



USAID
FROM THE AMERICAN PEOPLE

FAIR JUSTICE PROJECT

CASE WEIGHTING STUDY PROPOSAL FOR THE UKRAINE COURT SYSTEM

Contract No. AID-121-C-11-00002

Author: Elizabeth C. Wiggins, Federal Judicial Center, Washington, D.C., Case Weighting Expert

March 12, 2012

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.

CONTENTS

I. Introduction	4
II. General Overview	4
III. Prior Judicial Workload Studies in Ukraine	5
IV. Calculating Case Weights	9
V. Components of the Study	13
VI. Conclusion	15

I. INTRODUCTION

The USAID Fair, Accountable, Independent and Responsible (FAIR) Judiciary Program in Ukraine began on October 1, 2011. The Project is designed to support legislative, regulatory, and institutional reform of judicial institutions in order to build a foundation for a more accountable and independent judiciary in Ukraine. Its main objectives are to support USAID/Ukraine's assistance efforts in rule of law and democracy and governance through: 1) development of a legislative and regulatory framework for judicial reform that is compliant with European and international norms and supports judicial accountability and independence; 2) strengthening the accountability and transparency of key judicial institutions and operations; 3) strengthening the professionalism and effectiveness of the Ukrainian judiciary; and 4) strengthening the role of civil society organizations as advocates for and monitors of judicial reform.

Pursuant to Expected Result 3.2. Judicial Operations are Evaluated and Funded According to an Objective Assessment of Needs and Performance, FAIR is working to strengthen the capacity of the State Judicial Administration of Ukraine (SJA) to justify and present budget requests of Ukraine's judiciary. In support of this goal, under Task 3.2.3. Develop the Capacity of the SJA to Effectively Formulate and Substantiate Data-Driven, Needs-Based Budget Requests and 3.2.5. Work with the SJA to Improve Justice Sector Resource Management Efficiency, Including Procedures for Preparing Court Budgets, FAIR assists the SJA and the Council of Judges of Ukraine (COJ) in the development and implementation of a case weighting study for the judges of general jurisdiction trial court by case types, required for the courts to be able to better formulate and justify their budget requests.

II. GENERAL OVERVIEW

An issue common to all court systems is determining the number of judges needed overall, in each type of court, and in each court location to fairly and efficiently process the cases filed in the courts. Rigorous scientific methods exist for determining the number of judges needed to process a court's caseload. The federal court system and most state court systems in the United States use these methods, as do other court systems around the world. Particular study designs may vary somewhat, but they all rely on the concept of *case weights*.

Case weights are mathematical estimates of the average amount of time judges actually spend, from filing to termination, on cases of particular types. Case weights provide a more accurate and useful measure of the required judicial work than a mere count of filings because cases of different types may require, on average, different amounts of judicial time. The time a judge spends on any particular case can vary greatly – from almost no time at all to many hours – depending on the specific characteristics of that case. But, on average, some types of cases require more time of judges than other types of cases. For example, we know that judges must work longer on some simple theft cases than on other simple theft cases, and that they must work longer on some murder cases than on other murder cases. On average, however, judges must spend more time on a murder case than on a theft case. If we had to predict the judge time that will be required to fully process 100 cases of a particular type filed today, the best estimate is 100 times the average time it took to process a case of that type in the past.

Using case weights, a *weighted caseload* for a court can be calculated by multiplying the number of cases of each type that are filed in a year by the weight for each case type.

An integrated case weighting system would be useful in determining the necessary number and allocation of judges in the Ukrainian Court System, and in balancing workload among judges. Pursuant to the 2010 Law on the Judicial and the Status of Judges (Law No. 2453-Vi), the Ukrainian Court System has 666 local district courts to hear first instance civil cases, criminal cases, and select administrative cases, 27 regionally-located courts of appeals, each with separate civil and criminal chambers, to hear appeals from these first-instance courts, and a high specialized court in civil and criminal matters to hear appeals from the courts of appeals. For administrative cases, 27 local regional courts hear first instance cases, 7 courts of appeals hear appeals from the first instance administrative courts,¹ and a high administrative court hears appeals from the administrative courts of appeals. Similarly, for economic cases, 27 local regional courts hear first instance cases, 7 courts of appeals hear appeals from the first instance economic courts, and a high economic court hears appeals from the administrative courts of appeals. The Supreme Court of Ukraine, which has criminal, civil, administrative, and economic chambers, is responsible for unification in the application of law. The trial courts and courts of appeals have a total of 8687 judicial positions, including 4830 positions in the local district courts, 672 position in the administrative trial courts, 760 the commercial trial courts, 1718 positions in the civil/criminal courts of appeals, 402 in the administrative courts of appeals, and 305 in the commercial courts of appeals.² The High Courts of Appeal have 120 judicial positions and the Supreme Court has 48.

