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February – March 2017

USAID New Justice Program Newsletter

Legislative and Other Rule of Law News

Draft Law on Anti-Corruption Courts Submitted to the Verkhovna Rada

On February 1, 2017, [the draft Law on Anti-Corruption Courts](#) (No. 6011) was registered in the Verkhovna Rada. The draft law defines the legal framework of anti-corruption courts, requirements for the judicial candidates for anti-corruption courts, selection process, purpose and status of courts. As it is stated in the draft law, the anti-corruption court will be a part of the unified court system of Ukraine; the system of anti-corruption courts will consist of the High Anti-Corruption Court (HACC) as the first instance court for cases investigated by the National Anti-Corruption Bureau of Ukraine, and Anti-Corruption Chamber of Criminal Cassation Court of the Supreme Court (SC). The High Anti-Corruption Court will consist of not more than 70 judges and the Anti-Corruption Chamber will consist of at least 30 judges. The Chamber of Investigative Judges, Appellate Chamber and other chambers will be established in the High Anti-Corruption Court. The Anti-Corruption Chamber will operate in Criminal Cassation Court of the SC and review decisions of the High Anti-Corruption Court. On March 9, 2017, the High Council of Justice published the consultative opinion on draft law No. 6011. According to the opinion, the draft law cannot be supported as one that contravenes the Constitution of Ukraine, Law on the Judiciary and Status of Judges and Law on the High Council of Justice. The USAID New Justice Program will continue its efforts in developing a comprehensive concept paper and draft law on establishing the HACC.

High Qualifications Commission of Judges Continues Selection of Supreme Court Judicial Candidates

On February 16, 2017, 613 candidates for vacant positions of the Supreme Court justices including judges, academics, and lawyers from all over Ukraine took an anonymous test. In accordance with the test results the High Qualifications Commission of Judges (HQC) admitted 521 candidates to a case study with 339 of them successfully completed the case study on February 21, 2017. [The results of the anonymous test](#) and [case study](#) are available on the HQC's website. Representatives of the media, civil society, international donors, and members of the Public Integrity Council observed both stages of the competition which were also broadcast live on the [official HQC's YouTube channel](#). After HQC's decision to [combine the results of both the test and case study](#) in a minimum passing score, 382 successful candidates continue their participation in further qualifications evaluation. 74 of them take part in the competition to the Administrative Cassation Court, 88 – to the Commercial Cassation Court, 108 – to the Criminal Cassation Court, and 112 – to the Civil Cassation Court. Psychological testing of these candidates is scheduled for April 4, 5, 6, 7 and 10, 2017, and an interview with a psychologist - on April 8, 9 and 15, 2017. More information can be found at: <http://bit.ly/2nqPt1e>. The USAID New Justice Program provided expert and logistic support to the HQC in preparing and organizing the selection process.

Draft Law on Amending Article 58 of the Law on the Judiciary Status of Judges Registered in Parliament

On February 23, 2017, a group of MPs registered in the Verkhovna Rada [the draft Law on Amending Article 85 of the Law on the Judiciary and Status of Judges](#) (regarding publishing of the summary of the judicial candidates general abilities test and psychological test results) (No. 6127). The authors of the draft are Yurii Levchenko, Mykhailo Holovko, Oleh Osukhovskiy, Oleksandr Marchenko and Andrii

Illienko (all Svoboda Party). The draft law requires that the results of general abilities test and psychological test of judicial candidate be accessible for the public as part of judicial (or judicial candidate) dossier.

