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

**QUARTERLY PROGRESS REPORT  
APRIL TO JUNE 2015**

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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 the implementation of the Law on the Purification of Government.

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

- 536 courts covering every region of Ukraine received assistance.
- Targeted programming provided to 31 civil society organizations.
- Promoted 32 amendments to Ukrainian legislation to enhance judicial independence.
- Trained 1,967 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 14,950 citizens in the process of monitoring and oversight of court performance.
- Involved 212 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 Objective 3: The professionalism and effectiveness of the Ukrainian judiciary are strengthened, FAIR accomplished an important achievement in this reporting period. On April 3, 2015, within framework of the second round of the Judicial Administration Certificate Program, 40 competitively selected Ukrainian court administrators completed 60 in-class hours that increased their knowledge, skills, and abilities to effectively manage the courts. This program was implemented by the State

Judicial Administration of Ukraine (SJA) in partnership with the National School of Judges of Ukraine (NSJ), with the support of FAIR and participation of the U.S. Michigan State University (MSU). MSU and Ukrainian faculty delivered the following courses under the program: Purposes and Responsibilities of Courts; Leadership; Resources, Budget and Finance; Information Technology Management; Human Resource Management; Case-flow Management; Visioning and Strategic Planning; Court and Community Communications; Education, Training and Development; and Essential Components of Courts. Ukrainian faculty consisted of court staff including graduates from the first round of the program, the SJA leadership, Kharkiv University faculty, NGOs, and FAIR team members.



Graduation Ceremony of the second round of the Judicial Administration Certificate Program on June 17, 2015 in Kyiv.

In May 2015, the 40 court administrators successfully completed their capstone projects for review and approval by MSU. Analysis of the capstone projects revealed three main themes: 1) building the public trust and confidence in the courts; 2) preparing Ukrainian courts to meet European standards; and 3) aligning employee selection, retention, training, and performance to achieve the goal of meeting the new standards set for the Ukrainian judicial branch. The court

administrators identified the following expected outcomes in their capstone projects:

- improved positive media coverage; increased community outreach, education, and information dissemination by courts;
- increased respect for judges and court decisions;
- increased respect for the administration of justice transforming the courts into an employer of choice, resulting in the ability to recruit the best and brightest candidates;
- increased funding for court operations reflective of their mandates and workload;
- improved court services through utilizing traditional methods and new technologies;
- increased salary and compensation packages reflective of the duties and responsibilities of the positions;
- reduced operating costs through employing advanced technologies;
- change in the management structures that provide for separation of duties, responsibilities, and authorities between the chief judge and chief of staff, thus, allowing for a clear delineation of tasks resulting in efficient and effective management of the courts.

In order to achieve the above-mentioned outcomes, the students proposed using the following primary methods and approaches in their projects: human resource management - job classifications and descriptions; performance management and appraisals; education, training and development; employee motivation, including pay for performance and improvement of facilities; access to justice; public outreach and communication; and case-flow management technology.

On June 17, 2015, the 40 court administrators received MSU and NSJ certificates for their successful completion of the Judicial Administration Certificate Program. Justice Valentyna Symonenko, Chair of the Council of Judges of Ukraine (COJ), Zenoviy Kholodniuk, Chair of the SJA, Anatoliy Kostenko, Vice-Rector of the NSJ, Jeffrey Meyers, Acting Director of the USAID Office of Democracy and Governance, Bohdan A. Futey, Judge of the United States Court of Federal Claims, chief judges, MSU and Ukrainian faculty, court administrators, FAIR staff members, and media representatives participated in this event. Following the graduation ceremony, FAIR conducted a roundtable on the results of the certificate program, lessons learned, and next steps. The main lessons learned showed that:

- application of the knowledge and skill base must be aligned to the legal and judicial traditions and practices of Ukraine and its systems;
- passion for the mission and mandates of the courts is present among Ukrainian court administrators;
- chief judges and court administrators need joint training on the principles and practices of judicial administration for a strong court executive component;
- sustainability can be achieved through continued professional education and training;
- specialized knowledge specific to court administration is required for court operations, outreach to the public and policy-makers, and strategic advancement of the judicial branch.

In addition, during the reporting period, pursuant to Expected Result 1.1, FAIR worked to improve the quality of legal education, as a significant component of the rule of law reform aimed, among other things, to prepare better legal professionals. As of today, legal education in Ukraine faces serious challenges, such as low quality of legal training, law schools' failure to meet modern legal job market demands, and Ukrainian law schools' leadership poor understanding of a quickly changing professional environment coupled with a lack of capacity to compete in today's global world.

FAIR's effort to address these challenges include assistance to the Ivan Franko Lviv National University Law School (LNU Law School), following the recommendations of the assessment report prepared as a result of the first-ever in Ukraine independent external on-site legal education quality assessment, which took place in May 2014. Among others, FAIR continues to support the law school in developing and implementing internal policies for legal education quality assurance that are in line with best international and European standards for quality assurance and contemporary developments in legal education worldwide.

To this end, on June 12 and 13, 2015, FAIR supported the initiative of the Ivan Franko Lviv National University and in cooperation with the Ministry of Education and Science of Ukraine (MOE) conducted the International Conference "Modern Trends in Legal Education" in Lviv. MOE leadership, including First Deputy Minister Inna Sovsun, and leading Ukrainian law schools' deans presented their perspectives on the current state of affairs, and learned about modern trends in legal education across the globe, in particular such related to legal education quality assurance. FAIR brought international legal

education experts, Mr. Thomas Speedy Rice (U.S.) and Mr. Bernd Heinrich (Germany), who delivered presentations on contemporary trends in legal education in the U.S. and Germany respectively. In addition, Mr. Rice together with Mr. Ronan O'Laoire, Associate Crime Prevention and Criminal Justice Officer of the United Nations Office on Drugs and Crime in Vienna, Austria who joined the conference on-line via WebEx, demonstrated for LNU law students a model online class on the UN Convention against Corruption (2003). This class helped the conference participants to witness the trend of further internationalization of legal education and the value of greater use of technology in legal education. Specifically, this demonstration provided an example of how to internationalize legal education through today's telecommunication technologies.

The conference also served as a platform for presenting the LNU Law School Strategic Plan for 2015-2020, which was developed by the LNU Law School Strategic Planning Committee (SPC) with the support of FAIR short-term experts Tomasz Sieniow (Poland) and Oleksandr Khyzniak (Kharkiv). With this support, the LNU Law School undertook the following key activities: 1) established the SPC; 2) developed strategic planning recommendations; 3) training SPC members on the best practices of strategic planning; 4) performed strengths, weaknesses, opportunities, and threats (SWOT) analysis; 5) crystalized the LNU vision, mission, and strategic goals and activities to reach them; 6) conducted a public stakeholder discussion; 7) analyzed LNU stakeholders' feedback and pooling the work results together into a first draft of the Strategic Plan and Action Plan; 8) received and analyzed external expert feedback on the draft Strategic Plan and Action Plan; 9) finalized the documents and receiving the LNU Law School Academic Council's approval; and 10) delivered a public presentation at the International Conference "Modern Trends in Legal Education".



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

Mr. Khyzniak participated in this conference, and presented his methodology on guiding the strategic planning process at law schools. It is expected that this successful pilot project on strategic planning for law schools will not only help to enhance the quality of legal education at the LNU Law School but, in the long run, will help to inculcate quality assurance policies within the nationwide system for legal education. Such policies include, but are not limited to, the following: setting educational goals, reviewing curricula on a regular basis, enhancing the teaching toolkits, facilitating faculty development, improving testing of students' knowledge, cooperation with law school stakeholders, etc., to meet modern legal job market expectations.

In addition, conference participants had the opportunity to discuss the draft National Legal Education Standard Paper drawn up by Lviv Law School Dean Andrii Boiko with the OSCE Project Coordinator in Ukraine and FAIR experts' support. The conference resulted in recommendations on improving the quality of legal education in Ukraine, in particular through the development and implementation of the

following: 1) legal education reform strategy; 2) legal profession qualifications framework; 3) legal education standards; 4) legal education practice standard; 5) introduction of independent external assessments of legal education quality; and 6) independent external testing of law students' and graduates' learning outcomes.

## **PROJECT ACTIVITIES**

Pursuant to section F.5.C.1 of the contract, the following section contains a discussion of accomplishments, progress in milestones and indicators, and upcoming plans for each Expected Result from April 1 through June 30, 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 operations. This activity was conducted in parallel with efforts regarding constitutional reform (see Expected Result 1.2) to utilize available resources and promote progressive judicial reform.

Judicial reform continued to be a priority issue during the reporting period. The Judicial Reform Council, created by President of Ukraine Petro Poroshenko, continued its work and on May 20, 2015, the President approved the Strategy Paper for Reforming the Court System, Court Proceedings and Related Legal Institutions. During the previous reporting period, FAIR provided comments and recommendations to the draft. The paper contributes to the Sustainable Development Strategy “Ukraine – 2020” in the justice sector. It provides an analysis of the current state of affairs in the judiciary, and sets priorities for the judiciary reform process. Unfortunately, the strategy consists mainly of a list of declarative provisions and lacks the necessary strategic vision to effectively guide the reform process. Among others, the document does not provide clear vision for the court system structure, power of the judicial self-governance, and financing of the judiciary. All these issues are now within the purview of the Constitutional Commission justice sector division agenda.

This reporting period FAIR worked with its partners such as the High Council of Justice (HCJ), High Qualifications Commission (HQC), COJ and NSJ to ensure the implementation of the Law on Ensuring Right for the Fair Trial is coherent and in line with the rule of law principle. In the next reporting period, FAIR will conduct three regional discussions on the new elements and any gaps of the adopted law in order to raise the awareness of regional activists and experts of the scope of the initiatives necessary to increase judicial independence.

In parallel with the reform of the judicial system, the Parliament also dealt with the related legislation. A number of draft laws were registered in the Verkhovna Rada of Ukraine: draft Law on Amending the Criminal Code of Ukraine regarding the Criminal Liability of Judges (No. 2545); draft Law on Amending the Law on the Judiciary and Status of Judges regarding the Simplification of the Bringing the Judge to the Disciplinary Liability (No. 2542); draft Law on Amending Some Legislative Acts on Ukraine (regarding the creation of military courts and some organizational issues) and others. It should be mentioned that these legislative initiatives have not yet been considered by the Parliament, because of the likely need of legislative amendments once any potential changes to the Constitution have been put in place.

#### **Milestone Progress ER 1.1**

- Drafted amendments to the Law on the Judiciary and Status of Judges (amended according to Venice Commission recommendations) and introduced it to the President's Office for consideration.
- Draft Law on the Bar and Advocates activity was submitted to the Verkhovna Rada of Ukraine on April 28, 2012, adopted on July 5, 2012, in force from August 15, 2012.
- Held three public discussions on pending judicial reform legislation. (December 20 and 21, 2011, Conference on Judicial Reform in Ukraine and International Standards for Judicial Independence; October 5, 2012, Conference on Constitutional and Legal Status of the High Council of Justice: Theory and Practice; March 21, 2013, Conference on Role and Place of High Councils of Justice in Forming the Judicial Corps; and December 4, 2014, Stakeholders' Platform Meeting "Lustration of Judiciary: Ukrainian and International Practices").
- 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 and 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 qualifications framework as the 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.
- External independent onsite assessment of legal education quality conducted at the Yuriy Fedkovych Chernivtsi National University Law School.
- Strategic Plan and Action Plan for the LNU Law School developed and publicly presented.
- International conference "Modern Trends in Legal Education" held at the LNU Law School.
- Rule of Law Lecture Series launched at the UCU Rule of Law Center.
- Report developed by the Taras Shevchenko Kyiv National University Law School team on their participation in the International Moot Court Competition on WTO law (Halle, Germany).

Pursuant to the Task 1.1.4, FAIR continued to support the inclusive development of the key reform initiatives in the rule of law sector. On April 9, 2015, the draft Law on Mediation (No. 2480-1) was registered in the Verkhovna Rada. This draft is an alternative one for the draft law on Mediation (No. 2480) from March 27, 2015. The authors of the both drafts are aware of the danger of overregulating mediation and did their best to avoid this trap by introducing only minimal legislative requirements. Both drafts are similar in their approach to the definition of mediation, its fundamental principles and the widest possible sphere of usage. Major disagreements between the drafts concern professional regulation of mediators and mediation during the litigation process. FAIR works to involve international experts to provide the Ukrainian policy-makers, experts, and mediators with the solid expertise regarding the needed and possible level on the necessary legislative regulation when it comes to mediation. The experts will conduct a comparative analysis in this area and after reviewing of the Ukrainian draft laws will develop with the policy recommendations on how the mediation should be implemented within the Ukrainian legislative framework. To support this activity, in the previous work reporting period FAIR identified the non-governmental organization National Association of the Mediators of Ukraine (NAMU) to implement the grant supported project “Promoting Mediation in Ukraine in General and Court Annexed Mediation in Particular”. During the current work reporting period FAIR and NAMU conducted negotiations to conform finalize the details of the agreement to ensure the seamless and effective implementation. The negotiations are finalized and the grant agreement will be signed in July.