More specifically, a case weighting system could help:

- Determine the number of judges needed overall to process the cases filed in each court type (civil/criminal, administrative, economic) and level (first instance, courts of appeals, high court, Supreme Court);
- Determine how those judges should be allocated across court locations (e.g., how many judges are needed in each of the 666 local district courts);
- Balance the workload of judges within and across courts;
- Determine how many judges and how much time would be needed to process any backlog of cases in the courts; and
- Prepare and provide objective support for budgetary requests by the courts.

III. PRIOR JUDICIAL WORKLOAD STUDIES IN UKRAINE

The SJA, in cooperation with various entities, conducted judicial workload studies in 2004, 2008, and 2011. The current project attempts to improve on the methods of the prior studies, and thus the usefulness of the results. The following description of the prior studies is based on discussions with SJA staff and review of what documentation was available and could be translated into English.

¹ The Administrative Courts of Appeals also hear appeals on administrative cases from the local district courts.

² SJA provided these statistics. Approximately 15% of the positions in the trial courts and the courts of appeal are empty.

2004 Study. A 2004 study examined the judicial time needed to process the criminal/civil/administrative cases in the local district courts and the courts of appeals, as well as the commercial cases filed in the local circuit economic courts and the courts of appeals. At the time of the study, criminal/civil courts handled administrative cases because the separate administrative courts did not exist.

Data collection for the study had two major components, one was primarily the responsibility of the Academy of Judges, and the other was primarily the responsibility of SJA.

Objective Time Study. In the study component conducted by the Academy of Judges, judges reported the time they spent from receipt to final disposition on a sample of 900 civil/criminal/administrative cases and commercial cases in the trial courts.³ SJA provided the data collection forms used, as well as a letter to the judges about the study. That letter provided minimal instructions to the judges. SJA could not provide detailed information about the study, such as how the sample of cases was selected, whether additional instructions were provided to the judges, whether the judges maintained time contemporaneously or whether they reconstructed it from the case file.⁴

Because only 900 cases were included in the sample (1) objective time data were collected for only about a fourth of the case types, and (2) for most other case types, the data were collected for only a few cases. See the table below.

Court Type and Level	Number of Case Types	Number of Case Types for which Time Was Provided	Number of Cases per Case Type for Which Time was Provided
Civil/Criminal Trial	101	24 23.8%	Mean: 9.3 Mean (excluding case type with 60 obs.): 7.1 Range: 2 – 60
Commercial Trial	71	17 23.9%	Mean: 5.1 Range: 2 – 9

For each type of case within each court level for which data were available, the time reported by the judges was summed across cases and divided by the number of cases of that type.

Estimation Survey Study. In the study component conducted by SJA, all of the approximately 4500 judges in the trial courts and courts of appeals for civil/criminal cases and for commercial cases were asked to complete a survey. The survey asked the judges to estimate the judicial time required, on average, to process cases of different types. Case types were defined by the underlying legal provision involved. The estimates were to reflect time from receipt to disposition and be based on a case with one defendant, one plaintiff, one crime, one case volume, and up to five witnesses.

³ SJA staff said such data also were collected in the courts of appeals, but the study report does not include such information.

⁴ SJA is attempting to locate a copy of a report describing the study methods, but reported that detailed information about this aspect of the study was likely unavailable.

Approximately 600 judges completed the surveys. It is unclear exactly how many judges from each court type and level returned a questionnaire.⁵ However, the table below shows the range and the average number of estimates obtained for each case type, by type and level of court.

