



April 2016

## USAID FAIR Justice Project Newsletter

### Legislative and Other Rule of Law News

#### ***High Qualifications Commission of Judges Continues Evaluating Sitting Judges***

As of April 29, 2016, the High Qualifications Commission of Judges (HQC) completed the initial qualifications evaluation of 160 judges, including 93 judges who submitted applications for lifetime appointment and 67 appellate court judges from Kyiv City and Oblast (Region). These judges completed a multiple choice test of their legal knowledge, prepared a case study, and completed interviews with members of the HQC Qualifications Chamber based on a review of their judicial dossiers. The HQC decided that 115 judges demonstrated their ability to “administer justice” and suspended 17 judges from the bench, requiring them to undertake additional training at the National School of Judges followed by a repeated qualifications evaluation. The HQC postponed rendering decisions regarding 28 judges due to discrepancies in their dossiers including financial declarations demanding additional review and investigation. FAIR provided expert and technical assistance to the HQC to promote a fair and transparent evaluation process by providing audio and video recording equipment to support live online broadcasting of tests and interviews.

#### ***National Council on Reforms Meets to Discuss Judicial Reform***

On April 19, 2016, the National Council on Reforms conducted its [18th meeting](#) to discuss, among other things, the current status, challenges and ongoing plans for judicial reform. President Petro Poroshenko, who chaired the meeting, highlighted the critical need for reforming the judiciary. Oleksii Filatov, Deputy Head of the Presidential Administration, Head of the Judiciary Working Group of the Constitutional Commission, and Head of the Judicial Reform Council, noted that draft amendments to Constitution regarding the judiciary were still pending final adoption by the Parliament. Mr. Filatov added that the Judicial Reform Council is currently drafting laws to amend procedural legislation to improve access to justice and promote greater efficiency in court procedures. This includes a Concept for Optimizing Judicial Administration approved by the Judicial Reform Council, which is aimed at strengthening institutions that provide administrative support to the judiciary. The USAID FAIR Justice Project supported the development of this Concept. At the end of the meeting, members of the National Council on Reforms agreed that all key stakeholders, including the Parliament, Judicial Reform Council, High Qualifications Commission of Judges, and Cabinet of Ministers will consolidate their efforts to complete the following tasks: (1) adopt amendments to the Constitution no later than May 2016; (2) develop amendments to procedural legislation, the Law on the Bar, and other laws necessary to implement pending constitutional amendments; (3) complete qualifications evaluation of judges; and (4) support implementation of the Justice Sector Reform Strategy.

#### ***Parliament Dismisses 193 Judges while High Council of Justice Recommends Dismissing Another 33***

On April 20, 2016, the Parliament supported recommendations of the High Council of Judges (HCJ) by dismissing [193 judges who decided to serve as judges in occupied Crimea](#). The Parliament also lifted the immunity of Judge Oleksiy Buran of the Malynivskiy District Court in Odessa permitting [his arrest](#) following Judge Buran’s attempted shooting of National Anticorruption Bureau investigators who were trying to arrest him for bribery. In addition, the HCJ supported a recommendation of the High Qualifications Commission of Judges (HQC) and dismissed Judge Svitlana Volkova of the Pecherskiy District Court in Kyiv. Judge Volkova ordered the house arrest of ex-Berkut commander Dmytro Sadovyk suspected of involvement in shootings of Maidan protesters. This allegedly allowed Mr. Sadovyk to flee Ukraine. The [HCJ further ordered the dismissal of Judge Vladyslav Oberemko of the Makarivskiy District Court of Kyiv Oblast](#), who threatened a traffic police officer with a gun during a stop for drunk driving in September 2015. Moreover, as of April 14, 2016, the HCJ

completed review of all 41 cases against 46 judges originally submitted by the Interim Special Commission for Vetting Judges (ISC), which handled complaints against judges that considered Maidan protest cases. The HCJ acquitted 9 judges, recommended criminal investigation of one judge and disciplinary measures against 7 judges, while ordering the dismissal of 29 judges with 7 of them already dismissed by the President and another 20 dismissals now pending with the Parliament and one with the President. The HCJ closed one case as it found that the transferred files were not properly prepared by the ISC and one case is still pending with the HCJ as the judge was mobilized and now serves as part of Anti-Terrorist Operations. Finally, the HCJ supported HQC recommendations to dismiss one judge who handled an AutoMaidan related case with the judge's dismissal currently pending with the President. HCJ hearings related to these matters were streamed live online using equipment provided by the USAID FAIR Justice Project.

