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

**QUARTERLY PROGRESS REPORT  
JANUARY TO MARCH 2015**

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

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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. On December 18, 2014, USAID further added work related to lustration and vetting to the scope of the FAIR program to support the implementation of the newly adopted Law on the Purification of Government.

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

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

### FAIR by the Numbers October 2011- March 2015

- 503 courts covering every region of Ukraine received assistance.
- Targeted programming provided to 27 civil society organizations.
- Promoted 32 amendments to Ukrainian legislation to enhance judicial independence.
- Trained 1,689 judges and judicial personnel.
- Developed 12 new legal courses and curricula, including a first ever in Ukraine Court Administration Certificate Program.
- 399 justice sector personnel engaged in long-term strategic planning for the judiciary.
- Supported two national tests of 3,474 and 2,348 judicial candidates respectively.
- 942 judges selected through new merit-based procedure.
- Engaged 7,017 citizens in the process of monitoring and oversight of court performance.
- Involved 129 courts in the process of complex court performance evaluation.
- Supported the development of more than 900 civil society recommendations developed to improve court functions

## SUCCESS STORIES AND NOTABLE ACHIEVEMENTS

Under the Objective 3: The professionalism and effectiveness of the Ukrainian judiciary are strengthened, FAIR made important achievements in this reporting period. All these achievements lead to improving court management and communication, strengthening judicial leadership and accountability, increasing court user satisfaction and public confidence in the judiciary.

Firstly, FAIR made a notable achievement on developing objective criteria to measure and to improve court performance, thus contributing to achieving the Expected Result 3.2. Judicial operations are evaluated and funded according to an objective assessment of needs and performance. In a democratic society, effective courts are operating according to the standards of efficiency and effectiveness of judicial procedures, quality of court services, and expectations of court users. The European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe (COE) demands of the COE member states to have court performance standards, criteria and indicators in place, and regularly checks availability thereof. Clear and practical court performance standards and measures are pre-requisites for effective and transparent resource planning in the Ukrainian court system, as well as, for its accountability. These standards enable commonly understood and accepted means for the proper reporting on court performance to the public, to supply the roadmap for judicial leadership at the national level, to allow court managers to improve court services for citizens, and to increase public trust in the judiciary. The 2012 CEPEJ report “European Judicial Systems: Efficiency and Quality of Justice,” based on the data received from 46 COE member states, mentions Ukraine among 24 countries that do not have court performance standards<sup>1</sup> and among only six COE member states that do not have court performance indicators<sup>2</sup>.

The controversial relationship between Ukrainian judiciary and Ukrainian people can be summarized as “everybody knows that courts do not perform well in general, but nobody can formulate clearly what good court performance means.” To address this, FAIR began supporting development of the Court Performance Evaluation (CPE) System for Ukrainian courts from the beginning of the project in 2011 and completed the draft CPE system for Ukrainian courts in 2013. The draft of CPE System contained four evaluation modules: (1) efficiency of court administration, (2) case disposition timeliness, (3) quality of court decisions, and (4) level of satisfaction of court users (litigants) with court operations. It also provided the roadmap of evaluation criteria, performance indicators, and tools to measure court compliance with proposed criteria.

FAIR successfully tested the CPE System in 13 Ukrainian courts. The pilot testing demonstrated that measuring court performance allows court management to make better-informed decisions regarding the efficiency, effectiveness, and quality of justice delivery. Taking this into account, more than 50 Ukrainian courts implemented FAIR-developed CPE System and at least 30 courts reported improved court performance as the result of implementation the CPE-driven management decisions. FAIR previously reported that in February 2014 the Council of Judges (COJ) of General Courts acknowledged the development, pilot testing, and further implementation of CPE System in Ukraine as a positive development for Ukrainian judiciary. Taking into account the framework of evaluation criteria and performance indicators formulated by the proposed CPE System, they approved 17 performance indicators for general courts, who started using the performance indicators for management and reporting purposes and publishing the indicator-based performance data on court web-pages<sup>3</sup>.

The implementation of the FAIR-supported CPE System and the utilization of performance indicators by general courts led to the CEPEJ 2014 report on European judicial systems mentioning Ukraine among those COE member states that now have court performance indicators in use.<sup>4</sup> The same report,

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<sup>1</sup> Source: [http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2012/Rapport\\_en.pdf](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2012/Rapport_en.pdf), page 119

<sup>2</sup> Source: same as above, page 126

<sup>3</sup> Sample can be found at <http://mkm.zk.court.gov.ua/sud0707/activity/1/>

<sup>4</sup> Source: [http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport\\_2014\\_en.pdf](http://www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport_2014_en.pdf) page 135

however, still mentions Ukraine among those COE member states that do not have court performance standards.

Despite the overall judicial community satisfaction with the developed CPE System, its usefulness for better court management, and international recognition<sup>5</sup>, the CPE System itself remained in the status of draft until February 2015. After several months of close cooperation between FAIR and the Council of Judges of Ukraine (COJ), aiming to promote the consideration and approval of the CPE System, COJ made a decision on February 5, 2015 to take, as a base, FAIR-developed CPE System draft for three evaluation modules: efficiency of court administration, case disposition timeliness, and level of satisfaction of court users with court operations. This launched public discussions of the proposed CPE System, and FAIR anticipates COJ to formulate final approval in the next quarter.



Benjamin Wilson, Head of Communications of the Supreme Court of the United Kingdom, conducting training for judges on February 25, 2015.

Currently, effective court communication is another critical issue for the Ukrainian judiciary. The COJ and State Judicial Administration (SJA) came to the common understanding that the court communication with the society is a pre-requisite for increasing public trust and confidence in the judiciary. Building upon the previous FAIR achievements including the developing and implementing communication strategies for the COJ and individual courts, FAIR, jointly with European Union Advisory

Mission to Ukraine, supported an international conference on “Strengthening Public Trust in the Judiciary through Effective Court Communications” conducted by the COJ and SJA on February 24, 2015. The conference brought together representatives of judicial institutions and judicial self-government bodies, including judges, public information officers (PIOs), and court staff, as well as, experts on court communications from the United States and United Kingdom. The conference participants discussed the current situation with judiciary communications and the society’s perception of the judiciary.

The conference participants also identified ways for establishing efficient communications between the judiciary and the public to improve public awareness and to strengthen trust in the judiciary. Representatives of the judiciary aimed to identify the reasons why media creates a negative image of the

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<sup>5</sup> In addition to the progress noted in CEPEJ report, FAIR presented the developed CPE System for Ukraine at several international conferences in Germany, Georgia and Moldova. Several international organizations recognized the Ukrainian CPE System as useful and practical tool.

judiciary and how to remedy the situation. One of the event's key issues was the proper coordination of communication efforts of the COJ Strategic Development and Communications Committee, the Press Center of the Ukrainian Judiciary, and court PIOs. Participants also considered the functions of the Press Center of the Ukrainian Judiciary and its role in improving communications of courts and court institutions with the public and media, practical aspects of proper functioning of the Press Center as well as ensuring it has the capacity to reach its objectives.

The participants also explored the experience of designing and implementing communications strategies in courts of Ukraine; became acquainted with the curriculum of a draft training program for judges and court staff; and outlined next steps in improving court communications in Ukraine. The conference was followed by two separate trainings on court and community communications for judges and PIOs on February 25, 2015.

*“I think this event was successful, but we shall be able to see its outcomes only when you return to your region and do something, implement the things you learned here thanks to our efforts and efforts of our experts. Then we shall achieve the goals set today. The Council of Judges always focused and will focus its attention on this issue and will do its best to change the society’s opinion about the judiciary,”* emphasized Anatolyi Martsynkevych, the COJ Secretary, when addressing the audience.

On March 12, 2015, the COJ, by its decision, approved recommendations of the conference participants. These recommendations include:

- Prioritize court and community communications;
- Develop an implementation plan for the COJ Concept of “Informatization” and Communication Strategy;
- Effectively monitor media coverage of the judiciary;
- In cooperation with the NSJ, conduct trainings on court and community communications for judges and journalists; and
- Utilize new tools for communicating with the public (informal meetings, roundtables, court tours for students and the public, etc.).

## **PROJECT ACTIVITIES**

Pursuant to section F.5.C.1 of the contract, the following section contains a discussion of accomplishments, progress in milestone, progress in indicators, and upcoming plans for each Expected Result from January 1 through March 31, 2015. Changes from the activity schedule outlined in the work plan and, if applicable, problems requiring resolution or USAID intervention are discussed.

## **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 its partners to improve the legislative and regulatory framework for the judiciary. FAIR also continuously monitored legislative initiatives and analyzed their potential impact on judiciary operation. This activity was conducted in parallel with efforts regarding constitutional reform (see Expected Result 1.2) to utilize available resources and promote progressive justice reform changes.

### **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, December 4, 2014, Stakeholders' Platform Meeting "Lustration of Judiciary: Ukrainian and International Practices"*).
- 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.
- Launched research on European judicial self-governance standards and best practices.
- International conference on "Role of Administrative Case Law and Its Impact on Public Law Development" conducted.
- Recommendations to improve HQC Regulation on Transferring Judges within Term of their First Appointment developed.
- Concept paper on amendments to the Law on Access to Court Decisions developed.
- International conference on "Role of the Supreme Court in a Democratic Society" conducted.
- The Law on Amending Certain Legislative Acts of Ukraine concerning Realization of State Anti-Corruption policy adopted.
- The Law of Ukraine on the Restoration of Trust in the Judiciary of Ukraine was adopted on April 7, 2014.
- Draft amendments to the Law on the High Council of Justice developed and introduced for the consideration of HCJ staff and newly appointed members of the HCJ.
- Chief Justice Yaroslav Romaniuk took part in the Conference of Chief Justices of Central and Eastern Europe (June 22-25, 2014, Tbilisi, Georgia).
- On-site legal education quality assessment of a Ukrainian law school carried out an assessment report developed.
- Methodology for Independent External On-Site Assessment of Legal Education Quality Assurance Mechanisms submitted to the MOE and MOJ.
- Grant program to support the MOE and MOJ in developing a legal profession qualification framework as basis for the national standard for legal education accomplished.
- 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.
- The Draft Law No. 1497 On Amending the Law on the Judiciary and Status of Judges and Other Legislative Acts Regarding the Improvement of the Basis for Organization and Functioning of the Judiciary with Respect to European Standards was registered in the Verkhovna Rada.
- The Draft Law No. 1656 On Ensuring the Right for the Fair Trial" Standards was registered in the Verkhovna Rada.
- The Law on Ensuring the Right to Fair Trial was adopted.

Judicial reform was the top priority issue during the reporting period. On January 12, 2015, the President of Ukraine approved the Sustainable Development Strategy "Ukraine – 2020." The reform of the judiciary is mentioned among the key reforms that are needed to ensure the development of Ukraine as the European state governed by the rule of law. The Strategy sets the following priority areas for the

reform of the judiciary: (1) renewal of the legislation to restore the trust in the judiciary and (2) amendments to the Constitution and the following adoption of the new laws which are in line with these amendments. The Strategy also identifies the indicators, which will show the success of the reform, namely: (1) 70% of the legal professionals will trust the judiciary and (2) 70% of the court staff and judges will be renewed.

During this reporting period, the Judicial Reform Council created by President Poroshenko continued its work in development of the Strategy for Reforming Court System, Court Proceedings and Related Legal Institutions for 2015-2020, and the relevant Action Plan. FAIR experts contributed to these documents to ensure the consistency and comprehensiveness of the approach to the reform of the judiciary. At the moment, Judicial Reform Council is finalizing the Strategy and the Action Plan to be approved by the President.

As was reported during the previous period in October-December 2014, FAIR representatives worked with the Judicial Reform Council as members of the Working Group on the Law on the Judiciary and Status of Judges and the revision of the Law on the High Council of Justice. FAIR contributed with concrete comments and recommendations, on how to improve the current legal framework. On February 12, 2015, the Law on Ensuring the Right to Fair Trial was adopted and was signed into law by the President on February 27, 2015. This law introduces substantive changes in both the Law on the Judiciary and Status of Judges and the Law on the High Council of Justice, as well as, to the relevant procedural codes. Among others, this new law improves the disciplinary liability of judges, foresees a judiciary performance assessment and judges' dossier formation, and changes the procedures for HCJ members' nomination and appointment.

On March 23, 2015, the Venice Commission (VC) jointly with Directorate of Human Rights of the Directorate General of Human Rights and Rule of Law of the Council of Europe issued the Joint Opinion on the Law on the Judicial System and the Status of Judges and amendments to the Law on the High Council of Justice of Ukraine (No. CDL-AD (2015)007). In this opinion, the Venice Commission reviewed the laws and provided feedback on the positive and negative aspects of the newly adopted legislation. In general, VC considers the laws to be coherent, well put together, and such which follows many previous recommendations. Examples of improvements in the Law as amended are the strengthening of the role of the Supreme Court as the guarantor of the unity of the jurisprudence, the emphasis put on the formal character of the role of the President in appointments of judges to probationary positions, the introduction of a list of grounds for liability for "breach of oath" to exclude too wide a discretion of disciplinary authorities, the introduction of a scale of sanctions for disciplinary liability allowing application of sanctions in a proportionate manner, and detailed provisions for qualification examination of judges before lifetime appointments or other promotions.

Nevertheless, the VC summarized some important questions which remain and need to be addressed both on the constitutional and on the legislative level:

- More generous provisions on the use of language other than Ukrainian in courts could be envisaged as part of a more comprehensive policy;
- The power of the President to decide on the transfer of judges without contest in case of reorganization or liquidation of courts should be limited to judges from areas that are not under the control of the Government; and

- Removing incompetent and corrupt members of the judiciary from office must be carried out in a fair and proportionate manner that does not compromise judicial independence. The qualification assessment envisaged in the transitional Article 6 should, therefore, be dealt with in a substantive legal provision in much more detail and providing for appropriate safeguards. The legal consequences of a failure to pass the assessment should be brought in line with European standards. The provision should also be harmonized with the lustration process.

In the next work planning period, FAIR will assess the implementation of the Law to identify the shortcomings and gaps. This will allow proceeding with the finalization of the judicial reform.

In parallel with the reform of the judicial system, the Parliament also dealt with the related legislation. On January 13, 2015, the draft law "On Amendments to Article 3 of the Law of Ukraine on Access to Court Decisions" regarding Unified Registry of Judgments (No. 1727) was registered in the Verkhovna Rada of Ukraine. The draft proposed to include all the decisions into the Unified Registry of the Court Decisions except for those that contain the state secret information. The issue of the access to the court decisions was addressed by the Law on Ensuring the Right to Fair Trial. According to the amendments, all the decisions should be included into the Unified State Registry of the Court Decisions. The advantage of the amendment is the requirement to publish the decisions with the names of the parties, which was one of the recommendations experts provided in the number of reports and assessments.