During the reporting period, FAIR continued its work on legal education reform initiatives to enhance legal education quality. To this end, on May 18–22, 2015, FAIR supported an independent external onsite assessment of legal education quality at the Yuriy Fedkovych Chernivtsi National University Law School (CNU Law School), using the Methodology for Independent External Onsite Assessment of Legal Education Quality (hereinafter – the Methodology) successfully tested a year ago at the Ivan Franko Lviv National University Law School (LNU Law School). FAIR engaged two international legal education experts, Mr. Finlay Young and Mr. Thomas Rice, and two local legal education experts, Ms. Myroslava Antonovych and Ms. Olena Ovcharenko, to assess the CNU Law School.

Prior to the onsite visit, the experts analyzed the documents pertaining to legal education quality assurance at the CNU Law School and conducted an online survey among law school stakeholders, including students, faculty, administration, alumni, and legal employers. Having gathered enough background information about the law school, the experts visited Chernivtsi, where they continued assessing the quality of legal education through interviews and focus group discussions with representatives of each stakeholder group, as well as through an assessment of the law school facilities and classroom teaching practices. In addition, Mr. Rice also conducted a master class demonstrating to CNU Law School representatives the method of Socratic dialog combined with modern technologies. Having collected all the required data, the experts are now finalizing an assessment report and preparing recommendations on improving the quality of legal education at the CNU Law School.

FAIR also advocated for improving the quality of legal education by promoting the Methodology among other Ukrainian law schools’ leadership. To this end and per the request of the MOE, on May 26, 2015, FAIR held a roundtable discussion on the application of the Methodology with deans and vice-deans of leading law schools. Mr. Young presented the Methodology and analyzed its application in Ukraine, while LNU Law School Dean Andrii Boiko and CNU Law School Dean Petro Patsurkivskyi shared their law schools’ experiences in undergoing independent assessments and the lessons learned while

preparing to, going through, as well as assimilating the results of the assessments. This event helped raise awareness of the Methodology among the law schools' leadership, fostered their trust in its value, and helped build their willingness to use the Methodology for improving legal education quality at their law schools.

In addition, on May 27 and 28, 2015, FAIR conducted a hands-on training on the Methodology for fifteen academics coming from leading Ukrainian law schools facilitated by Mr. Young, with the purpose of ensuring greater sustainability of FAIR's efforts to improve the quality of legal education in Ukraine by enabling Ukrainian legal education specialists to conduct independent onsite legal education quality assessments with minimal or no support from international experts in the future.

On May 25, 2015, FAIR launched the Rule of Law Lecture Series at the Rule of Law Center of the Ukrainian Catholic University in Lviv. FAIR COP David Vaughn and Ukrainian Catholic University Vice-Rector Oleh Turiy opened the lecture series. FAIR International Rule of Law Expert Mr. Thomas Rice delivered the first lecture titled "The Rule of Law: Is Its Future Secure?" Attended by more than 80 participants, this event helped to raise awareness about contemporary developments in the understanding of the rule of law, and helped strengthen respect for the rule of law among Ukrainian law students, academics, legal practitioners, and public officials. The next event in the Series took place on June 10, 2015, when U.S. Federal Judge Laurel Beeler delivered the second rule of law lecture titled "The Rule of Law in the US Criminal Justice System" to over 50 participants. This event contributed to raising public awareness about modern trends in the implementation of the rule of law principle in criminal justice and how the U.S. experience could be used to improve the system of criminal justice in Ukraine. FAIR broadcasted both lectures over the Internet and in addition to those attending each lecture, gathered 250 and 187 unique online viewers respectively.



Participants of the training on implementation of the Methodology for Independent External On-Site Assessment of Legal Education Quality at work on May 28, 2015 in Kyiv.

The lecture series not only helps to promote the rule of law, but will also help improve the quality of legal education, by encouraging reviews of the law curricula on rule of law issues as well as of the methodology for teaching the rule of law. Moreover, the lecture series contributes to enhancing the sustainability of FAIR's efforts aimed to promote judicial and legal education reforms. In addition, this activity will help facilitate the establishment of a rule of law community in Lviv by bringing together local law students, academics, and legal practitioners dedicated to promoting the rule of law in Ukraine.

FAIR also continued to support the LNU Law School in its efforts to develop internal policies ensuring high legal education quality and thus lead by example for other Ukrainian law schools. Based on the recommendations of the 2014 assessment report to improve the quality of computer-based testing at the law school, FAIR engaged local Test Item Development Expert Serhiy Mudruk to provide the Lviv Law

School with expert support in the process of developing quality test items and rethinking the current system of computer-based testing to ensure it is in line with international standards and best practices. In order to facilitate this activity, upon FAIR’s request, Lviv Law School Dean Andrii Boiko set up under Deputy Dean Nataliya Radanovych’s leadership a group of nine test item developers who represented different law school departments. In turn, FAIR provided them with materials on developing quality test items (such as the Manual for Test Item Writers) and, on April 21–22, 2015, conducted the first ever in Ukraine training for law school faculty aimed to improve legal education quality. Mr. Mudruk worked with the group onsite and helped the law school in establishing a team of test item writers, reviewers, and monitors. He also familiarized team members with international standards and best practices of test item developing, test quality evaluation, test item quality review, and test administration. Mr. Mudruk then tasked each team member to develop 50 quality test items per each of their respective subjects, test the items, and prepare presentations about the results of the testing before the next training session.

On June 9–11, 2015, FAIR conducted the second training for the team of test item developers in order to discuss the results of the testing of the test items developed following the first training. As a result, the team gained a better understanding of international standards and best practices in developing quality test items, and specifically the methodology for developing test items with the aim of assessing high-level cognitive abilities. This contributed to the sustainability of the LNU Law School’s capacity to develop and maintain a new quality system of test development and monitoring, increase legal education quality, and review curricula and teaching methods. In the short- and mid-term, such activities improve the legal education quality at the LNU Law School and foster the interest of other Ukrainian law schools in embarking on similar programs. In the long-term, this support will help facilitate the development of a unified independent external testing of Ukrainian law school graduates’ learning outcomes.

FAIR also provided targeted support to Ukrainian law students. In particular, on April 15–18, 2015, FAIR supported the participation of the Kyiv-Mohyla Academy Law School team in the International Rounds of the 2015 Brown Mosten International Client Consultation Competition (ICCC) in Lincoln, Nebraska, U.S. This allowed the team of law students to go through a rigorous international training on legal counselling skills. On May 5–8, 2015, FAIR supported the participation of the Kyiv-Mohyla Academy Law School in the International Rounds of the 2015 Telders International Law Moot Court Competition in The Hague, the Netherlands, where they had the opportunity to get a hands-on experience of simulated implementation of international law. FAIR supported these student teams for them to gain transferable legal skills and represent Ukraine at high-level international legal competitions. All the teams provided FAIR with reports on the results of their participation and the lessons they learned during the competitions.

**Performance Indicators ER 1.1**

- To build a foundation for a more accountable and independent judiciary, FAIR supported 10 governmental judicial institutions and 10 non-governmental legal associations during this reporting period.
- President of Ukraine Approved the Strategy for Reforming the Judiciary developed with FAIR support. This Regulation contributes to the indicator “Number of laws, regulations, and procedures designed to enhance judicial independence supported with USG assistance” totaling its cumulative status to 19.
- The indicators “Number of revised provisions enacted that reflect Venice Commission recommendations” is 24 in this reporting period and 30 cumulative for life-of-project (LOP).
- The “Percentage of Venice Commission recommendations adopted” is 51% this quarter, the cumulative LOP status is 64%.

**SHEDULE CHANGES:** The activities planned for this reporting period are conducted in accordance with the adjustments in partners' activity plans stemming from Ukraine's changing political situation.

**PROBLEMS:** This reporting period was mostly dedicated to the development of constitutional amendments thus most of the activities were conducted under Expected Result 1.2. Some of the activities under Expected Result 1.1 were postponed for the next period, as soon as the Constitutional reform is the priority for both FAIR and its partners.

**PLANS:** In the next reporting period, FAIR plans the following activities in order to achieve Expected Result 1.1:

- FAIR will continue to analyze both registered bills and newly adopted legislation to ensure their proper implementation with the aim to identify the gaps and shortcomings that need to be addressed. FAIR will work with its new partners in the legislative area to ensure the rule of law principle is applied.
- FAIR will finalize the CNU Law School Assessment Report in July 2015 and present it to the CNU Law School and its stakeholders at a university-wide event in September 2015.
- FAIR will continue to work on improving the draft National Legal Education Standard, in particular by providing international expertise to analyze the document.
- FAIR will continue to work with the LNU Law School on enhancing its capacity to develop quality test items and administer testing.
- FAIR will continue to organize rule of law lecture series to raise public awareness about the rule of law and its role in modern legal education.
- FAIR will continue to build a coalition of legal education institutions interested in modernizing legal education, by involving public authorities, professional associations of lawyers, legal employers, and leading law schools.

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

**ACCOMPLISHMENTS:** Key conclusion of the European Commission for Democracy through Law (Venice Commission) experts is that comprehensive and sustainable judicial reform in Ukraine is impossible without introducing changes to the current Constitution of Ukraine, adopted in 1996 with amendments from 2004. There is a strong need to amend the Constitution to better prescribe judicial independence guarantees, including issues such as eliminating the initial five-year appointment of judges; limiting the scope and content of judicial immunity; reconsidering the age requirements for judicial appointment and dismissal; abolishing the right of the President to create courts; limiting the role of the President and the Verkhovna Rada in the process of appointing and dismissing judges; as well as reviewing the composition, status, and authority of the HCJ, the HQC, and the Supreme Court of Ukraine (SCU).

During the reporting period, the Constitutional Commission created by the President of Ukraine on March 3, 2015, worked to develop the amendments to the Constitution of Ukraine. The Commission consists of 63 members, including members of the Parliament, academics, judges, prosecutors, and lawyers. Leader of the Constitutional Commission is the Speaker of the Parliament.

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

FAIR was invited to observe the Constitutional Commission’s activity and provide technical support on an as-needed basis. During the reporting period, FAIR supported 21 meetings of the Human Rights Working Group and 10 meetings of the Judicial Reform Working Group.

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

On May 14, 2015, FAIR supported an expert discussion on human rights issues with the participation of recognized law schools academics from Lviv, Odesa, and Kharkiv, with the goal of providing a forum to exchange opinions, identify priority areas, and develop recommendations for the Human Rights Working Group. The most challenging provisions for the members of the working group were those related to socio-economic rights, which have to be retained, but need to be reworded so as to on the one hand, avoid a totalitarian state paternalistic approach and on the other, set the standards for their protection. Once the main portion of the articles was processed, the members of the Human Rights Working Group initiated the regional discussions with the aim to present the developed amendments. On June 8-10,

**Milestone Progress ER 1.2**

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

2015, FAIR supported the Human Rights Working Group members to conduct three regional discussions to share the product of their work and receive feedback. The discussions were held in Rivne, Ivano-Frankivsk, and Uzhgorod. The roundtable events were attended by local experts, media, and human rights activists. As a result of the discussions, the working group members learned what the Ukrainian society's expectations from the Constitutional Commission's activity are; and informed participants at the meetings about the ways the proposed amendments are addressing existing problems and filling in gaps in regulations in the human rights area. During these events, participants were also briefed on the other working groups' activities. Currently, the Human Rights Working Group members are finalizing the text of the proposed amendments and have begun to incorporate them in the final text, which will be submitted for the consideration of the Constitutional Commission.

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

To ensure that the relevant information is disseminated among the judiciary, local activists, and media, on June 24, 2015, FAIR provided logistical and financial support for the Judicial Reform Working Group to conduct a regional discussion in Dnipropetrovsk to present the results of its activity and gather feedback on the proposed amendments to the Constitution in the judicial reform area. The participants of the discussion were members of the working group, members of Parliament, local experts, and activists. As a result of the event, the members of the working group learnt what the Ukrainian society expects from the Constitutional Commission, informed participants about the implementation problems and gaps in regulation in the judiciary area; and presented their approach to the amendments to the Constitution. Two more regional discussions with the Judicial Reform Working Group are planned for the next reporting period.

