



# **UKRAINE JUDICIARY DEVELOPMENT STRATEGY 2015-2020**

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**APPROVED BY THE COUNCIL OF JUDGES OF UKRAINE  
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## **Introductory speech**

Our State has recently been going through multiple upheavals, overpassing challenges and dangers, but still continuing its way of comprehensive reforms and European integration. The society is facing the future with hope and is expecting the authorities to make decisive steps, to show itself competent and responsible, to introduce rapid changes for the better in all spheres of life.

The right to judicial protection is a fundamental constitutional right of any person. And it is the duty of the State to provide its citizens with an efficient instrument of judicial protection and the right to fair trial in accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Ukrainian society shows strong demand for efficient, accessible, transparent and modern justice. Such aspirations certainly require changes and development of the judiciary, as well as its reform. In Ukraine there is a political will to do so.

Judicial community is conscious of the necessity to change the system and is also looking forward to it. Representatives of the judiciary are ready to participate in discussion of proposals on the relevant ways of reform. But, moreover, we are conscious of the fact, that, when reforming judiciary, there cannot be unnecessary, minor or unimportant aspects. Administrative performance of the court, competence of the judges and the courts' staff, effective PR/communication, maximum transparency of the courts, modern innovative technologies – all of these together ensures general efficiency of justice and therefore public trust toward the courts.

Achieving these goals requires daily laborious approach which depends mostly on judges, judicial self-governance structure and other judicial bodies. We must not wait for legislative changes. We must now direct all our efforts to increased efficiency of justice using internal cooperation mechanisms. Ukraine Judiciary Development Strategy 2015-2020, that you are holding in your hands now, aims exactly at this objective.

This document has the power of a voluntary conscious commitment oriented to improvement of the quality of judicial services for the citizens and to convergence of national judicial processes with the best European models. Showing the internal aspiration of the judiciary to changes, judicial community represented by the Council of Judges of Ukraine, the Higher Courts, the Supreme Court of Ukraine, the High Council of Justice, the High Qualification and Disciplinary Commission of Ukraine, the National School of Judges of Ukraine and the National Judicial Administration of Ukraine, has undertaken this obligation.

Strategy means the prospective planning; it is a roadmap for the judicial reform and, meanwhile, it also contains comprehensive propositions on how to improve the state of affairs in the judiciary, many of which can be applied immediately. The Strategy consists of coordinated actions aiming to restore confidence to the judiciary, to strengthen independence and autonomy of the courts, to streamline usage of resources, to create capacities for the judiciary's PR/communication, for increased competence of the employees, for implementation of e-justice etc.

Our ambitious plan is implementation of all the components of the Strategy and international European recognition of a better state of affairs in Ukrainian judiciary. I am sure we will do our best to achieve it. I also hope that the judiciary will be supported by the legislative and executive branches and that the fruitful cooperation will be established, as the judicial reform is a common task of all state bodies.

I am expressing my gratitude to the EU Project "Support to Justice Sector Reforms in Ukraine" and personally to the Team Leader Virgilijus Valancius for their support in drafting the Judiciary Development Strategy 2015-2020. Ladies and gentlemen! We do appreciate the work of the EU Project experts who help us with establishing independent and efficient judiciary in Ukraine in accordance with the international and European standards. Thanks to your support the Strategy has been developed, and I truly hope for our fruitful cooperation in the process of its practical implementation.

**Valentyna Simonenko,**  
*Head of the Council of Judges of Ukraine,  
Judge of the Supreme Court of Ukraine*

# UKRAINE JUDICIARY DEVELOPMENT STRATEGY FOR 2015-2020

## Introduction

The Ukrainian judiciary is facing serious challenges. The general public criticises judges for a lack of independence, impartiality, transparency and accountability. Public trust in the judiciary needs to be restored. The judiciary is ready to take upon concrete steps and actions in order to restore the society's confidence.

The Ukraine Judiciary Development Strategy (hereinafter - Strategy) is another stage of implementation of the Strategic Plan (SP) of the Judiciary, approved by the XIth Congress of Judges of Ukraine, the highest body of judicial self-governance. The Strategy is building upon the strategic issues defined in SP, while setting out more specific activities, outputs, outcomes and impact of the intended interventions.

Adopted at the time of significant social and political changes, Strategy responds to the present-day challenges, attests the continuing aspiration of the society and the Ukrainian judiciary to reform and improve the quality of its services to the public, to follow European standards and best practices in good administration of justice. The Strategy also reflects the need to increase independence, accountability and transparency of the judiciary, while also ensuring a higher degree of cooperation with legislative and other branches. Reform of the judiciary is also a necessary precondition to consolidate all European integration efforts, including implementation of the Association Agreement, joining a free-trade area, pursuing the visa dialogue, and engaging in other major partnerships with the European Union (EU).

While overhaul of the constitutional set-up and other relevant legislation will be necessary to achieve many of the SP objectives the Strategy focuses more on areas where tangible achievement can take place almost exclusively by way of actions taken by the judiciary and its self-governance bodies internally. These actions, in particular, aim to strengthen leadership in driving the sector reform and legislative initiatives, improve budgeting and financial management capacities, deal with communication and public relations (PR), move towards more supportive and development-oriented (rather than prescriptive and inspection-oriented) self-regulation and management, develop more effective ways of measuring accountability and quality of justice (including by way of measuring user satisfaction), improve access to justice and uniformity of case-law.