Pursuant to the Task 1.1.2, FAIR continued to advocate for passage of the amendments through various discussion forums and public awareness activities, including but not limited to policy roundtables with participation of international experts, civil society, and policy makers. Under this task, for example, FAIR actively participates in the American Chamber of Commerce in Ukraine (ACC) Legal Committee's activities. With the ACC, FAIR developed the draft public position on judicial reform addressed to the President of Ukraine, the Speaker of the Verkhovna Rada, and the Head of the Parliamentary Legal Policy and Justice Committee. The position paper covers the issues related to the current status of the reform of the judiciary and the positive aspects of the latest amendments to the legislation, as well as, its shortcomings. The need of the Constitutional changes is also mentioned to ensure the comprehensive and sustainable judicial reform. The ACC is working with its members to approve the paper.

On March 24, 2015, FAIR Chief of Party David Vaughn and Minister of Justice of Ukraine Pavlo Petrenko signed the Protocol of Cooperation, which outlines a number of joint activities to be undertaken to support the Ministry of Justice (MOJ) efforts. According to the Protocol, the main areas of cooperation between the MOJ and FAIR will be supporting for constitutional process, implementing legislation, improving the procedure for vetting public officials and judges, enhancing the knowledge and skills of employees in justice sector through training programs, engaging civil society in monitoring government agencies, and conducting public awareness campaigns aimed at increasing public knowledge about the undergoing reforms. Additionally, FAIR will help improve legal literacy of Ukraine's citizens, specifically regarding the system of free legal aid, and will support efforts to improve the quality of legal education in Ukraine.

FAIR continued its work on legal education reform initiatives to improve legal education quality. To this end, on March 26, 2015, following First Deputy Minister of Education Inna Sovsun's invitation, FAIR with the OSCE Project Coordinator in Ukraine participated in a donor coordination meeting at the Ministry of Education and Science of Ukraine (MOE). The meeting resulted in outlining the following objectives of further cooperation: a) to develop a Strategy for Legal Education Reform and Action Plan; b) to develop a National Legal Education Standard and Legal Profession Qualifications Framework; and c) to improve both internal and external mechanisms of legal education quality assurance. FAIR will support the MOE in attaining these objectives.

FAIR advocated for improving the quality of legal education by promoting among Ukrainian law schools' leadership the Methodology of External On-Site Legal Education Quality Assurance. This methodology was developed and tested by FAIR at the Ivan Franko National Lviv University Law School (Lviv Law School) in May 2014 as a tool for independent, external, on-site assessment of legal education quality. As a result, on March 11, 2015, FAIR received a letter from



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

the Yurii Fedkovych Chernivtsi National University Law School Dean Petro Patsurkivskiy requesting FAIR to organize and conduct an independent external legal education quality assessment at his law school using the Methodology tested in Lviv. FAIR will support this law school by conducting a baseline legal institutional education quality assessment involving two international experts and two Ukrainian specialists to accomplish this task.

Throughout this reporting period, FAIR continued to support the Lviv Law School in developing a Strategic Plan and an Action Plan for implementing the Methodology. The strategic planning process, facilitated by FAIR Local Strategic Planning Expert Oleksander Khyzniak and supervised by FAIR International Strategic Planning Expert Tomasz Sieniow, went through all the stages of Dr. Sieniow's recommendations for strategic planning at law schools. This included, but was not limited to, the following: a) establishing the Strategic Planning Committee (SPC); b) conducting strengths, weaknesses, opportunities and threats (SWOT) analysis; c) collecting stakeholder feedback; and d) receiving external feedback. The process resulted in draft Strategic Plan and draft Action Plan developed by the SPC and reviewed by FAIR's Mr. Khyzniak. It is expected that by the end of April 2015 the SPC will present both documents to the Lviv University Academic Council, obtain approval by the Academic Council of the Lviv Law School, and present the documents to the public.

FAIR also helped the Lviv Law School to coordinate its participation in this year's Ost-West Netzwerk Program run by the Humboldt University in Berlin, Germany. In 2015, two out of ten Ukrainian program participants come from the Lviv Law School, which in accordance with Ost-West Netzwerk Program criteria, preselected two of its students who already successfully started their academic papers to participate in this program.

Following a request from the Ukrainian Catholic University (UCU) Vice-Rector Taras Dobko to support the UCU Rule of Law Center, FAIR established the Rule of Law Lecture Series at UCU involving FAIR international experts to raise awareness about rule of law issues pertaining to Ukraine's democratic development. It is expected that this activity will facilitate development of a rule of law community in Lviv bringing together Ukrainian law students, academics, and legal practitioners with international rule of law experts. Supporting the UCU Rule of Law Center in developing its library, FAIR also provided its materials related to the rule of law, judicial and legal education reforms.

On March 25, 2015, FAIR participated in the USAID University Field Day in Kharkiv and met with the V.N. Karazin Kharkiv National University Law School students. During the event, FAIR made presentations on the history and challenges of judicial reform in Ukraine including the legal profession, judicial practice, and rule of law (including career opportunities in the U.S. and Ukraine); and on Ukraine's experience in establishing cooperation between courts and CSOs, specifically in monitoring the quality of court services based on citizen report card (CRC) methodology. FAIR also communicated the results of its efforts to improve the quality of legal education in Ukraine; in particular, the methodology of independent on-Site Legal Education Quality Assessment and the Legal Job Market Survey Report on Legal Employers' Requirements to Law Graduates. Using this opportunity, jointly with the V.N. Karazin Law School leadership, FAIR invited the Yaroslav Mudryi Law University Vice Rector Viacheslav Komarov to attend this event. Following the presentation, Vice Rector Komarov expressed his interest in one of his university law schools undergoing an independent external on-site legal education quality assessment according to the FAIR-developed Methodology.

After the presentation, FAIR met with the V.N. Karazin Kharkiv National University Rector Vil Bakirov. FAIR presented to Rector Bakirov its legal education reform efforts and asked for cooperation in this field. Rector Bakirov agreed on the importance of improving the quality of legal education in Ukraine and expressed his interest in his university law school undergoing a FAIR-supported independent external on-site legal education quality assessment. Rector Bakirov also embraced the idea of having FAIR-supported rule of law lecture series at the V.N. Karazin Kharkiv National University Law School.

FAIR has worked to improve legal education quality by providing targeted support directly to Ukrainian law students. In particular, the Taras Shevchenko Kyiv National University Law School team's application for funding submitted to FAIR, led to the insertion of a new component in the FAIR Work Plan (ER 1.1.4). This reporting quarter, FAIR provided support to the team by sponsoring its participation in the International Moot Court Competition on World Trade Organization Law held on March 23-27, 2015 in Halle, Germany. This year, 16 teams from different European countries participated in the competition and the Taras Shevchenko Law School team scored infifth place. The team will elaborate on the lessons learned during its participation in the competition in a special report and presentation, which is to be publicized to other law students. FAIR's support of the Taras

Shevchenko Kyiv National University Law School team helped to enhance the quality of Ukrainian legal education by contributing to the schooling of highly skilled young Ukrainian lawyers.

**Performance Indicators ER 1.1**

- To build a foundation for a more accountable and independent judiciary, FAIR supported 10 governmental judicial institutions and 13 non-governmental legal associations during this reporting period
- Parliament of Ukraine adopted the Law of Ukraine on the Right to Fair Trial amending several laws related to the judiciary. This law contributes to the indicator “Number of laws, regulations, and procedures designed to enhance judicial independence supported with USG assistance” totaling its cumulative status to 18. The indicators “number of revised provisions enacted that reflect Venice Commission recommendations” is 24 in this reporting period and 30 cumulative life-of-project (LOP). The “percentage of Venice Commission recommendations adopted” is 51% this quarter, the cumulative LOP status is 64%

**SCHEDULE CHANGES:** The activity planned for this reporting period is conducted in accordance with adjustments in partners’ activity plans resulting from Ukraine’s changing political situation.

**PROBLEMS:** This reporting period was fruitful in judicial reform legislative initiatives. FAIR provided its Ukrainian partners with timely expert support and qualified expertise. The FAIR coordination efforts were also timely during the development and adoption of the amendments to the legislation. All these efforts were conducted during the political and economic unrest, which resulted in some level of rush and lack of perfection. FAIR will continue to improve its performance.

**PLANS:** In the next work planning period, FAIR will focus analyzing the newly adopted legislation and its implementation to identify the gaps and shortcomings to be addressed. FAIR will work with its new partners in the legislative area to ensure consideration of the rule of law principle.

Regarding legal education reform efforts, FAIR will continue to work with the MOE, MOJ, law schools, and lawyers’ associations on developing a Strategy of Legal Education Reform, a corresponding Action Plan, and National Legal Education Standard and Legal Profession Qualifications Framework based on modern legal job market demands and global trends in legal education. FAIR will continue to support the Lviv Law School in developing its internal legal education quality assurance policies and internationalizing legal education. To this end, FAIR will support the Lviv Law School in organizing and holding on June 12-13, 2015 an international conference titled “Modern Trends in Legal Education.” To promote successful implementation of the independent on-site legal education quality assessment at the Lviv Law School, FAIR will also conduct this kind of assessment at the Yurii Fedkovych Chernivtsi National University Law School and continue to advocate for other Ukrainian law schools to use the FAIR-developed Methodology as an effective tool to enhance legal education quality.

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

**ACCOMPLISHMENTS:** In the reporting period, progress under this Expected Result faced challenges. Throughout the reporting period, the Constitutional reform was continually on the agenda, but without any significant progress.

On January 16, 2015, the draft law on Amending the Constitution of Ukraine regarding the immunity of judges and members of the Parliament, No. 1776, was submitted to the Parliament by President Poroshenko. The draft law proposes to amend the relevant articles of the Constitution in order to (1) lift all the restrictions for holding MPs criminally liable, detained, or arrested; (2) amend the procedure so

that a judge can be detained with the High Council of Justice's (HCJ) consent, with the exception of detention during the commitment or immediately after the commitment of a grave or especially grave crime against life and health of a person. Moreover, the draft law proposes that judges shall not be brought to legal liability for acts committed when administering justice, except for cases of adopting a knowingly illegal court decision, breach of judicial oath, or committing a disciplinary offence. This draft was included in the agenda of the Verkhovna Rada and submitted to the Constitutional Court of Ukraine for review. On February 28, 2015, the draft was also submitted to the Venice Commission for consideration. It is expected that that Venice Commission experts will issue their opinion on this draft in June of this year.

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

On March 3, 2015, the President of Ukraine signed the Decree No. 119/2015 on the Constitutional Commission. The decree dictates that the Constitution Commission will (1) analyze the implementation of the Constitution and existing gaps; (2) develop proposals and recommendations regarding the needed amendments; (3) ensure the widest possible public discussion of the proposals; and (4) develop a draft law with amendments to the Constitution. By March 12, 2015, the Verkhovna Rada of Ukraine, the Cabinet of

Ministers of Ukraine, the Supreme Court of Ukraine (SCU), higher specialized courts, COJ, associations of local self-governance, National Academy of Science, National Academy of Legal Sciences, law schools and scientific institutions, legal NGOs, and international organizations proposed candidates to be included in the Commission. To date, there is no decision of the composition of persons to serve on the Commission. The Speaker of the Verkhovna Rada is proposed to become a Head of the Commission.

In the Joint Opinion No. CDL-AD (2015)007 issued on March 23, 2015, the Venice Commission outlined once again the most serious problems concerning the independence of the judiciary in Ukraine, which lie in the constitutional provisions rather than in the Law on the Judicial System. For Ukraine to achieve an effective justice reform that satisfies European standards, constitutional amendments are necessary, notably:

#### Milestone Progress ER 1.2

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

- The role of the Verkhovna Rada should be excluded in the decisions to appoint judges to permanent posts or to dismiss judges of their posts;
- The composition of the HCJ should be modified to ensure that a substantial part or a majority are judges elected by their peers;
- The competence of the Verkhovna Rada in lifting judges’ immunities should be excluded (constitutional amendments in this respect are currently under way); and
- The power of the President to establish and liquidate courts should be removed from the Constitution. This should be considered as a legislative matter.

**SCHEDULE CHANGES:** The events planned to promote constitutional reform are postponed for the next work plan period, during which they will be more timely and useful.

**PROBLEMS:** The current political situation tremendously affects the reform process. FAIR will work with its partners to ensure constitutional reform is conducted in an inclusive manner.

**Performance Indicators ER 1.2**

During this reporting period, the status of the indicator “Number of USG-supported public sessions held regarding proposed changes to the country’s legal framework” which replaced the previous indicator “Number of working sessions on Constitutional reform between law makers and civil society organizations” did not change. There is no progress this reporting period on the indicator “Number of revised provisions in the Constitution enacted that reflect inputs from project-supported public discussions.”

**PLANS:** FAIR will work with its partners and all key stakeholders to ensure an inclusive and transparent approach to the constitutional reform process, engaging experts to support the process, and raising public awareness on the content of needed and proposed changes. FAIR will also work to ensure the consistency of all new initiatives with previously provided relevant expert opinions collected in

cooperation with and under the request of the Constitutional Assembly leadership. The main task that remains is to ensure that any proposed changes to the respective sections of the Constitution are in line with international and European standards.

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

**ACCOMPLISHMENTS:** In this reporting period, FAIR continued with building relationships with the newly appointed members of the High Qualifications Commission of Judges (HQC), introducing them to the main objectives of the project’s activity and outlining areas for further cooperation, in particular considering the latest legislative developments and new HQC authorities such as the development and implementation of judicial evaluation and the maintenance of judges’ dossiers.

On February 19-20, 2015, FAIR, in cooperation with the HQC, conducted an orientation workshop on “Judicial Selection and Discipline: Best Achievements, Experience of the HQC and its Activity under New Conditions” for the newly appointed members of the HQC. The workshop provided international best practices and lessons learned regarding judicial selection and discipline; discussed issues and challenges facing the HQC regarding its judicial selection competence and discipline issues, particularly in the light of legislative amendments; identified ways to further implement the use of information technologies and automation at the HQC; and identified next steps in the institutional development of the HQC. More than 70 representatives of different judicial institutions including HQC, HCJ, National School of Judges (NSJ), SJA, representatives from international projects, NGOs, and experts in judicial

selection and discipline from the US, Netherlands, Romania, Portugal and Poland participated in the workshop (see: <http://www.vkksu.gov.ua/en/news/the-results-of-the-first-day-of-the-workshop-judicial-selection-and-discipline-achievements-experience-and-activity-of-the-high-qualification-commission-in-the-new-environment/>; <http://www.vkksu.gov.ua/en/news/the-commission-learned-from-international-experience-of-selection-of-judges-and-disciplinary-practices/>).