Court Type and Level	Number of Case Types	Number of Judges Providing Estimate for each Case Type
Commercial Trial	76	Range: 1 - 98 Mean: 27.1
Commercial Court of Appeals	69	Range: 5 - 57 Mean: 27.0
Civil/Criminal Trial	101	Range: 12 - 212 Mean: 138.0
Civil/Criminal Court of Appeals	105	Range: 1 - 90 Mean: 71.5

For each case type within each level of court, the time estimates were summed across judges and then divided by the number of judges providing the estimates.

Final Case Weights. The SJA calculated the final case weights for each case type by averaging the estimate obtained in the second component of the study, with that obtained in the first component, if there was one for the particular type of case. The resulting estimate was then adjusted upward by 10% to reflect time judges spent preparing the workplace and taking breaks. The case weights reflected the hours and minutes required by each type of case.

Corrective Ratios for Case Complexity. SJA also calculated corrective ratios to account for case complexity with data obtained from a sample of 38 case files from the ten courts in Kiev. The cases were selected to include those involving multiple defendants, multiple offenses, more than five participants, and multiple case volumes, and to vary from a typical case along only one of these dimensions. For each case, time reported on the hearing minutes in the file were summed. To calculate the corrective ratio, this sum was divided by the time estimate obtained above for the same type of case.

In the end, the corrective ratios were not used to adjust the case weights, or in any other way in assessing the workload for the courts. SJA provided no reason for this, but it is likely because the ratios depended on case criteria that were difficult to ascertain without reviewing specific case files, and thus, could not easily be applied to case statistics.

Calculating the number of required judges. To obtain an estimate of the number of judges needed to process the cases in each court:

- The final time-estimate for each case type was multiplied by the number of cases of each type in the court.⁶

⁵ SJA is attempting to locate this information. SJA also reported that some returned questionnaires were not usable because judges appeared to be estimating case duration rather than judicial time required by the case. This is a common misinterpretation of the task, which needs to be clearly explained in study instructions.

⁶SJA staff report they calculated weighted caseloads by multiplying the cases weights by terminations. Assuming the case weights are reliable and valid and the number of filings is rising, this could lead to under-projecting the number of necessary judges needed for the future. However, if the case weights overestimate the amount of time

- The products resulting from the multiplications were summed.
- The sum was divided by 2004, which was the standard numbers of hours set by the Ministry of Labor in 2005 as the number of hours a 40-hour a week employee would work in a year. (This number takes into account the number of official holidays that fall on a work day, but does not take into account vacation time.)

The study concluded that in addition to the 4,578 judges in the court, an additional 3,232 judges were needed, for a total of 7,810 judges. This number is comparable to the number of judges now actually working in the trial courts and courts of appeals; 7,416 judges are actually employed in the 8,687 positions.

2008 and 2011 Studies. The survey portion of the 2004 study was re-done in 2008 because the administrative courts were established, and again in 2011 to take into account changes in the law and the courts.

In the 2008 study, 359 judges returned questionnaires; 228 of those were from judges in the local district and civil/criminal courts of appeals, 36 were from judges in the administrative trial courts and courts of appeals, and 95 were from the commercial trial courts and courts of appeals.

In the 2011 study, 249 judges returned questionnaires; 168 of those were from judges in the local district and civil/criminal courts of appeals, 21 were from judges in the administrative trial courts and courts of appeals, and 60 were from the commercial trial courts and courts of appeals.

Observations about the Prior Studies. Below are some observations about the prior studies, which should be considered in designing the present study.

- SJA staff members who worked on prior studies appear to have been careful in their work and possess the skills to help implement the proposed study.
- Even in 2004 when objective time data were collected, the final time estimates (i.e., case weights) were based largely on the survey estimates. This reflects the difficulty of obtaining sufficient objective time data from geographically dispersed courts that handle a great variety of case types. The sample of 900 cases in the objective time study was too small to obtain any observations for most types of cases. For other case types, the number of observations was usually small so it is unclear whether the observations are representative of all cases of the particular type.

needed to process cases and cases are being processed at about the same rate as they are filed, this could lead to over-estimating the number of judges needed in the future. A critical choice in applying case weights is whether to multiply the case weights by cases pending from the previous year (backlog), newly filed cases in the year, all pending cases (filings and backlog), or resolved cases in the year. Each calculation answers a different question. For example, multiplying by new filings projects the number of judges needed to process the newly filed cases in the courts and multiplying by the number of cases pending from previous years projects how many judges (and judge hours) would be needed to clean up any backlog in the courts. Assuming the case weights are valid and reliable, multiplying by terminations estimates the number of judge hours the existing judges worked in the prior year. I have used this calculation to help determine if case weights based on judgmental studies are over- or under-estimates; if the resulting weighted caseloads suggest judges worked unreasonably long or short hours, this might indicate the case weights are over or underestimates.