At the same, it must be noted that constitutional and legislative amendments will be necessary to better distribute duties and powers of each actor in judiciary self-governance, streamline competences between the judiciary and other State and private actors in all types of process, improve the state of affairs with access to justice. Therefore, the Strategy for 2015-2020 is merely a step towards more comprehensive process of the judiciary reform in particular, and justice sector reform in general.

## **AREA 1: INDEPENDENCE AND TRANSPARENCY OF THE JUDICIARY**

### **STRATEGIC ISSUES (as defined in SP):**

- Strengthening judicial independence and self-reliance**
- Improved funding and effective use of resources**
- Restoration of public trust**

SP focuses on various issues pertaining to the state of the legislature and distribution of powers between the courts and other actors in the justice sector. In order to achieve the objectives of SP and strengthen the position of the judiciary with regard to other branches of power, emphasis should be placed on strengthening strategic planning, financial and communication capacities of the judiciary self-governance system.

In this respect, dedicated units in charge of strategic planning and legislative affairs, budget and financial management, quality and performance management, ethics and discipline (etc.) will be set up both at the strategic (Council of Judges of Ukraine - CJ) and operational levels (Secretariat of the Council of Judges, State Judicial Administration - SJA or other bodies, depending on their competence). These units will ensure that the judiciary speaks with one and effective voice when it comes to legislative initiatives that directly affect the administration of justice, ensuring adequate provision and distribution of financial resources, and communication with the public. Further steps will be taken towards consolidation of all budgetary and public financial management capacities of the judiciary by way of setting up dedicated finance units to serve all courts within a certain appellate region. Among other outcomes, transparency in the functioning of the judiciary will be ensured by facilitated access and information given to the public and the media about hearings, other relevant meetings and procedures. These changes should make a sizeable impact on the way the judiciary manages its relationship with other branches of power and the society at large.

**Activity 1.1** Development of dedicated strategic planning and regulatory development, budget and financial management capacities of the judiciary

| <b>Outputs/ Time-frame</b>  | <b>Responsible Body / Means of Verification</b>   |
|---|---|
| 1) Committees on Strategic Planning and Regulatory Development, Budget and Financial Management, Quality and Performance Management set up as part of the Council of Judges/ <i>By the end of 2015</i>  | CJ/ CJ decisions, reports, terms of reference, rules of procedure, placement plans in place |
| 1) Dedicated units for Strategic Planning and Regulatory Development, for Budget and Financial Management, for Quality and Performance Management in place and fully operational/ <i>By the end of 2015</i>   | SJA, CJ/ CJ, SJA decisions, terms of reference, rules of procedure, placement plans         |
| 1) Dedicated financial units (under the auspices of regional/appellate courts) subordinate to the Council of Judges of Ukraine to formulate budgetary requests and serve all courts within that appellate region, in place/ <i>By the end of 2017</i> | CJ/ / CJ decisions, regulatory amendments   |
| 1) Practice guides and training modules on strategic planning and legislative development, on budget and financial management developed at the National School of Judges (NSJ) / <i>By the end of 2017</i>  | CJ, NSJ/ NSJ curricula adopted and applied, practice guides published, trainings conducted  |

### **Outcomes of the Activity 1.1:**

- Strengthened role of the judiciary in the justice sector policy development, institutional reform and legislative initiative processes by dedicated mechanisms at the judiciary self-governance system, taking actions to develop strategies and other policies, to review their implementation, to initiate and conduct regulatory initiatives;
  - Quantitative and qualitative monitoring and evaluation methodologies applied in internal review of implementation of all judiciary policies;
  - Strengthened role of the Council of Judges in the process of defining expenditures for judiciary from the State Budget of Ukraine as well as in the budget implementation process;
  - Harmonised approach in budgetary planning and formulation by the judiciary and strengthening of regional capacities, unification of the courts' budgeting system (one budget for all courts), program budgeting and performance-based budgeting methodologies with non-financial performance indicators applied in the judiciary budget formulation and implementation processes;

- Increase in effectiveness of collection of court fees to be used to budget the courts;
- Increased quality of public financial management at the courts, substantial reduction of arrears of courts to utilities, postal, forensic, legal and other service providers, single public procurement process in place based on harmonised needs assessment of the courts.

**Activity 1.2** Development of dedicated communication and PR capacities of the judiciary

| <b>Outputs/ Time-frame</b>  | <b>Responsible Body / Means of Verification</b>  |
|---|--|
| 1) Committee on Communication set up as part of the Council of Judges/ <i>By the end of 2015</i>  | CJ/ CJ decisions, reports, terms of reference, rules of procedure                          |
| 2) Press Centre under the Council of Judges, press units (officers) in all appellate regions in place and fully operational / <i>By the end of 2017</i>   | CJ/ CJ decisions   |
| 1) Written rules of procedure drafted and applied by the CJ in all matters, with clear conditions on public access and participation at the meetings of the CJ, timely prior announcement of the agendas/ <i>By the end of 2015</i> | CJ/ CJ decisions   |
| 4) Regular study visits of schoolchildren, students and other groups organised at courts/ <i>By the end of 2015</i>   | CJ, SJA, courts / Study visits   |
| 1) Clear rules of access to court premises adopted, which would not deter public access and participation at the open court hearings/ <i>By the end of 2015</i>   | CJ, SC, HSC, SJA/ CJ, SC, HSC, SJA decisions   |
| 1) Drafting of press-releases and organisation of press-conferences at courts following examination of high-profile cases/ <i>By the end of 2015</i>  | SJA, CJ/ Press briefings, press releases   |
| 1) Practice guides and training modules at the NSJ on PR and communication matters developed / <i>By the end of 2017</i>  | CJ, NSJ/ NSJ curricula adopted and applied, practice guides published, trainings conducted |

