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UKRAINE RULE OF LAW PROJECT

JUDICIAL MISCONDUCT PILOT PETITION FORM REPORT

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A Task Order Under the Rule of Law IQC
Contract No. DFD-I-04-04-00171-00

April 2009

This publication was produced for review by the United States Agency for International Development. It was prepared by Chemonics International in partnership with the Blue Law.

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

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I. BACKGROUND

The Combating Corruption and Strengthening Rule of Law in Ukraine (UROL) Project under the Millennium Challenge Corporation (MCC) Threshold Country Program (TCP) launched on May 22, 2007 as a task order under the USAID International Rule of Law Service Indefinite Quantity Contract implemented by Chemonics International Inc. and Blue Law LLP. The main tasks of the UROL MCC project are: (1) implementation of a registry of court decisions; (2) development and implementation of a uniform random case assignment system in selected courts; (3) establishment of an effective and transparent process of judicial appointment and disciplinary procedures; and (4) creation of an operating system for administrative courts in the regions. This is being done under three MCC TCP components designated as Registry and Case Assignment (2.1), Selection and Discipline of Judges (2.2), and Support for Administrative Courts (2.4).

Component 2.2 activities under the MCC contract have two main objectives:

- Improvement of judicial selection based on competitive principles
- Establishment of an effective and transparent disciplinary procedure

The major goal is to support the Government of Ukraine and Ukrainian civil society in eliminating opportunities for corruption under existing processes for selecting and disciplining judges. Changes to these systems will result in an efficient and transparent process that enhances a citizen's rights to professional and impartial justice.

A key component of an effective, accountable, and transparent justice system that fosters the rule of law is the establishment of a transparent, effective and easily understood judicial discipline process that is accessible to all citizens. Introduction of such a process increases a judge's accountability and helps build public trust in the judiciary.

Completion of this task requires close collaboration with Ukraine government counterparts, primarily the Verkhovna Rada, the State Judicial Administration (SJA), the Council of Judges (COJ), the Ministry of Justice (MOJ), the High Qualifications Commission of Ukraine (HQC), the High Council of Justice (HCJ) and the Regional Qualifications Commissions (RQCs).

UROL MCC activities focus on designing, implementing and evaluating effective mechanisms for improving the processing of citizen petitions (complaints) under the current judicial discipline processes in Ukraine. This assessment report provides background information and objectives for these activities, analysis of current legislative regulations and practices supporting judicial discipline, and conclusions and recommendations for improving the process.

II. IMPLEMENTATION

Improving transparency and accountability in Ukraine's judiciary will limit the opportunities for corruption and help solidify the rule of law. In 2005, USAID/Ukraine, along with the Government of Ukraine, identified the need to address some of the most pressing corruption-related issues within the judiciary. After conducting a thorough assessment of the justice sector, USAID/Ukraine designed a rule of law activity that would address some of the corruption issues plaguing the judiciary.

Prior to the start of the UROL MCC Project, the core UROL project conducted a series of roundtable discussions on how to improve the disciplinary processes. The need for revision of the processes that support the filing and processing of misconduct complaints emerged as a theme for improvement.

At the same time the UROL MCC project engaged short-term expert Laurence Beck to review, analyze and make recommendations for improvement in the discipline process. As a result of his work, *Report On Assessment of Judicial Selection and Disciplinary Processes*, drafts of Petition Forms (Judicial Misconduct Petition Form; Judicial Misconduct Petition Transmittal Form; Judicial Disciplinary Petition Review Form) and Guidelines on Judicial Misconduct Petitions were presented to a working group, which included representatives of the HCJ, HQC, Kyiv RQC, and Verkhovna Rada.

After discussion of Mr. Beck's report, the working group agreed to take the following steps:

1. Establish an editorial board to review the petition form and make the necessary changes and additions. The board included representatives of the HQC, RQC, UROL MCC and HCJ.
2. Make necessary changes to the petition form.
3. Conduct pilot testing of the disciplinary petition form by deciding the following factors:
 - The pilot courts;
 - The timeframe for conducting the pilot;
 - The preparation of the draft regulation authorizing the pilot testing.
 - Pilot location selection criteria: small size, progressive chief judges. The participants decided that it would be best to test the petition form in Kharkiv or Odessa.

During a meeting in January 2008, the working group (a) approved changes to the forms and guidelines (b) and agreed to conduct pilot testing of the form at three courts in the Kyiv appellate circuit. The proximity of these courts to UROL MCC's office allows project staff to monitor initial efforts in each facility. Furthermore, all three pilot courts are essentially the same size, having comparative amounts of staff, judges and cases.

