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

**QUARTERLY PROGRESS REPORT
APRIL TO JUNE 2014**

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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, 2016.

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

- Developing 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 October 2011- June 2014

- 497 courts covering every region of Ukraine received assistance.
- Supported 15 key government justice sector institutions.
- Targeted programming provided to 17 civil society organizations.
- Promoted seven amendments in Ukrainian legislation to enhance judicial independence.
- Trained 1,520 judges and judicial personnel.
- 149 trainers qualified under Training of Trainers Program.
- Developed 11 new legal courses and curricula including first-time in Ukraine Court Administration Certificate Program.
- 399 justice sector personnel engaged in long-term strategic planning for the judiciary.
- Supported two national tests of 3,474 and 2,348 judicial candidates respectively.
- 942 judges selected through new merit-based procedure.
- 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

Pursuant to Expected Result 1.1, during the reporting period, FAIR has been working on improving the quality of legal education in Ukraine, an area which is currently facing serious challenges. For example, according to an independent rating survey, among the 120¹ higher education institutions graduating lawyers in the country only five were awarded more than 20 points (on a 100-point scale) by graduates, employers, and experts.² At the same time, the

¹ Information from educational web-portal <http://osvita.ua/vnz/guide/search-17-0-0-61-0.html>.

² See in particular: http://bestuniversities.com.ua/sites/default/files/Rating2013_vse%20napravlenija.pdf.

government reports that only one in twelve law school graduates finds a job in his/her field of expertise.³

FAIR's efforts to address these challenges include, but are not limited to, assistance in establishing legal education standards, which incorporate both internal and external legal education quality assurance mechanisms. FAIR has developed and implemented a variety of programs to promote legal education reform in partnerships with the Ministry of Justice (MOJ), the Ministry of Education and Science (MOE), and a number of law schools, and together with the Organization for Security and Cooperation in Europe (OSCE) and the Ukrainian Legal Foundation. Having discussed the problems of legal education quality assurance with deans of leading Ukrainian law schools, FAIR came to conclude that the time was ripe for a pilot external legal education quality assessment project. The first ever in Ukraine, the project aims to enhance the quality of legal education by developing a modern law school evaluation methodology in line with international and European standards that is adapted to the Ukrainian context. Upon the School's initiative and agreement, the Ivan Franko National University of Lviv Law School was selected as the pilot site for this assessment.

The overall goal of the pilot project was to develop a modern law school evaluation methodology that can be implemented in Ukraine in order to measure the quality level of legal education in the country. It sought to draw on and implement international best practices, using a collaborative approach to engage the Law School leadership, administration, students and alumnae in a constructive dialogue focused on identifying problem areas to work on improving. The project also aimed to set up standards for future assessments in law schools throughout Ukraine.

To this end, FAIR engaged four legal education experts – two international, Dr. Delaine Swenson and Mr. Finlay Young, and two local, Dr. Myroslava Antonovych and Ms. Oksana Syroyid – to implement the pilot project. FAIR also engaged a senior international expert – Dr. Catherine Carpenter – to work remotely on the documents and reports produced by the implementing experts to ensure that the quality of their work meets FAIR's expectations. As this kind of external assessment is new to Ukraine, the involvement of the two Ukrainian professionals was crucial for building sustainability within the pilot project and ensuring the local experts gain the knowledge, skills, and abilities to conduct similar assessments of other Ukrainian law schools. Furthermore, participation of the two Ukrainian experts was critical in order to provide the international experts with the necessary support and information about the Ukrainian context throughout the assessment process.

Per the scope of work, the experts were to work together on achieving the following core objectives:

- Develop methodology, criteria and questionnaires for the on-site external assessment of legal education quality at the Lviv Law School, taking into account internationally recognized external quality assurance instruments, including the Standards and Guidelines for Quality Assurance in the European Higher Education Area and the American Bar Association's Standards for Approval of Law Schools, and the Legal Education Reform Index Factors;
- Assess the Lviv Law School with respect to the legal education process and internal quality assurance mechanisms based on agreed-upon indicators, which may include licensing, accreditation and evaluation, admission policies and requirements, curriculum and teaching methodology, faculty qualifications and conditions, and institutional holdings and capacities;

³ See, e.g.: <http://www.dt.ua/3000/3300/64675/>.

- Based on the assessment findings, prepare and submit an assessment report with recommendations for improving the quality of legal education, and developing quality control mechanisms at the Lviv Law School.

As Dr. Andrii Boiko, the Lviv Law School Dean, said in his speech at the start of the on-site assessment on May 19, 2014:

“I hope that the experts involved will spot numerous areas for improvement in the Lviv Law School operation. I am not afraid of my Law School being reasonably criticized for some drawbacks currently plaguing the legal education process. I am afraid of not improving the legal education process timely and effectively, given the support provided by international and local experts through FAIR’s pilot project.”

Given Dean Boiko’s expectations for the pilot project, one of the main objectives of the assessment was to produce an assessment report that is clear, concise, and readily accessible to its intended readership, with practical recommendations on how to improve the quality of legal education at the pilot law school specifically, and the national system of legal education generally.

The pilot project assessed the overall legal education quality using seven key elements and institutional criteria based on and adapted from the European Standards for Internal Quality Assurance Within Higher Education Institutions, specifically:

- Policy and Procedures for Internal Quality Assurance;
- Approval, Monitoring and Periodic Review of Programs and Awards;
- Admission and Assessment of Students;
- Quality Assurance of Teaching Staff;
- Curriculum, Teaching Methodologies, Learning Resources and Student Support;
- Administration and Information Systems; and
- Public Information.



Judges of the Appellate Court of Lviv Oblast – graduates of Lviv Law School - participating in a focus group discussion on how to improve the quality of legal education in their alma mater and ensure that Lviv Law School graduates meet modern labor market requirements. The discussion was held in Lviv on May 20, 2014.

The assessment drew on a variety of primary and secondary research sources, including 404 anonymous surveys used to generate data from current students, law school graduates, teachers, and law school administrators; 20 key informant interviews with five stakeholder groups – administrators, teachers, students, graduates, and legal employers; and ten focus group discussions to gather more detailed information about particular issues and themes that came up in the surveys.

A final draft of the assessment report was submitted for FAIR's review, and was then sent for the Lviv Law School leadership's consideration. Currently, the two local experts are working with the Lviv Law School leadership to gather their feedback and finalize the report. Once the assessment report is ready, FAIR will organize a presentation of the pilot project findings and recommendations to the leadership of the Ivan Franko National University of Lviv and the leadership of the Lviv Law School at a university-wide event in the beginning of July 2014.

This event will include a presentation of the paper on the Assessment of Legal Education Quality at a Ukrainian Law School and of the assessment report with recommendations on how to improve the quality of legal education at the Lviv Law School specifically and the national system of legal education generally. It is expected that the development of a strategic plan to improve the Legal education quality at the Lviv Law School and the development of an action plan to implement the Strategic Plan will follow. It is also expected that the pilot project will not only help to enhance the quality of legal education at the Lviv Law School, but will in the long run also help to inculcate quality assurance policies within the nationwide system of legal education that take into account labor market expectations from legal services providers.

PROJECT ACTIVITIES

Pursuant to section F.5.C.1 of the contract, the following section contains a discussion of accomplishments, progress in milestones, progress in indicators, and upcoming plans for each Expected Result from April 1 through June 30, 2014. 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 continued to work with project partners on improving the legislative and regulatory framework for the judiciary and continuously monitored legislative initiatives to analyze their potential impact on the judiciary. This activity was conducted in parallel with efforts regarding constitutional reform (see Expected Result 1.2) to utilize available resources and promote progressive justice sector changes.

The ongoing political and social crisis set major challenges for FAIR and its partners. The new majority in the Verkhovna Rada and the new Government are facing not only external pressure from another country (both military and diplomatic), but also the internal pressure of the newly born Ukrainian civil society. FAIR is actively working with its partners, experts, NGOs, and civic activists to address demands as they arise and assess how to use FAIR resources in the most effective way given the current situation.

The Draft Law "On the Restoration of the Trust in the Judiciary of Ukraine," which the MOJ developed in order to meet public expectations for investigating corrupted judges, prompted Members of Parliament (MPs) to act. They developed five more drafts of similar content, but without due process guarantees for judges who have special status and cannot easily be removed from their positions. The FAIR team worked with Council of Europe (COE) experts to provide consultations on the current legislation during this process. In parallel, FAIR identified lustration expert Roman David, who visited Ukraine in early April to share his experience with similar lustration processes in Central and Eastern European countries and made significant contributions to the law drafters' understanding of the essence, challenges, and benefits of lustration. Mr. David also met NGO representatives, MPs, donors, and scholars to promote an inclusive rather than

exclusive approach to lustration policy. Under COE and FAIR experts' supervision, MPs agreed to combine the five drafts into one bill, reconsidered some key provisions, and significantly improved the text of the drafts. The Verkhovna Rada adopted the Law "On the Restoration of the Trust in the Judiciary of Ukraine" on April 8, 2014. The aim of this Law is to allow for cleaning-up of the judicial corps and investigations of those judges who during the mass protests in Kyiv (November 2013 – February 2014) considered cases against peaceful protesters in an inappropriate manner, undermined the role of the court system in a democratic society, ignored the presumption of innocence principle, acted under external pressure to deliver legally questionable decisions, put innocent people in jail, and imposed groundless administrative sanctions. The Law amended the provisions of the Code on Administrative Procedure, Code on Administrative Offences, Law on the Judiciary and Status of Judges, and Law on the High Council of Justice.

In addition, under the Law, an Interim Special Commission was created to address the judicial vetting, which will be housed within the High Council of Justice (HCJ). The Commission consists of 15 members. Five members are to be elected by the Supreme Court of Ukraine (SCU) Plenum among retired judges with no administrative position experience during the last five years on the bench and no political party membership. Five members are to be nominated by the Verkhovna Rada and another five, by the Government Agent on Anticorruption Policy; these ten members are to be drawn from lawyers, Ukrainian citizens, and representatives of civil society institutions. Active Members of Parliament, public officials, judges, individuals with a law enforcement agency job record during the last ten years, and those who have been prosecuted for corruption or criminal offences cannot be members of the Commission.

This Commission is authorized to deal with complaints against judges who considered cases:

- Against participants in the mass protest actions starting from November 21, 2013 until the date of the Law's entering into force;

Milestone Progress ER 1.1

- Drafted amendments to the Law on the Judiciary and Status of Judges (amended according to Venice Commission recommendations) and introduced it to the President's Office for consideration.
- Draft Law on the Bar and Advocates activity was submitted to the Verkhovna Rada of Ukraine on April 28, 2012, adopted on July 5, 2012, in force from August 15, 2012.
- Held three public discussions on pending judicial reform legislation.
(December 20 and 21, 2011, Conference on Judicial Reform in Ukraine and International Standards for Judicial Independence; October 5, 2012, Conference on Constitutional and Legal Status of the High Council of Justice: Theory and Practice; March 21, 2013, Conference on Role and Place of High Councils of Justice in Forming the Judicial Corps).
- 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 HJC Regulation on Transferring Judges within Term of their First Appointment developed.
- Concept paper on amendments to the Law on Access to Court Decisions developed.
- International conference on "Role of the Supreme Court in a Democratic Society" conducted.
- The Law on Amending Certain Legislative Acts of Ukraine concerning Realization of State Anti-Corruption policy adopted.
- The Law of Ukraine on the Restoration of Trust in the Judiciary of Ukraine was adopted on April 8, 2014.
- Draft amendments to the Law on the High Council of Justice were developed and introduced for the consideration of HCJ staff and newly appointed members of the HCJ.
- Chief Justice Yaroslav Romaniuk took part in the Conference of Chief Justices of Central and Eastern Europe (June 22-25, 2014, Tbilisi, Georgia).
- On-site legal education quality assessment of a Ukrainian law school carried out and an Assessment Report drafted.
- Grant program to support the MOE and MOJ in developing a national standard for legal education launched.
- Kyiv-Mohyla Law School team successfully participated in the Central and Eastern European Moot Court Competition in EU Law held in Warsaw, Poland, and reported on its participation to FAIR.