**Outcomes of the Activity 1.2:**

- Dedicated communication/PR methodologies applied by the judiciary in communicating with other authorities;
- Individualised approach applied in communicating with court users,

depending on their categories (age, academic degree, social/legal status etc.);

- Career and performance management system of the judiciary containing incentives for judges to enter more frequently into contact with the public through making publications, conducting researches, visiting educational establishments, and engaging in other socio-educational activities.

## AREA 2: IMPROVEMENT OF COMPETENCE

### STRATEGIC ISSUES (as defined in SP):

- Professionalism and excellence in service
- Restoration of public trust

Following the framework established by SP, improvement of competence and public trust in the judiciary will be encouraged by way of reform of the career and performance management system, notably through the redefined role of the National School of Judges (NSJ) as part of the judiciary. Competitions will be held in cases of appointment to a particular judicial post on the basis of the new performance management system, while making sure that judges are also evaluated and promoted on the basis of the same, transparent, merits-based, score-based criteria.

Effective mechanism will be set up to carry out planned result-oriented audits of judges and courts, to conduct the general review by the judiciary of implementation of its quality policy, to investigate individual complaints. Moreover, user satisfaction surveys will be used as part of the new performance management system, thereby allowing the public to have say in how the judiciary evaluates its performance. Furthermore, mechanisms are proposed to seek greater uniformity of practice through strengthened research and analysis capacities of the higher courts.

**Activity 2.1** Development of the performance management system of the judiciary and mechanisms to apply it through clear and transparent judiciary quality policy and performance standards, appointments, evaluations, promotions and re-assignments (transfers) system.

| Outputs/ Time-frame   | Responsible Body / Means of Verification |
|---|--|
| 1) Harmonised quality policy and performance standards in the new Court Performance Evaluation Framework (CPE), approved by the Council of Judges/ <i>By the end of 2017</i>  | CJ/ CJ decisions                         |
| 2) Reviewed quality policy and expanded performance standards (from the current list of 16 indicators) in the new CPE approved by the Council of Judges; performance standards reviewed annually/ <i>By the end of 2017</i> | CJ/ CJ decisions                         |

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|---|--|
| 3) Rulebooks and practice guides developed on the basis of CPE/ <i>By the end of 2017</i>   | CJ/ CJ decisions, rulebooks and practice guides developed and published                    |
| 4) Aligning all job descriptions and policies for filing all judicial and administration positions in each court with the CPE/ <i>By the end of 2017</i>  | CJ, SJA/ CJ, SJA decisions   |
| 5) Piloting of the new performance management system / <i>By the end of 2017</i>  | CJ/ CJ decisions, reports  |
| 6) Written rules and procedures for appointments, re-assignments (transfers to another court) and promotions streamlined on the basis of the aforementioned policy and methodological improvements, development of proposals on respective legislative amendments/ <i>By the end of 2017</i>      | CJ, HQC / Regulatory amendments, CJ, HQC decisions   |
| 7) Competitions held in all cases of filling a particular post/ <i>By the end of 2015</i>   | CJ, HQC/ CJ, HQC decision, reports   |
| 8) Review of the role and powers of the Service of judicial inspectors/ <i>By the end of 2017</i>   | HQC, CJ/ CJ, HQC / Regulatory amendments, CJ, HQC decisions                                |
| 9) Operational mediators assigned to resolve disputes within courts and among courts staff/ <i>By the end of 2017</i>   | CJ/ CJ decisions   |
| 10) Research and analysis, risk assessment reports produced on the basis of use of statistics collected by use of the new HR software/ <i>By the end of 2017</i>  | CJ/ CJ reports   |
| 11) User satisfaction surveys conducted on the basis of harmonised methodologies as part of the new performance management system/ <i>In at least 10 pilot regions by the end of 2015, national piloting by the end of 2017, national user satisfaction surveys conducted regularly from 2019</i> | CJ/ CJ decisions, reports  |
| 12) Practice guides and training modules on the new performance management system developed at NSJ / <i>By the end of 2017</i>  | NSJ, CJ/ NSJ curricula adopted and applied, practice guides published, trainings conducted |

### Outcomes of Activity 2.1:

• Quantitative and qualitative, inter-linked and comparable, set of performance criteria in place for all judges, courts and the judiciary self-governance bodies to control and measure performance, taking into account the wider strategic frameworks;

• Merits and score-based career and performance management system in place;

• Competitions held in all cases of filling a particular post based on clear and objective criteria and transparent procedures;

• Optimized number of judicial self-government bodies responsible for decisions on judicial career, performance management and disciplinary measures;

• Harmonised and automated business processes, use of research and analysis, risk management tools in career and performance management matters;

• Accessible and consistent practice of the judiciary self-governance bodies in career and performance management matters;

• Judicial self-government bodies and courts regularly use results of user satisfaction surveys for evaluation and improvement of the performance management system.

