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November 2016 – January 2017

USAID New Justice Program Newsletter

Legislative and Other Rule of Law News

Law on the High Council of Justice Came into Force

On January 5, 2017, the [Law on the High Council of Justice \(No. 5180\)](#) developed by the Judicial Reform Council and adopted by the Verkhovna Rada on December 21, 2016 came into force. The law aims at implementing legal framework for the High Council of Justice (HCJ) as a new entity with the new structure and scope of authority in line with international and European standards as prescribed by the amendments to the Constitution of June 2, 2016. The newly adopted law defines the HCJ as full time collegial constitutional institution of judicial governance aimed at safeguarding judicial independence, ensuring proper operation of judicial system, forming the highly professional judicial corps and ensuring compliance of judges and prosecutors with the rules of professional conduct. The law also establishes rules and procedures for the HCJ in its new capacity, and sets the structure of the HCJ and its Secretariat. Due to the new provisions of the law, the HQC will consist of 21 members, and more than half of its composition shall be judges elected by their peers during the Congress of judges. The USAID New Justice Program will continue to support the implementation of the law, with special focus on identifying possible shortcomings and inconsistencies, that might hinder proper HCJ operations. Moreover, the USAID program will work with key stakeholders to enable participation of the public in the activities of the HCJ with respect to the rule of law and judicial independence principles.

High Qualifications Commission of Judges Conducts Supreme Court Judicial Candidates Selection

On November 8, 2016, the High Qualification Commission of Judges (HQC) announced a competition to fill 120 vacant positions of justices in the Cassation Courts of the Supreme Court. From November 9 to 25, 2016, all interested persons notified the Commission of their intention to participate in the competition by filling in a special form on the official website of the HQC and scheduling the day and time for submitting documents. As a result, 1,436 candidates applied to the HQC about their intention to participate in the new Supreme Court justices selection. From November 17 to December 9, 2016, the HQC accepted the documents from 846 applicants, who submitted their e-notifications. After conducting three meetings on December 5, 13 and 20, the HQC considered documents of all the 846 candidates and admitted 653 candidates to participate in the competition, rejecting 193. 69% of candidates are judges, 12.5% are academics, 11% are lawyers and 7.5% are candidates with the cumulative record of professional experience. 32.3% candidates out of 653 submitted documents to participate in the competition to fill the vacant position of justice in the Civil Cassation Court of the Supreme Court, 28.3% candidates – in the Criminal Cassation Court, 20.5% candidates – in the Commercial Cassation Court, and 18.8% candidates – in the Administrative Cassation Court. 230 candidates out of 653 are women and 423 are men. After completing the background check the HQC will conduct anonymous testing of judicial candidates on February 16 and case study on February 21, 2017. On January 20, 2017, the HQC published on its official website the list of test items for anonymous testing <http://www.vksu.gov.ua/ua/news/tiestowi-zapitannia-dlia-konkursu-do-wierchownogo-sudu1/>.

New Justice Program Updates

USAID New Justice Program and Participant Training Program Support Specialized Anti-Corruption Courts Study Visit to Bratislava

On November 6-13, 2016, the USAID New Justice Program (New Justice) facilitated a USAID participant training study visit to Bratislava, Slovak Republic focusing on “Specialized Anti-Corruption Courts as a Tool to Improve Accountability and Access to Justice”. Centered on exploring lessons learned and best practices developed in Slovakia that can be applied in Ukraine, Ukrainian delegation members, including members of the High Qualifications Commission of Judges, the Council of Judges, member of the Parliament, as well as representatives of the Ministry of Justice, and civic activists visited Bratislava’s Specialized Criminal Court, the Supreme Court of the Slovak Republic, the Office of the Special Prosecutor, the National Criminal Agency, the Ministry of Justice, anti-corruption and justice sector NGOs, and relevant media outlets. Participants developed recommendations for the sound and coherent legislative framework for the anti-corruption courts in Ukraine. Those included: (1) developing the anti-corruption court as part of the government’s comprehensive and sustainable anti-corruption strategy; (2)



