint event with the Committee, CSOs and SJA in order to discuss promotion of equal access to court facilities and court services for people with special needs.

PLANS: During the next reporting period, FAIR plans the following activities:

- Select an NGO to develop ongoing and initial training curricula for court staff on communication skills and working with disabled people in cooperation with the NSJ (March 2014);
- Select NGO or NGOs to conduct an audit on the access of courts and court services for people with disabilities, support courts in implementing recommendations regarding developing internal space standards for courts (Linked to 3.3.2) (March 2014);
- Select NGOs to conduct CRC surveys in all courts in up to 5 regions of Ukraine (March 2014); and
- Update and finalize manual on conducting CRC surveys in courts (January to March 2014).

Performance Indicators ER 4.2

No changes this quarter occurred under the indicators “Number and percentage of courts in which there are active CSO court performance evaluation programs”, “Number of people engaged in the monitoring and performance oversight of Ukrainian courts” and “Percentage of partner Civil Society Organizations’ performance improvement recommendations implemented by judicial institutions”. The status of these indicators remains at the level of September 2013.

DONOR COORDINATION

During this reporting period, the FAIR team hosted three Rule of Law Donors and Implementers Meetings:

- On October 2, 2013, Chief Justice of the SCU Yaroslav Romaniuk presented the future plans and priorities of the SCU. Upon the invitation of Chief Justice Romaniuk, the meeting took place at the building of the SCU.
- On November 6, 2013, Judge Olena Yevtushenko of the High Civil and Criminal Court, newly-elected President of the Ukrainian Association of Judges (UAJ) shared the results of the 56th Annual Meeting of the International Association of Judges (IAJ), which took place from October 5 to 10, 2013 in Yalta, and current plans and priorities of the UAJ.
- On December 4, 2013, Mykola Onishchuk, newly-appointed Rector of the NSJ shared his vision for the future development of the NSJ.

DELIVERABLES

FAIR submitted the following deliverables this reporting period:

- Strategic Development Plan for the National School of Judges of Ukraine for 2014 – 2018;
- Updated leaflets on “Guidelines on System of Justice”, “How to Appeal the Misconduct of Judges or Court Staff”, “How to Behave in Court”, “Why Do I Need a Lawyer and Where to Get a Legal Aid?”, “Rights of Suspects and Accused Persons in Criminal Proceedings”, “What a Victim Should Know?”, “What to Do if You Detained?”, “How and When to Apply to the European Court on Human Rights”, and “How to Appeal the Decision of the Criminal Investigation, Prosecution and Trial?”;

- Updated brochures on “How to Apply to the European Court on Human Rights” and “Guide in Criminal Process”.

LOE UTILIZATION

ANNEX A: PERFORMANCE MANAGEMENT AND EVALUATION SUMMARY

PERFORMANCE INDICATORS	Baseline		Targets 2014		Actual this quarter / annual 2014	Targets LOP			Notes and explanations
	Month/Year	Value	Semi-annual (1)	Annual		Annual 2015	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	Sept 2013	31 ²	10	24	15	24	24	30	This quarter (equal annual 2014) FAIR supported 14 governmental legal institutions and 1 non-governmental legal association.
Objective 1: The constitutional, legislative and regulatory framework for judicial reform complies with European and international norms and supports judicial accountability and independence									
Expected Result 1.1: Ukrainian judicial reform legislation receives favorable comments from the Venice Commission as meeting international standards and reflects domestic and international expert input									
2. Number of laws, regulations and procedures designed to enhance judicial independence supported with USG assistance (FAF)	Sept 2013	13 ³	3	6	0	3	0	9	No changes this quarter
3. Number of revised provisions enacted that reflect Venice Commission recommendations	Sept 2013	3	10	20	0	12	12	47	No changes this quarter
4. Percentage of Venice Commission recommendations adopted	Sept 2013	6% ⁴	21%	48%	0	26%	26%	100%	No changes this quarter
Expected Result 1.2: Constitutional reform related to the judiciary is pursued in an inclusive manner									

² Total since 2006 counts support by the USAID Ukraine Rule of Law Project (UROL) and FAIR

³ Total since 2006, includes 8 under the UROL Project and 5 under the FAIR Project

⁴ 6% baseline is 3 Venice Commission recommendations addressed by changes in laws out of total 47 recommendations provided