At the moment, the editorial board of the Judicial Reform Working Group, consisting of Judge Volodymyr Kravchuk, Judge Mykhailo Smokovych, Justice Oleksandr Volkov and Serhii Holovaty, is working on the wording of the Constitutional provisions. As soon as the text is ready, the working group will review it and prepare it for the consideration of the Constitutional Commission.

On June 15-20, 2015, FAIR pro bono expert U.S. federal court Judge Bohdan Futey visited Kyiv to provide expertise and assistance to the Constitutional Commission members regarding the Constitutional amendments related to the judiciary. Judge Futey attended the Judicial Reform Working Group meeting on June 15 and the Decentralization Working Group meeting on June 16, 2015. In addition, Judge Futey discussed the constitutional reform process with members of the Interim Special Commission of the Vetting of Judges (ISC) and members of the Parliament. He also

participated in the roundtable discussion “Open Courts – the Justice Guarantee: First Precedent in Ukraine and U.S. Experience” organized by LIGABusinessInform and a public event on doctrinal issues of constitutional justice in Ukraine held at the Constitutional Court of Ukraine (CCU).

On June 16, 2015, the CCU issued an opinion on the Draft Constitutional Amendments on the Scope of Immunity of Members of Parliament and Judges of Ukraine (No. 1776) and concluded that it is in line with the Constitution. On June 19, 2015, the Venice Commission issued an opinion as well, and welcomed that the draft amendments include provisions to shift the power to lift judges’ immunity from Parliament to the HCJ. The comments of the CCU and the Venice Commission have been taken into consideration during the work of the Judicial Reform Working Group.

To provide expertise and assistance to the Constitutional Commission, FAIR involved two U.S. experts, Prof. Christie Warren and Prof. Louis Aucoin, to develop a comparative constitutional analysis for consideration by its members. The experts reviewed previously developed reports, gap analyses, and assessments related to the constitutional reform process in Ukraine, including the Council of Europe and Venice Commission opinions and the FAIR “Opinion on the Constitution of Ukraine with a Focus on Rule of Law Principles” to prepare the analysis, which was translated into Ukrainian and distributed among the members of the Constitutional Commission. Among others, Prof. Warren and Prof. Aucoin included examples of well-drafted constitutional chapters and provisions from Moldova, Romania, Poland, Lithuania, Georgia, and Kosovo.

Performance Indicators ER 1.2
<ul style="list-style-type: none"><li>• During this reporting period, FAIR supported four regional discussions on Proposed Amendments to the Constitution contributing to the indicator “Number of USG-supported public sessions held regarding proposed changes to the country’s legal framework.”</li><li>• 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” although the related activity is in progress.</li></ul>

**PROBLEMS:** Constitutional reform is a controversial and challenging issue, so FAIR is working to create a neutral discussion platform for the participation of all stakeholders to ensure that the process is conducted in an inclusive manner.

**PLANS:** FAIR will work with its partners and all key stakeholders to ensure the constitutional reform process is inclusive and transparent, engage experts to provide support, and raise public awareness about the content of the 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 on the request of the Constitutional Commission leadership. The main task that remains is to ensure that all 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:** Considering the number of significant new authorities delegated to the HQC by the new Law on the Judiciary and Status of Judges – among others keeping judges’ dossiers, and conducting the initial qualifications evaluation of all sitting judges, and the evaluation of judges’ qualifications to determine their professional level for transfers, lifetime appointments, and disciplinary sanctions – FAIR continued to support the HQC in developing and implementing a sound framework and procedures for judicial performance evaluation in line with international and European standards.

To ensure the development of efficient and transparent judicial evaluation in Ukraine, on March 31, 2015, the HQC established a working group with representatives of the HQC, NSJ, COJ, NGOs, and international projects, including FAIR. The first result of the working group activity was the development of the Draft Regulation on the Procedure for the Judicial Dossier Administration, which was approved by the COJ at its meeting on June 6, 2015. FAIR experts provided support in developing this Regulation.

On April 24, 2015, FAIR, in cooperation with the HQC, OSCE Office for Democratic Institutions and Human Rights (ODIHR), and EU Project “Support to Justice Sector Reforms in Ukraine,” conducted a workshop on “Judicial Performance Evaluation.” The aim of the event was to provide a platform to share and discuss international and European lessons learned and good practices regarding judicial performance evaluation, focusing on standards, criteria, and methods; discuss challenges and possible risks associated with judicial performance evaluation, including the case law of the ECHR; and support the HQC in developing a sound framework and procedures for judicial performance evaluation in line with international and European standards. More than 100

representatives of different judicial institutions including the HQC, HCJ, NSJ, SJA, representatives from international projects, NGOs, and local and international experts in judicial performance evaluation from the Netherlands, Serbia, Lithuania, Australia, and Moldova participated in the workshop (<http://www.vkksu.gov.ua/en/news/the-high-qualification-commission-of-judges-of-ukraine-and-foreign-experts-discussed-international-experience-of-judicial-performance-evaluation/>).

As the new Law on the Judiciary and Status of Judges provides for a qualifications evaluation comprised of two parts: (1) anonymous testing and a case study exercise, and (2) review of the judge's dossier and interview, the HQC and NSJ are now facing the challenge of developing valid test items and case studies for evaluating judges in the short-term and according to the specific level of their court and specialization. To meet the needs of the HQC and NSJ in this process, FAIR conducted introductory training for test items writers on April 15, 2015 to train them on the methodology of developing skills-

#### 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 the manual for judicial anonymous test proctors (administrators).
- Conducted training for the expert group of test items evaluators.
- Conducted workshop on “Judicial Selection and Discipline: Best Achievements, Experience of the HQC and its Activity under New Conditions”.
- Held Analysis of Judicial Practice (Administrative and Commercial specializations), presented and promoted the results.
- Conducted international roundtable on "Judicial Performance Evaluation".
- Sub-agreement to purchase equipment for automating the judicial qualifications exam awarded.

based test items (<http://nsj.gov.ua/ua/news/trivae-robota-nad-uprovadjennyam-pervinnogo-kvalifikatsiynogo-otsinuvannya-suddiv/>). FAIR will continue to support this group of test items writers.

During this reporting period, FAIR grantee NGO Universal Examination Network (UENet) finished the second part of the in-depth Judicial Practice Analyses under the annual program statement (APS) grant program on “Strengthening the Role of Civil Society Organizations as Advocates for and Monitors of Judicial Reform.” On June 8, 2015, UENet presented the final report on the results of two surveys, which were conducted in 2013 among the judges of criminal and civil specializations, and in 2015 among the judges of the court of commercial and administrative specialization, respectively. The members of the HQC, representatives of the NSJ, COJ, HCJ, the high specialized courts, and NGOs participated in the event and discussed the surveys’ results. The aim of the Judicial Practice Analyses was to identify judicial qualifications (competencies) as well as personal and ethical standards that ideal judicial candidates should have, and methods to evaluate them, and to identify topics for training based on input from sitting judges. The survey covered the following topics: (i) legal knowledge the judicial candidates should possess; (ii) personal and moral qualities judicial candidates should possess; (iii) methods for evaluating judicial candidates’ personal and moral qualities; (iv) ongoing trainings for sitting judges; (v) challenges in the daily work of judges; and (vi) other statistical data such as average age of sitting judges, their education, gender, etc.. The findings of the research will help the HQC develop regulations for judicial selection and evaluation, and will assist the NSJ in developing and improving training for judicial candidates and sitting judges (<http://www.vkksu.gov.ua/ua/news/prieziento-wano-zwit-za-riezultatami-doslidziennia-kwalifikacijnich-wimog-do-kandidatiw-na-posadu-suddi/>).

Finally, this reporting period FAIR moved forward with the FAIR-HQC joint activities on automating judicial exams, including the exam for evaluating judges. Thus, per HQC’s request, FAIR announced an RFP to purchase laptops and other equipment for two media classrooms at



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



Expert of the Judicial Reform Group of the Reanimation Package of Reforms platform, Judge of the Vinnytsya Circuit Administrative Court Mykhailo Zhernakov (to the left) and the Deputy Head of the “Center for political and Legal Reforms” NGO Roman Kuybida are discussing the Report on Judicial Practice Analyses during the presentation at the HQC on June 8, 2015.

the HQC, which will be used as a testing center to ensure the qualifications exam for judicial candidates and exam for the qualifications evaluation of judges are conducted in automated mode. As a result, the FAIR selection committee in cooperation with the HQC’s Department of Information Technologies selected the EPOS Company to provide the equipment. FAIR will also continue to support the HQC in automating the qualifications exam for judicial candidates and the procedures for the qualifications evaluation of judges, specifically in the optimization of the organization and procedure of the exams, and in the analysis of the results to ensure transparency, objectivity, and impartiality in the judicial selection and evaluation processes and to increase the level of public confidence in the judiciary. In addition, FAIR will assist the HQC in adapting the software for anonymous testing for the purposes of conducting these exams.

**PLANS:** During the next reporting period, FAIR plans the following activities in order to achieve Expected Result 2.1:

- 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 a training for test-items writers on developing and evaluating skills-based test items.
- Support the HQC in developing the terms of references for: 1) adapting the software for automating the qualifications exam for judicial candidates and the procedures for the qualifications evaluation of judges; 2) publishing the HQC’s decisions online on the HQC’s website; and 3) developing and implementing a system of video- and audio-recording for the two media classrooms of the HQC to ensure proper technical support for and transparency in the conduct of the qualifications exam for judicial candidates and the judicial qualifications evaluation.

**Performance Indicators ER 2.1**

- This quarter HQC approved FAIR-supported Regulations on Judicial Dossier increasing the cumulative status of the indicator “Number of merit based criteria or procedures for justice sector personnel selection adopted with USG assistance” to 18.
- Cumulative data for the indicator “Number of procedures within the judicial appointment process improved with project support” remains 6.
- The indicator “Number of Ukrainian judges appointed through project-supported objective, merit-based judicial selection process” remains the same as in the previous quarter, 942.

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

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

In particular, on April 24, 2015, FAIR submitted to the HQC a report with recommendations on qualifications requirements for inspectors involved in the judicial disciplinary proceedings and their performance evaluation. This report combines recommendations elaborated by the FAIR short-term international experts Ms. Victoria B. Henley, Director-Chief Council of the California Commission on Judicial Performance (USA), and Mr. Jose Manuel Cardoso, Judge of the Court of Appeals of the Lisbon Judicial District (Portugal). The Law on the Judiciary and Status of Judges effective as of March 28, 2015 (the Law), envisages only two requirements for candidates for the position of HQC inspector,

namely: (1) completed higher education in law; and (2) five years of legal practice. At the same time, the Law and HQC's internal regulations are silent about the kind of professional experience preferable for the officers involved in investigations against judges, and other factors to be taken into account when selecting the candidates for the inspector positions. FAIR experts' recommendations are based on a generalized international experience and aimed at assisting the HQC in selecting new inspectors for the HQC Disciplinary Chamber. In addition, the experts' report includes a set of recommendations on inspectors' performance evaluation, and in particular, on the frequency of evaluation, the attestation body, and the criteria, methods, and information to be used during the process of evaluation.

In its continued support to the HQC in the improvement of the processes for preliminary analysis of complaints and investigations of judicial misconduct, FAIR adapted the draft Manual for Inspectors involved in judicial disciplinary proceedings to bring it in conformity with the Law, and on May 26, 2015, submitted this new draft to the HQC for consideration and approval. As soon as FAIR receives feedback from the HQC, the project will proceed with printing the Manual and disseminating it among the HQC members and inspectors. FAIR will also provide the necessary number of copies to the HCJ for use in the course of disciplinary proceedings against judges of the Supreme Court of Ukraine and the high specialized courts.

In addition, during the reporting period, FAIR amended the curricula for initial and ongoing trainings of the inspectors to reflect recent changes introduced by the Law concerning, inter alia, the grounds for judicial discipline liability, and also implemented the recommendations of Ms. Henley and Mr. Cardoso regarding the content of such trainings. After the FAIR DCOP Nataliya Petrova has reviewed the draft curricula it will be submitted to the HQC for consideration.

FAIR also continues to support the HQC by assisting in equipping the workplaces of the newly elected HQC members and inspectors, as well as the record-keeping departments, with office equipment in order to make the processing of incoming and outgoing correspondence easier and faster, convert documentation into digital form, and streamline the business processes of the HQC. Following the

#### **Milestone Progress ER 2.2**

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

release of a tender for the procurement of the computers, software, and other needed equipment, FAIR selected the supplier, and executed a subcontract according to which the delivery will be carried out in three phases in June-August 2015.