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



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

#### Milestone Progress ER 2.1

- Held three working meetings with the HQC
- HQC formed a working group to improve selection procedures for the first appointment of judges
- Completed gap analyses of the judicial vacancy application, test administration, and scoring processes
- Conducted psychometrical analysis of the qualification exam and initial test
- Held training for HQC members on case study writing evaluation methodology
- Developed recommendations for improving the judicial vacancy application, test administration, and scoring processes
- Drafted a handbook for test item developers
- Held training for developers of test items on developing test questions for evaluating skills at high cognitive levels
- Drafted a manual for anonymous test administrators (proctors)
- Drafted a report with recommendations and necessary next steps to automate the qualification exam
- Conducted an analysis of judicial practice, and presented and promoted its results
- Identified EU and international standards and practices for transferring judges
- Conducted training for test items writers
- Developed a manual for test items writers based on the training and expert materials developed in the previous reporting period
- Updated manual for judicial anonymous test proctors (administrators)
- Conducted training for the expert group of test items evaluators
- Conducted workshop on "Judicial Selection and Discipline: Best Achievements, Experience of the HQC and its Activity under New Conditions."

The Law stipulates an evaluation of judges' qualifications to determine their professional levels for transfers, lifetime appointments, and disciplinary sanctions. The Law also provides for an initial qualifications evaluation of all sitting judges in Ukraine, which determines whether they are capable of administering justice in the relevant courts. The qualifications evaluation will be comprised of two stages: (1) anonymous testing and a case study exercise, and (2) a review of the judge's dossier and interview. According to the Law, the HQC will conduct the initial qualifications evaluation of all justices of the 48 SCU and all 327 judges of the high specialized courts of Ukraine by the end of September 2015. The evaluations of the 2,423 judges of the courts of appeals will be conducted by the end of March 2017. The HQC will determine the timeline of evaluations for all 6,287 trial judges, including judges who have applied for a lifetime judicial position; the 420 judges who have applied for a lifetime judicial position as of March 28, 2015 have priority, according to the HQC schedule.

In addition, the law provides for four types of regular evaluation of judges, which shall be conducted (1) by teachers (trainers) of the NSJ based on the results of judicial training, (2) by

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

Considering these new procedures introduced by the law, the HQC is facing many implementation challenges, such as developing clear and transparent evaluation criteria and procedures and providing initial evaluation of all sitting judges in Ukraine. Also HQC and NSJ are facing the challenge of developing valid test items and case studies for the evaluating judges in the short-term and according to the specific level of the court and specialization.

On March 6, 2015, the HQC initiated a meeting with FAIR to discuss the draft FAIR and HQC cooperation plan for 2015 to meet the needs of the HQC considering the latest legislative amendments mentioned above. In particular, FAIR and the HQC agreed to cooperate on developing and implementing the judicial evaluation system in Ukraine as envisioned by the new Law on the Judiciary and the Status of Judges.



From the right to the left: Vice-Rector of the NSJ Natalia Shuklina, FAIR COP David Vaughn, FAIR Expert on Judicial Evaluation Dr. Pim Albers and FAIR Translator Iryna Chernenko during the meeting with NSJ representatives on March 12, 2015.

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

To ensure the development of efficient and transparent judicial evaluation in Ukraine, HQC established a working group with representatives of the HQC, NSJ, COJ, NGOs, and international projects, including FAIR. The first organizational meeting took place on March 31, 2015. FAIR translated into Ukrainian and shared with the working group two main USA guidelines for developing judicial evaluation: (1) blueprint for judicial performance evaluation, developed by the Institute for the Advancement of the American Legal System of the University of Denver and (2) American Bar Association (ABA) guidelines for the evaluation of judicial performance (with commentary). Considering the experience in developing judicial selection in Ukraine, in general, and anonymous testing, in particular, in developing the list of judicial competencies and the ways for their identification, as well as, in developing the court performance evaluation system in Ukraine, FAIR will support the working group to develop clear and transparent judicial evaluation system in Ukraine.

Finally, in this quarter, FAIR continued to support the NGO grantee Universal Examination Network (UENet) in implementing 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”.

**SCHEDULE CHANGES:** Due to the number of legislative amendments which providing new authorities of the HQC, in particular on judicial evaluation, FAIR postponed a number of joint activities with the HQC to the next period, including activities on automating the judicial qualifications exam and on developing a cadre of test-writers. FAIR is planning to move forward with activities that were postponed or pending.

#### Performance Indicators ER 2.1

No changes in indicator status occurred in this quarter:

- Number of merit-based criteria or procedures for justice sector personnel selection adopted with USG assistance
- Number of properties and functions surrounding judicial selection and discipline on HQC web-site introduced by FAIR
- Number of Ukrainian judges appointed through project-supported objective, merit-based judicial selection process

**PROBLEMS:** Considering new procedures introduced by the new law on the Judiciary and Status of Judges, FAIR is facing challenges in supporting HQC in developing clear and transparent judicial evaluation criteria and procedures to meet the international and European standards and practices.

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

- Supporting the HQC in developing criteria, procedures, and methodologies for implementing the system to evaluate judges in Ukraine as envisaged by the new law on the Judiciary and Status of Judges, in particular through sharing successful international models and best practices;
- Conducting the training for test-writers on developing and evaluating skills-based test items;
- Supporting the NGO grantee UENet to conduct the second part of the in-depth Judicial Practice Analysis;
- Establishing, together with the HQC, a working group to develop the Implementation Plan for Automating the Judicial Exams; and
- Translating the Standards for Educational and Psychological Testing for the HQC and NSJ needs.

#### **EXPECTED RESULT 2.2: UKRAINIAN JUDGES ARE DISCIPLINED IN TRANSPARENT PROCESSES**

**ACCOMPLISHMENTS:** In this reporting period, FAIR continued working with the HQC in its new composition to assist in improving judicial disciplinary procedures and developing tools for recruitment and management of inspectors responsible for preliminary analysis of complaints and for conducting investigations against judges.

In particular, FAIR developed and submitted to the HQC the compendium of international and European standards and best practices of judicial disciplinary proceedings that includes, inter alia, selected recommendations of the FAIR international experts Mr. Richard Hyde, Judge Jose Manuel Cardoso, and Judge Mario Belo Morgado. The compendium is to be used as a reference point by the HQC members and inspectors in judicial disciplinary proceedings and in drafting decisions for bringing judges liable for misconduct. In addition, during the orientation workshop in February 2015, mentioned above, FAIR

provided the HQC with the report on comparative study of regulations governing judicial disciplinary procedures in five selected European countries.

In continuation of support to the HQC in developing and recruiting for the Service of Inspectors (the Service) in light of the revised Law on the Judiciary and Status of Judges, FAIR drafted and submitted to the HQC summary recommendations. These recommendations for qualifications requirements for inspectors responsible for preliminary analysis and investigations of complaints against judges were developed by the FAIR international experts Ms. Victoria Henley and Judge Jose Manuel Cardoso.

FAIR also provided the HQC with the recommendations of Ms. Victoria Henley and Judge Jose Manuel Cardoso on curricula and teaching methodology for trainings inspectors. FAIR requested Mr. Richard Hyde to review the curricula and provide recommendations on practical aspects of investigations against judges. As soon as FAIR receives recommendations of Mr. Richard Hyde, it will proceed with drafting a proposal on structuring the training process and related organizational issues, i.e., setting up of the respective working group.

FAIR issued a request for proposals (RFP) for purchasing of computers and other office equipment to facilitate organization of the work stations for the newly appointed HQC members and inspectors to be recruited according to the Law on the Judiciary and Status of Judges in its restated version. FAIR and the HQC working group are also implementing the integrated database and electronic system aimed at automating HQC internal business processes; however, the HQC is currently considering new terms of reference (TOR) and involvement of another IT expert. Given these circumstances, and in the event that finalization of the TOR will be significantly delayed, FAIR will consider reallocating of funds aimed at supporting this

**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; document is now called a Procedure
- Developed training curriculum and manual for judicial discipline inspectors
- Developed importing and search modules enabling the posting of judicial discipline decisions to the HQC website and their search tools
- Delivered 45 laptops to the HQC
- Improved procedure of judicial misconduct complaints verification and consideration
- Developed and presented terms of reference for unified integrated database to manage HQC business processes, including judicial discipline and selection processes
- Conducted monitoring of judicial discipline decisions and appeals on HQC judicial discipline decisions
- Developing software for unified integrated database and electronic system for operating internal documentation is ongoing
- Developing standards and best practices for conducting preliminary screening of complaints and investigation of judicial misconduct
- NEW: Submitted recommendations for amending the regulations governing judicial misconduct investigations, consideration of the disciplinary cases and drafting decisions is ongoing
- NEW: Proposed standards and criteria for selection, training, and performance evaluation of disciplinary inspector candidates is ongoing
- NEW: Published and presented Manual for Disciplinary Inspectors
- NEW: Finalized and presented curricula for initial and ongoing trainings of discipline inspectors
- NEW: Designed the structure of initial and ongoing trainings of discipline inspectors

**Performance Indicators ER 2.2**

- Number of criteria, standards and regulations adopted to govern judicial misconduct investigations remains 1
- Percent of judicial misconduct complaints submitted to the HQC using the standardized form was not provided this quarter by the HQC
- Percent of judicial discipline decisions posted on HQC website is 0% this quarter since HQC stopped posting its decisions on the website

initiative.

**SCHEDULE CHANGES:** As mentioned, FAIR will address the HQC’s demand on elaborating the TOR for automation of business processes. Depending on the pace of the progress, FAIR may reconsider application of funds originally allocated for this task.

**PLANS:** During the next quarter, FAIR plans the following activities in order to achieve Expected Result 2.2:

- Assist the HQC in adaptation of the TOR for automation of internal business processes and management of judicial selection, training, transferring, and disciplinary procedures;
- Support the HQC in finalizing curricula for initial and ongoing trainings of inspectors and structuring the training process and teaching methodology;
- Assist the HQC in adaptation of the Manual for Inspector; and
- Support the HQC in determining the module for publication of decisions on the HQC website.

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

**ACCOMPLISHMENTS:** FAIR assisted both the COJ and the SJA in enhancing judicial self-governance in Ukraine. Based on FAIR’s recommendation, the COJ established a working group to develop a Commentary to the Code of Judicial Ethics, which included COJ members, teachers of judicial ethics, and judges. To support the activities of the COJ’s working group, FAIR recruited a local judicial education and judicial ethics expert, retired SCU Justice Olha Shapovalova. Justice Shapovalova researched international and European standards, best practices, and case law on judicial ethics, then collected and analyzed the HQC and HCJ disciplinary practice related to violations of judicial ethics rules. Based on the findings, Justice Shapovalova provided the COJ working group with guidance on draft Commentary to the Code of Judicial Ethics and compiled a list of examples of unethical behavior of judges. Justice Shapovalova, also contributed to the review of the NSJ judicial ethics programs to incorporate findings on cross-cutting issues related to judicial ethics in the training programs.

#### **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 Developing Commentary to the Code of Judicial Ethics developed
- Rules of Procedure for the Congress of Judges improved and adopted by the Congress
- Rules of Procedure for the COJ developed
- Improving internal decision-making regulations for the HCJ improved in the light of the European standards
- Training newly elected HCJ members trained on international and European best practices for the High Councils of Justice is ongoing

**SCHEDULE CHANGES:** During this period, FAIR planned to support the institutional development of the HCJ, including improvement of internal regulations and initiation of an orientation workshop for the new composition. However, FAIR has had to postpone these activities since the HCJ was not operational. According to the legislative changes that were made in February 2015, the HCJ's composition should be formed within the next two months.

**PROBLEMS:** The Law of Ukraine on Ensuring the Right to Fair Trial set forth the new quota for electing COJ members. The COJ will now consist of 33 members instead of 40. Though this law does not specify the procedure for re-electing members of the COJ; this is expected to occur in 2015 along with the ordinary Congress of Judges. So far, it is unclear whether the Congress will elect the new COJ or just substitute with other judges those members that are not authorized to act as COJ members under the law. If the new COJ members do not have experience in working in judicial self-government bodies, there may be lack of understanding of the FAIR and COJ joint activities, which in turn could postpone the planned activities.

<b>Performance Indicators ER 2.3</b>
Number of judicial self-governance mechanisms revised with project support did not change this quarter. The cumulative number is 5 and it includes: <ul style="list-style-type: none"><li>• Code of Judicial Ethics</li><li>• Rules of Procedure for the Congress of Judges</li><li>• Rules of Procedure for the COJ</li><li>• Regulations on Appointment</li><li>• Dismissal of Constitutional Court Justices and Creation COJ committees</li></ul>

**PLANS:** During the next reporting period, FAIR has the following activities planned to attain Expected Result 2.3:

- Continue supporting the COJ working group to develop a commentary to the Code of Judicial Ethics;
- Support the COJ in developing clear decision-making procedures for its committees; and
- Assist the HCJ in improving its internal regulations, human resource management, public outreach, and other relevant areas.

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

**ACCOMPLISHMENTS:** The FAIR team continued to support the NSJ in its institutional development and provided technical support to integrate a distance learning methodology in its training system. FAIR assisted the NSJ in professional development of judges and court staff and in forming a pool of judge-trainers for teaching new topics.

Using results from a pilot online course on judicial ethics, the NSJ conducted this course for the second group of 90 judges-students, who passed the course in February and March of this year. Seventy-two of them successfully completed the course and received certificates issued by the NSJ. More information can be found at the following link: <http://nsj.gov.ua/ua/news/skladovi-uspishnogo-vprovadjennya-dstantsiynogo-kursu/>.

### Milestone Progress ER 3.1

- Institutional needs assessment of the NSJ completed
- Judicial training needs assessment completed on behalf of the NSJ
- Second edition of the Judicial Opinion Writing Handbook published
- Three curricula for the initial training on Rule of Law and Human Rights, Opinion Writing, and Judicial Ethics developed and presented to key stakeholders
- Curriculum on Rule of Law and Human Rights for ongoing training developed and presented to key stakeholders
- Curricula on Opinion Writing and Judicial Ethics for ongoing training updated and presented to key stakeholders E-version of the Curricula on Rule of Law and Human Rights, Opinion Writing, Judicial Ethics, and Communications (Public Outreach in Courts) for initial and ongoing trainings developed and disseminated between NSJ faculties and its branches
- Draft NSJ Strategic Plan for 2014 – 2016 reviewed and adopted by the HQC
- Online course on Judicial Ethics for judges and judicial candidates in cooperation with the NSJ and the HQC developed
- Online course on Court and Community Communications in cooperation with the NSJ and the SJA developed and piloted
- Selected (competitively) CSO partner to administer the pilot court administration certificate program
- Over 50 court administrators submitted the applications for participation in the court administration certificate program
- 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
- 10 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
- Reunion Workshop for graduates of the 2013 Court Administration Certificate Program
- SJA representative participated in the visit to Poland regarding institutional best practices and lessons learned in court administrator training
- Training of trainers on adult teaching skills for 15 competitively selected graduates of the 2013 Judicial Administration Certificate Program conducted (
- Advanced training of trainers (TOT) program for current faculty of the Judicial Administration Certificate conducted
- 40 court administrators for the second round of the Court Administration Certificate Program competitively selected
- Second round of the Court Administration Certificate Program launched

Institute of Strategic Partnership, an All-Ukrainian civil society organization that implements the FAIR grant project “Mediation as an Alternative Way of Dispute Resolution” in Ivano-Frankivsk region, is currently conducting an information campaign in local courts to support introduction of dispute mediation. Public awareness materials (50 posters and 3,000 booklets) are posted in courts of the region.