- Against individuals, who were declared political prisoners by the Verkhovna Rada;
- Regarding the elections to the Verkhovna Rada results in fall 2012 as well as unlawfully taking away the mandate of MPs; and
- Whose decisions resulted in violations of the European Convention on Human Rights the stipulated by the European Court of Human Rights.

According to the current legislation rules, if the Commission finds a breach of oath by judges in specific cases, the HCJ may consider their removal on this ground. When the Commission determines there are grounds for judicial misconduct that may lead to disciplinary action, the case is sent to the High Qualifications Commission (HQC) or the HCJ, depending on the type of court in which the judge in question is working. All Commission decisions must be publicly available and posted on the HCJ website. If the investigation results provide grounds for suspicion in a criminal offence where a judge has knowingly delivered an unlawful decision, the case is forwarded to the General Prosecutor's Office for consideration. Currently, nine members have been appointed to the Interim Commission (five from the Supreme Court of Ukraine (SCU) and four from the Government Agent on Anticorruption Policy). On June 12, 2014, the Interim Commission officially began its operation, and plans to approve the Rules of Procedure on July 3, 2014.

Under the transitional provisions of the Law "On the Restoration of the Trust in the Judiciary of Ukraine," chief judges and their deputies in courts of all levels were removed from their positions, while members of the HCJ and the HQC lost their authority. Now, chief judges and their deputies at all court levels and specialization are elected by their peers by a secret ballot for a one-year term in office. A chief judge may also only hold an administrative position for no more than two times in a row. The judges have the right to initiate a vote of no confidence of the leadership they elected, and to dismiss them before the end of their term with a 2/3 majority vote. The Law also prohibits active MPs, members of the Cabinet of Ministers, chief justices and their deputies, chamber secretaries and their deputies, members of the Council of Judges of Ukraine (COJ), members of the HCJ, Ombudsman, people prosecuted for the corruption, as well as individuals who were the members of the HCJ and HQC before the law was adopted from becoming members of the HQC. Furthermore, the Law also introduces restrictions on former members of the HCJ and the HQC, who cannot be elected or appointed to these institutions again. At the moment, the new members of the HCJ and the HQC are being appointed by the authorized bodies.

The adoption of this Law also affected judicial self-governance. New rules on the selection of Congress of Judges delegates were introduced, where more ordinary judges are envisaged to participate in high level COJ activities. The new COJ will consist of 40 members, including 20 judges from the local general courts; three judges from the local administrative courts; three judges from the local commercial courts; seven judges from the appellate general courts; two judges from the appellate administrative courts; one judge from the appellate commercial courts; and one judge from each high specialized court and the SCU.

An Extraordinary Congress of Judges was called on June 19-20, 2014, to address a number of important issues, including the composition of the new COJ of Ukraine, where its members were elected by the Congress.

While the judicial vetting process was underway, the issue of the general lustration of the law enforcement, the security services agencies' staff, and the executive branch public officials remained a priority. Six drafts of the Law on Lustration are currently registered in Parliament. Five of them focus on the political background of public employees, and one deals with the "property-based approach." FAIR will be working with the relevant Parliamentary Committees to facilitate fruitful cooperation in developing a consolidated draft that considers expert Roman David's

recommendations to undertake an inclusive approach to lustration. Furthermore, FAIR will engage an expert from the Polish Institute of National Remembrance to share with Ukrainian project partners the lessons learned in lustration of public employees from other countries' transitional justice experience.

Pursuant to the objective of component 1.1.1., during the reporting period FAIR continued to work on judicial reform legal base improvement, specifically on revising the Law on the Judiciary and Status of Judges and the Law on the High Council of Justice in order to fill in gaps and bring the laws in compliance with Constitution of Ukraine and the Venice Commission recommendations. The FAIR legal team developed a list of 45 recommendations on amending the Law on the High Council of Justice, sent them to the partners, received comments, and is now finalizing the draft law incorporating these recommendations. In the next work plan period, FAIR will seek partners in the Parliament to lobby for the submission and registration of this bill. FAIR experts are also working on finalizing the list of recommendations on revising the Law on the Judiciary and Status of Judges, and will support its submission to the Verkhovna Rada.

In the previous work plan period, short-term local law professor Mykola Khavronyuk developed the draft law on amending the legal framework provisions for the budgeting process of the judiciary. On June 11, 2014, FAIR organized a brief discussion of the proposed amendments. Representatives from the COJ, the State Judicial Administration (SJA), the Ministry of Finance, the Verkhovna Rada Budgeting Committee, and subject matter experts discussed the current situation in the financing of the judiciary, identified existing gaps and proposed changes needed to address the challenges that Ukrainian courts are facing; they also agreed to work further to develop recommendations for amendments to the legislation.

Focusing its efforts and attention on justice sector reform matters, FAIR has also monitored legislative initiatives in areas related to the judiciary. A timely FAIR response to some of the provisions of the Draft Law on the Prosecutor Service in Ukraine prevented backsliding in judicial training opportunities and court administration. Drafters of that law proposed to merge the National School of Judges (NSJ) with the Academy of Prosecutors, which exists as a higher educational institution under the Ministry of Education and Science Supervision. The NSJ is the judicial corps training center, it was placed within the judiciary by the Law on the Judiciary and Status of Judges of 2010 and is governed by judicial self-governance bodies. A similar violation of judicial institutional independence could have occurred as a result of the transitional provisions of the abovementioned draft law, where the SJA was proposed to be transformed into an Administration of Justice to deal with both judicial and prosecutorial authority issues. FAIR provided arguments on the inadmissibility of such initiatives in light of the separation of power and judicial independence principles, and supported its partners the NSJ and the SJA to successfully lobby for the removal of these provisions.

On June 22-25, 2014, FAIR supported the participation of SCU Chief Justice Yaroslav Romaniuk at the Conference of Chief Justices of Central and Eastern Europe in Tbilisi, Georgia. The conference brought together chief justices and leading jurists of Central and Eastern Europe to discuss the particular challenges they face in building effective judiciaries consistent with the rule of law principle. The conference offered a unique opportunity for justices from Albania, Azerbaijan, Croatia, Hungary, Latvia, Lithuania, Macedonia, Moldova, Montenegro, Poland, Slovakia, Ukraine and Georgia to have candid, off-the-record discussions on a range of topics, including: Issuing Clear, Well-Reasoned Opinions at All Levels; Handling Long Trials; Continuing Judicial Education; and Building Public Trust by Strengthening Media Services. During the Conference, it was decided that the next installment will be held in Kyiv.

In order to support the improved alignment of legal education in Ukraine with the demands of the modern labor market, FAIR, through a transparent and competitive process, awarded a grant to the all-Ukrainian NGO Ukrainian Marketing Association to engage civil society in developing a legal profession qualifications framework by analyzing the knowledge, skills, and abilities law graduates with Bachelor's Degrees should have to meet current labor market requirements. Following the signing of the Grant Agreement, the Ukrainian Marketing Association began implementing the grant program and is currently conducting cabinet research aimed at developing a survey questionnaire that will be tested through two focus group discussions in July 2014.

During the reporting period, the FAIR initiative to implement a pilot external on-site assessment of legal education quality assurance mechanisms at one of the leading Ukrainian law schools proved to be a breakthrough in Ukrainian legal education. For more details, please see the Success Stories and Notable Achievements section of the report.



The participants of the Conference of Chief Justices of Central and Eastern Europe on June 23, 2014 in Tbilisi, Georgia.

FAIR also focused on another means of improving legal education quality, namely providing targeted support to a law school in its effort to enhance its legal education capacity. The Kyiv-Mohyla Law School team's application for funding submitted to the USAID Mission in Ukraine, led to the insertion of a new component in the FAIR Work Plan (ER 1.1.4). During the reporting period, FAIR provided support to the Kyiv-Mohyla Law School team by sponsoring its participation in the Central and East European Moot Court Competition in European Union Law held on April 25 to 28, 2014 in Warsaw, Poland. This year, 16 teams from ten countries participated in the Competition and the Kyiv-Mohyla Law School was recognized as the sixth best team among them. The team elaborated on the lessons learned as a result of their participation in the Competition in a special report. FAIR's support of the Kyiv-Mohyla Law School team contributed to the schooling of highly skilled young Ukrainian lawyers and helped enhance the quality of Ukrainian legal education.

Following a leadership change in the MOJ and the Ministry of Education and Science of Ukraine, FAIR resumed its cooperation with the Ministries, both of which have competencies in the legal education policy area. To enhance cooperation with the MOJ, FAIR has drawn up a draft Protocol of Cooperation that will strengthen the effectiveness of the FAIR efforts to promote legal education reform. The MOJ informed FAIR that it has been working on the draft Protocol with the intention to sign it.

PROBLEMS: Although the draft laws developed to date on improving the legal framework in Ukraine provide viable mechanisms for transforming the existing judicial system into one that is properly functioning and based on European values, recent events point to a lack of political will to adopt the relevant legislation. Given the new Parliamentary majority, which entered a Cooperation Agreement with the European Union (EU), and taking into account the declared intention to align Ukraine with European values, as well as the continuous CSO pressure on policymakers, there is hope that the GOU will undertake the measures necessary to complete the judicial reform process.

In light of this ongoing political transformation, FAIR will continue to advocate for legislative measures that support the process of reforming the judiciary in Ukraine.

The recently adopted Law on Higher Education (registration No. 1187-2) provides a mechanism for transforming legal education in Ukraine in accordance with best practices of education management and education quality assurance. However, the process of true reform in the higher legal education sector will require close day-to-day cooperation between the MOE and the MOJ in developing a legal profession qualification framework. FAIR will use any opportunity to advocate for developing and implementing a legal framework, the content of which meets the expectations of the legal labor market. Current national statehood and security challenges coupled with the leadership changes in both the MOJ and MOE may affect the priority and timeline for developing a legal profession qualifications framework as part of setting a national legal education standard. To address this problem, FAIR will engage civil society institutions to support the MOJ and MOE efforts to develop the legal profession qualifications framework by assisting them in analyzing modern labor market demands for law graduates, as well as in advocating for the academic curricula revisions necessary to meet these demands.

SCHEDULE CHANGES: FAIR continues to work on promoting key reform components, focusing its efforts on building consensus and mutual respect among stakeholders. FAIR works in close cooperation with Government of Ukraine (GOU) partners, the judiciary, civic activists, and experts to contribute as much as possible to the reform of the judiciary. However, major political changes in the country have held up the adoption of key legislation pieces.

PLANS: In order to provide the GOU with a list of recommendations to revise the Law on the Judiciary and Status of Judges, FAIR will submit legislative initiatives to proceed with amendments to the Law on the High Council of Justice and to the Law on the Judiciary and Status of Judges, and will provide technical assistance on standards, criteria, and procedures for judicial lustration and vetting development.

FAIR is also ready to tailor its work plans to the shifts in the current political situation and replace activities if necessary. FAIR will focus its activities on promoting amendments to the key legislation pieces during public events in order to encourage inclusive discussions and ensure as wide support as possible.

Performance Indicators ER 1.1

To build a foundation for a more accountable and independent judiciary FAIR supported twelve governmental judicial institutions and five non-governmental legal associations during this reporting period.