Per the HQC's request, on June 12, 2015, FAIR attended an introductory meeting with the German-based software manufacturer SAP who presented its preliminary solution for the automation of the HQC's internal business processes, including operating judicial dossiers and creating a judicial database. The proposed solution as not feasible for implementation with support from FAIR due to the high price (approximately 1,500,000 Euros, with subsequent yearly license fee of 40,000 USD) which significantly exceeds the project funds allocated for this task. In addition, the period of implementation of the proposed solution (around one year) cannot be met by FAIR, taking into account the lifecycle of the project, on the one hand, and the time required for the necessary internal administrative procedures to be completed, on the other hand.

**SCHEDULE CHANGES:** Per the reasoning above, FAIR reallocated the funds originally designated for the development and implementation of software to automate HQC's internal business processes. Following consultations with project counterparts, it was determined that the funds will instead be used for the development and implementation of human resource management processes software by the SJA.

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

**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 the HQC website is 0% this quarter, since the HQC stopped posting its decisions on the website.

- Continue to support the HQC in finalizing curricula for initial and ongoing trainings of inspectors, and structuring the training process and teaching methodology.
- Print the Manual for Inspectors and disseminate it among the responsible HQC and HCJ officers.
- Assist the HQC in developing recommendations to amend the Procedure of Verification and Decision-Making in Disciplinary Proceedings against Judges, Formalization and Storage of Relevant Documents.
- Support the HQC in drafting procedures for publishing and archiving information about judicial misconduct and discipline, including storing and providing public access to such data.
- Support the HQC in developing 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:** During this reporting period, FAIR continued to support judicial self-governance bodies in enhancing judicial accountability, and specifically the COJ-established working group on developing a Commentary to the Code of Judicial Ethics. On April 9-10, 2015, FAIR assisted the working group in conducting its first meeting. During the meeting, the members familiarized themselves with the updated Commentary to the Code of Judicial Ethics from the United States, the report on HQC and HCJ disciplinary practices related to violations of judicial ethics rules prepared by FAIR expert Olha Shapovalova, as well as the draft commentaries to certain articles of the Code of Judicial Ethics prepared by judges who took the online course on judicial ethics.

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

**Milestone Progress ER 2.3**

- Seven stakeholder discussions on draft Code of Judicial Ethics held.
- Amendments to the Code of Judicial Ethics revised and submitted to COJ for approval.
- COJ International Conference on Judicial Ethics supported.
- Congress of Judges adopted the Code of Judicial Ethics.
- Experts to support a working group on developing a Commentary to the Code of Judicial Ethics preselected.
- Research to assess HCJ needs with regard to its possible new composition and functions in progress.
- Research on European judicial self-governance standards completed.
- Amendments to the Law on the Judiciary and Status of Judges to improve judicial self-governance developed and advocated for.
- Comparative analysis on best practices related to status, roles, functions, and responsibilities of advisory committees on ethics or equivalent institutions in democratic countries completed.
- Comparative analysis of decision-making procedures within the judicial self-governance institutions conducted (ongoing).
- Amendments to the HCJ Internal Regulations proposed.
- Online training program on judicial ethics for judges and judicial candidates developed.
- Commentary to the Code of Judicial Ethics developed (ongoing).
- Rules of Procedure for the Congress of Judges improved and adopted by the Congress.
- Rules of Procedure for the COJ developed.
- Internal decision-making regulations for the HCJ improved in accordance with European standards (ongoing).
- Newly elected HCJ members trained on international and European best practices for the High Councils of Justice (ongoing).

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



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

**SCHEDULE CHANGES:** FAIR, in partnership with the Open World Leadership Center, originally plans to support the participation of COJ members in a study tour to the United States and to introduce them to the U.S. experience of managing judicial self-government bodies and their respective committees in the upcoming reporting period. However, the Open World Leadership Center informed FAIR that the federal judges that are expected to host the Ukrainian delegation in September have a

conflict of schedule and would like to postpone the study tour. Hence, it is most likely that the study tour will take place in October-November, 2015.

**PROBLEMS:** The Law on Ensuring the Right to Fair Trial set forth a 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 September 2015 during the ordinary Congress of Judges. So far, it is unclear whether the Congress will elect new COJ members or will substitute those members that are not authorized to act as COJ members under the law with other judges. If the new COJ members do not have experience in working in judicial self-government bodies, there may be a lack of understanding of the FAIR and COJ joint activities up to date, which in turn could result in delays of some of the planned activities.

<p style="text-align: center;"><b>Performance Indicators ER 2.3</b></p> <p>Number of judicial self-governance mechanisms revised with project support did not change this reporting period. The cumulative number is 5 and it includes:</p> <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 Appointments</li><li>• Dismissal of Constitutional Court Justices and Creation of COJ Committees</li></ul>
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**PLANS:** During the next reporting period, FAIR plans the following activities in order to achieve Expected Result 2.3:

- Continue supporting the COJ working group to develop the Commentary to the Code of Judicial Ethics.
- Conduct an orientation workshop for newly elected HCJ members to ensure a proper transition of HCJ institutional memory and provide new HCJ members with best practices from EU member-states, especially as they relate to judicial appointment and discipline.
- Support the COJ Judicial Ethics Committee in developing its capacity to implement the Code of Judicial Ethics.

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

On May 18, 2015, FAIR grantee All-Ukrainian civil society organization Institute of Strategic Partnership conducted the final roundtable to discuss the results of the grant project “Mediation as an Alternative Way of Dispute Resolution,” the challenges, lessons learned and recommendations on legislative regulations of mediation in Ukraine. The mediator of this grant project, Mr. Yuriy Mykytyn shared that 16 mediations were conducted, and 12 of them were successful and ended with the parties signing mediation agreements. During this event, participants adopted a Resolution introducing amendments to the draft law on mediation registered in the Verkhovna Rada, and requested FAIR’s support in conducting an expert analysis of this draft law.

During the reporting period, on June 9-10, 2015, FAIR, the U.S. Department of Justice Project “Criminal Justice Reform and Anti-Corruption in Ukraine” and the Government of Denmark-COE Project “Support of Criminal Justice Reform in Ukraine” conducted a seminar on Practical Issues of Application of the Criminal Procedure Code (CPC) in order to identify the problematic aspects of the CPC implementation and discuss ways for addressing the challenges. During the event, Judge Laurell Beeler (USA) and Jeffrey Cole, Resident Legal Advisor, US Department of Justice-OPDAT, shared the American experience with the participants. The COE was represented by Jeremy McBride, of Barrister, Monckton Chambers in London, Former Chairman of the Scientific Committee of the Fundamental Rights Agency of the European Union, and Council of Europe Advisor (Great Britain). About 70 participants (judges, prosecutors, and defense lawyers) had the opportunity to exchange opinions on the practical issues of CPC implementation, worked to clarify its most disputed parts, and had a unique chance to receive feedback from international experts, high-level judges, prosecutors, and lawyers. In addition, the co-organizers provided participants with a set of hard copy and electronic handouts that included the CPC-based Benchbook – a step-by-step instructions guide on how to implement the new CPC in daily work.

#### **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 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 conducted.
- SJA representative participated in a visit to Poland regarding institutional best practices and lessons learned in court administrator trainings.
- Training of trainers on adult teaching skills for 15 competitively selected graduates of the 2013 Judicial Administration Certificate Program conducted.
- Advanced training of trainers program for current faculty of the Judicial Administration Certificate Program conducted.
- 40 court administrators for the second round of the Court Administration Certificate Program competitively selected.
- The second round of the Court Administration Certificate Program conducted in cooperation with the NSJ, the SJA and MSU.

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

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



Approbation of the Judicial Ethics course for newly appointed judges on June 12, 2015 in Lviv.

Also during this reporting period, on June 18-19, 2015, Volyn region nongovernmental organization “Center for Legal Aid,” implementing the grant project “Support to Development of Mediation in Eight Courts of Volyn Oblast as an Alternative Way of Conflict Resolution” conducted a Conference on “Mediation in Courts: Experience and Perspectives” in Lutsk. During this event, participants shared their experience in the implementation of mediation in Ukrainian courts and learned of the Polish experience in this field. Judge of the Appeals Court of Volyn Region Andriy Ovsienko also introduced amendments to the draft law on mediation developed by judges of his court. More information can be found at the following links:

<https://www.facebook.com/lvivmediation/posts/448077538707276?pnref=story>  
[http://legalaid.in.ua/news\\_12\\_379\\_Volinskisuddizdopomogoyumediatorivdopomagayutlyudyamvirishuvatikonflikti.html](http://legalaid.in.ua/news_12_379_Volinskisuddizdopomogoyumediatorivdopomagayutlyudyamvirishuvatikonflikti.html).

On June 16, 2015, FAIR in cooperation with the SJA and the NSJ conducted a meeting of the faculty of the 2015 Judicial Administration Certificate Program (more information on this program can be found in the “Success Stories and Notable Achievements” section of this report). During the meeting, Ukrainian and MSU faculty members reviewed the results of the student evaluation of the program, discussed strengths and weaknesses of individual courses, provided general feedback to the Ukrainian instructors on their teaching performances, and developed recommendations for future faculty development to promote sustainable judicial administration education in Ukraine. The topic students rated highest in 2015 is Visioning and Strategic Planning; also among the highly rated courses were the following: Leadership, Essential Components of Courts; and Human Resources Management and Education, Training, Development.

FAIR is currently working with MSU to find an “academic home” for the Judicial Administration Certificate Program in Ukraine. The Kharkiv National Law University named after Yaroslav Mudry and the Kharkiv National University named after Karazin have expressed an interest in partnering with MSU to potentially jointly conduct the Certificate Program in the future, and possibly to develop a Master’s

Degree program on judicial administration in Ukraine. These universities have already contributed faculty to the current Judicial Administration Certificate Program. On June 19, 2015, MSU faculty met with leadership and faculty of the Kharkiv National Law University and the Kharkiv National University to identify sustainable approaches for conducting judicial administration training programs in the future. As a next step in building the program's sustainability, participants at the meeting agreed to review the universities' curricula to address the program topics.

Finally, on June 23, 2015, within framework of the NSJ's ongoing training program for chief judges, FAIR COP David Vaughn delivered a presentation on the "Role of the Chief Judge in the United States", and shared the results of the Judicial Administration Certificate Program and FAIR's plans to organize a Judicial Administration Certificate Program for Chief Judges together with MSU and the NSJ. To identify a subject area with high level of interest for Ukrainian chief judges,



Meeting of the faculty members of the second round of the Judicial Administration Certificate Program, June 16, 2015.

FAIR representatives distributed a questionnaire related to the role and responsibilities of a chief judge among the participants. The analysis of the 29 completed questionnaires indicated that most interesting subjects for chief judges are: communication strategies with court customers, parties to disputes, traditional media, social media, and community and citizen groups; assessing budgetary needs and building a convincing argument for funding; developing judicial demeanor, communication, and time management skills among all judges in the courts for improved public trust and confidence; ensuring the effective use of information technology in courts; and studying and applying judicial ethics. At a lower level of interest were implementing alternative dispute resolution programs and developing a court leadership and management team with chiefs of staff. More information can be found at the following link: <http://www.nsj.gov.ua/ua/news/golovi-ta-zastupniki-goliv-apelyatsiynih-sudiv-obgovoruut-shlyahi-pidvishennya-efektivnosti-roboti-sudu/>.

**SCHEDULE CHANGES:** Unfortunately, FAIR had to cancel a planned activity on developing a court administrator library consisting of 10 books based on the 10 court administrator competencies, because of inactive leadership and weak capacity of the organizations that work in the area of court administration.

**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 a 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.
- Design a three-day Judicial Administration Certificate Program for 15 chief judges in cooperation with MSU and NSJ (August – September 2015).
- Produce Success Story Video on the Court Administration Certificate Program (September 2015).

**Performance Indicators ER 3.1**

- Number of USG-assisted courts with improved case management this quarter remains 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 206 (45% men and 55% women). This number includes 109 judges and 97 judicial personnel and training topics include Communications, Judicial Ethics, Judicial Performance Evaluation, Gender Policy, European and International Standards for Vetting and Lustration
- Number of new legal courses or curricula developed with USG assistance remains the same as in the end of previous quarter, the cumulative number is 12.

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

**ACCOMPLISHMENTS:** Building on the achievements in developing and pilot-testing the Court Performance Evaluation (CPE) System in cooperation with the COJ and the SJA, and on the momentum of the CPE System’s preliminary approval by the COJ in February 2015, in this reporting period FAIR continued to promote the adoption of the system as a framework for court performance evaluation in Ukraine.

Though the FAIR-developed CPE System remained in draft-status for almost two years, it has received recognition in Ukraine and from the international community after its presentation at several international conferences in Germany, Georgia and Moldova. In addition, more than 60 courts in Ukraine have implemented the CPE System in partial or full at their own decision.