**Activity 2.2** Improvement of initial and continuous training systems for judiciary

**Activity 2.2.1** Improvement in the initial training (IT) system, including distance learning tools, training needs assessment and trainings quality assessment mechanisms

| <b>Outputs/ Time-frame</b>  | <b>Responsible Body / Means of Verification</b> |
|---|---|
| 1) Elaboration of proposals with regard to establishment of the statutory role of the NSJ as the sole institution of judiciary education in Ukraine and the sole provider of initial training for judges/ <i>By the end of 2015</i> | CJ, NSJ/ Regulatory amendments                  |
| 2) Implementation and annual review of the NSJ Strategic Plan/ <i>Annually starting from 2015</i>   | NSJ, HQC/ NSJ, HQC reports                      |
| 3) Elaboration of proposals with regard to required IT programme period extension to 18 months and abolition of distance learning form (by correspondence) of IT/ <i>By the end of 2015</i>   | CJ, NSJ/ Regulatory amendments                  |

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| 4) Elaboration of proposals for improving of financing mechanisms of the IT in order to achieve a better balance between efficiency of the use public resources and availability of IT/<br><i>By the end of 2015</i>   | CJ, NSJ/ Regulatory amendments   |
| 5) IT curricula, courses and teaching methodologies, including for distance learning, developed autonomously updated annually/<br><i>Annually starting from 2015</i>   | NSJ, HQC/ NSJ, HQC decisions, reports  |
| 6) Introduction of courses and interactive teaching methods focused on development of practical skills of the candidates, prolongation of internship during IT, use of techniques of psychological preparation/<br><i>By the end of 2015</i>   | NSJ/ Regulatory amendments, NSJ decisions and reports                                      |
| 7) IT needs and capacity assessment mechanisms developed, including dedicated software for online questionnaires/<br><i>By the end of 2017</i>   | NSJ, HQC, SJA/ NSJ, HQC decisions, reports, software developed and procured, users trained |
| 8) IT trainer selection and preparation system updated (in particular within the NSJ regional network), inter alia, on the basis of training of trainers (TOT) approach; improvement of mechanisms of involvement of practicing judges in the teaching process/<br><i>By the end of 2017</i> | NSJ, HQC/ Regulatory amendments, decisions, practice guides published, trainings conducted |
| 9) Distance learning tools developed /<br><i>By the end of 2017</i>  | CJ, NSJ/ NSJ decisions, software procured, users trained, manuals published                |
| 10) Co-operation agreements and networks in place between NSJ and relevant judicial IT bodies abroad/<br><i>By the end of 2017</i>   | NSJ/ MOUs, agreements in place   |

### **Outcomes of the Activity 2.2.1:**

- NSJ and judiciary fully capable of developing initial training curricula autonomously from other justice sector actors and donors;
- Problem-based approach to teaching and active use of interactive methodologies aimed at development of practical skills of the candidates for judges' positions;
- Key initial training subjects include methods of interpretation of law, burden and formalised standards of proof in various types of process, jurisprudence as source of law, reasoning of decisions, oratory skills,

professional ethics and disciplinary matters, information technologies, psychology, mediation, anti-corruption, foreign languages;

- Initial training courses of judges other legal professionals (prosecutors, lawyers etc.) approximated, some curricula and courses harmonised;

- Institutionalised linkages between initial training and judicial appointments systems;

- Permanent pool of trainers (databases), including trainers from regions, fully and regularly mobilised;

- Experienced legal practitioners, including the Supreme and other higher courts judges, European and international counterparts, among regular trainers

**Activity 2.2.2** Improvement in the continuous training (CT) system, including distance learning tools, training needs assessment and trainings quality assessment mechanisms

| <b>Outputs/ Time-frame</b>  | <b>Responsible Body / Means of Verification</b>  |
|---|--|
| 1) CT curricula and methodologies for judges including for distance learning, developed autonomously by the NSJ and updated annually/ <i>Annually starting from 2015</i>  | NSJ, HQC/ NSJ, HQC decisions and reports   |
| 2) Elaboration of proposals with regard to mandatory CT period diversification for judges and court staff depending on their roles and experience; individualised approach to CT applied/ <i>By the end of 2015</i>   | NSJ, CJ, HQC/ Regulatory amendments, CJ, NSJ, HQC decisions  |
| 3) CT needs and capacity assessment mechanisms developed, including dedicated software for online questionnaires and online course enrolment/ <i>By the end of 2017</i>   | CJ, NSJ, HQC/ Regulatory amendments, NSJ, HQC reports, software developed and procured, users trained            |
| 4) CT trainer selection and preparation system updated (in particular within NSJ regional network), inter alia, on the basis of training of trainers (TOT) approach; improvement of mechanisms of involvement of practicing judges (including the Constitutional Court (CC), SC and HSC judges) as regular trainers at NSJ/ <i>By the end of 2017</i> | NSJ/ NSJ reports and decisions, regulatory amendments, decisions, practice guides published, trainings conducted |
| 5) Distance learning tools developed and applied/ <i>By the end of 2017</i>   | NSJ/ NSJ decisions, software procured, users trained   |