Also during this period, Volyn region nongovernmental organization “Center for Legal Aid,” implemented a grant project “Support to Development of Mediation in Eight Courts of Volyn Oblast as an Alternative Way of Conflict Resolution” conducted two trainings:

- “Mediation as an ADR Method” for 16 judges of the Volyn region on February 26-27, 2015, and
- “Professional Development of Mediators” for 16 previously trained mediators on March 29-31, 2015.

More information can be found at the following links:

- [http://legalaidd.in.ua/news\\_12\\_326\\_Volinskisuddivprovadjuvatimutmediatsiyuprivirishennisprav.html](http://legalaidd.in.ua/news_12_326_Volinskisuddivprovadjuvatimutmediatsiyuprivirishennisprav.html); and

- [http://legalaid.in.ua/news\\_12\\_345\\_Pidvischennyaprofesiynoiamaysternostimediatorivzaradimirnogovregulyuvannyakonfliktiv.html](http://legalaid.in.ua/news_12_345_Pidvischennyaprofesiynoiamaysternostimediatorivzaradimirnogovregulyuvannyakonfliktiv.html).



Participants of the training "Professional Development of Mediators" in Kovel, Volyn' Region, on March 29-31, 2015.

Under the "Strengthening the Role of Civil Society Organizations as Advocates and Monitors of Judicial Reform" APS, FAIR signed a grant agreement with international charitable organization Environment – People – Law. The organization will implement a project titled "Improvement of Access to Justice in the Sphere of Protection of Environmental Rights of Citizens and the Environment." The project duration is 12 months that began in March 2015.

This grant project will support the NSJ in elaborating the curricula on environmental law, which will be used for special judicial trainings and in forming a team of judges-trainers for teaching an environmental law course.

Environment – People – Law will also conduct an analysis of key issues in interpreting legal norms in the environmental sphere and develop legislative proposals for the protection of environmental rights.

Also during this reporting period, FAIR, in partnership with the Michigan State University (MSU), SJA, and NSJ, successfully implemented activities under the second round of the innovative Court Administration Certificate Program (the Program). On January 27-30, 2015, FAIR, SJA, the NSJ, and the MSU faculty members conducted a workshop for the second round of the program. The objective of the workshop was to update materials of the program to reflect the Ukrainian context and consider the recent changes/challenges in Ukrainian court administration system. Participants included new faculty



Participants of the second round of the Court Administration Certificate Program, Kyiv, March, 2015.

members selected from among the 2013 Program graduates, existing faculty of the Program, and representatives of FAIR, SJA, and NSJ. As a result of the workshop, the MSU and Ukrainian faculty updated and improved the materials for 10 courses of the second round of the Program.

In January 2015, 63 court administrators applied for

participation in the second round of the program in response to the competition announcement. The program organizers selected 40 participants based on evaluation of their application forms and their essays.

On March 23, 2015, the second round of the Court Administration Certificate Program was launched. During the two week Program, 40 Ukrainian court administrators from all over Ukraine completed 60 in-class hours of instructions to increase their knowledge, skills and abilities to effectively manage the courts. MSU and Ukrainian faculty co-taught the following course topics: purposes and responsibilities of courts; leadership; resources, budget and finance; information technology management; human resource management; case-flow management; visioning and strategic planning; court and community communications; education, training and development; and essential components of courts. The Ukrainian faculty included new faculty members selected among the graduates of the 2013 program. By the end of the course, on April 3, 2015, the participants will prepare capstone project proposals for MSU approval.

**PLANS:** During the next reporting period, FAIR is planning the following activities to achieve Expected Results 3.1:

- Continue to support the NSJ in forming a team of judges-trainers on the rule of law and human rights by conducting a training-of-trainers on adult teaching methodology;
- Continue to work with the NSJ in developing their distance learning program and curricula for courses offered through distance learning;
- Assist the NSJ and the HQC in editing and publishing an electronic version of the Judge’s Book, a practical guide to the professional and everyday life of a judge, developed by the FAIR grantee Ukrainian Legal Foundation;
- Complete the second round of the Court Administration Certificate Program for 40 competitively selected Ukrainian court administrators in cooperation with the NSJ, the SJA, and MSU (April 3, 2015);
- Assist 40 court administrators in completing capstone projects for review and approval by MSU (May 19, 2015);
- Conduct graduation ceremony and award MSU certificates to 40 court administrators in cooperation with the SJA, the NSJ and MSU (June 17, 2015); and
- Conduct visits to Kharkiv and Lviv law schools for MSU representatives to discuss next steps on sustainability of the Court Administration Certificate Program (June, 2015).

**Performance Indicators ER 3.1**

- Number of USG-assisted courts with improved case management this quarter is 42. It refers to those courts where FAIR installed the information kiosks with pay terminal capacity to receive court fee
- Number of judges and judicial personnel trained with USG assistance is 215 (40% men and 60% women). This number includes 72 judges and 143 judicial personnel. This quarter training topics include Judicial Selection and Discipline, Court Performance Evaluation and Court Administration
- Number of new legal courses or curricula developed with USG assistance is 1 this quarter and refers to the Advanced TOT for Court Administration Certificate Program

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

**ACCOMPLISHMENTS:** The “Success Stories and Notable Achievements” section of this report describes a recent FAIR achievement of the CPE system under Expected Result 3.2. Building upon the previous work on developing and pilot-testing the CPE system with the COJ and the SJA, FAIR continues promoting the adoption of the system as a framework for court performance evaluation in Ukraine.

As we previously reported, the FAIR-developed CPE system combines three mechanisms for court performance evaluation:

- (1) Internal court performance evaluation through
  - (a) surveys of judges and court staff,
  - (b) expert analysis of selected court decisions, and
  - (c) expert analysis of case files;
- (2) External court performance evaluation through Citizen Report Card (CRC) surveys of court users; and
- (3) Analysis of available court statistics.

The finalized version of the CPE system provides a framework of 19 court quality criteria and 39 indicators to measure the court compliance given these criteria.

Being in the draft status, the CPE system received recognition in Ukraine and from the international community after FAIR presented it at several international conferences in Germany, Georgia and Moldova. After the successful pilot testing of the CPE system in 13 Ukrainian courts, more than 50 courts implemented it in partial or full at their own decision. FAIR presented the CPE Framework at international events in Germany, Georgia, and Moldova. Participants of these events acknowledged that the Ukrainian system is a comprehensive and practical tool that combines various evaluation techniques to collect maximum data using reasonable resources. Due to its flexibility, the System can be implemented at various levels depending on needs – at a base level, to evaluate court performance trends and, at a complex level, to assess various parts of court performance to design a roadmap for improving court functions and services to citizens.

Until this past quarter, the CPE system remained in draft status for almost two years. As the result of FAIR intensive promotion, the COJ, in its February 5, 2015 meeting, finally considered the CPE system and approved it in a first reading<sup>6</sup>. However, the COJ only took into consideration three evaluation modules out of four: Court Administration, Case Disposition Timeliness and Court User Satisfaction. COJ did not consider the Quality of Court Decision evaluation module and decided to exclude it from the CPE System. This decision was motivated by the opinion of the majority of COJ members that court decisions can only be evaluated in procedural terms, e.g. by appellate or higher courts. Regardless, the

### Milestone Progress ER 3.2

- Court performance evaluation system developed and implemented in 63 Ukrainian pilot courts
- Performance indicators for general courts developed and approved by the COJ
- Concept paper for judicial statistics reform finalized and preliminary approved by the COJ of General Courts
- National court performance standards formulated and defined, ongoing
- Standard-based court performance evaluation system presented to the COJ and SJA for approval
- Court Performance Evaluation (CPE) system approved by the COJ, ongoing
- Developing electronic publication of CPE system available online
- Case weights resulting from case weighting study discussed, validated, and submitted for SJA/COJ review
- Terms of reference for judicial resource management system developed, RFP for development issued, ongoing
- Case weighting study for administrative trial courts designed and approved by the COJ, ongoing
- Concept paper for judicial statistics reform approved by COJ, ongoing

<sup>6</sup> Source: <http://court.gov.ua/rsu/rishennya/uyu/>

approval of CPE system is a significant step in developing and implementation objective criteria and indicators to measure and improve court performance. COJ also announced a public discussion of the CPE system to obtain recommendations from the judicial community and other stakeholders.

In March 2015, FAIR, in cooperation with the COJ and the SJA, led a discussion on the stakeholder feedback. More than 60 participants including COJ members, representatives of the SCU, High Civil and Criminal Court (HCC), High Administrative Court (HAC), High Commercial Court (HCC), HQC, SJA, NSJ, members of CPE System working group, and representatives of pilot courts discussed the finalization of CPE system and provided about 30 recommendations to be considered in its final version. Together with the final draft of the CPE System, FAIR sent additional recommendations to the COJ for consideration when making the final decision on the CPE System. The FAIR recommendations to the COJ include:

- Approve the CPE System as a framework for court performance evaluation in Ukraine;
- Recommend all courts in Ukraine implement the full CPE system least one time per three years aiming to improve court performance;
- Monitor courts that implement the CPE system to learn from their experience, aiming to improve the CPE system in the future;
- Approve the list of basic court performance indicators selected from the CPE system for implementation in all courts of Ukraine every six months with mandatory publishing the indicator data on court web-sites; and
- Authorize the SJA to improve the existing case management system (CMS) in courts to enable it to automatically collect court performance data.

The list of FAIR-suggested basic court performance indicators include the following:

- Number of cases pending for more than one year;
- Clearance rate;
- Average number of resolved cases per one judge;
- Average number of pending cases per one judge;
- Average duration of disposition;
- Fact of conducting court user surveys (qualitative indicator);
- Publication of the results of user surveys on court web-site; and
- Level of user satisfaction with court performance measured through the unified methodology.

The COJ scheduled the final consideration and approval of the developed CPE System for one of its next meetings in April or May 2015. The CPE system, when approved by the COJ and implemented by courts, will significantly increase the efficiency and effectiveness of court administration. The CPE system will inform current and strategic decisions of court leadership to improve the performance of a court as an institution and will lead to increased public trust to courts and in the judiciary overall.

#### **Performance Indicators ER 3.2**

- COJ considered FAIR-developed Court Performance Evaluation System but the final approval of the system is scheduled for the next quarter.
- The general courts continue to implement 17 court performance indicators approved by the COJ of General Courts in 2014 which contributes to the indicator “Number of court performance indicators implemented”
- Previously reported 15 courts continue to implement selected modules of the FAIR-developed CPE System and 50 more courts started this process in this reporting period. The “Number of courts implementing project-supported performance measurement system,” is 65 this quarter

In this reporting period, FAIR began providing support to the Budgeting Committee of the COJ. Specifically, FAIR supported the publication of a report, prepared by the COJ, on the level of remuneration of court staff of different courts of Ukraine. According to the study, the difference in remuneration of court staff between courts of equal instance, size, and jurisdiction sometimes amounts to as much as 500 percent, which indicates the existence of serious problems with how the court funds are being used. Over the next period, FAIR plans to build upon this cooperation and to support the COJ in developing relevant regulations aimed at improving the use of budget funds, including specific remuneration policies.

FAIR also continued working with the COJ in preparing a new case-weighting study for the trial courts of administrative jurisdiction. To prepare the study materials, FAIR hired short-term statistics expert Maryna Ogay, who will design the study based on methodology used for the previous case weighting study.

Over this period, FAIR also continued to work with the SJA on finalizing the TOR for the system of judicial asset management. Due to changes in SJA staffing, some of the newly appointed officials still need to review this document and provide their feedback, as their vision may differ from their predecessor's. Currently, FAIR plans to conduct one last meeting between the expert who developed the TOR and SJA staffers to resolve all the remaining issues and finalize the TOR. Upon its finalization, FAIR plans to issue an RFP for the development of this system; however, in the case FAIR experiences further delays in the process from the SJA, it will consider the possibility of reallocating the funding, which is currently available to support this initiative.

**SCHEDULE CHANGES:** One of FAIR's planned activities for this reporting period is to support the Council of Judges of General Courts in conducting a court-user survey in all general courts of Ukraine. FAIR cancelled this activity because the COJ of General Courts currently suspended all its programming, which they earlier scheduled.

As mentioned above, FAIR expects the SJA to approve the TOR for the system of judicial asset management shortly. However, should the process become delayed for an indefinite period of time, FAIR will consider reallocating the funding for this initiative due to the short period of time available to complete this work.

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

- Facilitate the final approval of the CPE system by the COJ through organized meetings and presentations with COJ members, as necessary;
- Pending the final approval of the CPE system by the COJ, develop a publication of the CPE system including definitions for CPE criteria and indicators, measurement tools and guidelines to use them and assist in the distribution of the publications to all Ukrainian courts in hard- and e-copies;
- Pending the final approval of the CPE system by the COJ, develop and conduct the TOT for representatives of courts on implementation and use of the CPE system;
- Design and implement a case-weighting study for the trial administrative courts based on the outcomes of the similar study conducted by FAIR for trial courts of general jurisdiction

- Provide support to the newly established budget committee within the COJ. Work with the Committee to revise existing regulations related to budget, caseload management, and procurement;
- Support the SJA and COJ to use the results of the case-weighting study for general jurisdiction trial courts to determine the number of judges required by the court system;
- Prepare a paper on the case-weighting study conducted for trial courts of Ukraine and submit to the EGPA Study Group XVIII on Justice and Court Administration at the EGPA Annual Conference 2015. Participate in conference if paper is accepted; and
- Subject to approval by the SJA, and based on the TOR for an electronic system for accounting of judicial assets including resources, immovable property, and documentation developed by FAIR, issue RFP and carry out the design of the system.

**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 to finalize the pilot project for the installation of 42 electronic pay and information terminals in the courts, which would allow citizens to pay court fees directly at the courts and receive information on court operations.