- The survey study materials apparently asked judges to provide an estimate of the total judicial time cases of each type would require. A better approach would have been to have judges estimate the amount of time each major stage of the case required and then sum these amounts to obtain the total.
- The study materials asked judges to provide the estimate for a case with certain characteristics (e.g., one crime/claim, one plaintiff/defendant, one case volume, up to five witnesses), which may have masked some differences between case types. For some types of cases, the given case characteristics are typical; for other types of cases, the given case characteristics are simplistic. To account for this, the study attempted to account for case complexity by calculating corrective ratios, but such ratios proved difficult to use. A better approach would have been to calculate case weights for the typical case of each type, which in turn reflect the average complexity of each type.
- All judges were invited to participate in the survey portion, but it is unclear the extent to which the study includes representatives from the regions and districts; a better approach might have been to send the survey to the chief judge of each court, and ask him to respond, with input from the other judges as appropriate.
- Some additional work could have been done to examine whether the survey estimates and the final estimates were reasonable. Such work could have included, for example: (1) systematically comparing the objective time estimates and the survey estimates for case types with both types of estimates; (2) applying the estimates to the number of cases resolved in a year to see if the estimates suggest judges worked an unbelievable number of hours in the year; (3) conducting focus groups of experienced judges to review the appropriateness of the weights, in absolute terms and relative to one another.
- The number of work hours used in the denominator of the equation was probably too high because it did not account for vacation time and other types of work judges are required to perform as part of their jobs. The researchers tried to account for some such things by adjusting the weights upwards by 10%; logically this adjustment is to the wrong part of the equation, and assumes that such time is directly proportional to caseload, which is most likely untrue.

IV. CALCULATING CASE WEIGHTS

The two basic methods used to calculate case weights are objective time studies and judgmental studies. In objective *time studies*, judges directly record the time they spend on cases of various types (case-based time studies) or on the events required to process cases of various types (event-based time studies).⁷ The resulting case weights are objective and directly measure how much time judges spend on different types of cases.

⁷Two primary ways to conduct time studies are diary studies and longitudinal case tracking studies. In diary studies, judges record time about all their work-related activities for a specified period of time, including the time spent working on cases and the time spent doing other types of work (e.g., administration, education). In longitudinal case-tracking studies, judges report how much time they spend on a sample of cases from the time the case is filed until the time it is resolved. They do not report work that is not directly related to specific cases, such as time spent on administrative or education. Each type of study has its relative advantages and disadvantages.

In *judgmental studies*, various methods are used in combination to reach consensus about the time required to process cases of various types. Such studies produce more reliable results when (1) judges are asked to estimate the amount of time required by each major stage of a case (rather than estimate the overall amount of time), and (2) an iterative approach is used to refine the weights (e.g., questionnaires or interviews, followed by focus groups and various statistical checks).

	Case-Based	Event Based
Time Studies		
Judgmental Studies		

Studies can also measure the time judges spend on judicial business that is not directly associated with specific cases, such court administration, reviewing developments in the laws, and public outreach. Such time can be substantial and should not be overlooked in assessing judicial workload.

Regardless of how they are calculated, case weights can be scaled so that a weight of 1 is given to the type of case that takes the average amount of time. Values greater or lower than 1 are assigned to case types that require more or less than the average time. Alternatively, case weights can reflect the actual amount of judicial time, in hours and minutes, required to process major types of cases that comprise the jurisdiction of the court.⁸

In actuality, any particular study often relies on elements of more than one method.

The choice of the study design depends on many things – key goals of the study, the type and variety of cases within the jurisdiction of the courts, the amount and type of data available, the time period available to conduct the study, the resources available for the study, the amount of time and effort judges and court administrators are willing to spend on the study, and the relative advantages and disadvantages of the different methods.