Parliament of Ukraine adopted the Law of Ukraine on the Restoration of the Trust in the Judiciary. This Law designed with FAIR support and it increases the judicial independence through amending the Law on the Judiciary and Status of Judges regarding the Congress of Judges and the Council of Judges. This achievement changes the indicators "Number of laws, regulations, and procedures designed to enhance judicial independence supported with USG assistance" from 14 to 15. It also changes the status of the indicator "Number of revised provisions enacted that reflect Venice Commission recommendations" from the baseline value of 3 to 6 and the status of the indicator "Percentage of Venice Commission recommendations adopted" from 6.4% to 13%.

Finally, during the next quarter, under Expected Result 1.1 FAIR will focus on:

- Organizing a university-wide event at the Ivan Franko National University of Lviv in the beginning of July, 2014 to present the findings and recommendations of the on-site external legal education quality assessment conducted in May 2014;
- Building Lviv University's capacity to develop a Strategic Plan to enhance the quality of legal education and better meet modern labor market demands;
- Engaging civil society in developing a legal profession qualifications framework. The expected outcome of this activity is to prompt legal education stakeholders to consider modern labor market demands in the legal industry, as well as to present the MOE and

MOJ with recommendations on developing a national legal education standard and advocating for the necessary changes in the academic curricula; and

- Signing the Protocol of Cooperation with the MOJ to support MOJ efforts to reform legal education in light of modern legal labor market requirements.

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

ACCOMPLISHMENTS: As noted in the previous work plan period report, on March 4, 2014, the Verkhovna Rada adopted Resolution No. 849-VII to establish the Interim Special Commission of the Verkhovna Rada of Ukraine to prepare a bill on amendments to the Constitution of Ukraine. The Commission consists of 15 MPs that represent different political forces in the Parliament.

During this work period, the Commission held several meetings to discuss the scope and concept of future Constitutional amendments. The members of the Commission agreed to consider the current situation in the country and deal with three main areas: (1) the power decentralization, i.e. local government authority reform (Section 11 of the Constitution); (2) the organization of state power to uphold the system of checks and balances, (Section 4 Verkhovna Rada of Ukraine, Section 5 President of Ukraine, and Section 6 Cabinet of Ministers of Ukraine and other Executive Bodies of the Constitution); and (3) judiciary, including prosecutor's office reform (Section 7 Prosecutor's Office and Section 8 Judiciary of the Constitution).

Commission members reached consensus on staying away from Sections 1 General Provisions, Section 3 Elections and Referendum, and Section 13 Amendments to the Constitution rules as such changes would require national referendum approval. The Commission is receptive of the work done by the Constitutional Assembly (CA) and agreed to benefit from their product.

FAIR established working relations with some members of the Commission, namely with Mr. Karpuntsov and Mr. Yemets, and with Legal Policy Committee Secretariat staffers in order to be able to reach Commission members with materials in demand, as well as to contribute with relevant comments to be considered by the Commission members. FAIR highlighted the need to be consistent with the CA-developed proposals on the Justice section provisions, such as: (1) stipulating in the Constitution the right to fair trial within a reasonable time by an independent and impartial tribunal established by law; (2) removing the Verkhovna Rada of Ukraine from the judicial appointment process; (3) removing the authority to create, reorganize, and liquidate courts from the President and placing it under the Verkhovna Rada scope of responsibility; (4) strengthening the role of the SCU as the highest judicial institution; (5) eliminating the five-year

Milestone Progress ER 1.2

- Independent Madrid University Law Professor Lorena Bachmaier developed and presented the Expert Opinion on the Constitution of Ukraine Gap Analysis with a focus on Rule of Law Principle implementation.
- The draft law "On Amending the Constitution of Ukraine Regarding Strengthening Judicial Independence" is developed by the Presidential Administration and submitted to Verkhovna Rada for first reading consideration.
- The Concept Paper on Improvement of the Constitutional Regulation of Justice in Ukraine was incorporated into the draft General Concept Paper of Constitutional Changes to be presented during the 4th CA plenary meeting.
- Independent Madrid University Law Professor Lorena Bachmaier developed and presented the Expert Opinion on the Improved Concept Paper on Justice Sector Amendments.
- The draft Concept Paper on Constitutional Changes was discussed at the June 21, 2013 CA plenary session and was sent for further improvement.
- The CA coordination bureau adopted decision No. 21 to recommend the CA to approve the revised and improved content of the draft General Concept Paper on Constitutional Changes.
- The European Commission for Democracy through law (the Venice Commission) issued an Opinion on the draft law on Amendments to the Constitution to Strengthen the Independence of Judges.
- Two meetings with the Interim Special Commission members were held to provide them with expert recommendations regarding areas to be addressed in implementing the rule of law principle in the constitutional reform process.

initial appointment of judges; (6) increasing of the minimum age for judicial candidates and the retirement age of sitting judges; and (7) changing the composition of the HCJ to meet Council of Europe standards. FAIR provided Commission members with printed copies of the independent assessment international experts Lorena Bachmaier and Evgenii Tanchev conducted of the content of the current Constitution of Ukraine, identifying constitutional gaps and inconsistencies of specific constitutional provisions with the rule of law principle.

Commission members have organized their work on an article by article basis, so that their proposed amendments are reflected in one table, and on the one hand can be easily presented to Rada Speaker, and on the other, can be sent for the Venice Commission experts' consideration to help guarantee a speedy process. The Legal Policy Committee reported that the developed table is being considered by experts, but so far no specific information is available on this matter.

On June 16, 2014, during the meeting of the Coordination Board of the Parliament, the Verkhovna Rada Speaker Oleksandr Turchynov communicated that President Petro Poroshenko was going to submit the draft law regarding the urgent amendment to the Constitution within a few days. On June 26, 2014, the Draft Law on Amending the Constitution of Ukraine No. 4178a (regarding the powers of state and local authorities) was registered in the Verkhovna Rada of Ukraine upon submission by President Poroshenko. In general, the draft amendment provisions are going to improve the balance of power between the President and Parliament, and will enhance decentralization and local self-governance. However, this draft law does not address the judiciary related issues, and at the moment no changes in this area are envisaged. Currently, the fate of the Commission proposals is not known and no information on whether they will move forward is available.

In this context, it should be mentioned that some Ukrainian experts are not optimistic about or welcoming of the urgent Constitutional amendments. Some of them are of the opinion that the current state of social tension is not the best time to reform the Constitution. Others believe that the scope of necessary changes is well thought through and there is no need to wait for better conditions.

PROBLEMS: Progress is stunted due to the political and social turmoil, e.g. the Presidential elections, the Parliamentary crisis, and the Russian invasion of Ukrainian territory. FAIR continues to adjust its work based on ongoing developments and the pace of partners' activities.

SCHEDULE CHANGES: FAIR works closely with its partners, so that its activities are timely and useful. The events planned to promote constitutional reform are delayed for the next work plan period, so that they could help pr to the inclusive process of the Constitutional reform.

PLANS: In order to pursue constitutional reform in general as well as in specific relation to the judiciary, FAIR will work in coordination with the Verkhovna Rada, civil society, and professional organizations' representatives to conduct public discussion with a focus on the challenge of explaining to ordinary people why there is a need to amend the Constitution of Ukraine, referring to the relevant draft Concept Paper developed by the CA in 2013 and the feedback received from independent experts. FAIR will focus on the substance of the existing bill "On Amending the Constitution of Ukraine Regarding Strengthening Judicial

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 the September 2013 baseline, at 6 and 16 respectively. The status of the indicator "Number of revised provisions in the Constitution enacted that reflect inputs from project-supported public discussions" also did not change during this reporting period.

Independence,” which received a positive opinion from the Constitutional Court of Ukraine (CCU) and passed first reading in 2013, in order to identify areas for further improvement.

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

ACCOMPLISHMENTS: On June 5-6, 2014, FAIR, at the request of the HQC and the NSJ, conducted a training for test item writers on “Methodology of Test Item Writing: Preparation, Validation and Improving” (<http://www.nsj.gov.ua/ua/news/pidvishuetsya-riven-rozrobki-testovih-zavdan/>). Representatives from the NSJ and the HQC test items writers group participated in the event. FAIR also included members of an expert group of test items evaluators in the training. This group of evaluators was created in November 2014 as a joint initiative of the HQC and the HCJ with the purpose of having the quality and content of the developed test items and case studies evaluated by professional judges. As a result, two justices of the SCU, two judges of the High Civil and Criminal Court of Ukraine (HCCC), one judge of the High Commercial Court of Ukraine (HCC), and two judges of the High Administrative Court of Ukraine (HAC) participated in the training.

As the Head of the HQC, Ihor Samsin, stated during his introduction speech:

“Without FAIR support, the HQC would not be able to conduct three rounds of judicial selection process. With FAIR’s support the HQC did a lot in developing and implementing transparent, objective, knowledge- and performance-based judicial selection criteria and procedures through an anonymous test and qualifications exam, including the development of test items. At the same time, there is a need to improve the skills of test items writers on a regular basis, to share the experience and to analyze the test items to improve them, and we appreciate FAIR’s contribution in this area”.

During the training, participants were acquainted with national and international standards of professional examinations, baselines for the test and test item, practical rules for test developers, and the structure of the planning and development of the test. Through practical exercises and group work, participants improved their skills and ability to identify problems in the quality of tests and correct errors, and to develop test items in compliance with quality indicators. In addition, participants were trained in using the Statistical Package for the Social Sciences (SPSS) software in the process of analysis of test items. For the practical work with the SPSS software, the NSJ provided participants with five computers, which had been purchased earlier by FAIR to meet the needs of the NSJ.

Short-term testing and training experts Leonid Sereda and Serhiy Mudruk led the training. Participants expressed interest in continuing cooperation on enhancing the skills of test items writers and evaluators in developing, validating, and revising test items to improve them. The

Milestone Progress ER 2.1

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

participants emphasized the need to have regular approbation of the test items developed during the initial training for judicial candidates and the ongoing trainings for judges at the NSJ.

Additionally, short-term testing and training expert Serhiy Mudruk is developing a Manual of Expert Recommendations for Test Items Writers based on the training and expert materials developed in the previous project period and the results of the June 5-6, 2014 training for test items writers. The Manual will be reviewed by the responsible persons at the NSJ and the HQC.



FAIR and NSJ representatives during the working meeting on May 22, 2014.

During this reporting period, FAIR continued to support the NGO grantee “Universal Examination Network” in the implementation of the second part of the in-depth Judicial Practice Analysis among judges of commercial and administrative courts under the Annual Program Statement (APS) on “Strengthening the Role of Civil Society Organizations as Advocates for and Monitors of Judicial Reform.” It is expected that the grantee will conduct a survey among judges of commercial and administrative specializations to identify judicial qualifications (competencies), and personal and ethical standards that judicial candidates should have, as well as methods to evaluate candidates and to identify topics for training based on input from sitting judges. With the purpose of involving the NSJ in the Judicial Practice Analysis, FAIR initiated and conducted a working meeting with the Rector of the NSJ, Mykola Onischuk, NSJ representatives, and the President of the NGO grantee “Universal Examination Network” on May 22 (<http://www.nsj.gov.ua/ua/news/realizatsiya-viziy-shodo-institutsynogo-rozvitku/>). As a result of the meeting, Mr. Onischuk expressed an interest in cooperation, especially in identifying topics for training that are important for the development of special training curricula for judicial candidates and for judges.

During the reporting quarter, FAIR continued to assist the HQC in developing clear standards for transferring judges. With this purpose, International Legal and Judicial Expert Graham Taylor provided expertise on some procedural aspects of the transfer of judges in European countries. Mr. Taylor examined the transferring procedures in France, Lithuania, Germany, Sweden, and Poland. FAIR will translate into Ukrainian and provide the results of the research to the HQC in July, 2014. In addition, FAIR will provide the HQC with recommendations on improving the judicial transfer process based on the research provided by experts Graham Taylor and Olena Ovcharenko.