## FAIR Updates

### ***40 Court Administrators Complete Coursework for Judicial Administration Certificate Program***

On April 1, 2016, 40 competitively selected court administrators from throughout Ukraine completed 60 hours of coursework on modern court administration and management as part of the third round of the Judicial Administration Certificate Program jointly implemented by the USAID FAIR Justice Project, State Judicial Administration (SJA), National School of Judges (NSJ), and Michigan State University (MSU). MSU faculty taught a comprehensive series of 10 courses alongside Ukrainian faculty covering purposes and responsibilities of courts; leadership, resources, budget and finance; information technology management; human resource management; caseload management; visioning and strategic planning; court and community communications; education, training and development; and essential components of courts. As the next step in this certification program, each participant will develop a court improvement project and, if approved by MSU, receive a graduate certificate in June 2016, when they will join 80 other court administrators who increased their knowledge, skills and abilities to more effectively manage the performance of courts.



Participants and faculty of the Judicial Administration Certificate Program on April 1, 2016 in Kyiv.

### ***Results of Court User Satisfaction Surveys Presented in Ternopil, Khmelnytsky and Vinnytsya***

In April 2016, the USAID FAIR Justice Project together with its regional grantees Podillya Human Right Foundation and Intellectual Headquarters of Civil Society presented the results of court user satisfaction surveys using the Citizen Report Card (CRC) methodology for the Vinnytsya Court of Appeals, 19 district courts in the Khmelnytsky region and the Khmelnytsky Court of Appeals, and all 20 district courts in the Ternopil region and the Ternopil Court of Appeals. The Vinnytsya Court of Appeals performed well with an average score of 4.47 out of 5. District courts in Khmelnytsky scored from 4.1 to 4.8 with courts in Ternopil rated from 3.3 to 4.4. As part of the CRC methodology, NGO partners provided courts with recommendations to improve the quality of court services and operations. This included providing more timely information about

court processes and hearings, allocating adequate space for waiting for court hearings and preparing documents, and providing better access for persons with disabilities. An overarching theme across all courts in these regions was improving court communications and outreach with the public at large. A number of courts implemented recommendations immediately after receiving survey results, including updating public information materials, conducting training programs for court staff, providing more space for court users to wait and prepare documents, as well as improving access to courts for persons with disabilities.

### ***Supreme Court Justices Receive Training on Communications and Public Outreach***

On April 4, 2016, the European Union Advisory Mission (EUAM) with support from the USAID FAIR Justice Project (FAIR) conducted a program for Supreme Court justices on how to effectively communicate with the media and public alike. The training program focused on improving the skills of justices to develop key messages, respond to public demands for information, handle crisis communications, and prepare for and give interviews to the media. The trainers included EUAM Communications Specialists Ronan Goggin, Soren Sonderstrup, and Liudmyla Bartok. FAIR provided the justices with its [Courts and Community Communications Manual](#) as well as European Court on Human Rights decisions related to communications issues.

### ***USAID and German Foundation for Legal Cooperation Support Legal Education Reform Study Visit***

From April 4 to 8, 2016, the USAID FAIR Justice Project (FAIR) and the [German Foundation for Legal Cooperation](#) (IRZ) jointly conducted a study visit to Germany on legal education reform for 12 leading policymakers from the Ministry of Education and Science, Ministry of Justice, Parliamentary Committees on Legal Policy, Justice and Education, High Council of Justice, and selected law schools. The study visit focused on learning about German experience in building and sustaining an effective legal education system; designing public policies to ensure high quality legal education; and introducing effective internal and external mechanisms to control the quality of legal education.

The program included site visits and meetings with key legal education related institutions in North Rhine Westphalia, such as the Law School at the University of Bonn, Ministry of Justice of Northern Rhine Westphalia and its Judicial Examination Office in Düsseldorf, the University of Applied Science in Cologne, and the Cologne Regional Court of Appeals.



Ukrainian delegation in front of the Ministry of Justice of North Rhine-Westphalia together with the leadership of the State Office for Law Examinations for North Rhine-Westphalia in Düsseldorf on April 6, 2016.

As a result of the study visit, the Ukrainian delegation learned from their German counterparts best practices in legal education to advance policy level reform in Ukraine. This included how to: (1) delineate responsibilities for legal education between the Ministry of Justice and Ministry of Education; (2) conduct independent law school exit examinations with the related regulatory framework; (3) organize a traineeship program (Referendariat) for candidate lawyers; (4) develop a system for legal education quality assurance; and (5) tailor legal education to meet the needs of the job market. The study visit is expected to promote

adoption of a National Legal Education Reform Strategy and Action Plan based on lesson learned in Germany.