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|--|--------------------------------|
| 6) Co-operation agreements and networks in place between the NSJ and relevant judicial CT bodies abroad/ <i>By the end of 2017</i>             | NSJ/ MOUs, agreements in place |
| 7) Internships, traineeships and study visits at ECHR, ECJ and EU member states judiciary bodies conducted/ <i>Annually starting from 2015</i> | NSJ / NSJ reports              |

**Outcomes of the Activity 2.2.2:**

- Individualised approach to CT applied;
- NSJ and judiciary fully capable of developing continuous training curricula autonomously from other justice sector actors and donors;
- Problem-based approach to teaching and use of interactive methodologies aimed to development of practical skills of the judge;
- Key continuous training subjects include methods of interpretation of law, burden and formalised standards of proof in various types of process, jurisprudence as source of law, reasoning of decisions, oratory skills, professional ethics and disciplinary matters, information technologies, psychology, mediation, anti-corruption, foreign languages, strategic planning, budget and financial management, monitoring and evaluation, public relations/communication;
- Continuous training courses of judges other legal professionals (prosecutors, lawyers etc.) approximated, some curricula and courses harmonised;
- Permanent pool of trainers, including trainers from regions, fully and regularly mobilised;
- Experienced legal practitioners, including Supreme and other higher courts judges, European and international counterparts, among regular trainers;
- Regular internships, traineeships and study visits at ECHR, ECJ and EU member states judiciary bodies;
- Information management system of NSJ interoperable with those of the judiciary governance bodies and high educational institutions (HEIs)

**Activity 2.3** Development of mechanisms to ensure greater uniformity of practice though strengthened research and analysis capacities of the courts

| <b>Outputs/ Time-frame</b>  | <b>Responsible Body / Means of Verification</b>  |
|---|--|
| 1) Research and analysis units at the SC, the HSCs and appellate courts for analysing domestic and comparative gaps in application of law, in place / <i>By the end of 2017</i>                     | CJ, SC, HSC/ CJ, SC decisions, reports, terms of reference, rules of procedure, placement plans, job descriptions in place |
| 2) Cooperation agreements and networks in place between the courts' research and analysis units, the NSJ and HEIs/ <i>By the end of 2017</i>  | CJ, NSJ/ Memorandums of understanding, agreements in place   |
| 3) Research and analysis papers produced, in coordination by the NSJ and HEIs, as a result of the CT exercises at the NSJ, identifying gaps between statute and practice/ <i>By the end of 2017</i> | NSJ/ NSJ reports, HQC reports, research and analysis papers developed and published  |
| 4) Websites and case-law search engines updated <sup>1</sup> / <i>By the end of 2017</i>  | NSJ, SJA/ Software developed/procured, users trained   |

### **Outcomes of Activity 2.2.3:**

- Constant flow of feedback between the courts' research and analysis units, NSJ and HEIs; jurisprudential and legislative development taking place as suggested in research papers, gap analysis and impact assessment reports;
- User-friendly keyword-based search tools on court websites allowing to look for jurisprudence and legislation, with linkages to SC and other higher courts' practice under that legislation;
- Regular use of online forum of judges (set up under the SJA information technology network) and other online resources by the judiciary, allowing to exchange views on the case-law, interpretation of law, information and materials on trainings, conferences, seminars.

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<sup>1</sup> For a more detailed list of steps in developing e-justice and related tools, see Area 4 below

## AREA 3: ACCOUNTABILITY

### STRATEGIC ISSUES (as defined in the SP):

- Integrity in delivery of justice
- Public trust

As noted in the SP, the development of and compliance with high standards of conduct and ethical principles - and transparency in informing the public - provides a vital foundation for the fair administration of justice, and secures members of the judiciary from improper influence, while also fostering public trust and confidence. Various steps are proposed to improve the existing ethical and disciplinary framework, by both making the rules clearer to judges and the general public, while also ensuring that the procedures in cases of a breach ensure the requisite degree of fairness and participation to everyone involved. Most notably, a dedicated Committee on Ethics and Discipline is to be set up under the Council of Judges to give policy guidance in this area, as well as provide consultations to judges. In addition, steps will be taken to develop effective investigation mechanism of disciplinary breaches, while also helping deal with and prevent any mismanagement or lack of accountability by the judiciary. The mechanism will ensure greater clarity, foreseeability and constant monitoring of application of ethical and disciplinary rules, in particular the rules related to the prevention of the conflict of interest.