14th Extraordinary Congress of Judges Elects Four High Council of Justice Members and Takes a Recess



Newly elected members of the High Council of Justice are taking their oath in front of the Congress on March 15, 2017 in Kyiv. PHOTO: High Council of Justice

On March 14-15, 2017, the USAID New Justice Program supported the Council of Judges in conducting the 14th extraordinary Congress of Judges. In accordance with provisions of the Law on High Council of Justice, the Congress aimed to elect six members of the High Council of Justice (HCJ). The Agenda of the Congress included also issues related to administration of justice and judicial independence in 2016, amendments to the Rules of Procedure for the Congress of Judges and to the Regulation on the Council of Judges, and election of judges of the Constitutional Court of Ukraine. The Congress decided that members of the HCJ will be elected based on the quota principle: 4 members from general

jurisdiction courts, 1 member from administrative courts, and 1 member from commercial courts. As a result of the voting, the Congress elected four HCJ members – judge Mykola Khudyk of the Kyiv Court of Appeals, judge Victor Shapran of the Kyiv Commercial Court of Appeals, judge Andriy Ovsyenko of the Volyn Oblast Court of Appeals, and judge Ihor Artemenko of the Odesa Oblast Court of Appeals. At the end of the second day, the Congress recessed, agreeing to reconvene in no less than 45 days to elect the two remaining HCJ members, as none of the two remaining candidates received the majority votes of the delegates. On March 15, newly elected members took their oath in front of the Congress and three of them started working in the HCJ.

Amendments to the Legislation on the Criminal Responsibility of Judges Registered in Parliament

On March 15, 2017, [the draft Law on Amending Some Legislative Acts of Ukraine Regarding the Optimization of the Criminal Responsibility of Judges for Issuing Knowingly Illegal Decision \(No. 6193\)](#) was registered in the Verkhovna Rada. The author of the draft law is Serhii Soboliev (political party Batkivshchyna). The draft law proposes to amend the Article 375 of the Criminal Code of Ukraine to change the grounds for the criminal liability of judges for illegal decisions. Besides, the author of the draft proposes to supplement the Criminal Code with an article on the liability of the Constitutional Court judges for miscarriage of justice.

Procedural Codes to Be Amended

On March 22, 2017, President Petro Poroshenko signed the draft Law on Amending the Commercial Procedural Code of Ukraine, Civil Procedural Code of Ukraine, Administrative Court Procedure Code of Ukraine and Other Legislative Acts at the [meeting of the Judicial Reform Council](#). The draft law was elaborated by the Judicial Reform Council and is expected to be adopted by the end of spring during the current session of the Parliament. Petro Poroshenko emphasized the importance and priority of the judicial reform which aims at ensuring the judicial independence, responsibility and renewal of the judicial corps, including the competitive selection of the of the Supreme Court justices. On March 23, 2017, [this draft law](#) was registered in the Verkhovna Rada under No. 6232 as urgent.

New Justice Program Updates

USAID New Justice Program Contributes to the 7th All-Ukrainian Winter Law School

On February 7-12, 2017, the USAID New Justice Program supported the Young Lawyer's Coordination Council (YLCC) under the auspices of the Ministry of Justice (MOJ) and European University School of Law in conducting the 7th All-Ukrainian Winter Law School. The Winter School incorporated a series of practice-oriented, skills-based trainings, seminars, presentations, and other educational, sport, and cultural activities for law students from around Ukraine. The Winter Law School gathered YLCC and MOJ representatives, as well as legal practitioners. This event aimed to promote modern methods of teaching law and aligning legal education with legal practice through legal role plays, which simulate individual and team work at various stages of the investigation process and trial, together and under the supervision of practicing attorneys. The Winter Law School also created a platform for establishing the professional dialogue between the law students and legal practitioners.

Wayne Jordash Delivers Rule of Law Lecture at Ukrainian Catholic University



The poster is for a public lecture by Wayne Jordash. It features a photo of Jordash on the left. The text on the right includes the title 'Відкрита лекція / Public Lecture', the date '17.02 / February 17', and the time '17:00 / at 5:00 p.m.'. The topic is 'ДИХОТОМІЯ: МІЖНАРОДНЕ ПРАВОСУДДЯ ТА ЖЕРТВИ МІЖНАРОДНИХ ЗЛОЧИНІВ / INTERNATIONAL JUSTICE AND VICTIMS DICHOTOMY'. Logos for USAID, UCU, and other partners are at the top.