Considerations in Designing the Current Study

Case weighting systems are most useful when (1) the types of cases making up the jurisdiction of a court require different amounts of judicial time; (2) the mix of cases in various court locations differ substantially; and (3) the case types handled by courts of different types (e.g., first instance versus appellate courts, civil/criminal versus administrative and economic) require different amounts of judicial time. Clearly, the method would be useful system-wide in the Ukrainian courts. We propose to develop the case-weighting system in phases, starting first with the local district courts that handle civil, criminal, and certain administrative cases because these courts handle a great diversity and number of cases.

⁸ Generally, scaled case weights based on objective time data are psychometrically more sound than those based on judgmental studies. As noted above, a weighted caseload for a court is calculated by multiplying the number of cases of each type filed in a year by the weight for each case type. To transform a court’s weighted caseload into an estimate of the judges needed in the court, the weighted caseload is divided by either (1) the number of hours a judge is expected to work on cases during the year, when weights are expressed in hours or minutes, or (2) the number of weighted cases each judge is expected to process in a year, when weights are scaled around 1.

It is best to conduct case weighting studies when a court system is stable in terms of its structure, jurisdiction, and procedures. This condition does not exist in Ukraine at the moment. For example, the recent Law on the Judiciary and Status of Judges (No. 2453) made a major change to the jurisdiction of the local district courts. The local district courts, instead of the Courts of Appeals, now handle the serious criminal cases that must be heard in panels. In addition, a law, which could be passed as early as March 2012, would make significant changes to criminal procedural law.⁹ It reportedly imposes time limits to resolve criminal cases, 2 months, 6 months, or 1 year, depending on the type of case; eliminates the judges' ability to send a case back to the prosecutor for additional investigation; and allows defendants and prosecutors to enter into pleas agreements which are then approved by the court. These changes could affect the workload of judges in various ways. If it was certain that no additional changes that affect the local district courts would be made, it might be advisable to wait until the system stabilized to conduct the study. However, considering the need for a case weighting system, the time required for the system to adjust to the recent and proposed changes, and the possibility of additional change, we determined it best to proceed with the study.

Some of the judges with whom we spoke indicated some procedural requirements and working conditions greatly affect their work. Examples of the former are the requirement that judges read the full text of *criminal* decisions in open court and the requirement that judges not work on other cases while writing a *criminal* decision post-trial in the deliberation room. With respect to problems and working conditions, judges noted, for example, a lack of courtrooms resulting in many civil trials being held in judges' offices, the failure of prosecutors, other attorneys, and witnesses to appear at trial, and general problems with transporting criminal defendants that limit the effective time court can be in session. It thus seems important that the current study collect information about the activities on which judges are working, as well as where they perform that work, and the problems they encounter.

Objective time studies must capture time on an ample number of cases for the resulting estimates to be reliable. The amount of data required depends largely on the number and specificity of case types that are used, and the number of cases of each type that are filed in the courts. The required amount of data affects the number of judges that must participate in the study and the length of time they must report their time.

As a preliminary matter, we are examining the statistical reports to begin determining the case types for which the objective time study should calculate case weights. This work will continue as we refine the data collection instruments and proceed with the estimation study. It is important that the case types used in the objective study represent cases that are of sufficient number, substantively similar, procedurally similar, and approximate each other in terms of complexity, rather than merely represent some or all entries from the statistical tables. The case types must not be overlapping (i.e., a single case should belong to just one case type), and the case types must be exhaustive (i.e., every case filed in the court must belong to one of the case types).¹⁰ The table below illustrates some of the important considerations based on our preliminary work. To

⁹The proposed Criminal Procedure Code has passed the first reading, and is expected to be enacted in March of 2012 and become effective six months later.

¹⁰ Developing an exhaustive set of case types will require using "other" categories and estimating case weights for rarer types of cases with information about similar but more frequent types of cases.

help ensure that ample objective time data are collected to calculate reliable weights, we will collect information in the estimation portion of the study to refine the case types used in the objective study (see below).