Participants of the training for test items writers trained on using the SPSS software in the process of analyzing test items, June 5-6, 2014.

SCHEDULE CHANGES: Due to the unclear status of the HQC as the new members have not yet been approved by the Congress of Judges, FAIR is forced to postpone the activity on implementing the grant on Judicial Practice Analysis (regarding the creation of the steering committee) and automating the judicial qualification exam to the next period.

PROBLEMS: Political developments in Ukraine, the potential lustration process within the judiciary and the changes to the HQC’s composition after the Congress of Judges, have put many processes within the HQC on hold. If the composition of the HQC changes, new members and employees will be hired, while old members and staff will be resigning from the Commission. Thus, FAIR will face a challenge in building relationships with the newly appointed members and staff of the HQC and educating them on issues related to the proper implementation of the judicial selection process. At the same time, the current political will of the new government for completing the judiciary reform process in the short run necessitates that FAIR takes quick, adequate and effective decisions to assist the new government in implementing the needed changes, while remaining in line with rule of law principles.

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

- Supporting the NGO grantee “Universal Examination Network” to conduct the second part of the in-depth Judicial Practice Analysis;
- Providing the HQC with recommendations on improving the judicial transfer process based on research provided by experts Graham Taylor and Olena Ovcharenko;
- Establishing, together with the HQC, a Working Group to develop the Implementation Plan for automating the judicial qualification exam;
- Updating, publishing and disseminating a Manual of Expert Recommendations for Test Items Developers; and
- Updating, publishing and disseminating the Proctor’s manual for judicial anonymous testing.

Performance Indicators ER 2.1

No changes in indicator status occurred in this quarter on this ER. The 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. The indicator “Number of Ukrainian judges appointed through project-supported objective, merit-based judicial selection process” remains the same as previous quarter - 942.

EXPECTED RESULT 2.2: UKRAINIAN JUDGES ARE DISCIPLINED IN TRANSPARENT PROCESSES

ACCOMPLISHMENTS: During the reporting period, FAIR involved short-term local expert Oleksandra Yanovska to review and adapt the draft Manual for Judicial Disciplinary Inspectors, and the curricula for initial and ongoing trainings for them. The final version of the draft Manual prepared by Ms. Yanovska reflects the recent changes in laws and regulations, considers the results of the expert study of the HQC judicial discipline decisions conducted in 2013 through a grant funded activity by the NGO Kharkiv City Public Organization “Institute of Applied Humanitarian Research,” and includes the judicial discipline inspectors’ training materials used in July 2013 in Alushta, Crimea. The draft Manual contains the following sections: (1) international and national standards of judicial independence;

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 (completed, though this document is now called a Procedure).
- Developed training curriculum 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 the procedure of judicial misconduct complaints verification and consideration.
- Finalized and presented terms of reference of a unified integrated database to manage the judicial discipline and selection processes.
- Monitoring of judicial discipline decisions and appeals of HQC judicial discipline decisions was conducted through a grant funded activity by an NGO.
- Finalized the Manual for Judicial Discipline Inspectors.

(2) the concept and system of judicial independence guarantees; and (3) methods of verifications within disciplinary proceedings against judges. The document is supplemented with an extended list of sources and annexes with sample documents used in judicial discipline procedures.

Within this component, and in conjunction with Expected Result 1.1, FAIR worked on the amendments to the Law on the High Council of Justice to incorporate the recommendations of the Venice Commission and the findings of the European Court of Human Rights in the Oleksandr Volkov v. Ukraine case. In addition, FAIR reviewed the Rules of Procedure of the HCJ and put forward proposals for its adaptation (linked to the Task 2.3.4). The comments and proposals for the adaptation of the Law on the High Council of Justice and the Rules of Procedure were forwarded for consideration to the newly elected member of the HCJ Anna Fazhykosh, Judge of the Appellate Court of Zakarpattya Region.

FAIR also provided technical support to the temporary special commission for vetting judges established under the Law “On Restoration of the Trust in the Judiciary of Ukraine,” which was adopted by the Parliament of Ukraine in April 2014. In particular, FAIR provided the members of the temporary special commission with legal and scholar texts on lustration and vetting processes during transitional justice periods, including the Vetting of Judges and Magistrates Act of Kenya and presentations by the FAIR Short-term International Lustration Expert Roman David.

Finally, in April 2014, FAIR finalized and forwarded to the HQC the final draft terms of reference (TOR) for the automation of business processes of this institution. The TOR were prepared by short-term local database management expert Boris Shuster, and further adapted in line with the Instruction of Recordkeeping of the HQC.

PROBLEMS: During the reporting period, the HQC did not operate effectively for the following number of reasons: Pursuant to Article 3 of the Final and Transitional Provisions of the Law “On Restoration of the Trust in the Judiciary of Ukraine” the office of the members of the HCJ, excluding ex officio members, and the members of the HQC shall be terminated on the date this law enters into force. On June 19-20, 2014, the Congress of Judges of Ukraine had to appoint new members to these institutions, however, they were not able to do so, because of the lack of quorum. In addition, the date of the next Congress of Judges is not yet specified. However, until the new members of the HQC are in place, the HQC has resumed activities in its previous composition based on the decision of the Circuit Administrative Court of Kiev of May 27, 2014.

SCHEDULE CHANGES: In June 2014, FAIR planned to present to the HQC the final version of the Manual for Judicial Disciplinary Inspectors. The presentation of the Manual is postponed because the HQC members’ office was terminated according to the Law “On Restoration of the Trust in the Judiciary of Ukraine.” Given the fact that the HQC will proceed with operations until the new members are elected/appointed, FAIR will work with the HQC to set a new date for the presentation of the Manual.

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

- Presenting to the HQC the final version of the Manual for Judicial Disciplinary Inspectors and recommendations for the curricula for the initial and ongoing trainings for them;
- Publishing on the FAIR website Request for Proposals for elaboration, installation, and

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. “Percent of judicial misconduct complaints submitted to the HQC using the standardized form” this quarter is 15% against 10% previous quarter. “Percent of judicial discipline decisions posted on HQC website” is 67% this quarter, which is lower than the previous quarter. The decrease was the result of technical and organizational issues within the HQC.

- testing of software for the unified integrated database;
- Presenting to the HQC the results of the comparative research of judicial discipline procedures applied within selected European countries;
- Finalizing recommendations on the amendment of regulations governing judicial misconduct investigations; and
- Involving a short-term international lustration expert to provide technical and expert support to the members of the temporary special commission on vetting of judges according to the Law “On Restoration of the Trust in the Judiciary of Ukraine.”

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

ACCOMPLISHMENTS: During the reporting period, FAIR assisted both the COJ and the SJA in enhancing judicial self-governance by supporting their efforts to ensure that judicial self-governance bodies function properly, as well as to promote a meaningful judicial reform aligning the Ukrainian judiciary with international and European standards.

Following the Maidan events, the Verkhovna Rada of Ukraine adopted on February 24, 2014 the Decree “On the Reaction on the Facts of Breach of Oath by Constitutional Court Judges” where it requested the COJ to convene the 12th Extraordinary Congress of Judges and elect new judges to the Constitutional Court of Ukraine (CCU) in accordance with the Congress’ quota. In addition, following the adoption of the April 8, 2014 Law “On Restoration of Public Trust in the Judiciary” (see more on this under Expected Result 1.1) whereby the composition of the COJ was substantially changed and all the members of both the HCJ and the HQC were dismissed from their offices, the Congress of Judges is to now elect from the judiciary, and according to the Congress’ quota, new members of these cardinal judicial institutions.

Furthermore, one of the main points of the Congress draft agenda proposed by the COJ in its Decision of April 25, 2014 No. 17 was the adoption of an Action Plan to restore public trust in the judiciary, which is to be based on the Strategic Plan for the Ukrainian Judiciary 2013 – 2015.

Although the date of the Congress of Judges has been changed several times due to political turbulence and civic unrest in Ukraine, it was finally conducted on June 19–20, 2014. At the request of the COJ and the SJA, FAIR provided technical support to the Congress. FAIR contributed to the Congress’ capacity to fulfill its mandate to elect new leaders of the judiciary, as well as to take the steps required to improve public trust in it by providing the following:

- 1) Providing printed materials to be disseminated among Congress delegates, namely:
 - Strategic Plan for the Judiciary 2013 – 2015 developed by the judiciary with FAIR’s support, and adopted by the 11th Congress of Judges of Ukraine held on February 22, 2013;

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.
- Experts to support a working group on developing a Commentary to the Code of Judicial Ethics preselected.
- Research to assess HCJ needs with regards to the possible new composition and functions in progress.
- Research on European judicial self-governance standards completed.
- Amendments to the Law on the Judiciary and Status of Judges to improve judicial self-governance developed and advocated for.
- Comparative analysis on best practices related to status, roles, functions, and responsibilities of advisory committees on ethics or equivalent institutions in democratic countries completed.
- Comparative analysis of decision-making procedures within the judicial self-governance mandated in progress.
- Amendments to the HCJ Internal Regulations proposed.
- On-line training program on judicial ethics for judges and judicial candidates developed and now in the process of testing.

- Strategic Plan Status prepared by FAIR in order for the judiciary to track and discuss the progress made in implementing the Strategic Plan;
 - Case Weighting Study Report prepared by FAIR;
 - The Law on Restoration of Public Trust in the Judiciary; and
 - Verkhovna Rada’s Decree of February 24, 2014 “On the Reaction on the Facts of Breach of Oath by Constitutional Court Judges’.
- 2) Providing meals for Congress delegates and guests, and leasing premises of the NSK Olimpijskiy necessary for the Congress operations.

FAIR representatives visited the Congress of Judges as guests. The Congress included 402 judge delegates from throughout Ukraine, including the turbulent districts of both Luhansk and Donetsk oblasts, as well as nearly 100 invited guests, most of whom were chief judges that can no longer be delegates to the Congress following adoption of the Law “On Restoring Public Trust in the Judiciary.” The agenda items included and resulted in the following:

- COJ Report ensuring the independence of judges and courts, and the status of funding and organizational support of courts (completed);
- Action plan regarding restoration of trust in the judiciary (not considered);
- Dismissal of justices from the CCU (removed from agenda);
- Appointment of justices to the CCU (removed from agenda);
- Appointment of members to the HCJ (vote conducted, but no protocol on election results adopted due to an absence of quorum);
- Appointment of members to the HQC vote conducted, but no candidates received a majority of votes, and there was no quorum to continue the election process;
- Determine the order in which judges become members of the HQC in case one or several members of the HQC leave/withdraw (not considered);
- Elect new members of the COJ of Ukraine (completed); and
- Approve Regulations on the COJ of Ukraine (completed).

Late on the night of June 20, the Congress was suspended as delegates did not manage to address all points on the agenda. As mentioned above, it is uncertain when the Congress will resume its activities.

The interim results of the 12th Extraordinary Congress of Judges fall into the following two groups of outcomes.

Positives:

- Congress conducted: It remained uncertain on the first day of the Congress whether it would take place at all. Some argued that the Congress should be postponed until President Poroshenko could address the delegates. COJ Supreme Court Justice Valentyna Simonenko, a long-time FAIR partner and trained trainer, was elected COJ Chair. Judge Anatolii Martsenkevych, a former HQC member and a long-time FAIR partner, was elected COJ Secretary. Judge Tetyana Chumachenko of the High Administrative Court (HAC) and FAIR trained trainer and Judge Oleg Prezhaznuik of the Kyiv City Court of Appeals, former president of the Association of Judges of Ukraine and FAIR partner, were also elected as COJ members. The Law on Restoring Public Trust in the Judiciary increased the number of COJ members from 11 to 40, and they cannot be chief judges or deputy chief judges.