UROL MCC staff incorporated changes to the forms and guidelines based on the working group recommendations. The form contains information on the appropriate use of the form as well as clarifies that its purpose concerns judicial misconduct and not dissatisfaction with the results of a case. The form also comes with instructions for completion and providing necessary documentation, as well as petition filing information (i.e., addresses of the authorized persons where citizens may send the petition).

To evaluate the form from for possible automation of the disciplinary process the UROL MCC project engaged short term Technology expert Stephen Comfort-Mason. Based on his recommendation, the forms were consolidated into a single Judicial Misconduct Petition Form to ease the anticipated introduction of automation. The new layout of the Judicial Misconduct Petition Form was more user-friendly and contained instructive information about appropriate

filling/ utilization / submission of the form. After approval of this design by the working group, the Guidelines were also updated to reflect the change in format.

A. PILOT PROJECT

UROL MCC, in cooperation with the Kyiv RQC and with the support of the COJ of Kyiv region and Appellate court of Kyiv Oblast, prepared the pilot project implementation within the Kyiv Appellate Circuit (Kyiv Oblast) to validate the processes and the format for submitting judicial misconduct petitions. The particular courts were the Brovarskiy District Court, the Vyshgorodskiy District Court, and the Kyevo-Svyatoshinskiy District Court.

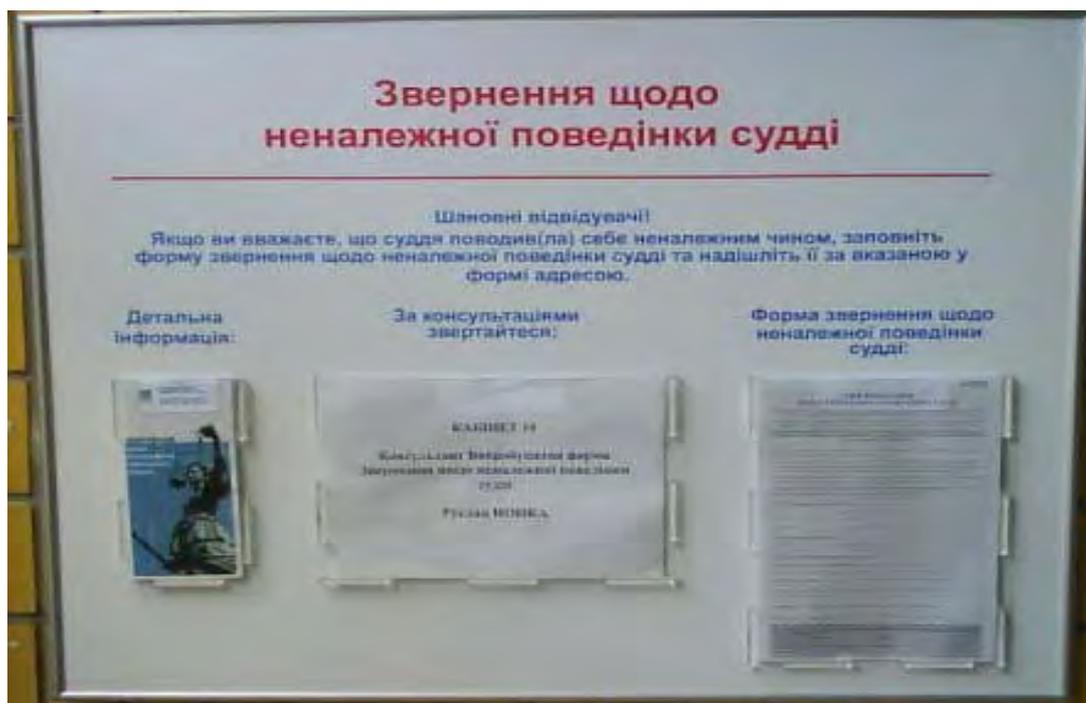
Monitoring specialists were posted to each site. The main functions of the monitoring specialist were:

- to answer citizen questions about the form or related procedures, and help citizens to complete the form, if necessary.
- to ensure that accurate statistical information on pilot efforts was collected, and
- to poll citizens for feedback on the Judicial Misconduct Petition Form.

The pilot project also used a staggered start to allow project staff to monitor initial efforts in each facility. The launch in Brovarskiy District Court (two court locations) occurred on 15 July 2008, followed by Vyshgorodskiy District Court on 22 July 2008, and Kyevo-Svyatoshinskiy District Court on 29 July 2008. Each court tested the form for 60 working days under the supervision of the monitoring specialists. Chief Judge of Kyiv Oblast Appellate court Yuriy Nechiporenko and the Head of the Kyiv RQC Judge Galina Balatskaya determined this time period was adequate to evaluate the form and the supporting processes.