On February 17, 2017, the USAID New Justice Program supported the Ukrainian Catholic University (UCU) Rule of Law Center in conducting the rule of law lecture by Mr. Wayne Jordash, International Human Rights and Criminal Law Expert and Partner at Global Rights Compliance. Mr. Jordash delivered his presentation titled “The Rule of Law: International Justice and Victims Dichotomy”. Based on his extensive international expertise, Mr. Jordash elaborated on the complex issues of rule of law in the context of international justice. The lecture was broadcast live online, thus enabling more law students, academics, judges, advocates, and other legal professionals to benefit from it. The event aimed to contribute to improving legal education quality, displaying modern methods of teaching and raising public awareness about crosscutting rule of law issues. The complete lecture is available online at <https://www.youtube.com/watch?v=s7MLsFOK-sU>.

USAID New Justice Program Conducts Expert Discussion on Establishment of Anti-Corruption Courts



Prof. Matthew Stephenson, Harvard Law School (US) during the Expert discussion on the establishment of anti-corruption courts on March 3, 2017 in Kyiv. PHOTO: USAID New Justice Program

[Corruption Courts: A Comparative Mapping](#)” on the experience of creating anti-corruption courts in the world, including four main operating models of the specialized courts. The experts started their research in 2015 focusing on the reasons, conditions, and features of anti-corruption courts establishing in 17 countries. They provided a preliminary mapping of various types of specialized anti-corruption courts, pointing at the main challenges and trade-offs, which should be considered by those who are designing

On March 3, 2017, the USAID New Justice Program conducted an expert discussion titled “Establishing Specialized Anti-Corruption Courts: International and European Best Practices and Lessons Learned”. The event focused on the overview of specialized anti-corruption courts and judges from around the world; identification of the reasons for creating a specialized anti-corruption court and related institutional design choices; discussion of international best practices and lessons learned in establishing anti-corruption courts; and development of recommendations on how they can be applied in Ukraine. Prof. Matthew Stephenson, Harvard Law School (US), and Dr. Sofie Schütte, Senior Advisor, U4 Anti-Corruption Resource Centre (Norway), presented their study [“Specialized Anti-](#)

such institutions. Mr. Pavol Zilincik, Head of the Human Rights Protection Department, Office of the Ombudsman (Slovak Republic), shared Slovak experience in creating and maintaining the operations of the anti-corruption court. Summarizing the discussions, the participants highlighted the importance of the public support of establishing the institutions to combat the corruption, clear position of such courts and judges in judicial system, and integral approach to any changes in the judiciary.

National Client Consultation Competition of Legal Clinics Took Place in National University of Ostroh Academy



Students during the National Client Consultation Competition of Legal Clinics from Ukraine in the National University of Ostroh Academy on March 3, 2017. PHOTO: Ternopil National Economic University

On March 3-5, 2017, the USAID New Justice Program jointly with the OSCE Project Coordinator in Ukraine and Ukrainian Legal Aid Foundation supported the Association of Legal Clinics of Ukraine in organizing the National Client Consultation Competition of Legal Clinics from Ukraine in the National University of Ostroh Academy. Twenty teams representing legal clinics from all over Ukraine participated in the competition. Experienced attorneys, law professors, legal clinics' graduates, and psychologists served as judges for the competition. The invited experts including Pavlo Parkhomenko, judge of the Bakhmach District Court of Chernihiv Region (Ukraine); Przemek Kubiak, trainer, professor of Law, Master of Psychology, Head of the Legal Clinic of The University of Lodz (Poland); Filip Czernicki, President of the Legal Clinic of Poland,

Professor of Law of the University of Warsaw, Board Member of the Global Alliance for Justice Education (Poland); and Iryna Ivankiv, representative of OSCE Project Coordinator in Ukraine, conducted master classes to share their experience on relevant issues with the competitors. Supervisors of the Legal Clinics not only took part in the competition, but also participated in the training on project management and communications.