### ***Court Staff in Khmelnytskyi and Vinnytsia Trained on Improving Access to Justice for Persons with Disabilities***

The USAID FAIR Justice Project (FAIR) and its grantee the Law and Democracy Foundation in cooperation with the National School of Judges (NSJ) and State Judicial Administration (SJA) continued a series of regional training programs on improving access to courts and court services for persons with disabilities by conducting a training for court staff in Khmelnytskyi on April 5, 2016 and Vinnytsia on April 14, 2016. This



innovative series of programs is based on a new curriculum developed by the Law and Democracy Foundation for the NSJ with FAIR support.

### ***USAID and High Council of Justice Outline Areas for Future Cooperation***

On April 8, 2016, representatives of USAID and the USAID FAIR Justice Project met with High Council of Justice (HCJ) Chair Ihor Benedysiuk to discuss the results of ongoing efforts and outline areas for future cooperation. Chair Benedysiuk expressed his gratitude to USAID for expert and technical assistance in improving the effectiveness and transparency of HCJ operations, including workshops with international experts for newly-appointed HCJ members as well as computers and other related hardware and software to support HCJ members and staff, including a system for live online streaming of HCJ hearings. He also identified a number of priority issues for the HCJ going forward, including improving current legislation to simplify processes for dismissing judges and introducing procedures for simple majority voting by HCJ members. In addition, Chair Benedysiuk expressed an interest in developing a concept for the HCJ in consideration of pending constitutional amendments to promote transparency, avoid duplication, and ensure proper organization of judicial institutions, including the Council of Judges and High Qualifications Commission of Judges. Areas for future cooperation also included expert support for the HCJ in considering case files submitted by the Interim Special Commission for Vetting Judges, improving legislation related to the HCJ in line with European standards, and refining and implementing a communications strategy for the HCJ. This would include supporting a dialogue between the HCJ and other judicial institutions to build consensus on applying legislation which regulates disciplinary proceedings and the dismissal of judges.



Representatives of USAID, USAID FAIR Justice Project and High Council of Justice during coordination meeting on April 8, 2016.

### ***Dr. William Pomeranz Delivers Seventh Rule of Law Lecture at Ukrainian Catholic University***



On April 11, 2016, the USAID FAIR Justice Project (FAIR) jointly with the Ukrainian Catholic University (UCU) Rule of Law Center in Lviv and Kennan Institute (U.S.) conducted the seventh rule of law lecture. Kennan Institute Deputy Director William Pomeranz delivered a lecture on “Reforming the Ukrainian Prosecution Service”. The lecture focused on raising public awareness about current developments in reforming the prosecution service and related international best practices. It also helped to strengthen the understanding of the rule of law among the over 40 Ukrainian law students, academics, legal practitioners, and public officials who participated. The lecture, which was broadcast live online, attracted 98 unique viewers. The rule of law lecture series promotes quality legal education and contributes to efforts to advance legal and judicial reform in Ukraine in line with international and European standards. Dr. Pomeranz’s complete lecture is available at <https://www.youtube.com/watch?v=r0eUAb5nJh8>.

### ***Monitoring of Court Decisions Based on Gender Discrimination Presented in Kharkiv and Odesa***

On April 13, 2016 in Kharkiv, the USAID FAIR Justice Project (FAIR) grantee Civic Organization “Public Alternative”, in cooperation with the Kharkiv Regional Department of the National School of Judges (NSJ) and the National Academy of Law Sciences presented the findings of a review of court decisions based on gender equality and non-discrimination conducted in Kharkiv, Sumy, Vinnytsia, Dnipropetrovsk, Cherkasy and Odesa regions. Experts from “Public Alternative” analyzed 816 courts decisions and noted a low level of awareness amongst judges and lawyers regarding international and European standards for protection against gender

discrimination which in turn influenced the limited ability of judges to identify cases of gender inequality. During the presentation, “Public Alternative” disseminated a collection of best practices related to judicial protection against gender discrimination from Ukrainians courts, the European Court of Human Rights, and Supreme Courts in the United States and Canada. On April 20, 2016 in Odesa, FAIR grantee Women’s Perspective Center (WPC) also presented its findings concerning a similar review of court decisions conducted in Lviv, Chernihiv, Kirovograd, Kherson and Zakarpattya regions, and organized a training for judges to increase gender awareness in cooperation with the Odesa Regional Department of the NSJ. After discussing the results of the monitoring program, judges, lawyers and civil society activists all agreed that judges need more training on the application of legislation regarding gender rights and equality.