To date, FAIR completed all the necessary paperwork related to their installation at the courts, and the terminals have started working as information kiosks. To start accepting court fee payments, the courts need to enter into agreements with the banks, which will provide all the required services. This process is ongoing, and FAIR expects the terminals to become fully operational by the end of the next reporting period.

In February 2015, FAIR organized and conducted a roundtable to identify existing problems with the automated case management system and issues related to judicial statistics and court performance evaluations. As a result of the workshop, areas for improvement have been identified, including training for court staff on the use of the system, various security concerns related to its operations, as well as, the need to make changes to the legislation in order to support the implementation of new technologies.

Building upon the results of the roundtable, FAIR continued providing support to the working group under the leadership of the COJ Administration Committee, tasked with the development of a new case management regulation. As a result, the working group prepared a complete draft of the new regulation

<b>Milestone Progress ER 3.3</b>
<ul style="list-style-type: none"> <li>• Strategic plan drafted and discussed by key stakeholders</li> <li>• Content for SJA manual on human resources determined</li> <li>• Strategic plan for the Judiciary finalized and submitted for COJ and SJA approval</li> <li>• Congress of Judges adopted the Strategic Plan for the Judiciary</li> <li>• Manual on human resources printed and sent to all courts</li> <li>• Three HRM trainings conducted for chiefs of staff</li> <li>• National Court Automation Strategy approved by the SJA’s Innovations WG</li> <li>• Concept for collection of electronic court fees drafted and submitted to SJA</li> <li>• Implementation plan for the Strategic Plan for the Judiciary prepared, discussed, and approved, ongoing</li> <li>• Pilot project for electronic court fee collection via pay terminals implemented, ongoing</li> <li>• Concept for online payment of court fees developed</li> <li>• NEW: Up to two working group meetings conducted to revise court administration and management policies</li> <li>• New: Paperless Court project implemented in up to three courts in Odessa and fully operational</li> </ul>

on electronic case management in courts, which clearly establishes the rules for assigning cases to judges, the rights and responsibilities of the users of the system, statistical reporting, and the foundations for implementation of “paperless” court technologies. FAIR expects the draft regulation to be approved by the COJ during its next meeting scheduled for April 2, 2015. To capitalize on the innovations introduced by the new regulation, FAIR plans to support a pilot initiative in two to three courts in Odesa oblast, allowing these courts to go “paperless”.

**SCHEDULE CHANGES:** FAIR expects delays with the launch of the electronic pay terminals for a one to two month period.

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

- Work with the SJA to complete the implementation of the pilot project for electronic collection of court fees via procurement of electronic pay terminals used for fee collection, information for court users, and outreach activities. Once pay terminals are fully operational, conduct opening ceremonies in important locations, such as Kyiv, Odesa, and/or Lviv;
- Based on the concept for electronic payment of court fees previously developed by FAIR, explore the possibility of supporting the implementation of an online court fee payment service jointly with the SJA;
- Provide support to the administration committee established within the COJ. Work with the committee to revise existing and establish new policies in the field of court automation as needed;
- Support implementation of a "paperless" court pilot project in up to three courts if the city of Odesa via the procurement of scanning hardware, imaging software, and workstations. As a result of this project, based on the new case management regulation, the courts will be able to scan all documents arriving at the court and use only the imaged documents. Conduct an opening ceremony once the pilot is complete and operational. (April–August 2015); and
- To support the use of CRC surveys in the Kyiv courts, subject to courts’ agreement to participate in the CRC initiative, procure server equipment and air conditioning units for up to two courts, as current hardware at the courts is obsolete, does not meet the requirements of the electronic case management system, and does not provide sufficient computing power to handle additional data processing.

**Performance Indicators ER 3.3**

- No changes this reporting period occurred under the indicator “Number of data-fed analytical techniques incorporated into judicial budgeting,” the status of this indicator remains 1 and it refers to the Case Weighting Study for the General Courts
- The indicator “Number of project-supported new or improved policies within the SJA” also has no changes this quarter however the FAIR-drafted Concept Paper for the Judicial Statistics Reform and Regulation on Electronic Case Management in Courts are still under the consideration by the COJ thus we expect measurable progress under this indicator 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 period, FAIR continued to support courts and judicial institutions in implementing communication policies that will allow them to more effectively communicate with

the public. Taking into account that some other donors support communication activities of judicial institutions, FAIR took the lead in coordinating efforts of other projects. Thus, FAIR reached an understanding with the European Union Advisory Mission that the Mission will focus on supporting the COJ strategic communications and the newly established Press Center of the Ukrainian Judiciary. FAIR will continue its cooperation with the COJ and SJA in finalizing the curricula and manuals on court and community communications and will conduct trainings for judges and public information officers (PIO).

On February 24, 2015, the COJ and the SJA, with support of FAIR and European Union Advisory Mission to Ukraine, conducted an international conference on “Strengthening Public Trust in the Judiciary through Effective Court Communications” mentioned above.

To enhance communication skills of PIOs, FAIR awarded two grants to Ukrainian civil society organizations. The non-governmental organization Law Society of the Odesa oblast started its grant activities in March 2015 and conducted their first training for all PIOs in Odesa oblast and conducted a roundtable for judges, journalists, and civil society organizations on cooperation of courts and the public. In the next reporting period, the grantee will conduct three more trainings for PIOs and three trainings for court staff.



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

#### Milestone Progress ER 3.4

- Finalized and submitted Public Information Officer job instructions to the COJ
- Finalized and submitted Guidelines on Courts and Media Relations to the COJ
- COJ communications strategy approved by Congress of Judges of Ukraine
- COJ website developed
- Court communications manual and court communications training curriculum developed and approved by NSJ
- CA website developed
- Concept of Judiciary press-center establishment finalized and approval is in process
- Distance learning course on Court and Community Communications for court staff launched
- First PIO training conducted
- Court and Community Communications Manual and Curriculum finalized and published, distribution ongoing
- Second round of distance learning course on Court and Community Communications for court staff conducted and ongoing
- COJ website continues to be improved
- Civic education materials on judicial reform and public information materials on court operations updated and included in the electronic kiosks in selected courts

Another FAIR grantee, charity foundation CCC Creative Center began implementing its grant project on March 16, 2015. Under the grant agreement, the CCC Creative Center will monitor informational content and compliance with the national legislation on courts’ websites to ensuring access to public information. It will also conduct a conference on communication of courts with the participation of courts’ staff, local media, and civil society organizations. Under this grant CCC Creative Center will also conduct trainings for PIOs in Cherkasy Oblast, start a school of court journalism, organize a press-tour to

various courts in the oblasts, organize webinars for PIOs, journalists, and local organizations on various aspects of communication of the courts, and organize webinars for the staff of public libraries on providing information services to citizens on issues of courts' work in Cherkasy oblast.

In this reporting period, FAIR recruited local communications expert Iryna Soldatenko to work on the Courts and Community Communications manual and to edit example texts for training curriculum to properly align with the latest changes in the domestic legislation on access to public information reflection and best practices in court communication sector. Also, Ms. Soldatenko, in cooperation with the NSJ, piloted the Courts and Community Communications curriculum to verify changes and identify potential improvement.

**SCHEDULE CHANGES:** In this reporting period, FAIR planned to finalize the updated versions of the in-class curriculum and manual on Courts and Community Communications. FAIR recruited a local communications expert to accomplish this task; however, based on the results of the international conference on court communications that took place on February 24, 2015, participants identified new topics that should be covered by the manual. To take into account the needs of PIOs and judges, FAIR will finalize the manual in the next reporting period.

FAIR also planned to design a series of regional trainings for PIOs nationwide with the COJ and the SJA. As trainings should be conducted on the basis of the updated curriculum and use the manual, they will be conducted in the next reporting period after the updated curriculum and manual are finalized.

Due to the lack of understanding between the SJA and NSJ regarding further trainings for court staff, FAIR postponed the planning of the second round of online distance learning course on Courts and Community Communications until the next quarter.

In this reporting period, FAIR planned to support the improvement of the COJ website by making it more informative and user-friendly. However, the COJ did not provide FAIR with terms of reference for the website. For this reason, this activity is pending. Once the new acting Head of the Press Center of the Ukrainian Judiciary was appointed, the terms of reference was developed and forwarded to FAIR. FAIR has since posted the RFP on improvement of the web-site and will finalize this task in the next period.

**PLANS:** To attain Expected Result 3.4, FAIR has the following activities planned for the next quarter:

- Finalize the updated versions of the in-class curriculum and manual on Court and Community Communications;
- Support NGOs in developing the capacity of courts in three regions to effectively communicate with the public;
- Support the COJ in conducting a professional monitoring of the coverage of the judiciary by media;
- To boost transparency and accountability, assist the COJ in further improving its website by making it

**Performance Indicators ER 3.4**

- Number of courts offering legal education materials to court visitors remains 42 as last quarter. It refers to information and pay terminals FAIR provided to selected courts contain the electronic versions of all civic education materials developed by FAIR and FAIR's CSO partners.
- Number of communication strategies implemented by courts and judicial institutions did not change this quarter

- more informative and user-friendly;
- Assist the COJ and SJA in conducting regional trainings for PIOs and judges using the manual and curriculum on Courts and Community Communications; and
- Support the SJA and NSJ in conducting the second round of online distance learning course on Courts and Community Communications.

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

**ACCOMPLISHMENTS:** Through the APS "Strengthening the Role of Civil Society Organizations as Advocates for and Monitors of Judicial Reform," FAIR awarded five grants this reporting period:

- NGO Sumy Oblast Civic Organization of Social Workers League of Ukraine and Professional League of Social Workers of Sumy Region to conduct CRC survey in 23 courts of Sumy region under Expected Result 4.2;
- Sumy City-based NGO the Center for Regional Policy Studies is to support the initiative entitled “Creating a Regional Center for Public-Courts Communication in Sumy” under Expected Result 3.4;
- Charity foundation CCC Creative Center to implement a project, “Towards Mutual Trust Through Effective Communication Between the Courts and Citizens,” for Cherkassy region under Expected Result 3.4;
- International charitable organization Environment – People – Law to implement their project, “Improvement of Access to Justice in the Sphere of Protection of Environmental Rights of Citizens and the Environment,” under Expected Result 3.1; and
- NGO Law Society of the Odesa Oblast’s “Establishing a Dialog of Courts with Mass Media as a Way to Mutual Understanding with Public” project, under Expected Result 3.4.

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

On January 25, 2015, FAIR representatives gave a presentation "Courts and the Public: Civilized Engagement" covering aspects of implementing CRC methodology in Ukrainian courts, and another presentation, “Selection of Judges,” for Parliamentary interns who intern at all parliamentary committees and units, representing different regions of Ukraine. The internship program is supported by USAID and administered by the Alumni Association Interns' League.

On February 4-7, 2015, FAIR supported and participated in the 5th All-Ukrainian Winter Law School event, initiated by the Coordination Council of Young Lawyers under the MOJ. This year included about 50 participants in the school, including active students, legal clinic managers and staff, law school student self-government representatives, and young practicing lawyers from various regions of Ukraine. Training and master classes were offered to improve the practical skills and theoretical knowledge in the area of law and to established cooperation among law student organizations. A FAIR representative presented on “Court Performance Evaluation using the CRC Methodology” and “Women’s Access to Justice” and informed the school participants about the opportunity for young lawyers to participate in the Parliamentary Internship Program supported by USAID. During the master classes, the students learned from the FAIR representatives about professional development opportunities and participation in civil society activities.

**Performance Indicators ER 4.1**

- Number of CSO-produced policy proposals related to pending judicial reform legislation increased by 1 this quarter, from 2 baseline as of December 2014 to 3. This quarter increase refers to FAIR CSO partner “Institute of Republic” policy proposal that contains 6 recommendations to amend the legislation on judicial reform

In January and February 2015, the NGO Institute Republic grantee finalized results and findings of the new type of court decisions monitoring, focusing on decisions where freedom of peaceful assembly was guaranteed by the court. The NGO monitored 68 court decisions of 2013 and 2014 which rejected claims of local self-government to prohibit the peaceful meetings. On March 25, 2015, Institute Republic conducted a roundtable in cooperation with the Verkhovna Rada Committee on Human Rights, National Minorities, and Interethnic Relations to present result of the monitoring and to make recommendations to amend legislation to support the right of peaceful assembly for judges, MPs, law enforcement bodies, local authorities’ representatives, and civic activists. Institute Republic also presented and distributed a manual on peaceful assembly for judges, civic activists, and local authorities. Institute Republic developed recommendations regarding improvement of the legislation on peaceful assembly and sent them to MPs of the Parliamentary Committee on Human Rights, National Minorities, and Interethnic Relations.



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

Finally, Institute of Applied Humanitarian Research (IAHR), a FAIR grantee and Kharkiv NGO, finished analyzing 770 court cases, conducted interviews and made observation of election cases in the framework of the initiative “Public Monitoring of Court Performance in Hearing Election Disputes in Ukraine.” Next quarter, the NGO will present its analytical report and developed recommendations regarding:

- Areas of ongoing training of judges who hear election disputes;
- Specifics of the administration of court operations during election campaigns;

- (c) Improvement of the legislation applicable in hearing election disputes; and
- (d) Increasing the capacity of civil society organizations in monitoring court operations during roundtable for representatives of the judiciary, MPs, and public activists.

**SCHEDULE CHANGES:** The round table of FAIR grantee IAHR was postponed until April 2015 in order for it to finalize its findings and prepare policy proposals related election legislation and court administration during elections.

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

- FAIR grantee Institute of Applied Humanitarian Research will present specialized research and policy proposals related to election legislation to MPs, representatives of the judiciary, public;
- FAIR will continue to support civic coalitions in producing pending judicial reform legislation and the mechanism of sustainable advocacy campaigns for pending judicial reform legislation adoption;
- FAIR will award at least two grants involving research and recommendations on including gender in judicial reform; and
- FAIR will continue to update public awareness materials on court operations.

**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:** FAIR selected seven NGOs to conduct a survey aimed at measuring citizen satisfaction of court performance using the CRC methodology in all the courts of Ivano-Frankivsk, Lviv, Cherkasy, Chernivtsi, Odesa, Sumy, and Kharkiv Oblasts in cooperation with courts and the SJA.

FAIR grantees All-Ukrainian Coalition for Legal Aid (charity organization), Podilska Human Rights Foundation (NGO) and Intelktualna Perspektyva (charity organization) finalized data analysis of CRC surveys conducted in four courts in the Rivne region, five

courts in the Khmelnytsky region, three courts of the Kyiv region, one court in the Volyn region, one court in the Chernigiv region, and one court in the Mykolaiv region. CSOs presented results and recommendations to improve court performance to chief judges, judges, representatives of the SJA and public of Kyiv region (February 13, 2015) and Khmelnytsky region (March 27, 2015).