**Activity 3.1** Improvement of ethical and disciplinary oversight system, including guarantees against improper interference with independence by way of better case-flow management, use of e-justice, and internal and external oversight mechanisms

| Outputs/ Time-frame  | Responsible Body / Means of Verification  |
|--|---|
| 1) Committee on Ethics and Discipline set up as part of the Council of Judges; dedicated Ethics and Discipline Unit set up at the operational level/ <i>By the end of 2015</i> | CJ/ CJ decisions, reports, terms of reference, rules of procedure, placement plans, job descriptions in place |
| 2) Judiciary Civil Oversight Board set up under the auspices of the Council of Judges/ <i>By the end of 2015</i>   | CJ/ CJ decisions, reports, terms of reference, rules of procedure, placement plans, job descriptions in place |

|   |  |
|---|--|
| 3) Practice guide on the new Code of Judicial Ethics developed and published/ <i>By the end of 2015</i>   | CJ/ Practice guide developed and published   |
| 4) Review of the Rules of Conduct of Courts Staff / <i>By the end of 2015</i>   | SJA/ SJA decision  |
| 5) Practice guide on the Rules of Conduct of Courts Staff developed and published/ <i>By the end of 2017</i>  | CJ, SJA/ Practice guide developed and published  |
| 6) Elaboration of proposals for improvement of disciplinary procedures for judges and court staff/ <i>By the end of 2015</i>  | CJ, HQC/ Regulatory amendments, CJ, HCJ, HQC decisions                                 |
| 7) Consolidated single set of procedures established for all disciplinary matters, including procedures for dismissal, elaboration of proposals for respective legislative amendments/ <i>By the end of 2015</i>  | CJ, HCJ, HQC/ Regulatory amendments, CJ, HCJ, HQC decisions                            |
| 8) Practice guide on new disciplinary rules and procedures developed and published/ <i>By the end of 2017</i>   | CJ/ Practice guide developed and published   |
| 9) Elaboration of proposals in reviewing the role and powers of the Service of judicial inspectors/ <i>By the end of 2015</i>   | CJ, HQC/ Regulatory amendments   |
| 10) Random (automatic) case assignment rules reviewed, with clear and foreseeable exceptions foreseen/ <i>By the end of 2015</i>  | CJ/ CJ decisions   |
| 11) Dedicated software developed for collection of statistics and handling complaints against judges and courts staff in the ethics and discipline field; decisions of the judiciary self-governance bodies publicly accessible online/ <i>By the end of 2017</i> | SJA, CJ/ Software developed and procured, users trained, manuals published             |
| 12) Annual asset and income declarations of judges published online/ <i>By the end of 2015</i>  | CJ/ CJ decision  |
| 13) New (including online) courses on ethics and discipline launched at the NSJ/ <i>By the end of 2017</i>  | NSJ/ NSJ curricula adopted and applied, practice guides published, trainings conducted |

### **Outcomes of Activity 3.1:**

- Ethics framework for judges and courts staff with clear and foreseeable substantive requirements, publicly accessible and consistent practice in their application;
  - Delineation of ethical obligations and disciplinary responsibility of judges and courts staff in law and practice;
  - Methodological guidance on certain serious violations of the Code of Ethics applied in practice in disciplinary cases;
  - Institutionalisation of principle of functional (personal, procedural) independence of judge dealing with particular case from other judges;
  - Institutionalisation of duty of impartiality of judge;
  - Clarified list of grounds for disciplinary liability, including the scope and extent of mens rea (intention, negligence, recklessness) and considerations of prejudice caused, with clarification of the need for their cumulative or separate consideration;
  - Effective mechanism for investigating cases, hearing individual complaints for disciplinary cases and application of anti-corruption measures within the judiciary; mixture of discussion-based and repression-based approaches in the work of the mechanism;
    - One set of procedures for all disciplinary cases;
    - Full guarantees of fairness of proceedings in disciplinary cases before judiciary governance bodies; right of access to disciplinary case-file by judge or staff member concerned, scope and extent of obligation to provide information to third parties and public about pending disciplinary cases defined;
    - Extended list of disciplinary sanctions aimed at differentiation of liability;
    - Proportionality principle applied in deciding whether and what sanction is to be imposed for a disciplinary breach;
    - Accessible, reasoned, and consistent practice in judiciary ethical and disciplinary matters.

## **AREA 4: E-JUSTICE**

### **STRATEGIC ISSUES (as defined in the Strategic Plan 2013-2015):**

- Access to justice**
- Innovative use of technology and improving court procedures**

Information technologies are key tools available to improve both the access to justice and efficiency of the courts' case and performance management. Efforts in strengthening the e-justice capabilities of the courts will focus on the courts internal (case management systems) and external (websites) information systems (IS), including seeking greater interoperability of the courts IS with those of other justice sector actors. In this respect, a notable step will be taken to reorganise and consolidate IS management structures by outsourcing most of the courts' information services to third parties by way of service-level agreements. Increased use of e-justice will enable users to apply to a court, pay for the court services, participate in the proceedings and receive all the relevant documentation by electronic means. Judges, in turn, will be enabled to fully manage and track cases electronically, allowing them to more efficiently manage their resources and increase productivity, while improving the life/work balance.