Installation of information kiosks (pictured below) in public areas of the court buildings enabled citizens' access to:

- Copies of the petition form (See Appendix A)
- Information about the location of the in-court monitoring specialists
- A UROL MCC-produced brochure with information about the pilot project and instructions for completing the petition form, including appropriate filling in/utilization/ mailing, and contact information (See Appendix B).



Information kiosk placed at Brovarskiy District Court (from left to right: informational brochures, location of in-court monitoring assistants, and petition forms)

The proposed Judicial Misconduct Petition Form consists of two main parts:

- One to be filled out by citizens indicating data about a complainant, a description of the incident, information about the judge in question, with attached copies of documents confirming the accusation, etc.
- One to be used for business purposes and filled out by an authorized person who received the form and by SJA officers who register the document.

The pilot project was implemented in Kyiv Oblast and was focused on testing processes for submitting all petitions of judicial misconduct against general jurisdiction judges in Kyiv Oblast to the regional Head of the Council of Judges. In particular, under the pilot project, the Head of Council of Judges of Kyiv Oblast and the Territorial State Judicial Administration agreed to receive all petitions of judicial misconduct against general jurisdiction judges. The pilot project did not intend to embrace other public authorities (approximately 550 persons) authorized to initiate disciplinary proceedings against judges other than the Head of Council of Judges of Kyiv Oblast.

The pilot project tasks were:

- To test the proposed Judicial Misconduct Petition Forms in operational use and provide insight into modifications that could improve their value.
- To raise public awareness about the judicial disciplinary process as well as understanding about the use and purpose of the Judicial Misconduct Petition Forms.

It was agreed, that during the pilot project the UROL MCC Judicial Misconduct Petition Forms would have the same force and effect as handwritten petitions.

Copies of the Judicial Misconduct Petition Form were available for citizens at the Territorial State Judicial Administration of Kyiv Oblast, Head of the Council of Judges of Kyiv Oblast office, Kyiv Regional Qualifications Commission office, Territorial Office of State Judicial Administration in Kyiv City and the three pilot courts (Brovarskiy District Court, Vyshgorodskiy District Court, Kyevo-Svyatoshinskiy District Court).

Monitoring specialists collected statistical data on the pilot project on a daily basis, including:

- The number of petition forms distributed to citizens at each court,
- The number of UROL MCC forms received by the Territorial Office of the State Judicial Administration in Kyiv City, and
- The number of UROL MCC forms received by Head of the Council of Judges of Kyiv Oblast.

B. RESULTS AND EVALUATION

383 copies of the Judicial Misconduct Petition Forms were distributed during the pilot project timeframe at the three pilot courts. The Territorial Office of the State Judicial Administration in Kyiv City received seven completed forms from citizens. Four forms were received directly by the Head of the Council of Judges of Kyiv Oblast.

PILOT PROJECT STATISTICAL DATA (OVER 60 DAY PERIOD):

Court	# of Forms Distributed	# of Judges
Brovarskiy District Court	141	17
Kievo-Sviatoshinskiy District Court	125	14
Vyshgorodskiy District Court	117	12

The subject of the filed petitions and resulting actions are summarized.

#	Date Petition Filed	Subject of the Judicial Misconduct Petition	Action and Date
1.	09.02.2009	The judge did not observe legally established deadlines in providing a copy of the court decision. As a result, parties ran out of time to appeal the decision.	Dismissed, 02.04.2009
2.	13.08.2008	Court hearing was conducted without court hearing secretary. Court hearing was not recorded.	Dismissed, 19.09.2008
3.	11.09.2008	Citizen claimed an absence of judicial honor and dignity (without clarifying the claim).	Dismissed, 29.10.2008
4.	16.09.2008	Case falsification.	Dismissed, 03.10.2008

5.	02.10.2008	A judge didn't appear at court hearing in timely manner.	Dismissed, 10.11.2008
6.	14.10.2008	Judicial misconduct (without detailed explanation).	Dismissed, 05.12.2008
7.	06.08.2008	Judge disclosed information offending the privacy of individual citizens.	Dismissed, 12.09.2008
8.	26.09.2008	Judge's brutal behavior during case proceedings.	Dismissed, 22.10.2008
9.	26.08.2008	Some materials attached to case folder disappeared.	Dismissed, 22.10.2008

During the pilot project 102 individuals who picked up the form also visited the UROL MCC Project monitoring specialists for consultation and assistance in completing the form. These individuals were also polled for their feedback on the form. The breakdown of those individuals is as follows:

- 59% were men and 41% were women.
- The majority of individuals (62%) were young Ukrainians ranging in age from 30 to 40 years. The remaining 22% were younger Ukrainians ranging in age from 20 to 30 years.