Taras Shevchenko Kyiv National University Team Participated in Regional Round of the World Trade Organization Law Moot Court Competition in Romania

On March 10-14, 2017, the USAID New Justice Program supported participation of the Taras Shevchenko Kyiv National University moot court team in the Regional Round of the World Trade Organization (WTO) Law Moot Court Competition organized by the European Law Students' Association in Cluj-Napoca, Romania. This support helped the team to go through a comprehensive international training on legal knowledge and skills and get a hands-on experience of the simulated application of WTO law while representing Ukraine at such a high-level international legal competition.

Independent External Assessment of Legal Education Quality Conducted at School of Advocacy of Odesa Law Academy

On March 13–17, 2017, the USAID New Justice Program (New Justice) conducted an independent external on-site assessment of legal education quality at the National University “Odesa Law Academy” (NU OLA) School of Advocacy. Building on the pilot projects successfully implemented at the Ivan Franko Lviv National University Law School in May 2014 and at the Yuri Fedkovych Chernivtsi National University Law School in May 2015, a team of New Justice's two international experts, Prof. Thomas H. Speedy Rice, Washington & Lee School of Law, and Prof. Delaine Swenson, John Paul II Catholic University of Lublin School of Law, and two local experts, Assistant Professors Mariia Tsypiashchuk, National University “Ostroh Academy” Law School, and Ivan Romashchenko, Taras Shevchenko Kyiv National University Law School, assessed the NU OLA internal system of legal education quality

assurance. The assessment was based on the Methodology for Independent, External, On-Site Assessment of Legal Education Quality developed in light of the European Standards and Guidelines for Quality Assurance in the European Higher Education Area and adapted to the Ukrainian context. During the assessment, the participants met with the NU OLA leadership, Dean, Deputy Deans and professors of the School of Advocacy, law school students, visited the NU OLA facilities and a number of classes. Results of this work will be presented in the assessment report together with recommendations for improving legal education quality at the NU OLA School of Advocacy, the NU OLA as a whole and countrywide.



Experts during the introductory meeting with the leadership of the National University "Odesa Law Academy" on March 13, 2017 in Odesa. PHOTO: NU OLA

New Justice Program Participates in USAID University Day at Oles Honchar Dnipro National University



Students participating in the New Justice's interactive session during the USAID University Day at Oles Honchar Dnipro University on March 16, 2017. PHOTO: USAID New Justice Program

On March 16, 2017, the USAID New Justice Program (New Justice) participated in the USAID University Day at Oles Honchar Dnipro National University. During this event, New Justice delivered presentations for students on "Role and Place of Courts in a Democratic Society", "Legal Profession, Judicial Practice and Rule of Law", "Judicial Reform: The Status and Prospects" and "Skills and Practice Based Legal Education: The Role of Legal Clinics", and disseminated public awareness materials on the judiciary and judicial reform. The students eagerly asked various questions and participated in the discussions on challenges of Ukrainian judicial system, quality of legal education, and role of legal clinics in developing law students' skills.

Graduates of Judicial Administration Certificate Program Exchanged Experience

On March 21-23, 2017, the USAID New Justice Program conducted a reunion of the Judicial Administration Certificate Program graduates of 2013, 2015 and 2016 "Looking Back and Looking Forward" to share progress and exchange experience in the capstone projects implementation. The Judicial Administration Certificate Program was designed and implemented jointly by former the USAID FAIR Justice Project in cooperation with Michigan State University, the State Judicial Administration and National School of Judges. At the reunion, court administrators - graduates and faculty members – got acquainted with findings of the graduates' needs assessment; shared the innovations and initiatives they designed and implemented; and developed a strategic plan for improvement of the court administration profession.



