

TWINNING PROJECT FICHE

**STRENGTHENING THE INSTITUTIONAL CAPACITY OF THE SUPREME COURT OF
UKRAINE IN THE FIELD OF HUMAN RIGHTS PROTECTION AT THE NATIONAL
LEVEL**

GLOSSARY

AA	ASSOCIATION AGREEMENT between the European Union and its Member States, of the one part, and Ukraine, of the other part (EU-Ukraine Association Agreement)
BA	Beneficiary Administration
BC	Beneficiary Country
CMU	Cabinet of Ministers of Ukraine
CoE	Council of Europe
DCFT	Deep and Comprehensive Free Trade Area
EU	European Union
EUAM	EU Advisory Mission to Ukraine
EC	European Commission
ECtHR	European Court of Human Rights
EUD	Delegation of the European Union to Ukraine
HSCU	High Specialized Court of Ukraine for Civil and Criminal Cases
IQR	Interim Quarterly Report
JSRS	Justice Sector Reform Strategy 2015-2020
JSRS AP	Action Plan for the implementation of the Justice Sector Reform Strategy
MS	Member State (of the EU)
OSCE	Organization for Security and Cooperation in Europe
PAO	Programme Administration Office
PL	Project Leader
PSC	Project Steering Committee
RTA	Resident Twinning Adviser
SCU	Supreme Court of Ukraine
STE	Short Term Expert
UN	United Nations
WTO	World Trade Organisation

1. BASIC INFORMATION

1.1. Programme: European Neighbourhood and Partnership Instrument

1.2. Twinning Number: UA 12 ENPI JH 02 16

1.3. Title: Strengthening the Institutional Capacity of the Supreme Court of Ukraine in the Field of Human Rights Protection at the National Level

1.4. Sector: Justice and Home Affairs

1.5. Beneficiary country: Ukraine

1.6. Beneficiary administration: Supreme Court of Ukraine

2. OBJECTIVES

2.1. Overall Objective:

Strengthening the independence and efficiency of the judicial branch of power through the introduction of the European standards of jurisprudence.

2.2. Project Purpose:

Strengthening the institutional capacity of the SCU by forming a uniform judicial practice when administering justice, correctly applying the legislation in force and avoiding miscarriages of justice, as well as ensuring the implementation of the access to justice and the rule of law principles in Ukraine.

2.3. Contribution to the National Development Plan/ Partnership and Cooperation Agreement/ Association Agreement/ Action Plan

The decision to closer integrate with the European Union (EU) is a strategic and at the same time historic choice of Ukraine. In March 2007, the EU and Ukraine started negotiations on a new enhanced agreement that would replace the current Partnership and Cooperation Agreement. In February 2008, following Ukraine's becoming a WTO member the EU and Ukraine launched negotiations on the Deep and Comprehensive Free Trade Area (DCFTA) as a key element of the AA.

On 21 March 2014, EU heads of state or government and the EU leaders signed the political part of the EU-Ukraine Association Agreement (AA) in Brussels. On 27 June 2014, the economic part of this Agreement was signed in Brussels. On 16 September 2014, Verkhovna Rada of Ukraine and the European Parliament ratified the EU-Ukraine Association Agreement.

The AA stipulates that a significant part of the *EU acquis* should be incorporated into the Ukrainian legislation. For Ukraine it primarily means its commitment to adapt the national legislation to the EU laws, its practical application and respect for the EU values.

Article 14 of Title III of the AA¹ provides that: *“In their cooperation on justice, freedom and security, the Parties shall attach particular importance to the consolidation of the rule of law and the reinforcement of institutions at all levels in the areas of administration in general and law enforcement and the administration of justice in particular. Cooperation will, in particular, aim at strengthening the judiciary, improving its efficiency, safeguarding its independence and impartiality and combating corruption. Respect for human rights and fundamental freedoms will guide all cooperation on justice, freedom and security”*.

2.4 Agreement Implementing Instruments

2.4.1. Association Agenda

On 16 March 2015, the EU-Ukraine Association Council endorsed the updated Association Agenda² which is the instrument in guiding the process of enhanced reforms and economic modernization in Ukraine. Being agreed between the Ukrainian Government and the EU and its Member States, this document constitutes to the preparation and facilitation of the implementation and monitoring of the AA.