RESULTS:

Of the 102 individuals surveyed, 99% stated the Judicial Misconduct Petition Form was absolutely understandable and clear for them to use. A full 100% of individuals surveyed affirmed that the Judicial Misconduct Petition Form would help them draw up their petitions completely, correctly, appropriately and quickly. In reviewing the filled-in petition forms, UROL MCC staff noted some lack of clarity about claims and a focus on procedural issues, which indicates that more work needs to be done to improve citizen understanding of what constitutes judicial misconduct.

OUTCOMES:

Currently, citizens lack the information about their rights in relation to questions of judicial discipline, as well as an understanding of the disciplinary process to deal with these issues. The primary intent of the pilot project was not to encourage citizens to complete more petitions, but rather, to: (a) prevent citizens' filing of petitions over disagreement with a court decision; and (b) discourage the filing of groundless or false complaints.

While 383 copies of the Judicial Misconduct Petition Forms were distributed, and only eleven forms were completed and filed, the 383 forms met the intent of educating citizens of their rights and responsibilities and the appropriate use of the form. Overall, due to the pilot project activity approximately 400 Ukrainians became familiar with the existence of the disciplinary process regarding judges and about their rights to report on judicial misconduct, if there was a reason. Both citizens and representatives of authorized bodies, such as Minister of Justice Mykola Onishchuk and Deputy Chief of Council of Judges of Ukraine Judge Oleksandr Volkov believed that the Judicial Misconduct Petition Form was necessary and useful. Pilot project participants almost universally confirmed the form's value and usefulness. An example of this was illustrated in a telephone call received from a citizen (Yuriy) by an UROL MCC staff member. He indicated he was assisting a friend to identify if misconduct had occurred in a case and how to handle the matter:

“It is finally possible to receive a consultation on the use and completion of the Judicial Misconduct Petition Form and application procedures. Thank you for what you are doing. Please continue your development and improvement of the judicial misconduct processes and the discipline procedures. Multiple thanks! Because the pilot project is over, could I use your form instead of handwriting the petition because it is so much easier to complete? Multiple thanks again.”

III. RECOMMENDATIONS

In February 2009 the pilot project summary and MCC/UROL recommendations were presented and positively received by representatives of the Ministry of Justice, members of the regional qualifications commissions of judges and representatives of the HQC, headed by its Chairman. As a result of the discussion the following recommendations have been developed for consideration and adoption by the Council of Judges.

RECOMMENDATION 1: IMPROVE THE TITLE OF THE STANDARDIZED FORM

ISSUE 1: According to the Law «On the Judiciary», art. 97, par.4, and the Law «On the Status of Judges», art. 34, par. 2, an “application” or “notification” initiates disciplinary proceedings. Representatives of qualifications commissions accordingly deemed it inappropriate to use the term “petition” in the title of the form. The HQC Chairman proposed to replace this term with “notification”.

Further, according to the Law «On the Judiciary», art. 97, par.1, disciplinary proceedings are open if there are facts of violation by the judge of the requirements regarding his/her status (including inappropriate behavior), official duties or judge’s oath. The proposed title of the form has a narrow meaning; therefore it was proposed to change it.

RECOMMENDED ACTION:

UROL MCC should replace the term “petition” in the title with “notification,” and expand references to applicable disciplinary action so that it reads, “Notification on Judicial Misconduct or Inappropriate Performance of Judicial Duties.”

RECOMMENDATION 2: ADOPT PROCESS TO FILE A NOTIFICATION

ISSUE: Currently, citizen’s notification/application for judicial discipline may be sent to multiple authorities for review and consideration (Law “On the Judiciary”, Article 98; Law “On the Status of Judges”, Article 34). The process provides ample opportunity for a citizen’s notification to be lost or delayed.

RECOMMENDATION: Streamline the process for citizens to send their notification/application to the nearest Territorial State Judicial Administration office and accelerate the disciplinary process by identifying the Heads of the Regional Council of Judges as the primary authorized

authorities to receive notifications/applications from the Territorial State Judicial Administration offices.

RECOMMENDED ACTION:

The form of Notification on Judicial Misconduct or Inappropriate Performance of Judicial Duties shall provide instructions for citizens using the form to send it to the nearest Territorial State Judicial Administration office for their immediate forwarding to the head of the Regional Council of Judges of the appropriate oblast.

(Note: Form also provides information on other authorities where the form may be sent.)

RECOMMENDATION 3: ADOPT STANDARDIZED FORM OF NOTIFICATION ON JUDICIAL MISCONDUCT OR INAPPROPRIATE PERFORMANCE OF JUDICIAL DUTIES

ISSUE: The process for citizens to file a judicial notification is not clear (Law “On the Judiciary”, Article 97, paragraph 4), resulting in citizens erroneously filing petitions for a change to their court decision, rather than for judicial misconduct. Further, citizens fail to provide basic information and/or documentation in their notification for consideration by an authorized authority and Regional Qualifications Commission. Unnecessary delays occur (returning notification to citizens) and inadequate evidence is provided for consideration.