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

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

- 1) Number and ratio of cases and materials overall timeline of which exceeds one year (e.g. backlog); recommended standard – close to zero.
- 2) Clearance rate calculated by the formula recommended by the European Commission for the Efficiency of Justice (CEPEJ); recommended standard – from 96% to 102%.
- 3) Average number of completed cases per one judge; recommended standard does not apply.
- 4) Average number of cases and materials tried within the reporting period per one judge; recommended standard does not apply.
- 5) Average case trial duration (days); recommended standard to be set by the judicial self-government bodies at the level of court.
- 6) Conducting court user surveys satisfaction survey; recommended standard – at least once in three years.
- 7) Publication of court user surveys satisfaction survey results on the website of court; recommended standard – every time when survey is conducted.
- 8) Level of user satisfaction with court services assessed through unified methodology, e.g. FAIR-supported Citizen Report Card (CRC), specifically, percent of court users evaluating court performance as “good” or “excellent”. The recommended standard in this case does not apply.

#### **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.
- Performance indicators for all 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.
- Standard-based court performance evaluation system presented to the COJ and SJA for approval.
- Court Performance Evaluation (CPE) System approved by the COJ.
- Developed electronic publication of CPE System available online (ongoing).
- 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 (TOR developed, software development cancelled).
- Procure and provide the SJA with an unlimited license for human resource management software (ongoing).
- Case weighting study for administrative trial courts designed and approved by the COJ (ongoing).
- Concept paper for judicial statistics reform approved by COJ (ongoing).

The approval of CPE System is a significant step for FAIR and its Ukrainian partners in terms of developing and implementing objective criteria and indicators to measure and improve court performance. The CEPEJ attaches greatest attention to the monitoring and evaluation of court operations in the Council of Europe (COE) Member States. In its documents CEPEJ indicates that “... monitoring and evaluation acquire an ever greater importance as a tool enabling to study the current state of affairs and, correspondingly, determine further steps in policy implementation and allocate resources which get ever scarcer” and asserts that the availability and implementation of systems of monitoring and evaluation in the court systems of the COE Member States contribute to the improvement of the efficiency of justice and court performance. In its biannual reports, CEPEJ stresses the importance and the need for the processes of monitoring efficiency and quality of justice in the COE Member States. In its latest report of 2014, the following was stated: “... regular evaluation and monitoring of the quality of

justice and the work of court are recommended as a part of court administration”. The same report notes that “... information on the level of satisfaction of citizens-court users and court employees (judges and court staff) with court work as well as the level of their trust in court constitutes an expedient tool for developing policy relating to improvement of the quality of court systems”.

The approval of CPE System in Ukraine addresses several CEPEJ recommendations in terms of measuring court performance in the COE Member States:

- 1) It enables a commonly accepted court performance measurement system in Ukraine.
- 2) It enables regular implementation of court performance indicators.
- 3) It sets four basic court performance standards, in our case – case backlog should be close to zero, clearance rate should be 96% and higher, user satisfaction surveys should take place on a regular basis, and the results of user satisfaction surveys should always be published.

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

- 1) Court User Satisfaction;
- 2) Court Access Fees;
- 3) Case Clearance Rate;
- 4) On-Time Case Proceedings;
- 5) Case Backlog;
- 6) Employee Engagement; and
- 7) Cost Per Case.

A copy of the ICCE Newsletter can be downloaded from <http://www.courtexcellence.com/News.aspx>.

In this reporting period, FAIR also continued working with the COJ in the preparing the new case weighting study for the trial courts of administrative jurisdiction. In order to prepare the study materials, FAIR short-term Statistics Expert Maryna Ogay visited the SJA and the State Enterprise “Information Court Systems” to determine which type of information could be obtained from SJA’s statistical reports and the court’s electronic case management systems to support the study. Based on her findings, Ms. Ogay prepared a preliminary outline of the study.

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

- In this reporting period, COJ approved FAIR-supported Court Performance Evaluation (CPE) Framework that includes four court performance standards contributing to the indicator “Number of court performance standards adopted.
- COJ approved 8 court performance indicators for all courts, but the actual implementation of them has not yet started; the status of the indicator “Number of court performance indicators implemented” remains the same as in the end of previous quarter.
- 183 courts implementing CPE System modules “User Satisfaction with Court Services” contributing to the indicator “Number of courts implementing project-supported performance measurement system.”, the cumulative LOP status of this indicator is 212.

In addition, during the reporting period, FAIR continued working with the SJA on finalizing the Terms of Reference (TOR) for the system of judicial asset management. Although the TOR has been finalized, the SJA requested FAIR to suspend the development of this system due to the emergence of another top-priority need – to provide the courts and other judicial institutions with a human resource management software product required to keep and manage the judicial dossier as required by the new Law on

Restoration of Trust to the Judiciary. Taking into account the urgency of this need, FAIR agreed to reallocate the funding previously planned for the development of the judicial asset management system to the procurement of this system, and announced a tender to procure an unlimited number of software licenses and relevant server hardware for the SJA. FAIR expects to receive proposals and complete the vendor selection by the end of July.

Finally, FAIR received notice that the European Group for Public Administration (EGPA) Study Group XVIII on Justice and Court Administration has accepted the FAIR paper, which will be presented at the Annual EGPA Conference in August 2015, thus, the Project will move forward with arranging participation at this event.

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

- Develop Court Performance Evaluation Guidelines for courts using the approved CPE System and electronic publication of the CPE System and Tools.
- Develop the Training of Trainers (TOT) program for court representatives on court performance evaluation.
- Provide expert assistance to specific courts on the implementation of the CPE System and its use for management and reporting purposes.
- Prepare the electronic publication of the CPE System and its tools.
- Design and implement a case weighting study for the trial administrative courts based on the outcomes of the case weighting study conducted by FAIR for trial courts of general jurisdiction and the manual on case weighting prepared by FAIR.
- 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 in using the results of the case weighting study conducted by FAIR for general jurisdiction trial courts in order to determine the number of judges required by the court system.
- Participate in the EGPA Study Group XVIII on Justice and Court Administration at the Annual EGPA Conference in August 2015 with a paper on court case weighting.
- Procure server equipment and unlimited licenses for human resource management software for the SJA.

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

**ACCOMPLISHMENTS:** Throughout the reporting period, FAIR worked jointly with the SJA to finalize the pilot project for the installation of electronic information and pay terminals in 42 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 the installation, and the terminals have started working in all 42 courts as information kiosks. To start accepting court fee payments, the courts need to enter into agreements with banks, which will provide all the required services. So far, this process is ongoing, and we expect the terminals to become fully operational by the end of the next reporting period.

Additionally, 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 on electronic case management in courts, which clearly establishes the rules for assigning cases to judges, the rights and responsibilities of the users of the system, statistical reporting, and lays out the foundations for implementation of “paperless” court technologies. The draft regulation was approved by the COJ at its meeting on April 2, 2015.

Further, in order to capitalize on the innovations introduced by the new regulation, FAIR opted to support a pilot initiative in two courts of Odesa oblast (Kyivskiy District Court of Odesa and Ovidiopol Court of Odesa Oblast), allowing these courts to go “paperless”. In order to implement this project, FAIR conducted a tender to procure scanners, MFUs, and workstations for the courts. Currently, the hardware is being installed at the courts, and we expect them going paperless in the next two months.

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

**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 to be used for fee collection, as well as for providing information to court users, and outreach activities. Once pay terminals are fully operational, conduct from two to three opening ceremonies in important locations, such as Kyiv, Odesa, and Lviv.
- 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 of the city of Odesa via the procurement of scanning hardware, imaging software,

**Milestone Progress ER 3.3**

- Strategic plan drafted and discussed by key stakeholders.
- Content for SJA manual on human resources determined.
- Strategic plan for the Judiciary finalized and submitted for COJ and SJA approval.
- Congress of Judges adopted the Strategic Plan for the Judiciary.
- Manual on human resources printed and sent to all courts.
- Three HRM trainings conducted for chiefs of staff.
- Functional descriptions, structure, and staff qualifications requirements for the establishment (re-design) of departments for Human Resource Management, Court Automation, and Strategic and Long-Term Planning at the SJA prepared and submitted to the SJA for implementation (cancelled).
- National Court Automation Strategy approved by the SJA's Innovations Working Group.
- Concept for collection of electronic court fees drafted and submitted to SJA.
- Implementation plan for the Strategic Plan for the Judiciary prepared, discussed, and approved (ongoing).
- Pilot project for electronic court fee collection via pay terminals implemented (ongoing).
- Concept for online payment of court fees developed.
- Up to two working group meetings conducted to revise court administration and management policies (new).
- “Paperless court” project implemented in up to three courts in Odesa and fully operational (ongoing).

**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.
- COJ approved FAIR-supported Regulation on Electronic Case Management in Courts. The indicator “Number of project-supported new or improved policies within the SJA” changed this quarter, cumulative number is 3.

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).

- In order to support the use of CRC surveys in the Kyiv courts, subject to courts’ agreement to participate in the CRC initiative, support up to two courts via the procurement of server equipment and air-conditioning units, 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.

**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 reporting period, FAIR continued supporting three grantees in developing the capacity of courts in three regions to effectively communicate with the public. In particular, the Sumy City Non-governmental Organization “Center for Regional Policy Studies” started its online training course on Court and Community Communications for Public Information Officers (PIOs) in the Sumy region. Following the three trainings for PIOs of the Odesa region organized in the previous reporting period, the Law Society of Odesa Oblast conducted four trainings for court staff on communications and conflict management. On May 29, 2015, the Law Society of Odesa Oblast jointly with the Odesa Circuit Administrative Court conducted the last training on “Guarantying Safety of Court Operations. Handling Crisis Situations” for bailiffs and the Special Battalion of Court Militia “Griffon” staff of Odesa courts, which was the first ever training for this audience in the Odesa region. More information can be found at: <http://adm.od.court.gov.ua/sud1570/menu1/news2/177677>. During the event, FAIR COP David Vaughn delivered a presentation on the role and functions of bailiffs in the U.S. Also, participants improved their basic communications skills and were trained on how to resolve conflict situations in close cooperation with other departments in the court.

<b>Milestone Progress ER 3.4</b>
<ul style="list-style-type: none"> <li>• Finalized and submitted Public Information Officer job instructions to the COJ.</li> <li>• Finalized and submitted Guidelines on Courts and Media Relations to the COJ.</li> <li>• COJ communications strategy approved by Congress of Judges of Ukraine.</li> <li>• COJ website developed.</li> <li>• Court communications manual and court communications training curriculum developed and approved by NSJ.</li> <li>• CA website developed.</li> <li>• Concept of Judiciary press-center establishment finalized and approved.</li> <li>• Distance learning course on Court and Community Communications for court staff launched.</li> <li>• First PIO training conducted.</li> <li>• Court and Community Communications Manual and Curriculum finalized and published, distribution ongoing.</li> <li>• Second round of distance learning course on Court and Community Communications for court staff conducted (ongoing).</li> <li>• COJ website continues to be improved.</li> <li>• Civic education materials on judicial reform and public information materials on court operations updated and included in the electronic kiosks in selected courts.</li> </ul>

To boost transparency and accountability, FAIR planned to assist the COJ in further improving its website by making it more informative and user-friendly. Though it has been difficult to come to a consensus with the COJ leadership on this activity, in this reporting period FAIR made significant progress in improving the COJ website. FAIR conducted two meetings of a tender committee in order to choose the best proposal, and COJ members participated in both of these. As a result, the tender

committee announced the winner and signed the contract with the IT company. Per the contract, by the end of the next reporting period, the subcontractor will improve the COJ website.



Participants of the training on “Guarantying Safety of Court Operations. Handling Crisis Situations” with FAIR COP David Vaughn on May 29, 2015 in the Odesa Circuit Administrative Court.

Also in this reporting period, FAIR made some progress in supporting the NSJ in conducting the second round of the online distance learning course on Courts and Community Communications. Particularly, FAIR organized working meetings with the NSJ, where the draft curriculum and manual on Court and Community Communications was presented and discussed. Based on the discussions, the NSJ established a working group on developing the curriculum on Court and Community Communications and preparing for the second round of the online distance learning course which is to be conducted during the next reporting period.