The participants of the study tour to Slovakia on November 6-13, 2016.
PHOTO: USAID New Justice Program

defining clearly the jurisdiction of the anti-corruption court, focusing on significant high-level corruption cases; (3) ensuring court has national jurisdiction to limit local and regional interference and influence on corruption cases; (4) decisions of law enforcement investigators and prosecutors should be open and accessible, but with due respect for confidentiality; and (5) avoiding dependence on investigators from general structure of law enforcement agency – they should be specialized and independent. This study visit is one in the row of the New Justice efforts to support establishment of the anti-corruption courts in Ukraine, including identification and translation of comparative international resources, involvement of experts, coordination of the donor efforts to

leverage the resources, and conducting of the on topic meetings. Among future activities in this area are regional discussion of the anti-corruption courts in spring and the expert roundtable discussion in Kyiv planned for March 3, 2017.

Vinnitsia Regional Judicial Forum on E-Justice in Ukraine

On November 10-11, 2016, the USAID New Justice Program together with the EU Project “Support to Justice Sector Reforms in Ukraine” and Ukrainian Bar Association supported the Association of Judicial Self-Government Development in conducting the Regional Judicial Forum in Vinnitsia. The forum gathered leadership of the High Council of Justice, Council of Judges, High Qualifications Commission of Judges, State Judicial Administration, Presidential Administration, judges, attorneys, and journalists from Vinnitsia and other regions of Ukraine to discuss the judicial reform in general and the e-Justice reform in Ukraine. Promoting strategic planning and judiciary policy development, the representatives of courts that piloted e-Justice tools shared the results of their pilot activities, explaining the associated cost, resources, and time efficiency. The forum resulted in increased understanding of the e-Justice concept among judges, including its role in increasing the efficiency of court operation for better protection of rights of the citizens.

Commentary to the Code of Judicial Ethics Presented

On November 17, 2016, the Council of Judges (COJ) with support of the USAID New Justice Program (New Justice) presented a [Commentary to the Code of Judicial Ethics](#) to members of the High Council of Justice (HCJ), High Qualifications Commission of Judges (HQC), COJ, State Judicial Administration (SJA), National School of Judges, Public Integrity Council, as well as judges, attorneys, journalists, lawyers, and academics. Building on the COJ Working Group's progress under the USAID FAIR Justice Project, the Commentary provides interpretation of Code of Judicial Ethics provisions for equal application by judges and judicial institutions. During the presentation, members of the HCJ, HQC, and COJ discussed the importance of application of the unified approach to judicial ethics related issues by all judicial institutions while performing their functions. New Justice will integrate the Commentary into future training activities benefitting judges and judicial candidates.



New Justice Deputy Chief of Party Natalia Petrova at the Presentation of the Commentary to the Code of Judicial Ethics on November 17, 2016 in Kyiv. PHOTO: USAID New Justice Program

USAID New Justice Program and Norwegian Mission of Rule of Law Advisers to Ukraine Conduct “Experience of Implementing E-Justice Tools in the Judicial System of Bosnia and Herzegovina” Study Visit

On November 20-23, 2016, the USAID New Justice Program (New Justice) jointly with Norwegian Mission of Rule of Law Advisers to Ukraine (NORLAU) conducted the “Experience of Implementing e-Justice Tools in the Judicial System of Bosnia and Herzegovina” study tour. Delegation members included the members of the High Council of Justice, as well as judges and court staff from the Kyiv District Court of Odesa City (which piloted the e-Court project in their court). Together, they undertook a detailed study of e-Justice solutions currently available in Bosnia and Herzegovina that support the work of justice sector institutions, including electronic case management, performance management, statistical reporting, and remote access to case files and communications.



Ukrainian delegation members getting acquainted with the work of the electronic case management system in the Mostar District Court of Bosnia and Herzegovina on November 21, 2016. PHOTO: USAID New Justice Program

During the study tour, delegates learned about the functions of judicial institutions in Bosnia and Herzegovina as they relate to administrative management by familiarizing themselves with the software used in the district and appellate courts in the city of Mostar, which had been developed with the support of USAID and the Government of Norway. The members of the Ukrainian delegation were impressed with the unified case management system which is used by all the courts and judicial institutions in Bosnia and Herzegovina, noting that it saves resources, time, and increases the efficiency of delivering justice.