- Adoption of new COJ Regulations permitting the creation of standing committees, including possible COJ committees on ethics, budgeting, strategic and long-term planning, etc.
- Presentations by civil society activists who strongly criticized the judiciary and offered to partner with the courts to improve the level of public trust and confidence in them.
- Presence of a broad spectrum of media outlets.

Negatives:

- Weak organization and leadership: It took Congress delegates most of the first day to just agree on the agenda, with some of the most important issues, such as electing members to the HCJ and the HQC, left uncompleted as they were placed at the end of the program.
- Taking the dismissal and appointment of new justices to the CCU off the agenda: On February 24, 2014, the Parliament recommended that the Congress of Judges consider dismissing their quota of six justices on the grounds of breach of oath, with all six justices subsequently submitting their resignations. Just before the Congress, however, these CCU justices withdrew their resignations. The Congress failed to address this issue even though it is their exclusive competence to dismiss and appoint CCU justices.
- Failure to raise awareness or agree on a plan to address current problems pertaining to the judiciary in general or judicial self-governance specifically. This included the lack of an agreement to develop an action plan to implement the USAID-supported Strategic Plan for Developing the Judiciary for 2013 to 2015 adopted by the Congress of Judges in February 2013. The EU Justice Sector Reform Project further complicated this issue by distributing copies of a parallel Strategy for the Judiciary System of Ukraine for 2014 to 2017.
- Lack of a completed vote for new members of both the HCJ and the HQC. There are different voting standards regarding the HCJ and the HQC, simple majority and qualified majority respectively. In order to be elected as a new HCJ member, the candidate(s) must receive more votes than his/her competitors, and to become a HQC member, one needs to be elected by the majority of the delegates present at the Congress. At the end of the second day (June 20), there was no quorum to adopt any Congress decisions. The Congress was suspended, without deciding on a date or place for the next Congress.
- A divided judiciary: The Congress clearly displayed how divided the judiciary currently is where, for example, the delegates from administrative and commercial courts simultaneously left the room for “consultations” when discussing the possible postponement of the Congress. This was also evident when Congress delegates voted for introducing additional jurisdictional and regional quotas while electing new judicial officials. Congress delegates were essentially eager to protect the interests of their own jurisdictions, not the interests of the judiciary as a whole.

On June 25, 2014, the FAIR leadership had a meeting with Justice Valentyna Simonenko, newly-elected COJ Chair. During the meeting, participants agreed that FAIR will support the new composition of the COJ with a brief on what has been done in the area of judicial self-governance and with conducting an orientation with the most active former COJ members to maintain institutional memory. Also discussed was the potential establishment of an Ethics Committee within the COJ, developing an implementation plan based on the Strategic Plan for the Judiciary 2013–2015, and issues such as court budgeting, court performance evaluation, and caseload management. Justice Simonenko welcomed FAIR initiatives and looks forward to further cooperation in order to support the judicial self-government in increasing the effectiveness of judicial operations.

Even though the HCJ is not yet operational because HCJ members were not elected by the Congress of Judges and the Verkhovna Rada, during the reporting period, FAIR worked with the

HCJ Secretariat, in accordance with Article 9.1 of the Protocol of Cooperation signed with the HCJ on February 4, 2014, to develop proposals aimed at improving institutional capacity, and enhancing transparency of the decision-making processes within the HCJ’s mandate. To this end, FAIR analyzed the Law on the High Council of Justice and the HCJ Internal Regulations in light of the Oleksandr Volkov v. Ukraine case and the Venice Commission recommendations, developed proposals accordingly and sent them for the HCJ Secretariat’s consideration on the following issues:

- Status and competence of the HCJ, its Chair and members;
- Operations of HCJ Sections and decision-making procedures within the Sections;
- Strengthening procedural rights of persons whose cases are under the HCJ’s consideration;
- Preparation of decisions by the HCJ and its Sections, and access to case materials; and
- Improving the procedure for verification of cases of inappropriate behavior on part of judges reported to the HCJ, as well as the procedure for judicial dismissal.

Once the HCJ is operational, FAIR will support it in assessing its needs regarding the possible new composition and functions, and in developing a Strategic Plan. Meanwhile, FAIR has been analyzing best practices of judicial appointment and judicial discipline processes in order to provide the HCJ with them when cooperation is fully resumed.

PROBLEMS:

- The Congress of Judges failed to address all the issues it has been facing, in particular to elect new members to the HCJ and the HQC. Moreover, the COJ continues its operations in the face of uncertainty as to when the Congress will in fact resume its work. To address this problem, FAIR will liaise with the Congress of Judges Secretariat and the COJ to advocate for resuming the Congress’ work as soon as possible.
- COJ’s mandate is now questionable because of a poorly drafted provision (Article 127(1)) in the Law on the Judiciary and Status of Judges spelling out that “between the Congress of Judges of Ukraine the high organ of judicial self-governance is the Council of Judges of Ukraine.” Given that the 12th Extraordinary Congress of Judges is still legally ongoing, some experts claim that the COJ is not operational until the Congress is officially over, while others argue that the COJ is operational but it cannot impact the current Congress’ agenda and cannot be considered the high judicial self-governance body until the current Congress is legally terminated. FAIR will advocate for the latter interpretation in order for the COJ to be operational and be able to adopt decisions.
- HCJ is currently not operational, since it is lacking members who are yet to be elected by the Congress of Judges and the Verkhovna Rada. In particular, this problem is further exacerbated by the uncertainty as to when the ongoing 12th Extraordinary Congress of Judges will in fact resume its work to legally elect three HCJ members in accordance with its quota. To ameliorate this situation, FAIR will continue to work with the HCJ Secretariat on developing amendments to the HCJ Regulations to enhance the HCJ’s independence and efficiency in line with European standards.
- The Congress of Judges’ Resolution contains a directive to the COJ to contemplate a new Strategic Plan for the Judiciary 2014–2017, an alternative to the Strategic Plan for the Judiciary 2013–2015, which was prepared through the efforts of the EU Project to Support Justice Sector Reforms. This document seems to be both untimely and underdeveloped, therefore,

<p align="center">Performance Indicators ER 2.3</p> <p>Code of Judicial Ethics remains 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 where 4 judges provided contribution during this reporting period contributing to the indicator “Number of judges providing feedback to revisions of judicial self-governance mechanisms.”</p>
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FAIR will continue to work with the new COJ to build consensus on the necessity to proceed with the current Strategic Plan for the Judiciary 2013–2015 and to develop an Action Plan to strengthen implementation discipline.

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 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 units within the COJ;
- Advocate for legislative amendments related to improving judicial self-governance, including COJ roles and responsibilities (linked to Task 1.1.1);
- Assist in assessing HCJ needs with regards to the possible new composition and functions. Familiarize the HCJ with best practices of judicial appointment and judicial discipline process;
- Assist the HCJ in developing a strategic plan regarding financial and human resource management, public outreach, etc.; and
- Assist in developing a legal framework and concept for establishing the High Council for the Judiciary (linked to ERs 1.1 and 1.2).

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 work with the NSJ in developing its capacity for distance learning by providing technical support to the NSJ to integrate a distance learning methodology, procuring a server and laptops for the NSJ; and assisting the NSJ in developing curricula that meet the training needs of different audiences.

To do this, during the reporting period, FAIR purchased ten laptops and a server, and transferred them to the NSJ. The hardware will be used in developing the capacity of the NSJ to ensure adequate initial and ongoing trainings, in developing efficient evaluation mechanisms for training courses, and in introducing distance learning. For more information please follow the link: <http://www.nsj.gov.ua/ua/news/suchasna-komputerna-osnashenist-zrostaе-zavdyaki-spriyannya-proektu-usaid-spravedlive-pravosuddya/>.

Per the Order of the NSJ Rector Mykola Onishchuk, the FAIR Deputy Chief of Party Nataliya Petrova became a permanent member of the Board of the reinstated Scientific and Methodological Council of the NSJ and participated in its first meeting on April 17, 2014. The following issues were discussed at the meeting: scientific and research activities under the Strategic Plan of the NSJ for 2014-2018, and implementation of the Scientific and Research Action Plan for 2014; plan for anonymous testing of judicial candidates to identify their level of general theoretical knowledge in the field of law; plan for special training of judicial candidates; and distance-learning course on Judicial Ethics for judges.

To support the institutional development of the NSJ, in April 2014 FAIR awarded a grant to the “Election Law Institute” for studying the relevance of Ukrainian courts’ decisions to the rule of law principles and the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The grant is implemented in cooperation with the National University “Kyiv-Mohyla Academy” and the NSJ. It is expected that the results of the Analysis of Judicial Practice, will be used for updating the curricula on the Rule of Law and Human Rights and the

associated handouts for training judges in the NSJ that was developed last year by the NGO Ukrainian Legal Foundation within the framework of the FAIR grant program.

FAIR also continued to support Ukrainian judges in their preparation for addressing the challenges they will face after the new legislation comes into force. During May 2014 (May 12, 13, 14, 19 and 21), in cooperation with the High Administrative Court of Ukraine (HAC), the International Foundation of Electoral Systems (IFES), and the OSCE Project Coordinator in Ukraine, FAIR conducted a series of five regional seminars for judges of administrative and general courts on election legislation «Application of Election Legislation at the Presidential and Local Elections». The participants of the trainings learned about the peculiarities of the application of the new election law in the consideration of election disputes. The trainings were led by renowned Ukrainian experts in electoral issues and HAC judges. About 280 judges representing 142 courts from 19 oblasts of Ukraine participated in these seminars. The coorganizers provided participants with a set of hard-copy materials. According to the post-training evaluation forms, participants

considered the seminars were “in time,” “the topics were very important,” “issues were covered in a clear, effective, and comprehensive way,” and “the handouts were useful.” For more information please follow the link:

http://www.vasu.gov.ua/ua/news_vasu.html? m=publications& t=rec&id=3392&fp=21

FAIR continues working with the SJA and the NSJ to further develop court administration education in Ukraine. On May 26, 2014, FAIR representatives met with the newly appointed Head of the SJA Zenoviy Kholodniuk. During this meeting, FAIR discussed the successful implementation of the 2013 Judicial Administration Certificate Program and further steps to improve training programs for court administrators in cooperation with the SJA, the NSJ, Ukrainian and US Universities. Following the meeting, the SJA with support from FAIR developed and distributed an application form for potential candidates for new faculty positions

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 developed and presented to key stakeholders (achieved).
- Curriculum on Rule of Law and Human Rights for ongoing training developed and presented to key stakeholders (achieved).
- Curricula on Opinion Writing and Judicial Ethics for ongoing training updated and presented to key stakeholders (achieved).
- E-version of the Curricula on Rule of Law and Human Rights, Opinion Writing, Judicial Ethics, and Communications (Public Outreach in Courts) for initial and ongoing trainings developed and disseminated between NSJ faculties and its branches (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 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.
- Ten courses with teaching materials for the pilot court administration certificate program developed in cooperation with MSU.
- FAIR in cooperation with MSU, SJA and the NSJ conducted the court administration certificate program faculty development training.
- 10 subject curricula on the court administration certificate program adapted to the Ukrainian context.
- 40 court and SJA staff participated in court administration certificate program and earned certificates from MSU.
- Court administrator manual based on court administration certificate program curricula developed and published.
- 8 representatives from the NSJ, the SJA, and graduates of the court administration certificate program participated in the IACA international conference.
- SJA representative participated in the visit to Poland regarding institutional best practices and lessons learned in court administrator training.

among the graduates of the 2013 Judicial Administration Certificate Program. As a result, 23 out of 35 graduates submitted their applications for participation in the training of trainers (TOT) on adult teaching skills. In order to conduct a three-day TOT on adult teaching skills, FAIR selected local trainers with experience of conducting such types of trainings for different organizations, including the NSJ. Preliminary FAIR representatives discussed the objectives and agenda for the training. Currently, FAIR is in the process of submitting a USAID approval request for these two local training experts.