Finally, FAIR facilitated the participation of Mariia Fomina, Chief of Staff of the Komsomolskii District Court of Kherson City and 2015 Judicial Administration Certificate Program graduate, in the workshop on “The Consumption of Judicial Images”, the third of the “Judicial Images” workshop series, conducted on June 25-26, 2015 in London, UK. This workshop focused on the audiences for judicial images, including judges, the wider community of legal professionals, parties to disputes, the media, the wider public, and particular sectors of the public such as children and young people. The “Judicial Images” project is funded by the Arts and Humanities Research Council (AHRC) in collaboration with the London School of Economics and the Birkbeck University of London, and per FAIR’s recommendation, the workshop organizers supported the participation of Ms. Fomina. Ms. Fomina shared with participants from the UK, Australia, Brazil, Germany, Portugal and other countries a Ukrainian perspective on the consumption of judicial images, delivering a presentation on the efforts to engage court users and promote public trust and confidence through public outreach and strategic communications. Mariia Fomina expressed her opinion by saying:

*“I would like to thank FAIR for the opportunity to contribute to the important and timely series of judicial images workshops and to share experience with court communications practitioners from different countries and academics from a variety of different backgrounds. It laid down the foundations of international cooperation that has already started: representatives of the SJA of Lithuania highly appreciated the Guidelines for Judges on Communication with Media approved by the Council of Judges of Ukraine and will use them as a best practice.”*

Ms. Fomina’s participation in the workshop was highly appreciated by its organizers. Prof. Leslie Moran, Principle Investigator of the Judicial Images Network and Professor of Law of Birkbeck College School of Law later wrote:

*“It was a great pleasure to meet you and to hear more about the fascinating work you and colleagues are undertaking in the Ukraine. Your presentation at the 3<sup>rd</sup> Judicial Images workshop made an important and unique contribution to the workshop. We were pleased with the level of engagement by workshop participants with the themes of your panel and the workshop in general. The feedback we have received after the event has been overwhelmingly positive. The whole event was a great success.”*

**SCHEDULE CHANGES:** In this reporting period, FAIR planned to support the COJ in conducting a professional monitoring of the coverage of the judiciary by media. This initiative was also discussed with the European Union Advisory Mission (EUAM), which was seeking FAIR’s cooperation on improving the communication policy of the Ukrainian judiciary. As the EUAM already has a similar software to conduct such professional monitoring, they agreed to share this software with FAIR in order to assess how it works before FAIR engages a subcontractor to do the professional monitoring. FAIR will pilot this initiative within the next month. After that, FAIR will involve a subcontractor to perform this task and to share the results of the monitoring results with the COJ. Therefore, this activity has been rescheduled for the next reporting period.

Performance Indicators ER 3.4
<ul style="list-style-type: none"><li>• 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.</li><li>• Number of communication strategies implemented by courts and judicial institutions did not change this quarter.</li></ul>

FAIR planned to finalize the updated versions of the in-class curriculum and manual on Courts and Community Communications. However, due to the recent approval of the Guidelines for Judges on Communication with Media by the COJ it has been decided to postpone this activity for the next reporting period in order to include this document in the curriculum and manual.

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

**PLANS:** During the next reporting period, FAIR plans the following activities in order to achieve Expected Result 3.4:

- Finalize the updated versions of the in-class curriculum and manual on Court and Community Communications.
- Assist the COJ and SJA in conducting regional trainings for PIOs and judges using the manual and curriculum on Court Community Communications.
- Continue supporting the NSJ in conducting the second round of the 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 one grant this reporting period:

- All-Ukrainian Civic Organization Association of Judges of Ukraine's for the implementation of the grant project "Elaboration and Implementation of National Standards of Ukrainian Judges' Independence on Basis of International and European Standards and Experience of World Judicial Systems."

On April 3-4, 2015, FAIR representatives delivered presentations on "Courts and the Public Communication" discussing aspects of strategic communications for courts, FAIR's efforts in developing, piloting, and implementing communications strategies for courts, as well the history of judicial reform in Ukraine, for participants of the Spring Judiciary School, initiated by the Coordination Council of Young Lawyers under the MOJ. As a result of participating in this event, young lawyers and law students increased their awareness of judicial reform challenges and achievements. This year's program included about 50 participants in the school, among them active students, legal clinic managers and staff, law school student self-government representatives, and young practicing lawyers from various regions of Ukraine.

### Milestone Progress ER 4.1

- Conducted meetings with potential CSO grantees regarding research on pending legislation.
- Prepared APS on pending legislation.
- Updated 19 leaflets and 3 manuals on access to justice.
- 19 grants awarded that engage civil society and the public in the judicial reform process.
- Two new civic education materials on judicial reform developed and disseminated (ongoing).
- Specialized research and policy proposals related to pending judicial reform legislation (ongoing).
- Two joint events with CSOs and Parliament conducted.
- Mechanism of sustainable advocacy campaigns for pending judicial reform legislation adoption prepared and ongoing.

On April 28, 2015, FAIR grantee Kharkiv NGO Institute of Applied Humanitarian Research (IAHR) implementing the initiative "Public Monitoring of Court Performance in Hearing Election Disputes in Ukraine" conducted a roundtable to present the findings and recommendations developed as a result of monitoring 770 election court cases, including conducting interviews and observing election cases. The grantee presented an analytical report and developed recommendations to representatives of the Parliament of Ukraine, the High Administrative Court of Ukraine, and the NSJ. Participants discussed areas for ongoing training for judges who hear election disputes; the administration of court operations during election campaigns; the improvement of the legislation applicable in



Judge of the High Administrative Court Mykhailo Smokovych and election law expert Serhiy Kalchenko discussed results of the election cases monitoring during the roundtable on April 28, 2015 in Kyiv.

hearing election disputes; and increasing the capacity of civil society organizations in monitoring court operations.

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

On June 13-14, 2015, FAIR grantee All-Ukrainian Civic Organization “Association of Judges of Ukraine” in partnership with Uzhgorod National University conducted an international conference on “Independence of Judiciary in Ukraine” in Uzhgorod. Judges from Ukraine, Moldova, Estonia, and Georgia, as well as scientists and public activists participated in the event. Participants discussed recommendations of the International Association of Judges and European Association of Judges, and provided recommendations on the current legislation of Ukraine regarding judicial reform. FAIR representatives delivered two presentations “The Implementation of International and Ukrainian Legal Obligations and Practice Regarding Equal Access to Justice for Men and Women” and “Judicial Performance Evaluation: International and European Standards and Challenges for Ukraine.”

Under its FAIR grant project, the Association of Judges of Ukraine conducted a roundtable “On Participation of Judges in Law Drafting Process” on June 30, 2015. The Association invited MP Iryna Lutsenko to introduce her amendments to the CPC and the Civil Proceeding Code regarding human rights protection during investigative actions and to discuss these amendments with judges of the general courts, appellate court, and human rights defenders.

**Performance Indicators ER 4.1**

The indicator “Number of CSO-produced policy proposals related to pending judicial reform legislation” remains the same as in the end of previous quarter, the cumulative number for this indicator is 3.

Finally, in May 2015, FAIR issued an RFA on Integration of the Principle of Equal Rights and Opportunities for Men and Women into the Process of Judicial Reform in Ukraine, and received 11 proposals from NGOs.

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

- FAIR will select two NGOs on Integration of the Principle of Equal Rights and Opportunities for Men and Women into the Process of Judicial Reform in Ukraine.
- FAIR will continue to support civic coalitions in producing proposals related to judicial reform legislation and the mechanism of sustainable advocacy campaigns for pending judicial reform legislation adoption (linked to ER 5.4).
- 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 to measure citizen satisfaction with court performance using the CRC methodology in all the courts of Ivano-Frankivsk, Lviv, Cherkasy, Chernivtsi, Odesa, Sumy, and Kharkiv oblasts in cooperation with the courts and the SJA.

FAIR grantees All-Ukrainian Coalition for Legal Aid (charity organization) and Podilska Human Rights Foundation (NGO) conducted a series of roundtables to present CRC surveys’ results and recommendations for four courts of the Rivne region, five courts in the Khmelnytsky oblast, one court in the Volyn oblast, one court in the Chernihiv oblast, and one court in the Mykolaiv oblast. The CSOs presented results and recommendations to improve court performance to chief judges, judges, representatives of the SJA, and the public in Chernihiv (May 12, 2015), Mykolaiv (April 28, 2015), Khmelnytsky (April 23, 2015), and Rivne (April 17, 2015).

- Milestone Progress ER 4.2**
- CRC surveys extended to 8 new regions and 145 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.
  - 12 CSOs presented 49 CRC analytical reports and 561 recommendations on court service improvement to 49 CRC partner courts at 19 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 to courts and court services for people with disabilities conducted in 20 courts.



Volunteer invited court visitor to participate in CRC survey in April 2015 in Chernivtsi region

During reporting period, FAIR provided expert support to the selected seven NGOs to conduct CRC surveys in Lviv, Cherkassy, Chernivtsi, Ivano-Frankivsk, Sumy, Odesa, and Kharkiv oblasts. On April 27, 2015, FAIR conducted a training on data entering and analysis for data operators of NGOs which implement CRC surveys.

In June 2015, FAIR issued an RFA to conduct CRC surveys in all courts of Chernihiv, Kherson, Ternopil, Volyn, and Khmelnytska oblasts and several courts of Mykolaiv and Kyiv Cities in cooperation with the courts and the SJA.

Finally, in June 2015, FAIR grantee Law and Democracy NGO conducted two roundtables on the monitoring of access to courts and court services for people with disabilities in the Vinnytsya Appellate Administrative Court, Vinnytsya Circuit Administrative Court, Odesa Circuit Administrative Court, Prymorsky District Court of Odessa, and Ovidiopol'sky Rayon Court of Odessa Region.

Representatives of the courts, the SJA, NGOs, and media participated in the roundtable discussions in Vinnytsya and Odesa.

**SCHEDULE CHANGES:** Law and Democracy NGO has postponed a planned roundtable on the lobbying campaign for necessary changes to the legal framework for July–September 2015. The reason is the busy schedule of the Parliament Committee on Matters of Veterans, Combatants, Participants of Antiterrorist Operation, and Persons with Disabilities. The Committee is engaged in this activity and the NGO planned to conduct a roundtable in the Parliament in cooperation with the Committee and the National Assembly of Disabled in May 2015.

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

- FAIR expects that the results of the CRC surveys will be presented in August-September 2015.
- Issue an RFA to monitor the implementation of the recommendations provided by CSOs to courts after the CRC surveys are completed and to develop CRC methodology sustainability by building capacity within CSOs to implement the methodology in cooperation with courts.
- Within the framework of the grant project, conduct a lobbying campaign on the necessary changes to the legal framework related to improved access to courts and court services for people with disabilities. The National Assembly of Disabled and the Parliament Committee on Matters of Veterans, Combatants, Participants of Antiterrorist Operation, and Persons with Disabilities will be engaged in this activity (July–September 2015).
- Issue an RFA to conduct training on court staff’s communication skills and work with disabled people (July 2015).

**Performance Indicators ER 4.2**

- Number and percentage of courts in which there are active CSO court performance evaluation programs increased to 212 this quarter, which is 28% of all courts in Ukraine. It refers to courts where CRC surveys currently took place during FAIR life of project. During this quarter CRC surveys take place in 183 courts (24% of all courts in Ukraine)
- Number of people engaged in the monitoring and performance oversight of Ukrainian courts this quarter is 7,033, the cumulative life of project number is 14,950.
- 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 and bringing it in line with international and European standards.

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

- Judges are excluded from the Law on Purification of Government and are under the Law

on Restoration of Trust in the Judiciary.

- The preamble to explain the social context of the Law on Purification of Government is introduced.
- The single independent body to deal with the control and coordination in the lustration are is created.
- The terminology is clarified and specified.
- The administrative responsibility for the violation of the lustration legislation is introduced.
- The authority of the ISC is prolonged for three years.
- The ISC will conduct vetting all judges which issues questionable decisions during the mass protests, not limited by the applications submitted.
- The members of the ISC will work full-time and get the salary on the level of the Supreme Court justices.
- The ISC activity is coordinated with the work of the HCJ and HQC.

10 out of 35 FAIR recommendations to improve the legislative framework of the lustration and vetting processes, provided to key MPs and MOJ officials, were introduced into the draft law.

Along with the above-mentioned draft law No. 2695 the alternative drafts No. 2695-1, 2695-2 and 2695-3 were registered in the Verkhovna Rada by the members of the Parliament. These draft laws undertake more or less similar approaches to the amendments with slightly different focus. Currently, all the drafts are considered by the Verkhovna Rada Legal Policy and Justice Committee. FAIR will continue providing expert and analytical support to its partners in the legislative process to ensure the process is coherent and comprehensive with regards to the rule of law principle.

#### **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.
- Amendments to the Law on the Purification of Government in the context of existing legislation and recommendations to improve it in line with international and European standards supported (ongoing).