Also, the leadership of the High Judicial and Prosecutorial Council (HJPC) of Bosnia and Herzegovina presented the reform of the court

management infrastructure including the automation of the judiciary, and the leading role HJPC played in this process. Representatives of the HJPC demonstrated the IT infrastructure monitoring systems, presented the legal framework for implementing the Case Management System and e-court, and presented the technical aspects of the implementation of the Case Management System including databases, servers, technology, storage capacities, and scanning module, discussing how these

activities and tools improve judicial efficiency and implementation of the Performance Management framework. The study tour resulted in the delegation's improved understanding of the implementation of the automation of the whole judiciary and the effective and strategic planning of this process.

USAID New Justice Program Contributes to International Conference “Limits of Transparent Justice” in Bratislava

On November 30 - December 2, 2016, the USAID New Justice Program (New Justice) supported a Ukrainian delegation to participate in the “Limits of Transparent Justice” international conference in Bratislava, Slovak Republic. New Justice Deputy Chief of Party Nataliya Petrova delivered a presentation entitled “Fostering Transparency in the Judiciary: Ukraine.” Event participants gathered new tools, methodologies and approaches that could be applied in Ukraine. Organized by the Supreme Court of the Slovak Republic on the occasion of the Slovak Presidency of the Council of the European Union in 2016, the event brought together justice system representatives from across Europe to discuss the media and its influence on the judiciary, balancing the open trial principle with the protection of privacy, and public control over the judiciary.

Conference “A New Look at Judicial Self-Governance” Conducted

On December 5-6, 2016, the USAID New Justice Program (New Justice) conducted its launch event, a two-day conference “A New Look at Judicial Self-Governance”. The conference was cohosted with the European Union Project “Support to Justice Sector Reforms in Ukraine”, Norwegian Mission of Rule of Law Advisers to Ukraine (NORLAU), and Canadian-Ukrainian Support to Judicial Reform Project. With opening remarks given by U.S. Ambassador to Ukraine Marie L. Yovanovitch, the conference centered on discussing current issues related to judicial self-governance and judicial administration, highlighting and reinforcing international and European standards and best practices regarding judicial self-governance, judicial ethics, and judicial administration, identifying ways to increase the efficiency and effectiveness of judicial self-governance institutions to safeguard judicial independence, improve court performance, and promote public trust and confidence in the judiciary, and defining areas and mechanisms for cooperation between the judiciary and other branches of government.

“Ukrainians want and deserve an independent, accountable, transparent, and effective justice system that upholds the rule of law, stops corruption, protects human rights, and creates a stable environment for investors,” said the U.S. Ambassador.

The conference brought together more than 150 participants, including leadership of the High Council of Justice (HCJ), Council of Judges (COJ), High Qualifications Commission of Judges (HQC), State Judicial Administration (SJA) and the National School of Judges (NSJ), international experts from the U.S., Portugal, Italy, Georgia, Netherlands, Canada, and Bosnia and Herzegovina, judges and court staff, representatives of national executive agencies, professional associations of judges and lawyers, academics, and media. The conference resulted in the preparation of more than 20 recommendations aimed at strengthening judicial self-governance in Ukraine, including broad agreement that the HCJ, COJ and HQC should build a constructive dialogue and cooperation in order to avoid inconsistency of policies and duplication of functions, whereas the HCJ should play a leading role in coordination between these self-governance institutions to assure independence and accountability of individual judge and judiciary as a whole.



U.S. Ambassador Marie L. Yovanovitch giving welcoming remarks to the conference “A New Look at Judicial Self-Governance” participants on December 5, 2016 in Kyiv. PHOTO: USAID New Justice Program

U. S. Ambassador to Ukraine Marie L. Yovanovitch Visited Kyivskiy District Court of Odesa

On December 20, 2016, U.S. Ambassador to Ukraine Marie L. Yovanovitch visited the Kyivskiy District Court of Odesa to learn about the work of the pilot e-Court project supported by the USAID New Justice Program. In the course of the presentation, the U.S. Ambassador learned about the benefits of electronic document exchange between the court, parties and other institutions, including financial savings and significant reductions in the duration of court proceedings. Ambassador Yovanovitch gave positive feedback on the pilot and was interested in learning about future achievements in this area.