As reported earlier, FAIR received commitment to participation in the second round of the Judicial Administration Certificate Program from two leading law schools - the National Law University named after Yaroslav Mudry and the National University "Odessa Law Academy." Additionally, in June 2014, the Lviv Ivan Franko National University Law Faculty Dean Dr. Boiko expressed strong interest in the Judicial Administration Certificate Program and suggested that is implemented at the Lviv National University, with further design and implementation for a Judicial Administration Master's Degree Program.

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

- Continue to support the NSJ in finalizing the Judicial Ethics online curriculum in order to pilot it to verify the readiness of the course for launching;
- Continue to cooperate with the NSJ and the HQC to improve the skills and increase the competence of Ukrainian judges and court staff by means of modern and focused on their needs training programs on rule of law implementation and protection of human rights and fundamental freedoms;
- Promote NSJ's institutional development, to develop personnel that are trained to develop educational programs and to ensure the implementation of the program of special training for judicial candidates and the training of judges of Ukraine;
- In cooperation with the NSJ and the SJA evaluate and select up to 15 graduates who will participate in the TOT on adult teaching skills, and will become new faculty members during a second round of the above-mentioned program (July 2014);
- Conduct three-day TOT on adult teaching skills for the new faculty members of the second in-class Judicial Administration Certificate Program (July 2014); and
- Issue Request for Applications (RFA) for an NGO partner to support the second in-class Judicial Administration Certificate program (August 2014).

Performance Indicators ER 3.1

FAIR made measurable progress during this reporting period under the Expected Result 3.1. FAIR trained 235 judges and judicial personnel this quarter in the topics of Implementation of Election Legislation and Judicial Test Items Writing contributing to the indicator "Number of judges and judicial personnel trained with USG assistance." The indicators "Number of new legal courses or curricula developed with USG assistance" and "Number of TOT trainers created" remain the same as the previous quarter.

The FAIR-supported Strategic Development Plan for the NSJ remains the only contribution to the indicator "Number of project-supported new or revised policies for judicial and court staff training institutions" which remains at the same level as in the previous quarter.

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

ACCOMPLISHMENTS: During the period from March to June 2014, FAIR continued working with the COJ and the SJA on promoting the adoption of the Court Performance Evaluation (CPE) system, on the judicial statistics reform, and on the implementation of the case weighting study.

The FAIR-supported, standard-based CPE system for Ukrainian courts aims on the one hand to support the effective and transparent resource planning in the court system, including budget

preparation, forecasting, and financial controls and, on the other hand, to supply a roadmap for court managers to improve court services for citizens to further increase public trust in the judiciary. In addition, the CPE system developed by FAIR, in cooperation with the COJ and the SJA, will support effective communication between the judiciary and the public, and serve as an effective tool for ensuring judicial accountability.

The proposed draft CPE system combined three mechanisms of court performance evaluation: (1) internal court performance evaluation through (a) survey of judges and court staff, (b) expert analysis of selected court decisions, and (c) expert analysis of case files; (2) external court performance evaluation through Citizen Report Card (CRC) surveys of court users; and (3) analysis of available court statistics. This combination of mechanisms enables the involvement of all direct stakeholders in the CPE process – judges, court staff, and court visitors.

After the preliminary approval of the CPE system by the Council of Judges of General Courts, FAIR promoted the consideration and further approval of the CPE system by the COJ in order to implement it in all Ukrainian courts. However, the adoption of the April 8, 2014 Law on the Restoration of the Public Trust in the Judiciary led to uncertainty in the COJ composition and leadership throughout the reporting period from April to June 2014. Finally, in the end of this reporting period, the Congress of Judges of Ukraine took place and elected new members of the COJ, as well as its own new leadership. Currently, FAIR is preparing the presentation of the proposed CPE system to the new COJ. In addition, FAIR expects the new COJ composition to consider the FAIR-supported Concept Paper for Judicial Statistics Reform, since it closely linked to the proposed CPE system.

Meanwhile, considering that the two key documents mentioned above are pending in terms of their approval by the COJ, FAIR started developing Guidelines for Courts on Implementation of the Court User Surveys to insure the implementation of the court user feedback collected by courts, in case the citizen report cards (CRC) surveys or the other means of the external court performance evaluation are not available. In addition, following the approval of the 16 performance indicators for general courts in the previous quarter, FAIR started developing the Manual for General Courts on Calculating Court Performance Indicators.

Notwithstanding the pending approval of the CPE system, 64 courts of different jurisdictions implemented its pilot testing, including 13 courts with FAIR team support in 2012; 51 additional courts implemented the CPE system partially or in full using only their own resources in 2013. During this quarter, the FAIR team conducted a short assessment of these courts, and found out that at least 47 courts out of the 64 report an improvement in court administration and case management due to the implementation of the recommendations developed in the process of the CPE.

Milestone Progress ER 3.2

- Court performance evaluation system developed and tested in 30 Ukrainian pilot courts (achieved).
- Performance indicators for general courts developed and approved by the COJ (achieved).
- Concept paper for judicial statistics reform finalized (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 COJ (ongoing).
- Developed electronic publication of CPE system available online (ongoing).
- Case weights resulting from case weighting study discussed, validated, and submitted for SJA/COJ review (achieved).
- Terms of reference for judicial resource management system developed (ongoing).
- Concept paper for judicial statistics reform approved by COJ (new).

In this reporting period, FAIR completed the case weighting study for general first instance courts initially designed by short-term international pro bono case weighting expert Dr. Elizabeth Wiggins of the Administrative Office of the US Courts. In order to finalize the study, FAIR

analyzed the results of the first and second round, and using the services of a local short-term expert, designed a statistical dependence model in order to compensate for the insufficient amount of data received for certain case types. After applying the model, FAIR received the final case weights, which it presented to a focus group composed of members of the COJ, the COJ of General Courts, and the SJA on June 5, 2014. As all the participants unanimously approved the results of the study and the recommended case weights, the COJ recommended their pilot implementation in select courts by its decision No. 37 of June 12, 2014 (<http://rsu.court.gov.ua/wp-content/uploads/2014/07/%D0%A0%D1%96%D1%88%D0%B5%D0%BD%D0%BD%D1%8F-%D0%A0%D0%A1%D0%A3-%E2%84%96-37-%D0%B2%D1%96%D0%B4-12.06.2014.pdf>). The COJ also re-iterated its request to conduct a similar study for the administrative courts. In addition, FAIR finalized the preparation of a Manual on Case Weighting, which was completed and translated by FAIR, and submitted to the SJA.

Taking the momentum of the Extraordinary Congress of Judges that took place on June 19-20, FAIR distributed the Case Weighting Study report to all 402 delegates of the Congress to support the further promotion of this technique within the judicial community in Ukraine. The SJA recognized this activity as one of the most important FAIR initiatives during this reporting period.



COJ member Ruslan Arsyriy sharing his opinion on the results of the case weighting study via video conferencing on June 5, 2014.

FAIR submitted to the SJA a draft Terms of Reference (TOR) for a software application for judicial resource management to be used in each court, prepared by short-term local expert Boris Shuster. Currently, FAIR is waiting for SJA feedback to finalize this document. Upon the finalization of the TOR, FAIR will determine the possibility to

provide any further support on this issue.

SCHEDULE CHANGES: Recent political changes in Ukraine increased public demand for rapid reforms in all branches of government, as well as for cleaning up all branches of power from individuals who perpetrated human rights abuses, and engaged in corruption or injustice. Led by these public demands, the Ukrainian Parliament adopted the Law on the Restoration of the Public Trust in the Judiciary on April 8, 2014, which led to uncertainty in the composition and leadership of the COJ throughout the current reporting period from April to June 2014. During this period, FAIR could not implement several activities that are closely linked to its cooperation with the COJ, including promoting the CPE System approval by the COJ, developing the electronic publication of the CPE system, and assisting the COJ and the SJA in conducting surveys on user satisfaction with court services in general courts. These activities are postponed until the fall of 2014, when FAIR expects that the newly elected COJ will begin its operations.

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

Performance Indicators ER 3.2

In this reporting period FAIR achieved measurable outcomes under the ER 3.2 remains the same as during the last quarter since no related changes occurred. Although the COJ did not yet consider FAIR-developed Court Performance Evaluation System, the general courts started to implement 17 court performance indicators approved by the COJ of General Courts. It contributes to the indicator "Number of court performance indicators implemented" where FAIR exceeded the 2014 annual target. FAIR identified 33 courts implementing CPE System which contributes to the indicator "Number of courts implementing project-supported performance measurement system."

- Promote CPE system consideration and further approval by the COJ through direct communication with new COJ leadership;
- Complete the development of guidelines for general courts on the implementation of a court user satisfaction survey;
- Pending the COJ of General Courts decision, assist the COJ of General Courts and the SJA in conducting a survey on user satisfaction with court services in general jurisdiction courts through developing data collection processing tools and data quality control mechanisms;
- Complete the development of guidelines for general courts on the implementation court performance indicators;
- Support pilot testing of approved court performance indicators in all general courts of Odessa Oblast;
- Based on the results of the previous Case Weighting Study, initiate a similar effort for the administrative courts of Ukraine; and
- Complete the development of the TOR for the software application of 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 prepare an agreement between the SJA, FAIR, and the State Enterprise “Information Court Systems” (ICS) on the installation of 42 information/pay terminals which would allow citizens to pay court fees directly at the courts and receive information on court operations. FAIR signed the agreement with the SJA’s new Head Zenoviy Kholodniuk on May 26, 2014.

On June 3, 2014, FAIR posted a Request for Proposal (RFP) for the procurement of 42 electronic pay terminals to be installed in the courts, as agreed with the SJA. FAIR expects to hold a meeting of the tender committee by mid-July.

PROBLEMS: The list of courts agreed between the SJA and FAIR includes a number of locations where the installation of the kiosks may be impossible due to the ongoing unrest. However, FAIR agreed with the SJA that, should that be the case, the terminals will be reassigned to different courts.

Milestone Progress ER 3.3
<ul style="list-style-type: none"> • Strategic plan drafted and discussed by key stakeholders (achieved). • Content for SJA manual on human resources determined (achieved). • Strategic Plan for the Judiciary finalized and submitted for COJ and SJA approval (achieved). • Congress of Judges adopted the Strategic Plan for the Judiciary (achieved). • Manual on human resources printed and sent to all courts (achieved). • Three HRM trainings conducted for chiefs of staff (achieved). • Functional descriptions, structure, and staff qualifications requirements for the establishment (re-design) of departments for Human Resource Management, Court Automation, and Strategic and Long-Term Planning at the SJA prepared and submitted to the SJA for implementation (cancelled). • National Court Automation Strategy approved by the SJA’s Innovations WG (achieved). • Concept for collection of electronic court fees drafted and submitted to SJA (achieved). • Implementation plan for the Strategic Plan for the Judiciary prepared, discussed, and approved (ongoing). • Pilot project for electronic court fee collection via pay terminals implemented (ongoing). • Concept for online payment of court fees developed (achieved).

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;

- Conduct a tender and procure pay terminals for electronic court fee collection;
- Conduct workshop jointly with the COJ of General Courts and the SJA to identify problems in court administration and management (including the work of the automated case management system, statistics, case management, etc); and
- Based on the outcomes of the workshop support the establishment and operations of working groups dealing with court IT, statistics, etc., including a working group on updating the Regulation on Electronic Case Management in the courts. Conduct up to three working group meetings and present updated policies to the COJ and the SJA for approval.

Performance Indicators ER 3.3

FAIR achieved measurable outcomes this quarter under the ER 3.3. The case waiting studies for general first instance courts were completed and approved by the COJ. COJ recommended SJA to include this technique in the judicial budgeting for the next budget year which contributes to the indicator “Number of data-fed analytical techniques incorporated into judicial budgeting.” 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”. Changes in these two indicators are expected next quarter.