Note: <i>This table does not include all of the primary types of cases listed in the statistical reports; it is for illustration only.</i>			
Primary Category of Case in the Statistical Report	Number of Major Categories	Number of Subcategories	Notes
Criminal Cases (81 types of cases listed in the table)	21, including an “other” category; very few cases are filed under some major categories of cases.	The number of subcategories for each major category ranges from 0 to 6. Some of the subcategories have sub-sub categories.	The subcategories are generally non-exhaustive (that is, not all cases of a major type fall into one of its subcategories). For some major types of cases, the subcategories comprise most of the filings of that major type. For other major categories of cases, the sub-categories cover few of the filings of that major type (3%-30%). The size of the subcategories within each major category varies greatly.
Administrative Offenses (253 types of cases listed in the statistical table)	253, including an “other” category		26 of the 253 categories (10%) account for approximately 91% of the cases; 40 of the 253 categories (16%) account for approximately 93% of the cases.
Administrative Cases (116 types of cases listed in the statistical table)	13 major categories, including an “other” category	The number of subcategories for each major category ranges from 0 to 9. Some of the subcategories have sub-sub categories.	The subcategories are non-exhaustive (that is, not all cases of a major type fall into one of its subcategories), but generally, the subcategories comprise most of the filings for the major type (from approximately 74% to 99% depending on major type). The size of the subcategories within each major category varies greatly. For example, just one of the four subcategories for one major type contains 93% of the cases while the other three subcategories contain very few cases.
Civil Cases (Claims Based) (116 types of cases listed in the statistical table)	13 major categories, including an “other” category	The number of subcategories for each major category ranges from 0 to 8. Some of the subcategories have sub-sub categories.	The subcategories are non-exhaustive (that is, not all cases of a major type fall into one of its subcategories), but generally, the subcategories comprise most of the filings of that major type (from approximately 74% to 98%). The size of the subcategories within each major category varies greatly. For example, just one of the four subcategories for one major type contains 97% of the cases while the other three subcategories contain very few cases. This larger subcategory is further broken down into subsidiary categories.

V. COMPONENTS OF THE STUDY

The proposed study is divided into three major components: (1) judgmental study based on questionnaires and focus groups; (2) an objective time study; and (3) focus groups to review and develop the final weights.

Judgmental Questionnaire Study. On or about April 15, 2012, researchers will send a questionnaire to the chief judge of each of the 666 local district courts, requesting that the chief judge complete the questionnaire in consultation with the other judges in the court, as appropriate. The questionnaire will list a set of case types that comprise the jurisdiction of the court. Project staff will develop the list of case types with reference to the statistical reports, and in consultation with SJA and the Council of Judges. The questionnaire will ask judges to estimate for each case type the amount of time required during each major phase of the case. Judges will make the estimates for a typical case of each type; and then indicate the extent to which those estimates vary for simple and complex cases of each type. Supplemental questions will ask judges about the extent to which cases within a type vary in terms of the judicial time required, and to rate the relative complexity of certain types of case in relation to cases of other types. A supplemental questionnaire will inquire about the working conditions in the court.

The results of this survey will be used to preliminarily assess the variability in required judicial time across case types. This will help determine the specificity of the case types that are needed for the case weighting system, and in turn, help finalize the number of courts required to participate in the objective time study. The time estimates obtained from this study will be reviewed by focus groups of local district court judges (see below), and various statistical analyses will be conducted to assess whether they are realistic estimates.

Objective Time Study. Judges from approximately 80 local district courts will record all the time they spend working on cases and other judicial activities for a six-week period, beginning in late May/early June.¹¹ The number of participating courts is subject to change, subject to closer examination of the filing statistics for the courts and the preliminary results of the questionnaire study. SJA, COJ and FAIR will select the participating courts to ensure all 27 regions are represented and that small, medium, and large courts, as well as urban and non-urban courts are represented.

Judges will use standard reporting forms to report their work. For case related work, judges will use codes to describe the type of case on which they are working, the location in which they are working (e.g., office, courtroom, deliberation room, home, other), and the task they are performing (e.g., conducting trial, writing decision), and will indicate in hours and minutes the time devoted to the task. They also will indicate whether the case involved a juvenile, and whether the case was affected by case-processing delays. Judges also will use codes to report the time spent on judicial activities that are unrelated to a specific cases (e.g., office administration, judicial education, court governance, official travel). Because many judges will record the time worked on the various case types and case events, it is not necessary that any one judge record work time from the beginning to the end of any given case.