RECOMMENDED ACTION:

UROL MCC on behalf of the HQC should recommend to the Council of Judges to approve, adopt and endorse the standardized form of Notification on Judicial Misconduct or Inappropriate Performance of Judicial Duties for citizen’s use when making an application to authorities.

APPENDIX A: JUDICIAL MISCONDUCT PETITION FORM

JUDICIAL MISCONDUCT PETITION FORM	
<p>IF YOU HAVE REASONS TO BELIEVE THAT A JUDGE OF GENERAL JURISDICTION COURT HAS MISBEHAVED, THEN THIS FORM PROVIDES THE BEST POSSIBLE OPTION FOR COMMUNICATING THAT THE COUNCIL OF JUSTICE OF UKRAINE WANTS TO BE INFORMED ABOUT ALL CASES OF JUDGES IMPROPERLY BEHAVING SO IT COULD CORRECT THE PROBLEM IN A TIMELY AND EFFICIENT WAY.</p> <p><i>THIS PETITION FORM IS NOT AN APPEAL AGAINST JUDICIAL DECISION BROUGHT UNDER THE APPEAL OR CASSATION PROCEDURE; THIS PETITION FORM SHALL APPLY SOLELY TO JUDGE'S IMPROPER CONDUCT</i></p>	
<p>Please read the Form's content carefully and provide all necessary information as required. Use only this Form for each individual complaint you are going to lodge.</p> <p>Lodging several petitions about one and the same case to various officials will only lead to a waste of time and have no effect on results of your petition review. If you have documentary evidence to support the facts stated in your Petition Form, please add these to this Form (the documents should be inserted in the middle section of the Form). Having completed the Form please deliver the Form and the accompanying documents either by mail or in person to the office of the Authorized Public Official and/or, to allow for prompt reaction, to the territorial office of the State Judicial Administration of Ukraine of Kyiv Oblast.</p> <p>For addresses of these officials and institutions authorized to accept your Petition please see overleaf of the FORM. You will be notified about your Petition review progress by regular or electronic mail.</p>	
<p>PLEASE PROVIDE INFORMATION ABOUT YOURSELF: SECOND NAME: _____</p> <p>FIRST NAME: _____ STREET NAME AND NUMBER: _____</p> <p>CITY: _____ REGION: _____</p> <p>PHONE: () _____ E-MAIL ADDRESS: _____</p>	
<p>INFORMATION ABOUT THE JUDGE: SECOND NAME: _____</p> <p>FIRST NAME: _____ COURT NAME: _____</p> <p>CITY: _____ REGION: _____</p>	
<p>DATE OF THE INCIDENT YOU WITNESSED. (DD/MM/YY) _____</p>	
<p>WAS IT RELATED TO SPECIFIC CASE? <input type="checkbox"/> NO <input type="checkbox"/> YES (IF YES, PLEASE PROVIDE THE DOCKET NO.): _____</p>	
<p>CASE TYPE (PLEASE SELECT): <input type="checkbox"/> CIVIL <input type="checkbox"/> CRIMINAL <input type="checkbox"/> ADMINISTRATIVE <input type="checkbox"/> ADMINISTRATIVE VIOLATION</p>	
<p>YOUR STANDING IN THE CASE: <input type="checkbox"/> PARTY TO THE CASE <input type="checkbox"/> COMPLAINANT <input type="checkbox"/> DEFENDANT <input type="checkbox"/> COUNSEL <input type="checkbox"/> WITNESS <input type="checkbox"/> OTHER (PLEASE SPECIFY) _____</p>	
<p>IF THE INCIDENT WAS NOT RELATED TO ANY SPECIFIC CASE, PLEASE SPECIFY WHEN AND HOW DID YOU RUN INTO PROBLEMS WITH JUDGE'S BEHAVIOUR: _____</p>	
<p>IMPORTANT: WHEN DID THE INCIDENT HAPPEN AND WHEN DID YOU BECOME AWARE OF IT (DD/MM/YY)? _____</p>	
<p>WAS IT RELATED TO YOU PERSONALLY? <input type="checkbox"/> NO <input type="checkbox"/> YES IF YES, HOW CAME YOU HAD BECOME AWARE OF IT? _____</p>	
<hr/> <p>Do not fill in this section. It is solely reserved to be filled in by SJA's territorial office.</p> <p>Date of receipt: (DD/MM/YY) _____ Docket No.: _____</p> <p>Petition No. _____</p> <p>Received by: <input type="checkbox"/> mail <input type="checkbox"/> personal delivery by the Complainant Date: (DD/MM/YY) _____</p> <p>By: Second name: _____ Signature: _____</p>	