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 this quarterly reporting period, FAIR continued to work on updating the in-class curriculum and manual on “Courts and Community Communications” to support future training programs for Public Information Officers (PIOs) nationwide. The revised curriculum and manual will form the basis for regional training programs that will be conducted later this year together with the NSJ and the SJA.

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).

In addition, FAIR began preparations for the second round of the successful online version of the “Courts and Community Communications” program. Unfortunately, due to recent changes in leadership at the COJ and the SJA, the design of this follow-on program is now planned to start during the next quarterly reporting period.

FAIR also continued to work with the SJA on providing more than 40 courts nationwide with electronic kiosks that will incorporate electronic versions of all civic education materials developed by FAIR on judicial reform and court operations, including information on how to file a case, access court decisions and file a complaint against a judge.

PLANS: During the next quarter, FAIR will:

- Finalize updated versions of the in-class curriculum and manual on Courts and Community Communications;
- Design a series of regional trainings for PIOs nationwide with the COJ and the SJA;
- Plan second round of online distance learning

Performance Indicators ER 3.4

This quarter no changes 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.”

course Courts and Community Communications; and

- Assist the SJA in providing electronic versions of public information materials for inclusion in the electronic kiosks in selected courts (linked to Expected Results 3.3 and 4.1.)

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

ACCOMPLISHMENTS: During the reporting period, FAIR continued to disseminate through the project’s website, CSOs networks, and civic websites the APS "Strengthening the Role of Civil Society Organizations as Advocates for and Monitors of Judicial Reform" announced in November 2013, which is open until November 20, 2014. Under the APS FAIR awarded three grants during the reporting period:

- To the NGO “Election Law institute” on “Study of the Relevance of Ukrainian Courts’ Judgments to the Rule of Law Principle and the Provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms” under Expected Result 3.1;
- To the Kharkiv NGO “Institute of Applied Humanitarian Research” to support the initiative entitled “Public Monitoring of Court Performance in Hearing Election Disputes in Ukraine;” and
- To the NGO “Institute of Republic” to support the initiative “The Judicial System and Freedom of Peaceful Assembly in Ukraine.”

Milestone Progress ER 4.1

- Conducted meetings with potential CSO grantees regarding research on pending legislation (achieved).
- Prepared APS on pending legislation (achieved).
- Updated some materials on access to justice (achieved).
- Five grants awarded that engage civil society and the public in the judicial reform process (achieved).
- At least two new civic education materials on judicial reform developed and disseminated (ongoing).
- At least two joint events with CSOs and Parliament held (ongoing).
- Specialized research and policy proposals related to pending judicial reform legislation developed (ongoing).
- Mechanism of sustainable advocacy campaigns for pending judicial reform legislation adoption prepared (ongoing).

For raising awareness of civil society representatives of the Ukrainian judiciary and outlining the actual possibilities for CSOs’ participation in supporting judicial reform, on April 15 and 16, 2014 FAIR conducted an orientation and training meeting on the procedures for submitting applications for the APS, including education modules on engaging civil society in reforming legislation which regulates the operations of the judiciary. Over 60 civic leaders from different regions of Ukraine took part in the event.



APS presentation participants working in small groups in Kyiv on April 15, 2014.

During the first day, the civic society leaders learned about the history of the adoption of legal acts related to judicial reform, successes and gaps in its implementation, as well as opportunities for civil society to influence the process of judicial reform, including examples of successful cooperation between the courts and the public in Ukraine in the process of implementing the judicial services (court performance) monitoring program based on the Citizen Report Cards methodology. Additionally, FAIR representatives instructed the participants about

the goals and objectives of the grant program. On the second day, the NGO representatives took part in training sessions to acquire the skills to monitor judicial reform implementation, and learned about the experience of the civil society initiative “Rehabilitation Reform Package,” specifically the “Judicial reform’ group as a partner of an inter-factional association Reform Platform,” and the possibilities for CSOs to monitor the process of judicial selection and discipline. Representatives of partner international donor projects shared the experience in and possibilities for strengthening the capacity of CSOs to engage in monitoring and assessment of the judicial reform process.

On April 24, 2014, FAIR supported the 7th All-Ukrainian Spring Youth Justice School initiated by the Young Lawyers Coordination Council at the Ministry of Justice (MOJ). This session was devoted to “Specific Features of Court Administration.” Over 60 students and young experts representing various regions of Ukraine participated in the event. These are young people who are willing to join the judiciary in the future or already have some experience of dealing with the court system. FAIR representatives delivered a presentation on “The Content of Judicial Reform and Role of Civil Society Institutes in the Efficient Implementation of Legislative Changes” and



Participants of the 7th All-Ukrainian Spring Youth Justice School in Kyiv on April 24, 2014.

shared the project’s experience in establishing cooperation between courts and CSOs, specifically in monitoring the quality of court services based on the Citizen Report Cards methodology. During the event, the participants shared their own experience of visiting courts and exchanged ideas on improving court performance. They were also shown the FAIR produced videos “Becoming a Judge: Objective Selection and Appointment,” “Courts and the Public: Civilized Engagement,” and “Getting Acquainted with the Courts.”

In order to observe the progress on the availability of free legal aid services in the regions, on June 19, 2014, FAIR representatives participated in the opening ceremony of the regional resource center on pro bono legal aid in Ratne, Volyn region initiated by the Ratne local administration and the NGO Volyn Legal Aid Center. Participants discussed the future ways of cooperation between local self-governance bodies and civil society with regard to pro bono legal aid in small towns.

On June 20, 2014, FAIR representatives participated in the roundtable “Mediation in the Judicial System of Volyn Region” initiated by the NGO Volyn Legal Aid Center and delivered a presentation on the “Experience of Implementation of the Court-Annexed Mediation in Ukraine.” They also moderated the discussion on future ways of the implementation of mediation in the judicial system of Ukraine (linked to Expected Result 3.1). Judges of the Appellate Court of Volyn region, judge-mediators from the Lutsk District Court and the Turivsk District Court, as well as other judge-mediators and civic activists discussed problems, resources, and needs of the courts and civil society in the process of implementation of mediation in Ukraine.

On June 24 and 25, 2014, FAIR grantee the NGO “Institute Republic” conducted two public events in Lviv: a roundtable with participation of judges, civic activists, and local self-governance representatives, as well as a workshop for lawyers, city mayor assistants, and experts of relevant departments of the city administration on the topic of freedom of peaceful assembly. Over 45 persons participated in both events; they represented Lviv, Lutsk, Chernivtsi, Ivano-Frankivsk, Ternopil, and Uzhgorod regions. The event was conducted in cooperation with the Ministries of

Justice and Internal Affairs, Department of Justice, Internal Affairs and offices in oblasts, the HAC, the District Administrative Court, and courts of general jurisdiction in Lviv. The participants learned about the new changes to the Peaceful Assembly legal base in Ukraine, including the European Human Rights Court decisions, and the Resolution of the SCU No.5-49KC 13 dated March 3, 2014, which canceled the Decree of the Soviet Union dated July 28, 1988 that established the right of the authorities to ban the Peaceful Assembly.

SCHEDULE CHANGES: The pilot training “Participation of Citizens in Implementing the Reforms in the Field of Judiciary and Its Operations” scheduled for June was postponed for clarification of the agenda and CSOs needs.

PLANS: During the next reporting period, FAIR plans the following activities in order to achieve Expected Result 4.1:

- Assisting the CSOs in producing specialized research and policy proposals related to pending judicial reform legislation and the mechanism of sustainable advocacy campaigns for pending judicial reform legislation adoption;
- Assisting the CSOs coalition “For Peaceful Protest” in conducting specialized research and producing policy proposals regarding pending judicial reforms related to “Peaceful Assembly” legislation in cooperation with the Parliamentary Committee on Human Rights;
- Updating and preparing printed and electronic versions of civic education materials on judicial and constitutional reforms to disseminate through participation in USAID field days in regions and roundtables, web resources, and information kiosks;
- Supporting the establishment and/or capacity building of the CSOs coalition promoting judicial reform; and
- Developing and conducting pilot trainings on improving the skills and capacity of CSOs to cooperate with courts and monitor judicial reform implementation.

Performance Indicators ER 4.1

FAIR NGO partner Institute of Republic organized two roundtables on changes to the legislation on peaceful assembly for judges and public servants contributing to the indicator “Number of public events on judicial reform organized by CSO.” This quarter no changes occurred under the indicator “Number of CSO-produced policy proposals related to pending judicial reform legislation.”

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: During this reporting period, FAIR grantee NGO “Law and Democracy” (Lviv) developed an observing card to conduct monitoring of the access to courts and court services for people with disabilities in 20 courts. The grantee started the monitoring in 16 out of 20 courts, and conducted an information campaign about the beginning of the grant project

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 competitively selected a CSO to conduct monitoring of judicial discipline decisions.
- Assessment report on impact of the CRC program implementation produced.
- Assessment report on equal access to court facilities and services for persons with disabilities produced.
- Results of assessment report on equal access to court facilities and services for persons with disabilities presented at the conference on “Access to Justice and Court Services.”
- NGO selected to implement grant program to increase disabled people's access to courts.
- Monitoring of the access of courts and court services for people with disabilities started in 16 courts.

(<http://www.fond.lviv.ua/?p=923>
<http://www.fond.lviv.ua/?p=961>
<https://www.youtube.com/watch?v=ZjsOgPcvRLQ>
<https://uk-ua.facebook.com/lawdemo/timeline>
<http://www.fond.lviv.ua/?p=1045>).

Currently, the grantee is considering replacing four courts from the Donetsk and Lugansk regions due to the military actions in this part of the country.

The above-mentioned activity is conducted in cooperation with the regional representatives of the National Assembly of the Disabled.

In addition, FAIR is in the process of finalizing the updated CRC manual.

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

- Within the framework of the grant project, conduct monitoring of the access to courts and court services for people with disabilities, with follow-on lobbying for the necessary changes to the legal framework. (July 2014 - August 2014);
- Approve the updated CRC manual (July 2014).

Performance Indicators ER 4.2

This quarter no changes 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. Due to the changes in SJA leadership occurred this year FAIR rescheduled the related activities for the 4th quarter of FY2014 and 1st quarter of the FY2015.

DONOR COORDINATION

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

- On April 2, 2014, Viktor Liakh, President of the East Europe Foundation (EEF), and Edward Rakhimkulov, Chief of Party of the USAID Responsible Accountable Democratic Assembly (RADA) Program, presented this new five-year USAID Project in Ukraine implemented by the East Europe Foundation.
- On June 4, 2014, Head of the Main Department on the Judiciary and Legal Policy at the Presidential Administration, Oleksandr Volkov, shared the Presidential Administration's priorities and plans for legal and judicial reform.

Also, on May 14, 2014, FAIR supported the Rule of Law Donor Coordination Working Group meeting organized by the Office of Democracy and Governance of the USAID Regional Mission to Ukraine, Moldova, Belarus, and Cyprus and the U.S. Department of Justice Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT). The meeting was aimed at discussing rule of law reforms to support anti-corruption goals with a focus on updates and adjustments to donors' programs, plans, and timetables given the new operational environment.

Finally, on June 11, 2014, FAIR Chief of Party (COP) David Vaughn delivered a presentation on the current status of judicial reform and lustration in Ukraine for the participants of the American Chamber of Commerce Anti-Corruption Working Group meeting. Mr. Vaughn briefed the participants on FAIR objectives and achievements, highlighting the challenges the Ukrainian judicial system faces. He emphasized the essence of and approaches to lustration, outlined the role of Constitutional reform, and highlighted the issues of judicial selection, discipline and ethics, as well as civil society engagement as advocates for and monitors of judicial reform.