Judges may obtain assistance from their staff members in completing the time logs. For example, judges who have participated in similar studies report it is helpful for a staff member to keep track of the judge's time in hearings and trials. Judges may need to complete the log themselves for other types of work because staff members may not know how the judge is spending this time with any precision. Even for this work, however, judges from prior studies recommend keeping just a rough log in longhand and have a staff member produce the final version.

¹¹ The number of participating courts is subject to change, pending closer examination of the filing statistics for the courts, and the preliminary results of the questionnaire study.

The participating courts will send the completed forms to SJA (or another entity) on a weekly basis and data entry staff will input the information into a database using CSPro. The data will be used to calculate case weights for case types comprising the jurisdiction of the local district courts. Results from the questionnaire phase of the study will be incorporated into these analyses as appropriate and necessary.

In addition, judges will also complete a short questionnaire at the start of the study and another one at the conclusion of the study. The start up questionnaire will request information about the judge’s type of appointment (five year or life term), years of experience as a local district court judge, and the type(s) of cases currently handled. The final questionnaire will ask whether judges’ work during the study period was different from what is typical and include questions about the impact of certain court procedures and working conditions.

Focus Groups. Focus groups of judges and other key stakeholders will review the results of the judgmental questionnaire study, the objective time study, and the resulting case weights. The goals of the focus groups are to validate the case weights and to identify factors not accounted for by the case weights that ought to be considered in assessing judicial workload.

Timeline for the Study

Major Tasks	Approximate Dates
Draft questionnaires, time recording forms, and related instructions. Further study case statistic to preliminarily determine number of courts for objective time study	By March 15, 2012
Conduct from one or two working meetings with judges of trial courts to obtain feedback on questionnaires and time recording forms; make changes to the forms based on feedback.	March 15 – April 15, 2012
Review the study design with SJA and COJ, make any changes based on the feedback, and jointly with the SJA and COJ preliminarily identify the local district courts to participate in the objective time study.	March 15-April 15, 2012
Design CSPro input program and database structure for both the questionnaire study and the objective time study	May 1, 2012
Conduct questionnaire-based study; distribute questionnaires to courts on April 15, with due date of April 30, input responses into data base and conduct preliminary analyses needed to finalize objective time study design.	April 15-May 15, 2012
Review preliminary survey results and, in consultation, with SJA and COJ, finally determine the number and identify of courts to participate in the objective time study, and make any adjustments to design of that study.	May 15 - May 30, 2012
Launch and conduct objective time survey in participant courts; begin data input.	May 30, 2012 – July 20, 2012
Continue and complete input of objective time study data, finish analyzing questionnaire data, analyze objective time study data, prepare draft case weights.	June 4 – August 20, 2012
Conduct two to four regional focus groups with judges of trial courts and COJ /SJA representatives to validate draft case weights.	August 15 –September 30, 2012

Based on data from focus groups and other statistical analysis finalize the case weights.	November 1 – November 15, 2012
SJA/COJ approval of case weights.	November 15 – 30, 2012
Discuss implementation policies with COJ and SJA, and assist in drafting such policies.	Ongoing
Should the COJ/SJA approve the results of this study, apply the same methods to study the economic and administrative first instance courts, the criminal/civil, administrative, and economic courts of appeals, and the high courts.	Ongoing

VI. CONCLUSION

The USAID Fair, Accountable, Independent and Responsible (FAIR) Judiciary Program in Ukraine is ready to assist the Council of Judges of Ukraine and the State Judicial Administration of Ukraine in organizing and implementing the proposed study in accordance with the timeframes suggested in this report.

As mentioned above, the implementation of this study will help:

- Determine the number of judges needed overall to process the cases filed in the court;
- Determine how those judges should be allocated across court locations (e.g., how many judges are needed in each of the 666 local district courts);
- Balance the workload of judges within and across courts;
- Determine how many judges and how much time would be needed to process any backlog of cases in the courts; and
- Prepare and provide objective support for budgetary requests by the courts.

:

No set of recommendations ever is exhaustive, and of course, changes will have to be made to the proposed design in the course of implementation. However, we believe that joint efforts aimed at the implementation of this study and the development of a scientifically justified system of case weights together with a system of specific time indicators for hearing cases of different types will lead to a significant increase of the efficiency of the process of justification of the budget requests of the judiciary of Ukraine as well as provide a basis for fair and objective judicial workload balancing in the course of assignment of cases to judges.