### ***Ministry of Justice Managers Continue to Develop Their Professional Skills***

On April 14 and 15, 2016, the USAID FAIR Justice Project (FAIR) together with the Ministry of Justice (MOJ) conducted a follow-on training program for MOJ regional department heads and deputy heads who participated in the Modern Management Training Program in the fall of 2015. This event focused on measuring the impact of the previous training program and developing new professional skills. Deputy Minister of Justice Gia Getsadze launched the program by praising cooperation with USAID stating, “In all three directions, including public awareness, monitoring and training, we have concrete results that can be touched and measured.” Participants also noted that newly-acquired management skills were useful in driving MOJ reforms



Participants of the Ministry of Justice Modern Management Training Program during the follow –on event on April 15, 2016 in Lviv.

at the local level through selecting new employees, establishing online tools for communicating with the public, organizing educational and media events in cooperation with civil society organizations, and negotiating with local authorities to implement administrative service delivery reforms. “We became more interesting, reachable and understandable for civil society. This resulted in improving our cooperation with them and speeded up the reform process,” stated Roman Voznyak, Head of the MOJ Regional Department in Mykolaiv. In addition, the event provided a platform for developing action plans for improving professional development, motivation and evaluation of staff; integrating modern technologies and tools into MOJ operations and services; and identifying ways for cooperating with local authorities, businesses and civil society. During the program, FAIR experts also conducted training sessions on improving analytical legal skills, stress management, coaching, and teamwork.

### ***Ukrainian Judicial Leaders Learn Best Practices in Judicial Self-Governance in the United States***

From April 20 to 30, 2016, the USAID FAIR Justice Project (FAIR) in partnership with U.S. Library of Congress Open World Leadership Program supported the participation of eight newly-elected Council of Judges (COJ) members and two representatives of the State Judicial Administration (SJA) during a study visit to the United States which focused on topics related to effective judicial self-governance and court administration, including relations with other branches of government, the preparation, submission, and defense of court budgets, judicial ethics, court performance evaluation, use of information technology, and public outreach and communications. Delegates met with their direct counterparts at the federal and state level, and learned about

the overall operations of the U.S. judiciary. The delegation met with representatives of various judicial institutions, including the Supreme Court, the Administrative Office of the US Courts and the Judicial Conference. As a result of the study visit, participants established professional links with similar U.S. judicial institutions and developed a list of action items regarding what can be applied in Ukraine related to strengthening judicial self-governance, especially concerning defending judicial independence, enforcing judicial ethics, and promoting improved judicial training.

### ***Judges and Court Staff in Kharkiv, Cherkasy and Odesa Trained on Implementation of the Court Performance Evaluation System***

On April 14 and 15, 2016, the USAID FAIR Justice Project (FAIR) in cooperation with its grantee the “Institute for Applied Humanitarian Research” conducted a training program for judges and court staff from the Kharkiv region on implementation of the Court Performance Evaluation (CPE) System approved by the Council of Judges and court user satisfaction surveys using Citizen Report Cards (CRC) methodology. Also, on April 21 and 22, 2016, FAIR with its grantee the “Center on Social Adaptation” conducted a similar training for judges and court staff from the Odesa and Cherkasy regions. As the result of these training programs, 27 judges and court staff from 11 courts in the Kharkiv region and 47 judges and court staff from 36 courts in Odesa and Cherkasy regions increased their knowledge and skills in implementing the CPE System, including conducting court user satisfaction surveys and internal surveys of judges and court staff, as well as utilizing court statistical data to improve overall court operations. In addition, participants were trained to develop and implement action plans to improve court performance and promote court excellence. Furthermore, the “Center on Social Adaptation” presented the results of implementing recommendations provided to courts in Odesa and Cherkasy regions following completion of CRC surveys conducted from February to September 2015. Following observations in courts and interviews with chief judges and court administrators, the Center concluded that Odesa courts implemented “fully” or “partly” approximately 54.78% of recommendations identified in CRC surveys, including recommendations to improve court accessibility and the completeness and clarity of court information. The Center found as well that Cherkasy courts implemented “fully” or “partly” approximately 76.5 % of recommendations resulting from CRC surveys, including recommendations to improve level of comfort in the courthouse and timeliness of court proceedings.