FAIR COP David Vaughn delivering a presentation for the participants of the American Chamber of Commerce Anti-Corruption Working Group meeting in Kyiv on June 11, 2014.

DELIVERABLES

FAIR submitted the following deliverables this reporting period:

- Case Weighting Study Proposal for the Ukraine Court System (Ukr.);
- Report on Some Procedural Aspects of Transferring Judges: A Comparison between France, Sweden, Lithuania, Germany, and Poland (Eng.).

LOE UTILIZATION

*Includes actual figures through May 2014 and projections for June 2014.

ANNEX A: PERFORMANCE MANAGEMENT AND EVALUATION SUMMARY

PERFORMANCE INDICATORS	Baseline		Target 2014	Actual 2014			Targets LOP			Notes and explanations
	Month/Year	Value		This quarter	Annual	Cumulative LOP	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 ⁴	24	17	23	31	24	24	30	This quarter FAIR supported 12 governmental judicial institutions and 5 non-governmental legal associations
Objective 1: The constitutional, legislative and regulatory framework for judicial reform complies with European and international norms and supports judicial accountability and independence										
2. Number of laws, regulations and procedures designed to enhance judicial independence supported with USG assistance (FAF)	Sept 2013	14 ⁵	6	1	1	15	3	0	9	This quarter the Parliament of Ukraine adopted the Law of Ukraine on the Restoration of the Trust in the Judiciary increases the judicial independence through amending the Law on the Judiciary and the Status of Judges regarding the Congress of Judges and the Council of Judges
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										

⁴ Total since 2006 counts support by the USAID Ukraine Rule of Law Project (UROL) and FAIR

⁵ Total since 2006, includes 8 under the UROL Project and 6 under the FAIR Project

PERFORMANCE INDICATORS	Baseline		Target 2014	Actual 2014			Targets LOP			Notes and explanations
	Month/Year	Value		This quarter	Annual	Cumulative LOP	Annual 2015	Annual 2016	Cumulative Project End	
3. Number of revised provisions enacted that reflect Venice Commission recommendations	Sept 2013	3	20	3	3	6	12	12	47	This quarter data counts the following recommendations of the Venice Commission: 1) the quota principle for the Congress of Judges, 2) the composition of the Council of Judges reflecting the proportion according to the specialization, 3) the abolition of the mandatory presence of the Minister of Justice and Minister of Finance at the Council of Judges meetings. These recommendations are addressed in the Law of Ukraine on the Restoration of the Trust in the Judiciary.
4. Percentage of Venice Commission recommendations adopted	Sept 2013	6.4% ⁶	48%	6.4%	6.4%	13%	26%	26%	100%	This quarter percentage represents 3 out of 47 recommendations of the Venice Commission addressed.
Expected Result 1.2: Constitutional reform related to the judiciary is pursued in an inclusive manner										
5. Number of working sessions on Constitutional reform between law makers and civil society organizations	Sept 2013	6	20	0	0	6	TBD	TBD	TBD	No changes this quarter

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

PERFORMANCE INDICATORS	Baseline		Target 2014	Actual 2014			Targets LOP			Notes and explanations
	Month/Year	Value		This quarter	Annual	Cumulative LOP	Annual 2015	Annual 2016	Cumulative Project End	
6. Number of civil society organizations who have experience in constitutional reform participating in public events on the Constitution	Sept 2013	16	20	0	0	16	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	7	0	0	0	0	0	7	No changes this quarter
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	10	0	0	1	0	0	10	No changes this quarter because the HQC does not effectively operate since the adoption of Law of Ukraine on the Restoration of the Trust in the Judiciary.
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	3	0	0	17	5	0	25	No changes this quarter
10. Number of procedures within the judicial appointment process improved with project support	Sept 2013	5	4	0	0	5	TBD	TBD	TBD	No changes this quarter

PERFORMANCE INDICATORS	Baseline		Target 2014	Actual 2014			Targets LOP			Notes and explanations
	Month/Year	Value		This quarter	Annual	Cumulative LOP	Annual 2015	Annual 2016	Cumulative Project End	
11. Number of Ukrainian judges appointed through project-supported objective, merit-based judicial selection process	Sept 2013	880	100	0	62	942	100	100	1200	No changes this quarter
Expected Result 2.2: Ukrainian judges are disciplined in transparent processes										
12. Number of criteria, standards and regulations adopted to govern judicial misconduct investigations	Sept 2013	1	7	0	0	1	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%	12%	15,1%	13,5%	10,5%	15%	20%	20%	HQC informed that during the period from April 1 to June 10, 2014 it received 3,294 judicial misconduct complaints and, approximately 15% of them were using the standardized form. HQC did not provide the data for the period from June 11'14 to June 30'14 due to their internal issues
14. Percent of judicial discipline decisions posted on HQC website	Sept 2013	77,7%	85%	N/A	73%	77%	100%	100%	100%	During this reporting period HQC did not make any judicial discipline decision. In the meantime they posted to their website some decisions made in the end of 2013 and deleted from their website some decisions made in the beginning of 2013

PERFORMANCE INDICATORS	Baseline		Target 2014	Actual 2014			Targets LOP			Notes and explanations
	Month/Year	Value		This quarter	Annual	Cumulative LOP	Annual 2015	Annual 2016	Cumulative Project End	
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	4	0	0	1	TBD	TBD	TBD	No changes this reporting period due to the legislative changes in the judicial self-governance framework. FAIR is in the process of developing the Commentaries to the Code of Judicial Ethics and provides support to the Council of Judges on developing its new bylaws.
16. Number of judges providing feedback to revisions of judicial self-governance mechanisms	Sept 2013	220	80	4	4	220	TBD	TBD	TBD	Justice Kanygina from the Supreme Court of Ukraine, Judge Kozyr from the High Commercial Court, Judge Khanova from Donetsk Appellate Administrative Court, Judge Babiy from Odesa Oblast Court of Appeals
Objective 3: The professionalism and effectiveness of the Ukrainian judiciary are strengthened										
17. Number of USG-assisted courts with improved case management (FAF)	Sept 2013	30	40	32	32	32	50	60	70	Currently FAIR is in the process of collecting data on this indicator from 64 courts implemented FAIR-developed court performance evaluation system. Preliminary data shows that at least 50% of FAIR partner courts on this activity improve case management system as the result of implementing CPE-generated recommendations.

PERFORMANCE INDICATORS	Baseline		Target 2014	Actual 2014			Targets LOP			Notes and explanations
	Month/Year	Value		This quarter	Annual	Cumulative LOP	Annual 2015	Annual 2016	Cumulative Project End	
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 ⁷	300	235 (51% men and 49% women)	464 (40% men and 60% women)	1520 ⁸ (44% men and 56% women)	300	300	4,500	This quarter FAIR trained 235 justice sector personnel (51% men and 49% women) in topics of Implementation of Election Legislation and Judicial Test Items Writing. This number includes 211 judges (51% men and 48% women), and, 24 judicial personnel (54% men and 46% women).
19. Number of new legal courses or curricula developed with USG assistance	Sept 2013	17 ⁹	5	0	2	19	1	1	24	No changes this quarter.
20. Number of TOT trainers created	Sept 2013	82	35	0	70 (20% men and 80% women)	149 (44% men and 56% women)	27	TBD	TBD	No changes this quarter.
21. Number of project-supported new or revised policies for judicial and court staff training institutions	Sept 2013	0	2	0	1	1	TBD	TBD	TBD	No changes this quarter.

⁷ Total since 2006 under the USAID Ukraine Rule of Law Project (2,946) and the USAID FAIR Justice Project (1,206), double counting excluded

⁸ Cumulative LOP number refers only to the USAID FAIR Justice Project from October 2011 to June 2014

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

PERFORMANCE INDICATORS	Baseline		Target 2014	Actual 2014			Targets LOP			Notes and explanations
	Month/Year	Value		This quarter	Annual	Cumulative LOP	Annual 2015	Annual 2016	Cumulative Project End	
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	0	0	0	0	0	7	No changes this quarter. Approval delay due to the issues related to the Council of Judges of Ukraine.
23. Number of court performance indicators implemented	Sept 2013	7	14	17	17	17	14	31	31	The Council of Judges of General Courts approved 17 court performance indicators for general courts in February 2014. Courts started to implement these indicators this quarter and publish this information on their web pages. See sample at http://yq.ko.court.gov.ua/sud1028/pokaznik/
24. Number of courts implementing project-supported performance measurement system	Sept 2013	31	40	33	33	64	50	100	100	33 general courts of Odessa Oblast.
25. Average annual citizen report cards score of participating courts	Sept 2013	.80 (out of maximum score of 1)	.80	N/A	0.8	0.8	.82	.84	.84	No change since the baseline. Activity delay due to the COJ and SJA leadership changes. The next citizen report cards surveys are scheduled for September – October 2014.

PERFORMANCE INDICATORS	Baseline		Target 2014	Actual 2014			Targets LOP			Notes and explanations
	Month/Year	Value		This quarter	Annual	Cumulative LOP	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	1	1	1	1	3	0	4	Case waiting studies for general first instance courts completed and approved by the COJ. COJ recommended SJA to include this technique in the judicial budgeting for the next budget year.
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 ¹⁰	3	0	0	2	3	2	10	No changes this quarter. Concept paper for the judicial statistics reform is drafted but is now under the consideration by the specialized councils of judges. Approved by the Council of Judges of General Courts.
28. Percent of courts with capacity to receive court fees through electronic terminals	Sept 2013	0	5%	0	0	0	6%	8%	8%	No changes this quarter. Concept paper developed and courts selected, procurement of the information kiosks with electronic terminals is scheduled for July – August 2014.
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										

¹⁰ Baseline counts Strategic Plan for the Judiciary (approved in 2012) and Court Automation Strategy (approved in 2013)

PERFORMANCE INDICATORS	Baseline		Target 2014	Actual 2014			Targets LOP			Notes and explanations
	Month/Year	Value		This quarter	Annual	Cumulative LOP	Annual 2015	Annual 2016	Cumulative Project End	
29. Number of communication strategies implemented by courts and judicial institutions	Sept 2013	4	8	0	0	4	10	20	30	No changes this quarter. Activity delay.
30. Number of courts offering legal education materials to court visitors	Sept 2012	19	41	0	0	0	45	60	60	Activity is linked to the procurement of the information kiosks
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										
31. Number of public events on judicial reform organized by CSO	Sept 2013	11 ¹¹	10	2	2	13	10	10	30	FAIR NGO partner Institute of Republic organized two roundtables on changes to the legislation on peaceful assembly for judges and public servants.
32. Number of CSO-produced policy proposals related to pending judicial reform legislation	Sept 2013	1	1	0	0	1	TBD	TBD	TBD	Activity delay. The next citizen report cards surveys are scheduled for September – October 2014.
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%)	80 (13%)	0	0	0	100 (13%)	100 (13%)	100 (13%)	Activity rescheduled which is linked to the changes in SJA leadership. The next citizen report cards surveys are scheduled for September – October 2014.

¹¹ Only FAIR project data

PERFORMANCE INDICATORS	Baseline		Target 2014	Actual 2014			Targets LOP			Notes and explanations
	Month/Year	Value		This quarter	Annual	Cumulative LOP	Annual 2015	Annual 2016	Cumulative Project End	
34. Number of people engaged in the monitoring and performance oversight of Ukrainian courts	Sep 2013	4,973	8,000	0	0	4,973	10,000	10,000	10,000	Activity rescheduled which is linked to the changes in SJA leadership. The next citizen report cards surveys are scheduled for September – October 2014.
35. Percentage of partner Civil Society Organizations' performance improvement recommendations implemented by judicial institutions	Sept 2013	39%	45%	N/A	N/A	39%	50%	55%	50%	Not applicable to this quarter according to the revised Work Plan.