**Milestone Progress ER 4.2**

- CRC surveys extended to 8 new regions and 25 new courts
- 49 courts in 17 regions of Ukraine took part in CRC surveys
- FAIR awarded grants to 7 CSOs to conduct CRC survey in all the courts of Ivano-Frankivsk, Lviv, Cherkasy, Chernivtsi, Odesa, Sumy and Kharkiv Oblasts
- 10 CSOs presented 41 CRC analytical reports and 361 recommendations on court service improvement to 41 CRC partner courts at 16 regional roundtables
- Assessment report on impact of the CRC program implementation produced
- Assessment report on equal access to court facilities and services for persons with disabilities produced
- Results of assessment report on equal access to court facilities and services for persons with disabilities presented at the conference on “Access to Justice and Court Services”
- NGO selected to implement grant program to increase disabled people’s access to courts
- Monitoring of the access of courts and court services for people with disabilities conducted in 20 courts

On February 18-19, 2015, FAIR conducted education sessions for representatives of seven regions (Lviv, Cherkassy, Chernivtsi, Ivano-Frankivsk, Sumy, Odesa, Kharkiv) CSOs, judges, SJA and its territorial departments representatives on the CRC methodology, data collecting and analysis, as well as, conducted orientation meeting on grant implementation and monitoring and evaluation. For the first time, FAIR asked grantees to include a gender component in their analyses of data, and conducted a presentation on gender in CRC surveys. More than 60 participants including judges, civic activists, and court administrators from relevant oblasts discussed why court performance should be evaluated by the public. They also discussed the planning of the CRC survey, the modes of conducting of the survey, and the preparation of reports and presentation of recommendations to beneficiaries. FAIR presented and discussed with participants the updated Manual on Court Performance Evaluation Using Citizen Report Card Methodology.

With an aim to promote court performance evaluation using CRC methodology in different regions of Ukraine, FAIR grantees conducted public events for judges, representatives of territorial departments of the SJA and civic activists. Charitable organization Oriyana presented the CRC initiative at the field meeting of the Council of General Courts in Ivano-Frankivsk (March 6, 2015, [http://zib.com.ua/ua/print/114770-suddyam\\_radyat\\_zaymati\\_aktivnu\\_poziciyu\\_ta\\_vlasnimi\\_silami\\_f.html](http://zib.com.ua/ua/print/114770-suddyam_radyat_zaymati_aktivnu_poziciyu_ta_vlasnimi_silami_f.html)), while Sumy Oblast Civic Organization of Social Workers League of Ukraine presented court performance evaluation initiative using CRC methodology to local courts of Sumy region (March 20, 2015).

FAIR grantee Law and Democracy, an NGO, has started preparation of the analytical report on the monitoring of access to justice for people with disabilities. The report, with recommendations on necessary changes to legal framework, will be presented to Parliament members, representatives of the judicial bodies, and civil society organizations during a roundtable in May, 2015. The National Assembly of Disabled will be engaged in this activity.



Judges and public discussed CRC survey results conducted in 4 courts of Khmelnytsky region on, March 27, 2015 in Khmelnytsky

**SCHEDULE CHANGES:** At the request of courts, FAIR grantees All-Ukrainian Coalition for Legal Aid and Podilska Human Rights Foundation postponed CRC results presentations to April 2015 during the “Courts’ Open Doors Days.”

**PLANS:** During the next reporting period, FAIR plans the following activities in order to achieve Expected Result 4.2:

- FAIR expects that CRC surveys results will be presented in September 2015;
- FAIR grantees All-Ukrainian Coalition for Legal Aid will conduct presentation of received results in one court in the Volyn region, one court in the Chernigiv region, one

court in the Mykolaiv region, and one court of the Khmelnytsky region;

- NGO Podilska Human Rights Foundation will conduct a roundtable to present results and recommendation developed after implementation of CRC surveys in four courts in the Rivne region;
- FAIR will issue an RFA to monitor the implementation of recommendations provided by CSOs to courts after CRC surveys are conducted and to develop CRC methodology sustainability;
- Within the framework of the grant project, conduct three roundtables on the monitoring of access of courts and court services for people with disabilities with follow-up lobbying campaign on necessary changes to legal framework (April - May 2015);
- Prepare audio and Brail materials on the judiciary under the grant project implemented by Law and Democracy NGO (June- July 2015); and
- Issue an RFA to conduct training on court staff's communication skills and work with disabled people (April 2015).

#### Performance Indicators ER 4.2

- Number and percentage of courts in which there are active CSO court performance evaluation programs increased to 65 this quarter, which is 8% of all courts in Ukraine. It refers to courts where CRC surveys currently take place
- Number of people engaged in the monitoring and performance oversight of Ukrainian courts this quarter is 1,844
- Percentage of partner Civil Society Organizations' performance improvement recommendations implemented by judicial institutions did not change this quarter and remains at September 2013 level

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

**ACCOMPLISHMENTS:** The FAIR team actively supported its Ukrainian partners in improving the legal framework for lustration and vetting procedures in line with international and European standards.

In response to the Council of Europe Venice Commission "Interim Opinion on the Law on Government Cleansing (Lustration Law)" on December 16, 2014, the MOJ established a working group to develop amendments to the Law on Purification of Government and Law on the Restoration of Trust in the Judiciary. Members of the working group included representatives of the MOJ and members of Parliament and Public Council on Lustration. The working group developed draft amendments and plans to conduct public discussions on this issue. FAIR also provided the MOJ with its comments and recommendations to improve the legislation. FAIR will continue to work with key MPs and the MOJ's Lustration Department in preparing draft amendments.

#### Milestone Progress ER 5.1

- Draft legislative recommendations on the needed amendments to the Law on the Purification of Government formulated and submitted to the Ukrainian counterparts

On January 29, 2015, MP Oksana Syroid (Samopomich) and Viktor Chumak (Petro Poroshenko Block) registered in the Verkhovna Rada the draft law on Amending Some Legislative Acts of Ukraine regarding the Improvement of the Restoration of Trust in the Judiciary Mechanism (No. 1881). The authors of the draft law propose to amend the Law on the Purification of Government and Law on the Restoration of Trust in the Judiciary to eliminate duplication. The law excludes judges from the scope of the Law on the Purification of Government and places them under the scope of the Law on the

Restoration of Trust in the Judiciary. The Law on the Restoration of Trust in the Judiciary in Ukraine is amended to:

- Extend the list of the cases which fall under the jurisdiction of the Interim Special Commission of the Vetting of Judges (ISC);
- Change the composition of the ISC (11 members: six are the retired judges appointed by the SCU and five representatives of the civil society appointed from the Anti-Corruption Government Agent);
- Ban members of the Parliament from the membership in the ISC;
- Establish the ISC as the permanent body with three-years authority;
- Pay ISC members on the level of Supreme Court justices;
- Transfer relevant files from the HCJ and HQC to the ISC.

At the moment the draft law is still pending in the Verkhovna Rada.

To ensure the fair and transparent implementation of lustration and vetting processes against public officials and judges, FAIR provided MPs, MOJ, and other Ukrainian partners with expert support and materials in amending the Law on the Purification of Government, including translations of Venice Commission opinions on lustration laws in Moldova and Albania and case law of the European Court of Human Rights, such as *Naidin v. Romania* of October 21, 2014, which upheld the barring of a one-time informer of the Romanian political police from employment in the public service. FAIR is also translating a timely and relevant new Polish publication on judicial accountability entitled, “*Crimen Laesae Iustitiae: Criminal Liability of Judges and Prosecutors for Court Crimes under German, Austrian and Polish Law*” by Prof. Witold Kulesza.

At the same time, FAIR developed a list of recommendations to improve the legislative framework of the lustration and vetting processes, including 20 proposed amendments to the Law on the Purification of Government and 15 amendments to the Law on the Restoration of Trust in the Judiciary. These proposed amendments were shared with key MPs and MOJ officials.

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

During these meetings, the experts and participants alike raised a number of issues in lustration and vetting processes. Specifically, issues related to the necessity to clearly identify lustration criteria

along with the list of positions that subject to lustration. The experts also emphasized the importance of avoiding vague and questionable criteria and not to make positions that are not crucial for national security and democracy subject to lustration. The other point made by experts is the necessity to approach the vetting of judges with due respect of judicial independence guarantees. The practical implementation aspects of lustration and vetting were also discussed, where experts proposed considering the establishment of a single body responsible for lustration to ensure the consistency and uniformity in the application of procedures.

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

(1) Formation and operations of the body responsible for lustration:

- There should be the independent body to conduct lustration.
- The composition of the independent body should be formed out of respected people, who are considered of high moral authority for the people of Ukraine. The proposed composition is 11 members with three from the President, three from the Cabinet of Ministers, three from the Parliament, and two from the Ombudsman.
- The secretariat of the independent body should be created out of representatives of the authorized bodies, temporarily delegated to conduct the lustration.

(2) Financial disclosure and the verification and publication of data:

- Minor mistakes and inaccuracies are to be allowed without any consequences.
- The person, who verifies the declarations, in case he/she identifies inconsistencies or inaccuracy, should address the authorized bodies to check the data.
- Authorized bodies should check the data and decide whether to submit the file to the court or not.
- If there is an unintentional mistake, it should not have any consequences.
- Bodies, which at the moment conduct the vetting and verification, are overloaded, as soon as they do not have additional staff or facilities for this activity. If we want to have the consistent and transparent lustration, the independent specially created body should be in place to deal solely with the vetting and lustration.



The representative of the Ministry of Justice presents the recommendations of the group discussion on February 12, 2015

- Information regarding the lustration process of the person should be made public only after the procedure is over.
- List of the information, which is to be included in the registry should be amended to ensure the identification of the person, e.g. the date of birth should be added.
- Registry should provide the possibility to conduct a search by different criteria.
- Correlation between “accuracy” and “inaccuracy” should be clarified.
- “Good faith error” and “legitimate source of income” should be made clear.
- There should be comprehensive work to review and improve archives.
- List of those, who submit the declarations, should be clear and justified. The anti-corruption measures are to be separated from the lustration procedures.

(3) Protection of human rights in the process of lustration and vetting:

- Government positions are not a right, but a privilege with the number of constrains. Members of the family of government officials fall under these constraints; and that is legitimate consequence.
- Due procedure and the right for fair trial should be guaranteed.

(4) Criteria and procedures for the lustration and vetting process:

- Lustration law should be clear, structured and transparent – confusing and unclear text leads to the misuse of the law and manipulations.
- Clear differentiation between the criteria and position subject to lustrations should be established.
- List of the positions subject to lustration should be reviewed in order to identify the positions, which are crucial for the democracy and rule of law in the state. The positions should be divided into three groups: (1) top-level officials (they may fall under collective responsibility, but individual person should have the right to prove his/her innocence); (2) judges (with respect to the constitutional principle of judicial independence); and (3) other state officials.
- Introduce individual responsibility, so that the cause-and-effect connections between the decisions, acts or omission to act and the harmful consequences are identified.
- Judges should fall under the different procedure that will guarantee the constitutional principle of the judicial independence. The lustration and vetting of judges is proposed to be undertaken under the Law on Restoration of Trust in the Judiciary in Ukraine. This will require amending both laws. Draft law no. 1881 is already registered in the Parliament.
- Work of the Security Service of Ukraine, Ministry of Interior and Ministry of Defense, MOJ and all other bodies should be coordinated.
- Clarify the list of those who submit the declarations.
- Authorized bodies, which deal with the lustration, should provide their comments and explanations to other stakeholders and public.

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

- Venice Commission should take into consideration not only European standards, but also the current social and political situation in Ukraine.

- It is important to explain to the general public the role of the Venice Commission and meaning of the Venice Commission recommendations, so that there is no manipulation or sabotage.
- Ukrainian diplomacy should work to explain the Ukrainian context abroad.
- Lustration is the chance to purify the government and establish new standards for the human rights protection.
- It should be clearly identified what are the objectives of the law and what consequences the authors of the law want to have.

These recommendations were shared with Venice Commission experts, including Judge Gerhard Reissner (Austria), Veronica Bilkova (Czech Republic) and Judge George Papuashvili (Georgia) who also participated in the presentation of the results at the event. The will also be disseminated to Ukrainian policymakers to be used in the process of the improvement of lustration legislation.

In furtherance of the exchange of lessons learned and best practices in designing and implementing lustration systems, FAIR jointly with Open Dialog Foundation conducted a study visit to Warsaw, Poland from March 15-19, 2015. The Ukrainian delegation for the study visit included representatives of all key stakeholders in lustration and vetting processes, namely, the Verkhovna Rada, MOJ, HQC, HCJ, and ISC. The study visit provided the Ukrainian delegation with best practices and lessons learned in conducting lustration and vetting of public officials and judges, including a hands-on visit to the Institute of National Remembrance in Warsaw. The visit also included meetings at the Anti-Corruption Bureau, Supreme Court, the National School of Public Administration, together with defense lawyers at the Polish Bar Council, including a discussion of case law for the European Court on Human Rights in lustration cases; meetings with the authors of the lustration legislation and NGOs involved in the monitoring of the government and courts.

As the result of the study visit, the following list of recommendations was developed:

- There are no concerns regarding the need for the purification of government though different mechanisms, including lustration and vetting.
- The first and the most important in the process of lustration is to define the aim of the lustration, than to identify the resources state has to deal with it; and finally, to decide what exactly can be done to implement the lustration. Sometimes, it is possible to sacrifice some of the initial ideas to succeed with the overall process.
- The lustration and vetting of the officials and judges should be based on the principle of the individual responsibility. When we speak about the individual responsibility, we should take into consideration the individual guilt and the stage of involvement of the person.
- The lustration itself should be done by the independent body, which will have the functions of the archives, prosecutors and coordination. This body should also deal with the registries issues.
- The issue of the financial disclosure by the public officials is the issue of the access to public service. The essential component of the public service is the limitations, which are imposed on the public official and his/her family.

- The proper organization of the public service is big aspect of the state functions. The state officials should address the same identified requirements; possess the same level of the professional skills and knowledge; and to follow the same ethical standards.
- The anti-corruption component of lustration should be the part of the anti-corruption policy of the state. If the lustration is considered as the temporary and urgent measure, the anti-corruption component should be the permanent, comprehensive and general measure.
- The independent body should deal with the anti-corruption activity. The Polish model of the Central Anti-Corruption Bureau can be taken as an example of the state approach to the organization of this work.
- The issue of the disclosure of the archives is crucial for the lustration. The archives are to be unified, digitalized and made public to avoid any speculation with this regards.

**Performance Indicators ER 5.1**

- In this reporting period, FAIR provided support to the GOU on implementation of financial disclosure for public officials which contributes to the indicator “Number of USG-supported anti-corruption measures implemented”
- Number of recommendations to improve the Law on the Purification of Government and relative legislative framework is 42
- Per cent of recommendations formulated that are passed into law or adopted as regulations is 0 since all recommendations formulated are now under the consideration by law and policy makers

The participants of the study visit shared their satisfaction with the agenda and the substance of the meetings during the visit. The fruitful and lively discussion allowed them to see the different aspects of the lustration and vetting and the possibilities to improve the legislative framework and practical implementation of the lustration.