Ambassador to Ukraine Marie L. Yovanovitch during the visit to the Kyivskiy District Court of Odesa on December 20, 2016. PHOTO: U.S. Embassy

Developing Legal Education Reform Concept Paper and Action Plan

On December 22, 2016, the USAID New Justice Program (New Justice) supported the Ministry of Education and Science (MOE) in conducting a meeting of the Working Group on Developing Legal Education Reform Concept Paper and Action Plan (WG) established by the MOE Decree No. 787 of July 5, 2016. The WG members together with First Deputy Minister of Education Volodymyr Kovtunets and Deputy Minister of Education Roman Hreba further discussed the key issues related to legal education reform, such as: the structure of the legal profession in Ukraine and regulation of general access to the profession; introducing within the unified specialization “Law” minimum standards for legal knowledge, skills, values, and attitudes that law graduates must have to meet modern job market demands; the elimination of extramural legal education; the transition to a unified, external exit examination after completion of a master’s degree program in law; and the scope of legislative support needed to implement legal education reform to meet rule of law state and legal profession job market demands. To finalize the draft of the Legal Education Reform Concept Paper, the participants will have an additional meeting before submitting the draft for the MOE approval.

Earlier, with the support from the USAID FAIR Justice Project and the OSCE Project Coordinator in Ukraine, the WG developed a draft Legal Education Reform Concept Paper and publicly presented it in Kyiv on September 14, 2016. Then, with New Justice and the OSCE Project Coordinator’s support, the WG conducted three regional presentations of the draft in Kharkiv (October 24, 2016), Chernivtsi (November 11, 2016), and Dnipro (November 21, 2016) gathering over 170 law school administrators and faculty, leadership of bar associations and student organizations. This activity helped raise legal education stakeholders’ awareness about the draft Concept Paper, collect their feedback, and develop a better strategic vision of a comprehensive legal education reform.

Dr. Bohdan Vitvitsky Conducts Twelfth Rule of Law Lecture at Ukrainian Catholic University

On December 16, 2016, the USAID New Justice Program (New Justice) supported the Ukrainian Catholic University (UCU) Rule of Law Center in conducting the 12th in a row rule of law lecture. Dr. Bohdan Vitvitsky, Advisor to the Prosecutor General of Ukraine and a former U.S. federal prosecutor, delivered his presentation titled “The Rule of Law: So Critically Important, Yet So Elusive?” Based on his extensive expertise, Dr. Vitvitsky shared his insights on the complex rule of law issues and the related underpinning values, the role of the legal profession in ensuring the rule of law in general and in perspective of Ukrainian history. At the end of the lecture all the guests had an opportunity to take part in the discussion on the presented issues. The lecture was broadcast live online allowing more law students, academics, judges, advocates, and other legal professionals to benefit from it. Dr. Vitvitsky’s complete lecture is available at https://www.youtube.com/watch?v=0B_hhaq6CZk.

Upcoming Events

Wayne Jordash to Deliver Rule of Law Lecture at Ukrainian Catholic University

USAID UN Global Rights Compliance

UCU Rule of Law Lecture Series
Курс лекцій «Правосуддя»

Відкрита лекція
Public Lecture

17.02

Лютень/February

Час? o 17:00

Місце? Лекторій, Український католицький університет, вул. Козельницька, 2а

Time? at 5:00 p.m.

VENUE? Lecture Theatre, Ukrainian Catholic University, 2a Kozelnytska Str.

TEMA ЛЕКЦІЇ/LECTURE TOPIC:
ДИХОТОМІЯ: МІЖНАРОДНЕ ПРАВОСУДДЯ
ТА ЖЕРТВИ МІЖНАРОДНИХ ЗЛОЧИНІВ
INTERNATIONAL JUSTICE AND VICTIMS
DICHOTOMY

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On February 17, 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 Mr. Wayne Jordash, International Human Rights and Criminal Law Expert and Partner at Global Rights Compliance. Mr. Jordash will deliver his presentation titled “International Justice and Victims Dichotomy”. Based on his extensive international expertise, Mr. Jordash will elaborate on the complex issues of rule of law in the context of international justice. Venue: Lecture Theatre, 2a Kozelnytska Str., Lviv. Registration is available at www.goo.gl/WZoecX. The event begins at 5:00 PM and will be broadcasted live online at www.tvvoemisto.tv/on-line/.

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