Please describe the case of judicial misconduct: Why do you believe that the judge behaved improperly? *Cases of judicial misconduct may include, e.g., the following: judge's brutal behavior at the proceedings in case; judge's biased and/or prejudiced attitude towards proceedings participants; disclosure of top secret, military secret, commercial secret, official secret or banking secret information by the judge; disclosure by the judge of information offending privacy of individual citizens or other information that may have become known to him/her throughout case consideration in closed judicial session; any other actions of the judge incompatible with his/her status etc.*

If possible, please provide names and/or positions of other individuals related to the incident. If other individuals witnessed the incident without being involved in it, please provide detailed information about them in the "Evidence" section. Please also provide all available documents and other evidence in support to the presented circumstances to facilitate prompt review of the statements.

If in the need for more space to present the above information, please use additional sheets and insert them inside the form.

WHAT EVIDENCE IN SUPPORT OF THE FACTS STATED IN THE PETITION DO YOU HAVE?

WITNESS 1: SECOND NAME: _____ FIRST NAME: _____

ADDRESS: _____ CITY: _____ PHONE NO.: _____

WITNESS 2: SECOND NAME: _____ FIRST NAME: _____

ADDRESS: _____ CITY: _____ PHONE NO.: _____

WITNESS 3: SECOND NAME: _____ FIRST NAME: _____

ADDRESS: _____ CITY: _____ PHONE NO.: _____

PLEASE LIST ALL THE DOCUMENTS OR OTHER EVIDENCE PROVIDED. MAKE COPIES OF THE DOCUMENTS AND ATTACH THEM HERETO. NO ORIGINAL DOCUMENTS, PLEASE! KEEP YOUR ORIGINALS!

DO YOU BELIEVE THAT IN THE CASE DESCRIBED BY YOU THE JUDGE VIOLATED SOME SPECIFIC PIECE OF LEGISLATION AND/OR NORMS OF CONDUCT?

NO YES IF YES, PLEASE ELABORATE: _____

I HEREBY CERTIFY ALL THE INFORMATION PROVIDED IN THIS PETITION FORM TO BE TRUE AND THAT THE INFORMATION ABOUT CIVIL LIABILITY UNDER ARTICLE 277 OF THE CIVIL CODE OF UKRAINE FOR DISSEMINATION OF FALSE STATEMENTS HAS BEEN MADE KNOWN TO ME.

YOU MUST SIGN THIS PETITION FORM! NO PETITION SHALL BE PROCESSED WITHOUT YOUR SIGNATURE!

SIGNATURE OF COMPLAINANT _____ DATE: _____

FOR OFFICIAL USE ONLY

AUTHORIZED REVIEW PUBLIC OFFICIAL: _____

(FIRST, SECOND NAME, PATRONYMIC)

POSITION _____

(PEOPLE'S DEPUTY OF UKRAINE; MINISTER OF JUSTICE OF UKRAINE; CHAIR OF THE SUPREME COURT OF UKRAINE ETC.)

STATEMENTS MADE IN THE JUDICIAL MISCONDUCT PETITION HAVE BEEN REVIEWED FOR THE FOLLOWING :

- THE JUDICIAL MISCONDUCT PETITION FORM AND ALL ATTACHED EVIDENCE HAVE BEEN THOROUGHLY REVIEWED.
- AT LEAST, ONE OF THE JUDGES REFERRED TO IN THE APPEAL IS THE ACTING JUDGE.
- APPLICANT INTERVIEW :
DATE OF INTERVIEW : _____ NAME OF INTERVIEW OFFICER : _____
RESULTS : _____
- WITNESS INTERVIEW :
WITNESS 1: SECOND NAME: _____ FIRST NAME: _____
DATE OF INTERVIEW: _____ NAME OF INTERVIEW OFFICER: _____
RESULTS: _____
WITNESS 2: SECOND NAME: _____ FIRST NAME: _____
DATE OF INTERVIEW: _____ NAME OF INTERVIEW OFFICER: _____
RESULTS: _____
WITNESS 3: SECOND NAME: _____ FIRST NAME: _____
DATE OF INTERVIEW: _____ NAME OF INTERVIEW OFFICER: _____
RESULTS: _____
- THE BELOW EVIDENCE AND ADDITIONAL DOCUMENTS HAVE BEEN ADDITIONALLY OBTAINED .
1. _____ 4. _____
2. _____ 5. _____
3. _____ 6. _____

After a careful review of the allegations and evidence of this petition, and after interviewing all the additional witnesses and consideration of any additional evidence related to this petition, please describe the merits of this case and determine if the allegations should be forwarded to the appropriate Regional Qualifications Commission for initiation of formal disciplinary proceedings. If necessary, use additional pages.