PERFORMANCE INDICATORS	Baseline		Targets 2014		Actual this quarter / annual 2014	Targets LOP			Notes and explanations
	Month/ Year	Value	Semi-annual (1)	Annual		Annual 2015	Annual 2016	Cumulative Project End	
5. Number of working sessions on Constitutional reform between law makers and civil society organizations	Sept 2013	6	10	20	0	TBD	TBD	TBD	No changes this quarter
6. Number of civil society organizations who have experience in constitutional reform participating in public events on the Constitution	Sept 2013	16	16	20	0	TBD	TBD	TBD	No changes this quarter
7. Number of revised provisions in the Constitution enacted that reflect inputs from project-supported public discussions	Sept 2013	0	0	7	0	0	0	7	Draft law developed and approved in the first reading. It is anticipated that the Law will be adopted in February 2014.
Objective 2: The accountability and transparency of key judicial institutions and operations are strengthened									
8. Number of new properties and functions surrounding judicial selection and discipline introduced to HQC management system with project support	Sept 2013	1	0	10	0	0	0	10	No changes this quarter
Expected Result 2.1: Ukrainian judges are appointed based on objective, knowledge- and performance-based criteria									
9. Number of merit-based criteria or procedures for justice sector personnel selection adopted with USG assistance	Sept 2013	17	2	3	0	5	0	25	No changes this quarter
10. Number of procedures within the judicial appointment process improved with project support	Sept 2013	5	2	4	0	TBD	TBD	TBD	No changes this quarter
11. Number of Ukrainian judges appointed through project-supported objective, merit-based judicial selection process	Sept 2013	880	0	100	0	100	100	1200	No changes this quarter
Expected Result 2.2: Ukrainian judges are disciplined in transparent processes									

PERFORMANCE INDICATORS	Baseline		Targets 2014		Actual this quarter / annual 2014	Targets LOP			Notes and explanations
	Month/ Year	Value	Semi-annual (1)	Annual		Annual 2015	Annual 2016	Cumulative Project End	
12. Number of criteria, standards and regulations adopted to govern judicial misconduct investigations	Sept 2013	1	7	7	0	TBD	TBD	TBD	No changes this quarter
13. Percent of judicial misconduct complaints submitted to the HQC using the standardized form	Sept 2013	9,3%	10%	12%	10%	15%	20%	20%	HQC informed that during the period of July – December, 2013 it received 8,047 judicial misconduct complaints approximately 10% of them were using the standardized form.
14. Percent of judicial discipline decisions posted on HQC website	Sept 2013	77,7%	80%	85%	73%	100%	100%	100%	The most recent data from the HQC informed that during the calendar year 2013, the HQC made 103 judicial discipline decisions. As of the end of the reporting period 75 of them (73%) were posted on the HQC website.
Expected Result 2.3: The regulatory and institutional framework for judicial accountability and integrity is strengthened									
15. Number of judicial self-governance mechanisms revised with project support	Sept 2013	1	1	4	0	TBD	TBD	TBD	No changes this reporting period. The work on developing the Commentary to the Code of Judicial Ethics is in progress.
16. Number of judges providing feedback to revisions of judicial self-governance mechanisms	Sept 2013	220	50	80	0	TBD	TBD	TBD	No changes this reporting period.
Objective 3: The professionalism and effectiveness of the Ukrainian judiciary are strengthened									

PERFORMANCE INDICATORS	Baseline		Targets 2014		Actual this quarter / annual 2014	Targets LOP			Notes and explanations
	Month/ Year	Value	Semi-annual (1)	Annual		Annual 2015	Annual 2016	Cumulative Project End	
17. Number of USG-assisted courts with improved case management (FAF)	Sept 2013	30	17	40	0	50	60	70	No changes this reporting period, court performance evaluation system partially implemented in 33 courts of Odessa oblast, improvements are expected in 3-6 month from this reporting period.
Expected Result 3.1: The skills and competencies of Ukrainian judges and court staff are bolstered through modern, demand-driven training programs									
18. Number of judges and judicial personnel trained with USG assistance (FAF)	Sept 2013	3,737 ⁵	110	300	167	300	300	4,500	This quarter FAIR trained 167 justice sector personnel (72% women and 28% of men) in application of new CPC, court communication with community and improving the judicial statistics. This number includes 52 judges (38% women and 62% men) and 115 judicial personnel (88% women and 12% men).
19. Number of new legal courses or curricula developed with USG assistance	Sept 2013	17 ⁶	2	5	1	1	1	24	This quarter FAIR completed and piloted the online course for Public Information Officers in Courts (PIO)