### ***Civil Society Representatives Share Experience in Monitoring the Lustration Process***

On April 22, 2016, USAID FAIR Justice Project (FAIR) grantee “Civic Lustration Committee” conducted a roundtable on issues related to implementation of lustration legislation. At the event, representatives of the Civic Lustration Committee presented its guidelines for monitoring lustration and anticorruption processes. Speakers included Tetyana Kozachenko, Head of the Ministry of Justice (MOJ) Lustration Department, Maksym Mankovskiy, Secretary of the Public Council of the MOJ Lustration Department, and MP Yegor Sobolev, Head of the Parliament Anticorruption Committee. Representatives of regional and local civil society organizations presented concrete examples of preventing appointment or ensuring dismissal of public officials subject to lustration as a result of cooperation with the Civic Lustration Committee and MOJ Lustration Department. “Slidstvo.Info” journalist Maria Zemlyanska shared practical tools for investigating corruption schemes in public service using electronic registries. Yevgen Chernyak of Transparency International presented new anticorruption legislation and a public initiative entitled “Coalition “Declarations under Control””. “The USAID FAIR Justice Project is the only one which supported civil society in monitoring the lustration process. Surely, any reforms in our country cannot be implemented without judicial reform and the public plays a key role in driving this reform,” stated Oleksandra Drik, Head of the Civic Lustration Committee. At the end of the event, CSOs signed a memorandum of understanding for future cooperation in monitoring of lustration and preventing corruption in Ukraine.

### ***Civil Society Monitoring of Lustration Related Court Cases Presented***

On April 27, 2016, USAID FAIR Justice Project (FAIR) grantee “Center for Civic Liberties” (CCL) conducted a roundtable on the results of its monitoring of the vetting of judges who handled Maidan protest cases. The event included more than 40 participants, including representatives of the High Council of Justice (HCJ), Ministry of Justice, High Qualifications Commission of Judges, and Interim Special Commission for Vetting Judges (ISC). CCL experts presented their analysis of 80 lustration related cases against judges, as well as HCJ consideration of ISC recommendations to remove judges. CCL experts noted that the HCJ generally



performed its functions in line with Ukrainian laws, but procedures for notifying complainants and those subject to removal should be improved, and consideration of cases by the HCJ Disciplinary Chamber should be eliminated to avoid duplication and to speed up the process. CCL experts also recommend expanding the list of rights of complainants during hearings against judges, while suggesting the monitoring of High Administrative Court decisions related to the review of HCJ decisions dismissing judges. "This civic monitoring project was conducted in very independent and professional way and is a fair assessment of the High Council of Justice's efforts to act in a transparent and impartial manner to gain public trust. This activity will definitely improve our cooperation with civil society," stated HCJ's Deputy Chair Oleksii Muravyov.

## Upcoming Events

### ***Representatives of the Ukrainian Judiciary to Contribute to International Association for Court Administration Conference***

From May 18 to 20, 2016, the USAID FAIR Justice Project (FAIR) will support the participation of a Ukrainian delegation at the 2016 International Association for Court Administration (IACA) Regional Conference on "Promoting Regional and Global Approaches to Justice Administration" in The Hague, Netherlands. IACA invited FAIR Chief of Party David Vaughn to design a session on "Building Public Trust and Confidence in the Ukrainian Judiciary by Promoting Court Excellence". This session will include Olga Pasichnyk, Court Administrator, Odesa Circuit Administrative Court, who will give a presentation on using court user satisfaction surveys to improve court and community communications, Nataliya Chumak, President of the newly-established Court Management Institute, who will address issues related to court staff professionalism and training, and Andriy Bury, Chair of the Law and Democracy Foundation, who will provide an overview of efforts to improve access to courts and court services for persons with disabilities. The IACA Hague Conference will bring together judges, court staff, academics, and judicial experts from throughout Europe, Asia, Africa, and the United States to discuss approaches to improving justice administration, including issues related to specialized courts, performance management, IT management, and professional development.

### ***Judges and Court Staff in Lviv to Receive Training on Implementation of the Court Performance Evaluation System***

On May 30 and 31, 2016, the USAID FAIR Justice Project (FAIR) will continue a series of regional training programs on implementation of the Court Performance Evaluation System approved by the Council of Judges and court user satisfaction surveys using Citizen Report Cards methodology. This event will focus on judges and court staff in the Lviv region.

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