In the frame of its cooperation with the MOJ in the field of lustration, FAIR conducted a study visit to Prague, Czech Republic on April 26-30, 2015 with the aim to familiarize Ukrainian stakeholders with the Czech experience in the field of lustration and vetting processes and its relevance to Ukraine. The Ukrainian delegation for the study visit was comprised of representatives of all key stakeholders in the lustration and vetting processes, namely, the Verkhovna Rada, MOJ, HQC, HCJ, and ISC. This visit provided the Ukrainian delegation with the opportunity to study best practices and lessons learned in conducting lustration and vetting of public officials and judges, and included a hands-on visit to the Institute for the Study of Totalitarian Regimes, where participants observed firsthand the step-by-step lustration processes. The study visit also included meetings at the Czech Parliament, the Ministry of Interior, and the Anticorruption and Financial Crimes Unit of the Ministry of Interior. Participants of the study tour had the possibility to meet retired Constitutional Court Judge Stanislav Balik, member of the Venice Commission, and other key stakeholders in the lustration process in the Czech Republic.

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

- Successful lustration must have a strategic vision and political will in place, as well as an understanding of the enormous effort the process takes.

- Lustration is a unique process that differs from state to state.
- The challenge is not in creating the institutions and developing the procedures, the challenge is to identify people, who will conduct lustration.
- The process of lustration should address individuals, not with a group as a whole.
- Collective responsibility is inadmissible. In the process of lustration, we should distinguish between those who violated human rights and those who performed their professional duties.
- If the list of those who fall under lustration is too long, there is a high risk of failure. Therefore, it is critical to first identify the available human resources and then set the scope of the verifications. To develop the list of people that should be subject to lustration, one should identify who is a threat to democracy.
- With time, the lustration issue loses its importance, as long as those who were born after 1970 do not fall within its scope.
- Ukraine should provide Europeans with clear and understandable information about the reasons for conducting lustration. As long as Europe does not have any more the experience of living under the communist regime, it does not feel the threat of the revenge. Those who were guilty of the communist times crimes were not punished. Democracies cannot be built on such grounds.
- The archives should be systematized and preferably digitalized. This would speed up the process of the verification and the work of the historians and investigators.
- Complete transparency and openness is the key to the success. The documents about the crimes of the regime should be published to avoid suppression.
- Full financial disclosure for top officials should be a requirement. In addition, such disclosure should be compulsory for those who work in the area of state finance.
- Anti-corruption work is very difficult, and is a separate part of governmental activity. The fact of corruption is hard to prove. One of the good ways to prevent corruption is to ensure the procedures in place are transparent and clear.
- There is always a threat of backsliding.
- The presence of Soviet troops on the territory of Czechoslovakia, and later the Czech Republic influenced the lustration process significantly.
- The aim of the Czech lustration was not to punish somebody, but to test the loyalty of public officials in order to avoid having them extorted from foreign state actors.
- Before the Czech lustration law was drafted, extensive investigative work was conducted. Among others, former employees were interviewed to identify the way the secret service worked, and this information was used to draft the law.

The participants of the study visit expressed their satisfaction with the program and substance of the meetings. The in-depth discussions allowed them to better understand the philosophy and the different aspects of the lustration and vetting processes, and provided ideas for how to improve the legislative framework and practical implementation of lustration in Ukraine.

On May 27, 2015, FAIR representatives participated in a roundtable discussion with the MOJ's Lustration Department and Public Council of Lustration, representatives of the ISC, the State Fiscal Service, and civil society organizations concerning the Draft Amendments to the Law of Ukraine "On the Purification of Government" (<http://lustration.minjust.gov.ua/article/read/65>). Participants

discussed their proposals for the future implementation of existing lustration legislation.

On May 29, 2015, FAIR supported the participation of two members of the ISC as part of delegation of Ukrainian officials at the Session of the Venice Commission in Strasbourg with the goal of enabling key stakeholders to provide input to the Venice Commission opinion on the Law on the Purification of Government before its adoption. The participants discussed the key urgent issues with European experts, including with regard to the final Venice Commission opinion on the Law on Purification of Government. The discussion also included critical amendments to the Law on Restoration of Trust in the Judiciary, to ensure its compliance with European standards.



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

On June 19-20, 2015, FAIR supported the participation of a member of the Civic Lustration Council under the MOJ as part of a delegation of Ukrainian officials at the working session of the Venice Commission experts, to provide a civil society perspective to the discussions. As a result of the Session, the Final Venice Commission opinion on the Law on the Purification of Government (including the amendments submitted to the Verkhovna Rada on April 21, 2015) (No. CDL-AD(2015)012) was adopted. The Venice Commission supported the right of Ukraine to determine requirements for access to public service to protect the society from individuals who, due to their past behavior, could pose a threat to the newly established democratic regime. The Venice Commission welcomed some of the improvements proposed in the draft law No. 2695 recommended by FAIR, such as the creation of the Central Executive Body for Lustration or the changes in the Uniform Register. Yet, according to the Venice Commission, the Law on Purification of Government – even if amended – still shows certain shortcomings, including:

- Absence of the individual approach to the ban to take certain positions in public sector along with combining the lustration and anti-corruption activities which are different in timing and procedures.
- Mentioning of the judicial positions in the Law, whereas they are to be subject solely to the regime of the Law on the restoration of trust in the judiciary



Roundtable discussion in the MOJ on May 27, 2015.

of Ukraine.

- The lack of the centralization in the administering lustration.

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

The constitutionality of some provisions of the Law on the Purification of Government is currently being challenged before the Constitutional Court of Ukraine (CCU) with constitutional petitions submitted by the SCU on November 17, 2014 and March 16, 2015, and by the 47 Members of the Parliament of Ukraine on January 20, 2015. These submissions have not yet been considered at the February 13, 2015 hearing. Currently, FAIR expert Mr. Stanislav Balik, a Law Professor of Charles University in Prague and, former judge of the Constitutional Court of the Czech Republic, is conducting an assessment and analysis of the Law on the Purification of Government and will prepare a report with a particular consideration of the above-mentioned SCU and MPs group submissions to reveal any gaps and issues in the light of the Constitution of Ukraine, the Council of Europe Parliamentary Assembly Resolution 1096 (1996) provisions, the Final Opinion of the Venice Commission No. CDL-AD(2015)012 reservations, and the ECHR lustration related case law. The expert will also prepare a list of recommendations to improve the nature and quality of the amendments to be introduced to the Law on the Purification of Government, to ensure it is harmonized with the Constitution of Ukraine and COE and international lustration standards.



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

In addition, on April 1-2, 2015, FAIR in cooperation with the USAID RADA Project and Verkhovna Rada focal points conducted working meetings on gender issues related to the Law on the Purification of Government. As a result, the representatives of the MOJ Lustration Department and the ISC increased their awareness of the concept of gender and gender mainstreaming, and studied and analyzed the provisions of the lustration legislation that should comply with the principles of equal rights and opportunities for men and women. Participants proposed

relevant amendments the Law to bring it in line with this principle. They also proposed to involve all interested parties in the judicial reform implementation with a view to equal representation of men and women, and asked to continue the trainings on gender analysis of legal documents for different stakeholders, including NGOs engaged in overseeing the implementation of lustration laws.

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

- Support the amending of the Law on the Purification of Government to ensure it is harmonized with current domestic legislation and in line with international and European standards, including the case law of the ECHR and Venice Commission recommendations.
- Analyze draft amendments to lustration legislation and conducting one-on-one and/or small group discussions with the MOJ, ISC, key Members of Parliament (MPs), relevant Verkhovna Rada committee staff, and other key stakeholders, as well as civil society activists. FAIR international lustration expert Roman David will provide policy guidance on the amended draft lustration legislation and share best practices and lessons learned in other European countries with the Ukrainian stakeholders, including MOJ representatives, MPs and civil society activists, with the goal to support their involvement in the development and implementation of lustration legislation.

**Performance Indicators ER 5.1**

- Provided support to the GOU on the 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 remains 42 as in the end of previous quarter.
- Percent 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 policymakers. 10 FAIR-developed recommendations to amend the Law on the Purification of Government included in the current Draft Law.

**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 provided expertise and assistance in assessing the MOJ Unified Registry of Persons to Whom Provisions of the Law on Purification of Government Have Been Applied (the MOJ Registry) and related regulations. FAIR short-term international expert Mr. Radoslaw Peterman, Head of the Lustration Department within the Institute of National Remembrance in Poland, is currently conducting this assessment. He will also develop recommendations for improving the safeguards to the public interest and protection of personal data, and aligning the MOJ Registry with European best practices, recommendations of the Resolution 1096 (1996) of the Council of Europe Parliamentary Assembly, and the case law of the ECHR in lustration cases. Further, this activity will include an evaluation of the parallel Civic Registry. Mr. Peterman’s work is also supported by FAIR short-term local expert Ms. Olena Ovcharenko, Assistant Professor at the National Law University named after Yaroslav Mudry, in completing this assignment.

**Milestone Progress ER 5.2**

- Recommendations for improving procedures for vetting developed.
- Assessment of the Registry conducted (ongoing).

On June 17, 2015, FAIR conducted a meeting with Mr. Peterman and Ms. Ovcharenko and representatives of the Lustration Department of the MOJ with the aim to discuss the regulatory framework, content, and organization and structure of the MOJ’s Registry.

**SCHEDULE CHANGES:** FAIR has extended the deadline for submission of the final report assessing the MOJ Registry and related regulations upon the request of Mr. Peterman due to the necessity for

additional document review and analysis. Also this reporting period, FAIR planned to conduct an expert analysis of the existing regulations adopted pursuant to the Law on the Purification of Government and provide recommendations for their improvement (Task 5.2.1). However, given the later start of legislative activity followed by the Final Venice Commission opinion adoption only on June 19, 2015, FAIR will finalize this expert analysis in September.

<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 for this reporting period.</li> <li>• Number of procedures for lustration and vetting developed with project support is 0 for this reporting period; FAIR is currently working on developing procedures for vetting and evaluation of 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:

- Conduct expert analysis of existing regulations adopted pursuant to the Law on the Purification of Government with recommendations for their improvement.
- Finalize the Registry assessment 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:** On May 11-15, 2015, FAIR supported the participation of a Ukrainian delegation in a study visit to Bucharest, Romania, including taking part in the “Stronger Judiciary in Eastern Europe” conference organized by the Expert Forum of Romania under the Black Sea Regional Cooperation Fund Grant. The conference addressed issues related to combatting corruption, including the design and implementation of anti-corruption strategies, developing anti-corruption training programs, handling anti-corruption cases, and asset disclosures and asset recovery. The Ukrainian delegation included representatives of all key stakeholders in lustration and vetting processes: the HQC, HCJ, ISC, NSJ, COJ, SJA SCU and Constitutional Commission. The delegates from Ukraine delivered presentations at the Conference, where among others Judge Tetiana Chumachenko of the High Administrative Court of Ukraine and a member of the COJ, spoke on the structure and powers of judicial self-governance bodies in Ukraine and Markiyan Halabala, Deputy Head of the ISC, spoke about the activities of the ISC. The study visit program to key Romanian anti-corruption institutions followed the conference, and included site visits to the National Magistrates Institute (INM), Superior Council of Magistracy, National Anti-Corruption Directorate (DNA), High Court of Cassation, Justice National Integrity Agency (ANI), and Ministry of Justice.

<p><b>Milestone Progress ER 5.3</b></p> <ul style="list-style-type: none"> <li>• Training programs designed and implemented.</li> <li>• Resource materials assembled and disseminated.</li> <li>• Ukrainian delegation supported in participation at a conference and study visit to Romania. Follow-up event conducted.</li> <li>• RFP for professional development training for MOJ staff issued.</li> </ul>
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On June 24, 2015, FAIR in cooperation with the Romanian Expert Forum Association conducted a roundtable with Ukrainian lustration stakeholders and international donors, as a follow-up to the May conference and study visit to Bucharest. As a result of the meeting, participants shared their



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

improve the management skills of heads of regional headquarters (offices) and their deputies at the MOJ, and will be implemented during the next reporting period.

**PLANS:** During the next reporting period, FAIR is planning the following activities to achieve Expected Result 5.3:

- Design and implement training program for MOJ Department on Lustration staff and members of the MOJ Public Council on Lustration on substantive issues related to the implementation of lustration legislation based on international and European best practices and lessons learned.
- Assemble resource materials to support members of the Public Council on Lustration and staff of the MOJ Department on Lustration.
- Implement professional development training program for staff at the MOJ.

achievements and discussed possibilities for future cooperation in area of anti-corruption. In addition, FAIR and Expert Forum negotiated the design of a training program on anti-corruption per the request of the NSJ. Specifically, FAIR plans to develop a judicial curriculum on handling corruption cases and to implement a training of trainers program during the coming reporting periods.