**Activity 4.1** Development of e-justice regulatory framework and integrated information systems in order to ensure greater access, transparency, efficiency, and fairness of justice. Improvement of communication channels and interoperability of IS, including external interoperability with various State and non-State actors involved in the justice sector, and with EU Member States, institutions and other international actors.

| <b>Outputs/ Time-frame</b>   | <b>Responsible Body / Means of Verification</b>   |
|--|---|
| 1) Court Automation Plan developed with financial projections, its implementation monitored/ <i>By the end of 2015</i>   | CJ, HQC, SJA, HQC/ Regulatory amendments, CJ decisions, reports, MOUs, agreements in place, hardware and software developed and procured, users trained, manuals published. |
| 2) Cancellation of the Council of Judges decision which sets the list of decisions that should not be included in the Unified State Registry of judicial decisions/ <i>By the end of 2016</i>  |   |
| 3) Pay terminals for electronic payment of all court fees, mechanisms for online court fee payment in place/ <i>In at least 540 courts by the end of 2015 and all courts by the end of 2017</i>  |   |
| 4) Online disclosure of all court statistics data available from the SC, the HSC and the SJA/ <i>By the end of 2015</i>  |   |
| 5) Development and introduction of unified software for collection and publication of court statistics in all courts of general jurisdiction/ <i>By the end of 2017</i>  |   |
| 6) Call centres and help desks fully operational at central and regional levels / <i>By the end of 2017</i>  |   |
| 7) Service-level agreements (SLAs) signed by the judiciary/ <i>By the end of 2019</i>  |   |
| 8) Book of standards for procurement of ICT products and services developed/ <i>By the end of 2017</i>   |   |
| 9) ICT hardware and infrastructure developed, old workstations replaced with new standardised ones within regular product lifecycle, old servers replaced with new; active and passive network equipment upgraded; core and auxiliary software solutions upgraded/ <i>By the end of 2019</i> |   |
| 10) Operational courts' management information system (MIS) for centralised control over monitoring, quality policy and performance, budgetary and financial matters/ <i>By the end of 2017</i>  |   |
| 11) Dedicated software for collection of statistics in management of human resources (HR), handling complaints against judges and courts staff, within the framework of outputs and outcomes defined in the new performance management system/ <i>By the end of 2017</i>                     |   |

|   |  |
|---|--|
| <p>12) Operational standardised database at the judiciary self-governance bodies with harmonised electronic profiles for all judges and courts staff to be used in all judicial employment and career matters, development of terms of reference for the HQC processes automation/ <i>By the end of 2017</i></p>  |  |
| <p>13) Operational systems for full electronic case management and tracking (before higher review instances), e-notification, random case assignment, audio and video recording of hearings, internal jurisprudence data-base information system, legislative data-base information system, centralised and local registers, nomenclatures/ <i>By the end of 2017</i></p>   |  |
| <p>14) Court websites replaced with new centrally managed and hosted (and locally edited) websites / <i>By the end of 2017</i></p>  |  |
| <p>15) Memorandums of Understanding between the courts and other justice sector players (State and non-State) adopted based on EU Interoperability Framework Standards, including operational standards, integration of national personal data protection rules (where applicable), definition of mechanism for resolution of jurisdictional disputes; master plan for the MOU implementation adopted / <i>By the end of 2017</i></p> |  |
| <p>16) Implementation of Memorandums of Understanding on automated data exchange between the courts and other justice sector players monitored; phase approach launch between certain prioritised State and non-State institutions in the justice sector; scope and degree of automated data exchange measured according to master plan/ <i>By the end of 2017</i></p>  |  |
| <p>17) Practice guides and training modules at the NSJ on e-justice tools, use of information technologies and information systems/ <i>By the end of 2017</i></p>   |  |

#### **Outcomes of Activity 4.1:**

- Chapter on e-justice as part of the comprehensive Justice Sector Reform Strategy (JSRS) adopted, with short-term, medium term and long-term to achieve steps for coordination of all information systems existing at various justice sector stakeholders by way of one coordinated mechanism, servicing various (State and non-State) justice sector players;

- Intranet suites created (for internal and external communication with the courts system);
- Hardware infrastructure, including active and passive network equipment, developed with special emphasis on internal and external pooling, surveying and measuring user satisfaction, time and project management, more efficient use of resources, cloud computing concept (virtualisation, inclusion of private, hybrid or public cloud scenarios);
- Core and auxiliary software solutions developed based on cloud computing concept, big data analytics, search engine optimisation, centralised and local registers, nomenclatures, centrally managed/hosted and locally edited websites, internal and external intranet suites;
- Most ICT services for the judiciary outsourced on the basis of service level agreements;
- Interoperable IS between judiciary governance bodies/courts/judges/staff, and between judiciary and other State/non-State actors in justice sector, based on EU Interoperability Framework standards and PDP requirements; intranet suites internally and externally communicating with courts system;
- Full electronic case management and tracking (before higher review instances), e-notification, random case assignment, audio and video recording of hearings, internal jurisprudence data-base information system, legislative data-base information system;
- User-friendly websites of courts with search engines allowing to link search for legislation with search for practice of SC and other higher courts under that legislation;
- Practical and effective use of information systems by judiciary governance bodies to advance independence, competence and accountability of judges;
- Use of information systems by judges and courts staff to effectively perform their functions in administration of justice.