AUTHORIZED REVIEW DECISION

HAVING REVIEWED THE ALLEGATIONS AND ALL THE ATTACHED EVIDENCE REFERRED TO IN THE JUDICIAL MISCONDUCT PETITION FILED BY _____ AND CARRIED OUT INTERVIEWS WITH THE COMPLAINANT AND WITNESSED, I HEREBY DECIDE TO TRANSMIT ALL MATERIALS TO THE JUDICIAL QUALIFICATION COMMISSION OF KYIV APPELLATE CIRCULE FOR:

INITIATE FORMAL DISCIPLINARY PROCEEDINGS AGAINST THE JUDGE _____

(SECOND NAME, FIRST NAME, PATRONYMIC OF THE JUDGE; COURT NAME)

DISMISS THE INITIATION OF DISCIPLINARY PROCEEDINGS AGAINST THE JUDGE/CLOSE THE JUDICIAL MISCONDUCT PETITION

SIGNATURE OF AUTHORIZED OFFICIAL: _____ DATE: _____

FOR OFFICIAL USE ONLY

AUTHORIZED PETITION REVIEW OFFICER: _____

(FIRST, SECOND NAME, PATRONYMIC)

POSITION _____

(PEOPLE'S DEPUTY OF UKRAINE, MINISTER OF JUSTICE OF UKRAINE, CHAIR OF THE SUPREME COURT OF UKRAINE ETC.)

THIS JUDICIAL MISCONDUCT PETITION HAS BEEN TRANSMITTED BY AUTHORISED PUBLIC OFFICIAL

to Territorial SJA Office _____

at _____ for:

- Further transfer to Judicial Qualification Commission for General Jurisdiction Judges for initiation of formal disciplinary proceedings;
- Filing a dismissal of the judicial misconduct Petition Form.

I HEREBY CERTIFY THIS PETITION FORM AND ALL ANNEXES TO IT TO MAKE THE COMPLETE STATEMENT OF FACTS TO THE ABOVE EFFECT RECEIVED BY ME AS OF (DATE): _____

I FURTHER CERTIFY THAT I DO NOT HAVE ANY ADDITIONAL EVIDENCE IN MY POSSESSION AND THAT THIS PETITION FORM AND ANNEXES TO IT HAVE NOT BEEN ALTERED IN ANY WAY BY EITHER ME OR ON MY REQUEST.

SIGNATURE OF AUTHORISED PUBLIC OFFICIAL: _____ DATE: (DD/MM/YY) _____

JUDICIAL MISCONDUCT PETITION FILING GUIDELINES

If you have reasons to believe you have witnessed a judicial misconduct, please fill in this Petition Form and mail (forward) together with any annexes (evidence) for prompt response to the territorial State Judicial Administration of Ukraine of Kyiv Oblast of the following address:

16 Kominterna St., 01032, Kyiv
Chairperson's Name: Guennadiy Ivanovich Trihyb

You can also mail your Petition or deliver it in person to the following authorized officials at your discretion:

People's deputies of Ukraine
5 Hrushevskoho St., 01008 Kyiv

Obmudsperson
21/8 Institutaska St., 01008 Kyiv

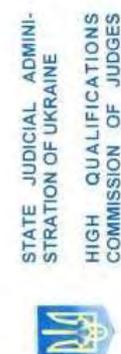
Chair of the Supreme Court of Ukraine
4 P. Orlyka St., 01024 Kyiv

Minister of Justice of Ukraine
13 Horodetskoho St., 01001 Kyiv

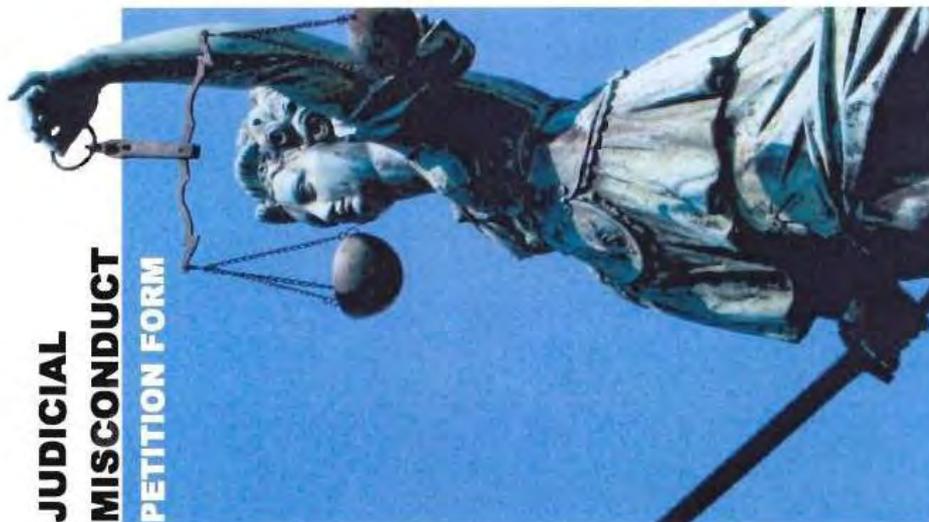
Members of the Council of Judges of Ukraine
18/5 Lypaska St., 01021 Kyiv