Finally, in consultation with the MOJ, FAIR designed and published an RFP for a skills-based professional development training program on human resource management, time management, effective communications, and strategic planning for MOJ staff.

The training program will aim to

#### Performance Indicators ER 5.3

- Number of training days provided to executive branch personnel this reporting period is 5 (the Study Tour to Czech Republic on lustration and vetting, and a training on Gender Issues for representatives of various GOU representatives).
- Number of training programs on lustration and vetting processes compliance with European standards and practices is 2 this reporting period, it refers to the Study Tour to Czech Republic on lustration and vetting, and a training on Gender Issues.
- This reporting period FAIR trained 21 GOU representatives contributing to the indicator “Number of people trained with newly developed programs on implementation the lustration and vetting”
- Percent of people trained who improved knowledge and skills to proceed with lustration and vetting in this quarter is 100%.

**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:** FAIR continues to support civil society engagement in the lustration and vetting process. During this reporting period, FAIR issued an RFA for activities related to civil society monitoring of the process for vetting government officials and judges, and an RFA for activities on public awareness aimed at increasing public knowledge about the vetting processes and procedures related to public officials and judges. Ten CSOs with already-demonstrated ability, knowledge, and successes in monitoring government activities and conducting public awareness activities were selected. FAIR will continue to support them in overseeing and reporting on the vetting process and in raising public awareness about lustration in Ukraine during the next reporting period.

- Milestone Progress ER 5.4**
- RFA for monitoring of the vetting process issued.
  - RFA for public awareness and advocacy campaigns issued.
  - 10 CSOs selected to implement programs on monitoring of and raising public awareness about lustration and vetting.
  - RFP for national survey on public opinion on lustration issued and organization to implement the survey selected.
  - RFA for monitoring of MOJ services issued.
  - RFA for raising public awareness about MOJ services issued.

Also during the reporting period, FAIR issued an RFP and selected an organization to design and implement a national survey on public opinion regarding lustration, political, economic, and judicial reforms. It is aimed to survey the level of awareness of the public at large on lustration and vetting of public officials and judges, its satisfaction with the process, and expectations about future democratic and economic reforms in Ukraine. FAIR will use the results of the survey in formulating expert recommendations about improving national legislation and policy, and in supporting CSOs to implement monitoring and public awareness initiatives. It is expected that the results of the survey will be finalized during the next reporting period.

In addition, FAIR issued an RFA for activities to raise public awareness about electronic administrative services provided by the MOJ. The objective of this grant activity is to bolster public awareness of government efforts to respond to public demand for improved administrative services, including electronic registries that provide online access to services.

Finally, FAIR issued an RFA for activities related to civil society monitoring of administrative services provided by the MOJ. FAIR expects that oversight, engagement, and consultations with civil society will increase transparency in the administrative services processes and ensure further improvement.

**PLANS:** During the next reporting period, FAIR is planning the following activities to achieve Expected Result 5.4:

- Performance Indicators ER 5.4**
- No changes occurred under the indicators related to ER 5.4 this reporting period.
- 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.
  - Percent of Ukrainian citizens who are confident that lustration and vetting are properly implemented is not yet known since the national public opinion survey is scheduled to be finalized during the next reporting period.
- However, the related activities started: FAIR selected 10 CSO for lustration monitoring and public awareness campaigns implementation, the national public survey on lustration has also been commenced.

- Support selected CSOs in implementing activities related to monitoring of and public awareness about lustration and vetting processes.
- Select CSOs to conduct monitoring of services provided by the MOJ.
- Select CSOs to conduct public awareness about services provided by the MOJ.
- Analyse the results of the national survey on public opinion regarding lustration and vetting processes, and develop recommendations.

## DONOR COORDINATION

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

- On April 1, 2015, Gia Getsadze, Deputy Minister of Justice of Ukraine, provided an update on reforms being undertaken by the MOJ, including on issues related to registration services and the enforcement of court judgments.
- On June 3, 2015, Professor Andriy Boiko, Dean of the Lviv Ivan Franko National University (LNU) Law School and newly appointed Member of the HCJ, shared his vision regarding the challenges and opportunities for legal education reform in Ukraine. The meeting also included a presentation via Skype by Hamid M. Khan, Deputy Director of the Rule of Law Collaborative at the University of South Carolina on “A Forum on Eliminating Corruption and Promoting Economic Development in Ukraine”. This forum will take place in Prague, Czech Republic on July 20 and 21, 2015.

In addition, FAIR representatives participated in the meeting on International Parliamentary Technical Assistance Coordination conducted by the USAID RADA Program in May 2015.

## DELIVERABLES

FAIR submitted the following deliverable this reporting period:

- Analytical Report “Ukraine’s Courts Performance Quality: Election Disputes” (Ukr.);
- Article about the development and approval of Court Performance Evaluation System in the International Consortium for Court Excellence Newsletter (Eng.);
- Judicial Practice Analysis (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>1</sup>	24	20	29	42	24	45	This quarter FAIR supported 10 governmental judicial institutions including two governmental legal education institutions e.g. Lviv National University Law School and Chernivtsi National University Law School. In addition, FAIR supported 10 non-governmental legal associations this quarter.
<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>2</sup>	5	1 (4)	3 (4)	19 (19) <sup>3</sup>	3	25	This quarter the President of Ukraine Approved the Strategy for Reforming the Judiciary developed with FAIR support. FAIR also supports the implementation of this Strategy. In addition, this quarter FAIR supported the implementation of previously adopted the Law on the Right to Fair Trial, the Law on Restoration Public Trust in the Judiciary and the Law on Purification of Government.

<sup>1</sup> Total since 2006 counts support by the USAID Ukraine Rule of Law Project (UROL) and FAIR

<sup>2</sup> Total since 2006, includes 8 under the UROL Project and 9 under the FAIR Project

<sup>3</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	
<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>									
3. Number of revised provisions enacted that reflect Venice Commission recommendations	Dec 2014	6	20	0	24	30	10	36	No changes this reporting period. The status of the indicator is the same as the previous quarter.
4. Percentage of Venice Commission recommendations adopted	Dec 2014	12% <sup>4</sup>	43%	0%	51%	64% <sup>4</sup>	21%	77%	No changes this reporting period. The status of the indicator is the same as the previous quarter. 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	4	4	10	3	11	This quarter FAIR supported four regional discussions on Proposed Amendments to the Constitution including three on human rights issues in Rivne, Ivano-Frankivsk and Uzhgorod and one on judicial reform issue in Dnipropetrovsk.

<sup>4</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	Activity is in progress, proposed Constitutional amendments formulated.
<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	FAIR postponed a number of joint activities with the HQC including those related to the HQC case management system.
<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	1	1	18	0	25	This quarter HQC approved FAIR-supported Regulations on Judicial Dossier.
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>5</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>6</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>5</sup> FY2015 target revised based on FY2014 actual status of this indicator

<sup>6</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. FAIR is working on the Commentaries to the Code of Judicial Ethics and improving Internal Decision-Making Regulations for the High Council of Justice.
<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	No changes this quarter. The indicator status remains the same as previous quarter. 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>7</sup>	300 (50% men and 50% women)	206 (45% men and 55% women)	509 (43% men and 57% women)	1,967 <sup>8</sup> (44% men and 56% women)	300	4,700 <sup>9</sup>	This quarter FAIR trained 206 justice sector personnel (93 men and 113 women) in topics of Communications, Judicial Ethics, Evaluation of Judges, Gender Policy, European and International Standards for Vetting and Lustration and others).

<sup>7</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>8</sup> Cumulative LOP number refers only to the USAID FAIR Justice Project from October 2011 to September 2014

<sup>9</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>10</sup>	2	0	1	12 (20) <sup>11</sup>	1	22	No changes this quarter. The status of indicator remains the same as the previous quarter.
<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	4	4	4	0	7	The COJ approved FAIR-developed Court Performance Evaluation System, and based on the system approved the following court performance standards: 1) Number of cases where overall consideration timeline exceeds one year (backlog): close to zero; 2) Clearance Rate: 96-102%; 3) Conducting user satisfaction survey in courts every three years; 4) Publishing user satisfaction survey results on court website.

<sup>10</sup> Total since 2006 under the USAID Ukraine Rule of Law Project (8) and the USAID FAIR Justice Project (11)

<sup>11</sup> 8 under the USAID Rule of Law Project and 12 under 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	
19. Number of court performance indicators implemented	Dec 2014	17	17	0	17	17	31	31	Council of Judges of Ukraine (COJ) approved 8 basic court performance indicators for all courts as part of the Court Performance Evaluation (CPE) system implementation in April 2015. Meanwhile, the actual implementation of these indicators has not yet started. In 2014, general first instance and appellate courts implemented 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	183	198	212 <sup>12</sup>	100	100	In this reporting period we count the external court performance evaluation through citizen report cards (CRC) surveys all courts of Ivano-Frankivsk, L'viv, Odesa, Sumy, Kharkiv, Cherkasy and Chernivtsi Oblasts

<sup>12</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	
21. Average annual citizen report cards score of participating courts	Dec 2014	.80 (out of maximum score of 1)	.80	.80	.80	.80	.82	.82	In 2014-2015 FAIR supported the implementation of CRC surveys in 198 courts. 103 courts out of them finished survey data collection and processing while surveys in 95 courts are still on. The indicator data represents 103 courts that completed surveys.
<b>Expected Result 3.3: The SJA's capacity to represent and support the developing needs of Ukrainian judiciary is strengthened</b>									
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.

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	
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>13</sup>	2	1	1	3	3	7	FAIR-supported Regulation on Electronic Case Management in Courts approved by the COJ in this reporting period.
<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.
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.

<sup>13</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	
<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	0	1	3	TBD	TBD	No changes since the last quarter. Annual data refers to the policy proposal that contains 6 recommendations to amend the judicial reform legislation. This proposal was developed and submitted to the legislator by FAIR CSO partner "Institute of Republic."
<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%)	183 (24%)	198 (26%)	212 (28%)	85 (11%)	120 (16%)	Currently CRC surveys take place in 183 courts including all courts of L'viv, Chernivtsi, Kharkiv, Sumy, Ivano-Frankivsk, Cherkassy and Odessa Oblasts, this number represents 24% of all courts in Ukraine <sup>14</sup>
28. Number of people engaged in the monitoring and performance oversight of Ukrainian courts	Dec 2014	7,173	8,500	7,033	8,877	14,950 <sup>15</sup>	8,500	12,000	This quarter CRC surveys take place in 183 courts, however 88 courts completed the survey and now do survey data processing. This quarter data of 7,033 people refers to these 88 courts.

<sup>14</sup> Including occupied territories

<sup>15</sup> 7,017 includes citizen report cards (CRC) surveys conducted in 2012 (34 courts), 2013 (17 courts), 2014 (15 courts) and 2015 (88 courts out of 183).

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	
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.
<b>Expected Result 5.1: The Law on the Purification of Government and Relative Legislative Framework Improved</b>									
31. Number of recommendations to improve the Law on the Purification of Government and relative legislative framework formulated	Dec 2014	0	10	0	42	42	N/A	10	No changes since the previous quarter. The indicator status refers to 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.

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	
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. 10 FAIR-developed recommendations to amend the Law on the Purification of Government included in the current Draft Law Amendment.
<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 and developing recommendations is in progress.
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>									
35. Number of training days provided to executive branch personnel with USG assistance	Dec 2014	0	38	5	10	10	12	50	In this reporting period FAIR conducted Study Tour to Czech Republic on Lustration and Vetting (3 training days) and training on institutional Gender Issues (2 training days) for the Ukrainian Government.

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	
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	2	3	3	TBD	TBD	In this reporting period, we count the Study Tour to Czech Republic on Lustration and Vetting and training on Gender Issues for the Ukrainian Government.
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	21 (81% women, 19% men)	51 (65% women, 35% men)	51 (65% women, 35% men)	70	100	In this reporting period, FAIR trained 21 individuals in European standards and practices for lustration and vetting and Gender Issues. This number counts participants of Study Tour to Czech Republic on Lustration and Vetting and Gender Issues Policy Workshop. This number includes 4 men and 17 women.
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%	100%	97%	97%	80%	80%	According to post training evaluations all participants of the Study Tour to Czech Republic on Lustration and Vetting reported that they increased their knowledge and skills to proceed with vetting and lustration in compliance with European Standards.
<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>									

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	
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	The related activity started this quarter, 10 CSO selected for lustration monitoring and public awareness campaigns implementation.
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 started this quarter, 10 CSO selected for lustration monitoring and public awareness campaigns implementation.
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 is scheduled for the next quarter.