⁵ Total since 2006 under the USAID Ukraine Rule of Law Project (2,946) and the USAID FAIR Justice Project (1,206), double counting excluded

⁶ Total since 2006 under the USAID Ukraine Rule of Law Project (8) and the USAID FAIR Justice Project (9)

PERFORMANCE INDICATORS	Baseline		Targets 2014		Actual this quarter / annual 2014	Targets LOP			Notes and explanations
	Month/ Year	Value	Semi-annual (1)	Annual		Annual 2015	Annual 2016	Cumulative Project End	
20. Number of TOT trainers created	Sept 2013	82	35	35	73	27	TBD	TBD	This quarter FAIR trained 53 judges-trainers on application of CPC. In addition FAIR trained 20 trainers for court and community communications.
21. Number of project-supported new or revised policies for judicial and court staff training institutions	Sept 2013	0	2	2	1	TBD	TBD	TBD	This quarter HQC approved FAIR-supported Strategic Development Plan for the National School of Judges of Ukraine
Expected Result 3.2: Judicial operations are evaluated and funded according to an objective assessment of needs and performance									
22. Number of court performance standards adopted	Sept 2013	0	7	7	0	0	0	7	No changes this quarter
23. Number of court performance indicators implemented	Sept 2013	7	14	14	7	14	31	31	No changes since baseline, general courts implement 7 indicators approved by the Council of Judges of General Courts
24. Number of courts implementing project-supported performance measurement system	Sept 2013	31	20	40	33	50	100	100	33 general courts of Odessa Oblast implemented FAIR-supported Court Performance Evaluation System, although it's internal part. Cumulative number LOP is 64
25. Average annual citizen report cards score of participating courts	Sept 2013	.80 (out of maximum score of 1)	0.80	.80	N/A	.82	.84	.84	We plan to support the next round of CRC survey in April-June 2014.

PERFORMANCE INDICATORS	Baseline		Targets 2014		Actual this quarter / annual 2014	Targets LOP			Notes and explanations
	Month/ Year	Value	Semi-annual (1)	Annual		Annual 2015	Annual 2016	Cumulative Project End	
Expected Result 3.3: The SJA's capacity to represent and support the developing needs of Ukrainian judiciary is strengthened									
26. Number of data-fed analytical techniques incorporated into judicial budgeting	Sept 2013	0	0	1	0	3	0	4	Case waiting studies completed, we expect its implementation for the 2015 budgeting period.
27. 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 ⁷	0	3	0	3	2	10	No changes this quarter
28. Percent of courts with capacity to receive court fees through electronic terminals	Sept 2013	0	0	5%	0	6%	8%	8%	No changes this quarter. Concept paper developed and courts selected.
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									
29. Number of communication strategies implemented by courts and judicial institutions	Sept 2013	4	4	8	0	10	20	30	No changes this quarter
30. Number of courts offering legal education materials to court visitors	Sept 2012	19	0	41	0	45	60	60	No changes this quarter
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									

⁷ Baseline counts Strategic Plan for the Judiciary (approved in 2012) and Court Automation Strategy (approved in 2013)

PERFORMANCE INDICATORS	Baseline		Targets 2014		Actual this quarter / annual 2014	Targets LOP			Notes and explanations
	Month/ Year	Value	Semi-annual (1)	Annual		Annual 2015	Annual 2016	Cumulative Project End	
31. Number of public events on judicial reform organized by CSO	Sept 2013	11 ⁸	5	10	0	10	10	30	No changes this quarter. Annual program statement developed and published.
32. Number of CSO-produced policy proposals related to pending judicial reform legislation	Sept 2013	1	0	1	0	TBD	TBD	TBD	No changes this quarter. Annual program statement developed and published.
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									
33. Number and percentage of courts in which there are active CSO court performance evaluation programs	Sept 2013	51 (6.8%)	N/A	80 (13%)	0	100 (13%)	100 (13%)	100 (13%)	No changes this quarter. Request for application is being developed.
34. Number of people engaged in the monitoring and performance oversight of Ukrainian courts	Sep 2013	4,973	N/A	8,000	0	10,000	10,000	10,000	No changes this quarter. Request for application is being developed.
35. Percentage of partner Civil Society Organizations' performance improvement recommendations implemented by judicial institutions	Sept 2013	39%	N/A	45%	0.	50%	55%	50%	No changes this quarter.

⁸ Only FAIR project data