### **Impact indicators for all areas of the Strategy:**

- User satisfaction surveys (conducted as part of the judiciary performance management system, or by external observers) attest increased trust of the society in the judiciary generally, and its independence, transparency, competence and accountability in particular (baseline: 2014);
- Trial monitoring surveys conducted by external observers attest improvement of affairs in fairness of proceedings in the same selected court or appellate region (baseline: 2014);
- Annual decrease in number of structural violations found by the European Court of Human Rights (ECHR) with regard to decisions tak-

en by the Ukrainian judiciary (baseline: 2015; only judgement passed by Ukrainian judiciary from 2014 onwards are taken into account, mainly pilot judgments or repetitive cases<sup>2</sup>);

- Annual decrease in number of cases at ECHR establishing divergences in practice of the Ukrainian courts in applying national law, or establishing breaches of independence or impartiality of a tribunal, or fairness of proceedings (baseline: 2015; only judgement passed by Ukrainian judiciary from 2014 onwards are taken into account);

- Annual decrease in findings by the Council of Europe (COE) Committee of Ministers (CM) on failure to enforce *individual measures* in an ECHR judgment regarding Ukraine (baseline: 2014);

- Annual decrease in number of instances Ukraine is criticised by COE CM for failure to carry out general measures in view of an ECHR judgment regarding the country (baseline: 2014);

- Progress noted by the COE Committee of Ministers in the implementation of general measures deriving from the *Volkov v. Ukraine* judgment;

- Annual decrease in overall length of court proceedings (from the moment of lodging of initial claim/'charge' to 'final decision') in all types of process (baseline: 2014; average length previous year/split per type of process (civil, criminal, administrative) possible);

- Reduced number of irregularities by the courts in PFM observed by the state audit bodies (baseline: 2014);

- Annual increase in number of satisfied requests for international judicial cooperation and mutual legal assistance (baseline: 2014; split per type of process (civil, criminal) possible);

- Ukraine's standing in various relevant international indices relating to the performance of the judiciary improves, including Governance Indicators and Rule of Law Index (World Bank Institute), rankings by Freedom House, World Justice Project (Rule of Law Index), Transparency International (CPI etc.), Bertelsmann Stiftung Transformation Index (BTI), WB Doing Business Index (baseline: 2014);

- Acknowledgement of Ukraine's progress in administration of justice noted in EU reports and various policy dialogue documents, such as VLAP implementation reports (baseline: 2014);

- Acknowledgement of progress in independence, accountability and competence of the Ukrainian judiciary noted in interim and final reports of donor activities, and reports by other informed observers, including CSOs, international organisations (baseline: 2014).

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<sup>2</sup> Increased total number of cases year-on-year where ECHR has found a violation is not a proper indicator to measure progress in justice reforms, as it might depend on the dynamics of the ECHR internal handling of cases, as well as on the increased ability of domestic lawyers and applicants to better reason applications from the Convention standpoint.

## AFTERWORD

Ukraine Judiciary Development Strategy (UJDS) is a unique document Council of Judges of Ukraine has recently adopted. For the first time Ukrainian judges decided the Strategy should deal with short-term, medium-term and long-term steps in the reform of the Ukrainian judiciary. The UJDS will become a core stone for entire Justice Sector Development Strategy 2015-2020 elaborated by the Judicial Reform Council under State President.

Representatives of the judiciary realize that development of mechanisms and skills to promote uniformity of practice of the courts is a primary task, slowed down by the insufficient capacities in research and analysis, underdeveloped legislative and case-law search tools, and underperforming professional training system. The role of the appeals system is also essential in order to make sure that the higher courts put emphasis on the interest of uniformity of practice.

Efficiency and professionalism, higher ethical standards for the members of the judiciary are clear vectors Council of Judges have taken in developing of the judicial system. On the other hand certain environment of attractiveness should be set up as well. As European experience shows it is unrealistic to demand judges who are supposed to be the last bastion in protection of human rights and ensuring the rule of law be remunerated as ordinary civil servants.

An increase in transparency in the judiciary governance system in particular, and the administration of justice in general, is required in order to boost the public trust. Duties and powers need to be streamlined within the complex judiciary governance set-up to put the Council of Judges at the pinnacle of all judiciary policy-setting and implementation. This would allow the judiciary governance system to better promote functional independence of judges by reason of improved performance management system, ethical and disciplinary oversight.

It is important judges understood that significant changes are necessary in order to streamline the Ukrainian Judiciary and get it closer to European standards. It is extremely important, however, other branches of the government as well as private persons would also understand that independence both institutional and individual of the judiciary should not be just a declaration but well respected and followed in practice.

The implementation of the UJDS is a challenge for Ukrainian court system and judges. Public expectations are very high. Judiciary in Ukraine as in any democratic system meets criticism. On the other hand ungrounded criticism brings much damage. Unfortunately there are reports demonstrating judges feel undue pressure. This is dangerous; in particular when it comes from influensive public or private persons<sup>3</sup>.

In functioning of proper justice system is interested everyone from an ordinary individual to a big undertaking. Strong and independent judiciary is just a must for a country seeking to be a member of civilized Europe. The Council of Judges of Ukraine with adoption of the UJDS sent a clear message to the society they understood it well.

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<sup>3</sup> see, f.i.

[http://censor.net.ua/resonance/322290/deputat\\_svyatash\\_ugrojaet\\_raspravoyi\\_sude\\_vysshego\\_spetsializirovannogo\\_suda](http://censor.net.ua/resonance/322290/deputat_svyatash_ugrojaet_raspravoyi_sude_vysshego_spetsializirovannogo_suda)