**SCHEDULE CHANGES:** Due to the conflict of events of the trainer the working meetings on gender issues related to the Law on the Purification of Government in cooperation with the RADA Project and Verkhovna Rada focal points scheduled for March 2015 will be conducted in April 2015. The key objectives of this working meeting will be to increase awareness of vetting bodies about the concept of gender and gender mainstreaming; study and analyze the provisions of the lustration legislation which should be in compliance with principle of equal rights and opportunities for men and women; and to propose relevant amendments to bring them in line with this principle.

**PLANS:** During the next reporting period, FAIR plans the following activities in order to achieve Expected Result 5.1:

- Support amending the Law on the Purification of Government in the context of domestic legislation with recommendations to improve the Law in line with international and European standards, including the case law of the European Court of Human Rights and Venice Commission recommendations.
- Conduct one-on-one and/or small group discussions as well as regional discussions with MOJ working group, ISC, key MPs, relevant Verkhovna Rada committee staff and other key stakeholders to support the passage of amendments. Work with key civil society advocates, such as Arkadiy Bushchenko of the Ukrainian Helsinki Human Rights Union, who can influence adoption of amendments to the law, while monitoring amendments to avoid backsliding.
- Conduct study visit to Prague, Czech Republic, including visits to the Institute for the Study of Totalitarian Regimes, Anti-Corruption Office, Ministry of Justice, and Constitutional Court to witness first-hand best practices and lessons learned.

- Conduct working meetings on gender issues related to the Law on the Purification of Government in cooperation with the RADA Project and Verkhovna Rada focal points.

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

**ACCOMPLISHMENTS:** During this reporting period, FAIR translated and conducted an initial review of existing regulations adopted pursuant to the Law on the Purification of Government, including the Cabinet of Ministers Resolution No. 563 of October 16, 2014 on “Certain Provisions Regarding the Implementation of the Law on the Purification of Government”, Cabinet of Ministers Decree No. 1025 of October 16, 2014 “On Approving the Plan for Conducting Vetting Pursuant to the Law on the Purification of Government”, and Ministry of Justice Order No. 1280/26057 of October 16, 2014 “On Adopting Regulations on the Unified State Registry of Individuals to Whom Provisions of the Law on the Purification of Government are to be Applied.” FAIR also facilitated expert consultations to ensure procedures reflect international and European standards and provided model procedures and forms for other countries, including Poland and the Czech Republic.

<p><b>Milestone Progress ER 5.2</b></p> <ul style="list-style-type: none"> <li>• Recommendations for improving procedures for vetting developed</li> <li>• Assessment of the Registry conducted</li> </ul>
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As reported during the previous period, the Interim Special Commission for Vetting Judges (ISC) continues to consider complaints regarding judges who handled protest cases between November 2013 and February 2014. The Verkhovna Rada finally appointed its quota of ISC members and now this body can restart the process of vetting these judges. After a five-month break, the ISC began considering cases again on March 24, 2015. During that session, the Commission considered complaints against five judges. Since the beginning of its operations, the ISC received more than 1,500 complaints with only 172 falling within its jurisdiction. As a result of considering cases against 13 judges, the Commission recommended disciplinary measures against 12 judges and dismissed the complaint against one judge because she issued a dissenting opinion. Throughout this quarterly reporting period, FAIR supported ISC members with expert consultations, discussions, and a study visit to Poland as presented above under ER 5.1.

**SCHEDULE CHANGES:** Although an initial assessment of the “Unified Registry of Persons in Relation to Whom Provisions of the Law on the Purification of Government Have Been Applied” (Registry) was conducted by Mr. Radoslaw Peterman of the Polish Institute of National Remembrance in February 2015, a more complete and robust assessment will be conducted during the next reporting period.

<p><b>Performance Indicators ER 5.2</b></p> <ul style="list-style-type: none"> <li>• Number of recommendations to improve the Registry formulated with project support and adopted as regulations is 0 this quarter</li> <li>• Number of procedures for lustration and vetting developed with project support is 0 this quarter, however FAIR is currently working on developing procedures for vetting and evaluating sitting judges</li> </ul>
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**PLANS:** During the next reporting period, FAIR plans the following activities in order to achieve Expected Result 5.2:

- Expert analysis of existing regulations adopted pursuant to the Law on the Purification of Government with recommendations for improvement;
- International workshop on procedures for vetting and evaluating sitting judges based on

international and European standards with stakeholders including the HQC and COJ (linked to Expected Results 2.1 and 3.1); and

- Assessment of the Registry to ensure transparency and access while securing protection of personal data and reputation.

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

#### **ACCOMPLISHMENTS: FAIR**

supported the MOJ in building the capacity of its Lustration Department, which is responsible coordinating the lustration and vetting of public officials pursuant to the Law on the Purification of Government. The Department is divided into four units, specifically, vetting, legal, public outreach and registry, with 19 staff who have a variety of different professional backgrounds in the public and private sectors. Given this diversity of experience and great expectations, it is critically important to build an effective team and relations between staff within the Department, with other units of the MOJ, and with other governmental agencies involved in the process of lustration and vetting of public officials and judges.



Participants of the Practical Workshop “Institutional Development of the Department of Lustration with the Ministry of Justice of Ukraine” on February 5, 2015 in Kyiv.

In order to develop the knowledge, skills, and abilities of new Department staff, on February 5, 2015, FAIR in cooperation with the Open Dialog Foundation conducted a training program on internal and external communications, time management and work planning, team building, and conflict of interest. FAIR engaged experts from Ukraine, Poland and the US to design and implement this training program, including Pamela Daniels, an American business process specialist, Małgorzata Skawińska of the Polish School of Public Administration, and Ukrainian trainers Oleksandr Ladyhin and Anatoliy Tykhonchuk.

#### **Milestone Progress ER 5.3**

- Training programs designed and implemented
- Resource materials assembled and disseminated

According to post training evaluations, participants positively assessed the program with a majority (94.7%) considering knowledge received to be very or mostly useful in their work. They also highly evaluated the trainers. At the same time, however, participants expressed an interest in receiving more information concerning work planning and time management and more practical skills in preventing misunderstanding between colleagues and how to effectively prevent conflicts of interest.

On February 11, 2015, FAIR also supported a small group substantive discussion on lustration for members of the Public Council on Lustration and staff of the Lustration Department with international lustration experts Professor Roman David, Radoslaw Peterman and Jacek Vygoda of the Polish Institute of National Remembrance and Pavel Zacek of the Czech Institute for the Study of Totalitarian Regimes. During this discussion, participants learned about international and European best practices and lessons learned in the vetting and lustration of public officials and judges.

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

<p><b>Performance Indicators ER 5.3</b></p> <ul style="list-style-type: none"> <li>• Number of training days provided to executive branch personnel this quarter is 5 and it refers to the Study Tour to Poland on Lustration and Vetting and training on institutional development for the MOJ</li> <li>• Number of training programs on lustration and vetting processes compliance with European standards and practices is one this quarter and it refers to the mentioned above study tour to Poland</li> <li>• FAIR trained this quarter 30 individuals in topics of European standards and practices for lustration and vetting contributing to the indicator “Number of people trained with newly developed programs on implementation the lustration and vetting”</li> <li>• Per cent of people trained who improved knowledge and skills to proceed with lustration and vetting in this quarter is 97%</li> </ul>
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**SCHEDULE CHANGES:** The translation and dissemination of findings of the University of Minnesota Law School regarding gender in transitional justice will be completed during the next quarterly reporting period.

**PLANS:** During the next reporting period, FAIR plans the following activities in order to achieve Expected Result 5.3:

- Follow-on training on substantive issues related to implementation of lustration legislation based on international and European best practices and lessons learned for Lustration Department staff and members of the MOJ Public Council on Lustration;
- RFP to design and implement modern management training for MOJ leadership at the national and regional level; and
- Regional conference on strengthening the judicial response to anti-corruption and economic crimes to be conducted in Bucharest, Romania.

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

**ACCOMPLISHMENTS:** During this reporting period, FAIR prepared a Request for Applications (RFA) for civil society organizations with already-demonstrated ability, knowledge, and successes in monitoring government and supporting them in overseeing and reporting on the lustration and vetting process. This RFA will cover the following areas:

<p><b>Milestone Progress ER 5.4</b></p> <ul style="list-style-type: none"> <li>• RFA for monitoring of the vetting process prepared</li> <li>• RFP or RFA for public opinion polling, public awareness and advocacy campaigns prepared</li> </ul>
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- Monitoring of the implementation of lustration legislation by governmental bodies, including the MOJ, Cabinet of Ministers, and Presidential Administration, as well as the Interim Special Commission for Vetting Judges, HCJ, and HQC;
- Monitoring of court cases and decisions related to vetting and lustration;
- Supporting the development of legislation and regulations related to vetting and lustration in line with European standards; and
- Capacity building for NGOs engaged in monitoring vetting and lustration processes.

In addition, FAIR prepared an RFA to support the design and implementation of public awareness and advocacy campaigns regarding lustration and vetting. This will encompass the following programs:

- Design and implement a public awareness campaign(s) regarding the vetting and lustration of public official and judges in four regions of Ukraine (South, East, West and Center of Ukraine). Specific activities may include production and distribution of information materials, video production and broadcasting, TV talk shows, roundtables, training for journalists and civil society activists;
- Design and implement a national public awareness campaign regarding the vetting and lustration of public official and judges. Specific activities may include production and distribution of information materials, video production and broadcasting, TV talk shows, roundtables, training for journalists and civil society activists; and
- Conduct public discussions on vetting and lustration processes. Specific activities may include focus group discussions, roundtables, conferences, forums (including live or on-line) with participation of civil society and government representatives, etc.

In support of conducting a comprehensive national survey on public opinion regarding lustration, political, economic, and judicial reforms, and European integration, Professor Roman David prepared a draft lustration questionnaire that includes items directly and indirectly relate to the lustration process. The actual public opinion survey will be conducted during the next reporting period.

**SCHEDULE CHANGES:** The release of RFAs on monitoring and public awareness related to the lustration and vetting process was postponed until April 2015 due to delays in receiving feedback for project partners.

**PLANS:** During the next reporting period, FAIR plans the following activities in order to achieve Expected Result 5.4:

- Select civil society organizations to monitor government and oversee and report on the lustration and vetting process;
- Select civil society organizations to design and implement public awareness and advocacy campaigns regarding lustration and vetting;
- Prepare RFP or RFA and select an organization to design and implement national public opinion poll regarding lustration and vetting;

**Performance Indicators ER 5.4**

No changes occur under the indicators related to ER 5.4 this quarter. It refers to:

- Number of project-supported public events on lustration and vetting involving CSO activists
- Number of CSOs participating in and contributing to the process of lustration and vetting
- Per cent of Ukrainian citizens who are confident that the lustration and vetting are properly implemented is not yet known since survey is scheduled for the next quarter

- Prepare RFA and select civil society organizations to conduct monitoring of services provided by MOJ departments; and
- Prepare RFP or RFA and select organization to design and implement training program for MOJ leadership on modern leadership and management.

## DONOR COORDINATION

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

- On February 4, 2015, Sergii Koziakov, Chair of the HQC, provided an update on the work of the HQC and shared his plans and priorities for the future of the Commission in selecting and disciplining judges.
- On March 11, 2015, Mykola Onishchuk, Rector of the NSJ provided an update on the work of the NSJ and shared his plans and priorities for the future of professional development of judges and court staff.

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

## DELIVERABLES

FAIR submitted the following deliverables this reporting period:

- International Standards and Best Practices of Judicial Disciplinary Proceedings (Ukr.);
- Summary Recommendations on Qualifications Requirements for the Candidates to the Position of Inspector and on Performance Evaluation of Inspectors (Ukr.);
- Draft Curricula of Initial and Ongoing Training of Inspectors with the HQC (Eng., Ukr.);
- Recommendations on Curricula of Initial and Ongoing Trainings of Inspectors, as well as on Teaching Methodology and Structuring Training Process (Eng., Ukr.);
- Court Performance Evaluation: A Manual for Using Citizen Report Cards in Courts (Ukr.);
- Manual on Peaceful Assembly, NGO Institute Republic (Ukr.);
- Perfect Court: Myth or Reality (Survey with Citizen Report Cards in Courts of Khmelnytsky Oblast and Trust to Judiciary of Ukraine), Podillya Human Rights Foundation, (Ukr.); and
- Assessment of Citizens Satisfaction with Particular Aspects of Courts Performance (Survey with Citizen Report Cards in Courts of Kyiv Oblast), charity foundation Intelektualna Perspektyva (Ukr.).

## LOE UTILIZATION


## ANNEX A: PERFORMANCE MANAGEMENT AND EVALUATION SUMMARY

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
<b>Program Goal: Support legislative, regulatory and institutional reform of judicial institutions in order to build a foundation for a more accountable and independent judiciary</b>									
1. Number of legal institutions and associations supported by USG	Dec 2014	38 <sup>7</sup>	24	23	27	41	24	45	This quarter FAIR supported 10 governmental judicial institutions, all of them are existing partners, e.g. no new judicial institutions supported. In addition, FAIR supported 13 non-governmental legal associations.
<b>Objective 1: The constitutional, legislative and regulatory framework for judicial reform complies with European and international norms and supports judicial accountability and independence</b>									
2. Number of laws, regulations and procedures designed to enhance judicial independence supported with USG assistance (FAF)	Dec 2014	17 <sup>8</sup>	5	1	2	18 <sup>9</sup>	3	25	This quarter the Parliament of Ukraine adopted the Law on the Right to Fair Trial amending the Law on the Judiciary and the Status of Judges, the Law on High Council of Justice and other laws.
<b>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</b>									

<sup>7</sup> Total since 2006 counts support by the USAID Ukraine Rule of Law Project (UROL) and FAIR

<sup>8</sup> Total since 2006, includes 8 under the UROL Project and 9 under the FAIR Project

<sup>9</sup> Total since 2006, includes 8 under the UROL Project and 10 under the FAIR Project

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
3. Number of revised provisions enacted that reflect Venice Commission recommendations	Dec 2014	6	20	24	24	30	10	36	The adopted Law on the Right to Fair Trial amends the Law on the Judiciary and the Status of Judges, the Law on the High Council of Justice and other legislation. The 24 revised provisions in these laws reflect Venice Commission recommendations.
4. Percentage of Venice Commission recommendations adopted	Dec 2014	12% <sup>10</sup>	43%	51%	51%	64%%	21%	77%	Out of 47 Venice Commission recommendations to the legislation related to the judiciary, Ukrainian law makers adopted 24 in this reporting period which represents 51% of total. Note that 14 of them addressed in full and 10 of them addressed partially.
<b>Expected Result 1.2: Constitutional reform related to the judiciary is pursued in an inclusive manner</b>									
5. Number of USG-supported public sessions held regarding proposed changes to the country's legal framework.	Dec 2014	6	2	0	0	6	3	11	No changes this quarter. President Poroshenko signed the Degree on Constitutional Commission, but there is no decision of the personal composition of the Commission. FAIR is promoting the inclusion of civil society representatives in this Commission.