Graduates of the Judicial Administration Certificate Program during the reunion "Looking Back and Looking Forward" on March 22, 2017 in Kiv. PHOTO: USAID New Justice Program

Ministry of Justice Managers Are Developing Leadership Competencies

On March 28-29, 2017, the USAID New Justice Program (New Justice) supported the Ministry of Justice (MOJ) in conducting MOJ's leadership development retreat "Personal and Organizational Road to Change". The objectives of the event were to define organizational culture of the MOJ and its importance for employees' leadership development and professional identity, to determine participants' individual change inspirations, and to develop individual leadership plans. Minister of Justice Pavlo Petrenko, Deputy Ministers Gia Getsadze and Pavlo Moroz, heads of the regional justice offices, and other key managers at the MOJ took part in the event. "I would like to thank USAID and project's team - those people who believed three years ago that the new Ministry of Justice team was really ready to implement the changes. We started to make the first step - to implement a completely new format and approach for people - for personnel joining the MOJ", noted the Minister. He also emphasized that the knowledge participants gain during the retreat would be used in the best order, "our employees in justice offices would continue to be first and best in matters related to the reforms and changes in the country." The New Justice's experts, Dr. Maureen E. Conner, Director and Professor of the Judicial Administration Program at Michigan State University School of Criminal Justice, and Dr. Oleksandr Khyzhniak, Associate Professor at the Department of Applied Sociology and Social Communication, School of Sociology at V. N. Karazin Kharkiv National University, shared with participants personal leadership development experience and discussed the ways of introducing the leadership competences to the MOJ system improvement. As a result, the participants developed personal plans to satisfy their leadership development aspirations which will be used for implementing reforms aimed to provide access to public services to all citizens.



New Justice's expert Oleksandr Khyzhniak gives a presentation on individual leadership plan development during the MOJ's retreat "Personal and Organizational Road to Change" on March 28, 2017 in Odesa. PHOTO: Ministry of Justice

USAID New Justice Program Conducted Presentation "Judiciary Free from Corruption"

On March 30, 2017, the USAID New Justice Program presented an analysis of laws and regulations on anti-corruption issues in the judiciary in light of their conformity to the principles of judicial independence and accountability, which was carried out by Prof. Mykola Khavronyuk. Representatives of the High Council of Justice, Council of Judges, High Qualifications Commission of Judges, National Agency for Prevention Corruption, State Judicial Administration, donor community, and civil society discussed the expert's findings and agreed upon legislative changes to be introduced to improve the legal framework covering the matter.

Upcoming Events

USAID UCU Rule of Law Center
Відкрита лекція
Public Lecture
28.04
Квітень/April
Час: о 16:00
Місце? Лестері, Український міжнародний юридичний центр, вул. Козацька, 24
time? at 4:00 p.m.
VOLUME 1, Lecture 1
Українська Католицька Університет, 24 Козацька вул.
ТЕМА/LECTURE TOPIC:
"ПРИВАТИЗАЦІЯ" ВЕРХОВЕНСТВА ПРАВА:
РОЛЬ АРБІТРАЖУ ТА МЕДІАЦІЇ У ЗРОСТАННІ
ДОСТУПУ ДО ПРАВОСУДА
PRIVATIZING THE RULE OF LAW: THE ROLE OF ARBITRATION
AND MEDIATION IN INCREASING ACCESS TO JUSTICE
ПРОФ. ЧАРЛЬОС ШИМАНСКИ
PROF. DR. CHARLES SZYMANSKI
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Prof. Charles Szymanski to Deliver Rule of Law Lecture at Ukrainian Catholic University

On April 28, 2017, the USAID New Justice Program will support the Ukrainian Catholic University (UCU) Rule of Law Center in conducting the rule of law lecture by Prof. Charles Szymanski, Vice-Dean for International Relations at the Vytautas Magnus University School of Law, Lithuania. Prof. Szymanski will deliver his presentation titled "Privatizing the Rule of Law: The Role of Arbitration and Mediation in Increasing Access to Justice". Based on his international expertise, Prof. Szymanski will discuss the effectiveness and ethical aspects of the alternative dispute resolution (ADR) in enhancing the rule of law from perspective of the US and European Union comparison. The event aims to contribute to improving legal education quality, displaying modern methods of teaching, and raising public

awareness of crosscutting rule of law issues. Registration for the lecture is available at www.goo.gl/MYgrjF. The lecture begins at 4:00 PM and will be broadcast live online at www.tvomisto.tv/on-line/.

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