The Council of Judges of Ukraine wishes to thank you for your cooperation on improving work of judges and courts in Ukraine.

APPENDIX B: JUDICIAL MISCONDUCT BROCHURE



JUDICIAL MISCONDUCT PETITION FORM



Partners in research wish to express their gratitude for your collaboration on improving performance of judges and courts in Ukraine

We will appreciate any your comments, observations or recommendations for further improvements to this Judicial Misconduct Petition Form sent to the address below:

USAID/MCC Ukraine Rule of Law Project

Office 3, 3rd floor,
36 Ivana Franka St.,
Kyiv 01030 Ukraine
Phone/fax (044) 581-3303
office@ukrainerol.org.ua
www.ukrainerol.org.ua

We will truly appreciate your concern for objectives of this pilot testing

Addresses of public officials and institutions authorized to receive your Petition

If you have reasons to believe that a judge has behaved in an improper way, please fill in this Petition Form and mail or personally deliver it, together with any applicable attachments (evidence to support the case), to the State Judicial Administration of Ukraine's territorial office in Kyiv Region to the address below:

16 Komintern St., Kyiv 01032
Chairperson's Name: Guennadiy Ivanovich Trihyb

You can also deliver your Petition by mail or in person to the following authorized public officials at your discretion:

People's deputies of Ukraine
5 Hrushevs'koho St., 01008 Kyiv

Obmudsperson
21/8 Institutska St., 01008 Kyiv

Chair of the Supreme Court of Ukraine
4 P. Orlyka St., 01024 Kyiv

Minister of Justice of Ukraine
13 Horodets'koho St., 01001 Kyiv

Members of the Council of Judges of Ukraine
18/5 Lyp'ska St., 01021 Kyiv

Chair of Kyiv Region Judicial Council Viktor O. Gabriel:
15 Volodymyrska St., 01601 Kyiv

Pilot testing of Judicial Misconduct Petition Form

Judicial accountability is an important component of judicial independence and responsible national judiciary system establishment.

An important role here belongs to the institute of judicial disciplinary responsibility and available procedures for timely review of public complaints.

In order to improve the mechanism of bringing judges to disciplinary responsibility and to advance corresponding procedures, the **Ukraine Rule of Law Project** in cooperation with the Judicial Qualification Commission for General Jurisdiction Judges of the Kyiv Appellate District and the Kyiv Region Court of Appeals have launched a pilot testing of standardized Public Judicial Misconduct Complaint Form.

PROJECT PARTNERS:

- Council of Judges of Ukraine
- State Judicial Administration of Ukraine
- High Qualification Commission of Judges of Ukraine
- Kyiv Region Appellate Court
- Judicial Qualification Commission for General Jurisdiction Judges of the Kyiv Appellate District

Instructions for citizens

The suggested Judicial Misconduct Petition Form will be reviewed by the authorized public official provided if it has been duly completed and may serve the basis for initiation of disciplinary proceedings against the judge.

This Petition Form only concerns cases of judicial misconduct during court proceedings and may not be used to complain about judicial decision in the case.

Volunteers will be present in each pilot court* throughout the piloting phase to readily provide you with any required information about filling out the Petition Form.

Please be advised that disseminating or providing false information may subject you to civil responsibility under the procedure established by the Civil Code of Ukraine.

* Brovary, Vyshhorod and Kyivo-Sviatoshynsky District Courts

What may be regarded as a judicial misconduct incident?

- Judge's brutal behavior at the proceedings in case;
- Judge's biased and/or prejudiced attitude towards proceedings participants; the judge did not observe legally established case consideration deadlines;
- Judge's violation of secrecy of the retiring room;
- Disclosure of top secret, military secret, commercial secret, official secret or banking secret information by the judge;
- Disclosure by the judge of information offending privacy of individual citizens or other information that may have become known to him/her throughout case consideration in closed judicial session;
- Any other actions by the judge that are incompatible with his/her status and may give grounds to doubt his/her impartiality, neutrality and independence.

Partners in research wish to express their gratitude for your collaboration on improving performance of judges and courts in Ukraine