<sup>10</sup> 12% baseline refers to 6 Venice Commission recommendations addressed by changes in laws dated 2013-2014 in ratio to total 47 recommendations provided

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
6. Number of revised provisions in the Constitution enacted that reflect inputs from project-supported public discussions	Dec 2014	0	0	0	0	6	7	7	Same as above.
<b>Objective 2: The accountability and transparency of key judicial institutions and operations are strengthened</b>									
7. Number of new properties and functions surrounding judicial selection and discipline introduced to HQC management system with project support	Dec 2014	1	9	0	0	1	0	10	Due to the number of legislative amendments, which providing new authorities of the HQC, in particular on judicial evaluation, FAIR postponed a number of joint activities with the HQC to the next period.
<b>Expected Result 2.1: Ukrainian judges are appointed based on objective, knowledge- and performance-based criteria</b>									
8. Number of merit-based criteria or procedures for justice sector personnel selection adopted with USG assistance	Dec 2014	17	8	0	0	17	0	25	Same as above
9. Number of Ukrainian judges appointed through project-supported objective, merit-based judicial selection process	Dec 2014	942	50	0	0	942	50	1042	No new judges appointed this quarter.
<b>Expected Result 2.2: Ukrainian judges are disciplined in transparent processes</b>									

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
10. Number of criteria, standards and regulations adopted to govern judicial misconduct investigations	Dec 2014	1	7 <sup>11</sup>	0	0	1	0	8	No changes this quarter. Developing standards for conducting preliminary screening of complaints and investigation of judicial misconduct, amending the regulations governing judicial misconduct investigation and developing standards and criteria for selection, training, and performance evaluation of disciplinary inspector candidates are in the process.
11. Percent of judicial misconduct complaints submitted to the HQC using the standardized form	Dec 2014	11%	15%	N/A	N/A	11 <sup>12</sup> %	20%	20%	HQC did not provide information regarding the number of judicial misconduct complaints received including the number of those on standardized form. As soon as we receive the related information, we will update this reporting period data.
12. Percent of judicial discipline decisions posted on HQC website	Dec 2014	79,5%	100%	0%	0%	79,5%	100%	100%	In this reporting period, HQC stopped publishing judicial discipline decision on its website due to management changes. FAIR is working with the HQC to enable this we-site function.
<b>Expected Result 2.3: The regulatory and institutional framework for judicial accountability and integrity is strengthened</b>									

<sup>11</sup> FY2015 target revised based on FY2014 actual status of this indicator

<sup>12</sup> Cumulative LOP data as of December 31, 2014

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
13. Number of judicial self-governance mechanisms revised with project support	Dec 2014	5	1	0	0	5	TBD	TBD	No changes since the last quarter. After the approval of Rules of Procedure for the Congress of Judges, Rules of Procedure for the COJ and Creation COJ committees in the previous reporting period, FAIR is working on the Commentaries to the Code of Judicial Ethics.
<b>Objective 3: The professionalism and effectiveness of the Ukrainian judiciary are strengthened</b>									
14. Number of USG-assisted courts with improved case management (FAF)	Dec 2014	62	50	42	42	62	60	80	Improved case management in 42 courts where FAIR supported the establishing of information kiosks with pay terminal capacity to receive court fees.
<b>Expected Result 3.1: The skills and competencies of Ukrainian judges and court staff are bolstered through modern, demand-driven training programs</b>									
15. Number of judges and judicial personnel trained with USG assistance (FAF)	Dec 2014	4,331 <sup>13</sup>	300 (50% men and 50% women)	215 (40% men and 60% women)	269 (40% men and 60% women)	1,689 <sup>14</sup> (44% men and 56% women)	300	4,700 <sup>15</sup>	This quarter FAIR trained 215 justice sector personnel (40% men and 60% women) in topics of Judicial Selection and Discipline, Court Performance Evaluation and Court Administration. This number includes 72 judges (58% men and 42% women).

<sup>13</sup> Total since 2006 under the USAID Ukraine Rule of Law Project (2,946) and the USAID FAIR Justice Project (1,630), double counting excluded

<sup>14</sup> Cumulative LOP number refers only to the USAID FAIR Justice Project from October 2011 to September 2014

<sup>15</sup> Taking into account that this is FAF indicator, the cumulative project end target includes the USAID Ukraine Rule of Law Project and the USAID FAIR Justice Project

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
16. Percent of judges and judicial personnel trained with USG assistance reporting application of skills and knowledge gained in their judicial practices or teaching activities.	Dec 2014	78%	83%	N/A	N/A	78%	88%	85%	The post-training survey of FAIR training participants is scheduled for the next quarter.
17. Number of new legal courses or curricula developed with USG assistance	Dec 2014	19 <sup>16</sup>	2	1	1	20	1	22	In this reporting period we count the advanced TOT for Judicial Administration Certificate Program Ukrainian faculty.
<b>Expected Result 3.2: Judicial operations are evaluated and funded according to an objective assessment of needs and performance</b>									
18. Number of court performance standards adopted	Dec 2014	0	7	0	0	0	0	7	No changes this quarter. The COJ approval of FAIR-developed Court Performance Evaluation System will take place next quarter.

<sup>16</sup> Total since 2006 under the USAID Ukraine Rule of Law Project (8) and the USAID FAIR Justice Project (11)

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
19. Number of court performance indicators implemented	Dec 2014	17	17	17	17	17	31	31	General court continue to implement 17 court performance indicators for general courts developed with FAIR support and approved by the Council of Judges of General Courts in 2014. See sample at <a href="http://yg.ko.court.gov.ua/sud1028/pokaznik/">http://yg.ko.court.gov.ua/sud1028/pokaznik/</a>
20. Number of courts implementing project-supported performance measurement system	Dec 2014	64	50	65	65	129 <sup>17</sup>	100	100	In this reporting period we count the external court performance evaluation through citizen report cards (CRC) surveys in 65 courts.
21. Average annual citizen report cards score of participating courts	Dec 2014	.80 (out of maximum score of 1)	.80	N/A	N/A	.80	.82	.82	In this reporting period FAIR partner CSOs conduct the citizen report cards (CRC) surveys in 65 courts. Results will be ready in April 2015.
<b>Expected Result 3.3: The SJA's capacity to represent and support the developing needs of Ukrainian judiciary is strengthened</b>									

<sup>17</sup> Cumulative LOP number include pilot testing of CPE System in 13 courts (2013), implementation of CPE System by all 17 general courts of Ivano-Frankivsk oblast (2013), implementation of CPE selected module by all 34 general courts of Odessa Oblast (2013), citizen report cards surveys in 15 selected courts (2014), implementation of CRC surveys in 32 courts of L'viv Oblast and 18 courts of Chernivtsi Oblast (2015).

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
22. Number of data-fed analytical techniques incorporated into judicial budgeting	Dec 2014	1	3	0	0	1	0	4	No changes this reporting period after the case 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 2015. Currently FAIR is working on pilot testing of case weighting in general courts.
23. Number of project-supported new or improved policies within the SJA for the support of information technology, procurement, capital improvement, human resources, statistical collections and analysis activities within the courts	Sept 2013	2 <sup>18</sup>	2	0	0	2	3	7	No changes this quarter. Work on the software application for the judicial resource management and regulation on electronic case management in courts is in progress.
<b>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</b>									
24. Number of communication strategies implemented by courts and judicial institutions	Dec 2014	4	2	0	0	4	3	9	No changes this quarter. Activity delay.

<sup>18</sup> Baseline counts Strategic Plan for the Judiciary (approved in 2012) and Court Automation Strategy (approved in 2013)

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
25. Number of courts offering legal education materials to court visitors	Dec 2014	42	50	42	42	42	60	60	FAIR provided information and pay terminals to 42 courts. Terminals contain the electronic versions of all civic education materials developed by FAIR and its CSO partners including materials on judicial reform and court operations, information on how to file a case, access court decisions and filing a complaint against a judge.
<b>Objective 4: The role of civil society organizations as advocates for and monitors of judicial reform is strengthened</b>									
<b>Expected Result 4.1: Civil society and the Ukrainian public are engaged in the judicial reform process</b>									
26. Number of CSO-produced policy proposals related to pending judicial reform legislation	Dec 2014	2	1	1	1	3	TBD	TBD	FAIR CSO partner "Institute of Republic" prepared policy proposal that contains 6 recommendations to amend the judicial reform legislation and submitted this proposal to law makers for their consideration.
<b>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</b>									
27. Number and percentage of courts in which there are active CSO court performance evaluation programs	Dec 2014	47 (6%)	85 (11%)	65 (8%)	65 (8%)	108 (14%)	85 (11%)	120 (16%)	Currently CRC surveys take place in 65 courts including all courts of L'viv and Chernivtsi Oblasts. FAIR partner CSOs are in the process of starting CRC surveys in all courts of Cherkasy, Ivano-Frankivsk, Kharkiv and Odesa Oblasts.

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
28. Number of people engaged in the monitoring and performance oversight of Ukrainian courts	Dec 2014	7,173	8,500	1,844	1,844	7,017 <sup>19</sup>	8,500	12,000	This quarter represents 15 selected courts who started citizen report cards (CRC) surveys in November-December 2014. Data from 50 courts started CRC surveys in March 2015 is not available this quarter.
29. Percentage of partner Civil Society Organizations' performance improvement recommendations implemented by judicial institutions	Dec 2014	39%	50%	N/A	N/A	39%	55%	50%	Not applicable to this quarter since CRC surveys are still in the process.
<b>Objective 5: The Lustration and Vetting of Public Officials and Judges Implemented Fairly, Transparently and Effectively and in Compliance with International and European Standards</b>									
30. Number of USG-Supported anti-corruption measures implemented (CCF Indicator)	Dec 2014	0	1	1	1	1	TBD	TBD	In this reporting period FAIR provided support to the GOU on implementation of financial disclosure for public officials. The support included organized events on this issue and study tour to Poland on experience exchange.
<b>Expected Result 5.1: The Law on the Purification of Government and Relative Legislative Framework Improved</b>									

<sup>19</sup> 7,017 includes citizen report cards (CRC) surveys conducted in 2012 (34 courts), 2013 (17 courts) and 2014 (15 courts). It does not include CRC surveys started in March 2015.

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
31. Number of recommendations to improve the Law on the Purification of Government and relative legislative framework formulated	Dec 2014	0	10	42	42	42	N/A	10	This quarter FAIR formulated 20 recommendations to improve the Law on Purification of Government, 15 recommendations to improve the Law on Restoration Public Trust in the Judiciary and 7 recommendations to improve regulations on lustration and vetting.
32. Per cent of recommendations formulated that are passed into law or adopted as regulations	Dec 2014	0	70%	0	0	0	N/A	70%	Developed recommendations are currently under the consideration.
<b>Expected Result 5.2: Institutions, Procedures and Registry for the Lustration and Vetting of Public Officials and Judges Strengthened</b>									
33. Number of recommendations to improve the Unified Registry of Vetted Persons functioning formulated with project support and adopted as regulations	Dec 2014	0	7	0	0	0	N/A	7	No changes this quarter. Registry assessment conducted, developing recommendations is in the process.
34. Number of procedures for lustration and vetting of public officials developed with Project support	Dec 2014	0	3	0	0	0	N/A	3	No changes this quarter. FAIR is in the process of developing procedures for vetting and evaluating sitting judges.
<b>Expected Result 5.3: Improved Knowledge, Skills and Abilities of Key Stakeholders and Personnel to Conduct the Lustration and Vetting of Public Officials and Judges Professionally, Fairly and Transparently</b>									

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
35. Number of training days provided to executive branch personnel with USG assistance	Dec 2014	0	38	5	5	5	12	50	In this reporting period FAIR conducted Study Tour to Poland on Lustration and Vetting (4 training days) and training on institutional Development of the Department of Lustration with the Ministry of Justice of Ukraine (1 training day)
36. Number of training programs on implementation the lustration and vetting processes in compliance with international and European standards developed with project support	Dec 2014	0	3	1	1	1	TBD	TBD	In this reporting period we count the Study Tour to Poland on Lustration and Vetting which has specific focus in international and European standards for vetting public officials.
37. Number of people trained with newly developed programs on implementation the lustration and vetting processes in compliance with international and European standards	Dec 2014	0	70	30 (53% women, 47% men)	30 (53% women, 47% men)	30 (53% women, 47% men)	70	100	In this reporting period FAIR trained 30 individuals in European standards and practices for lustration and vetting. This number counts participants of Study Tour to Poland on Lustration and Vetting and training on institutional Development of the Department of Lustration with the Ministry of Justice of Ukraine. This number includes 23 representatives of the executive and legislative branches and 7 representatives of the judiciary.

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
38. Per cent of people trained who report improved knowledge and skills to proceed with lustration and vetting public officials in compliance with international and European standards	Dec 2014	0	75%	97%	97%	97%	80%	80%	According to post training evaluations, 18 participants of 10 (94.7%) positively assessed training on institutional Development of the Department of Lustration with the Ministry of Justice in regards to improving their knowledge and skills. For Study Tour to Poland, this is 100%, e.g. all 14 participants. Excluding double counting between two training events, this reporting period data is 97% representing 28 participants of total 29.
<b>Expected Result 5.4: Promote Public Awareness and Civil Society Engagement in the Process of Lustration and Vetting of Public Officials and Judges to Bolster Public Trust and Confidence</b>									
39. Number of project-supported public events on lustration and vetting process involving civil society activists	Dec 2014	0	15	0	0	0	11	26	No changes in this reporting period. The related activity has not yet started.
40. Number of civil society organizations participating in and contributing to the process of lustration and vetting of public officials	Dec 2014	0	7	0	0	0	5	9	No changes in this reporting period. The related activity has not yet started.

PERFORMANCE INDICATORS	Baseline		Target 2015	Actual 2015			Targets LOP		Notes and explanations
	Month/Year	Value		This quarter	Annual 2015	Cumulative LOP	Annual 2016	Cumulative Project End	
41. Per cent of Ukrainian citizens who are confident that the lustration and vetting processes are properly implemented and lead to purification of government	Dec 2014	0	TBD	0	0	0	TBD	TBD	No changes in this reporting period. The related activity has not yet started.