The EU-Ukraine Association Agenda (Association Agenda) provides a practical framework through which the overall objectives of political association and economic integration can be achieved. It does so by providing a list of reform priorities and concrete measures as well as relevant EU support on the wide range of areas covered by the AA, of which important parts are provisionally applied since 1 November 2014. The updated document now reflects the enhanced level of association in our bilateral relations.

The Association Agenda also outlines ten short-term reform actions that Ukraine should address as a matter of priority in the areas of constitution, elections, judiciary, anti-corruption, public administration, energy, deregulation, public procurement, taxation and external audit.

The EU and Ukraine recognise the importance of supporting the agreed priorities through appropriate and sufficient political, technical and financial means, reconfirm their commitment to continue to work together towards Ukraine's political association and economic integration with the EU and reiterate the importance of swift ratification of the AA by all EU Member States in accordance with their national procedures.

¹ http://eeas.europa.eu/ukraine/docs/association_agreement_ukraine_2014_en.pdf

² http://eeas.europa.eu/ukraine/docs/st06978_15_en.pdf

Both parties now agreed to join their efforts for effective implementation of the Association Agenda and the AA and provide for close monitoring of this process.

The implementation of the Association Agenda is subject to and part of annual reporting, monitoring and assessment.

The priorities of the updated Association Agenda in its part of ensuring the independence, impartiality, professionalism and efficiency of the judiciary, the prosecution, as well as the law enforcement agencies, which should be free from corruption and political or any other undue interference (III. Operational Part, 1. Short-term Priorities for Action I, bullet Judicial Reform) are:

- *Take further steps on judicial reform, in particular by adopting, in line with European standards and in close consultation with the Council of Europe/ Venice Commission, a Justice Reform Strategy including a detailed, comprehensive implementation plan;*

2. Political Dialogue, 2.1 Democracy, rule of law, human rights and fundamental freedom

(ii.) *Ensure the independence, impartiality, professionalism and efficiency, of the judiciary, of the prosecution as well as of law enforcement agencies, which should be free from corruption and political or any other undue interference:*

- *taking additional steps on judicial reform, in particular by adopting, in line with European standards and in close consultation with the Council of Europe/ Venice Commission, a Justice Reform Strategy including a detailed, comprehensive implementation plan, in particular with a view to:*
- *implement the Law of Ukraine “On Public prosecution” and to take all necessary organizational and legal measures to ensure compliance of the prosecutorial activity with the European standards;*
- *ensure the effective functioning of the High Council of Justice;*
- *adopt and implement the laws on the Judicial System and the Status of Judges;*
- *taking relevant actions on reform of the Police, including amendments to the Criminal Code and other legislative acts related to the adoption of framework legislation on the functioning of police, in close consultation with the Council of Europe/ Venice Commission enhancing the training of judges, court officials and prosecutors as well as support staff and law enforcement agencies staff;*
- *effective implementation and enforcement of the civil, criminal, economic and administrative codes and their corresponding procedural codes, based on European standards;*
- *providing the necessary resources to implement effectively the Criminal Procedure Code and the legislation on the Bar; developing and conducting civilian security sector reform based on the rule of law, democratic governance, accountability and respect for human rights, with the assistance of and in full interaction with the EU Advisory Mission to Ukraine (EUAM), inter*

alia by developing an accessible, accountable, efficient, transparent and professional police force, introducing a rights-based approach to policing, the use of intelligence-led policing, and fighting crime, including cybercrime.

(iii.) Ensure respect for human rights and fundamental freedoms by comprehensive cooperation on the protection of human rights and fundamental freedoms, covering both individual cases and issues concerning international law instruments on human rights. This cooperation includes, inter alia:

- adoption and implementation of a National Human Rights Strategy and Action Plan to ensure coherence of Ukraine' s actions in addressing its international commitments and policy priorities in the area of on human rights.*

(a.) Promoting the implementation of international and regional human rights standards

- early implementation of all judgments of the European Court of Human Rights and promoting the evolving jurisprudence of the Court as a major source of international human rights law, with the support of the EU, as well as strengthening of the preventive and supervisory functions of the Government Agent for the European Court of Human Rights to ensure the effective implementation of the judgments of this Court;*
- implementing the recommendations of the Council of Europe related to detention conditions and medical assistance to persons in detention;*
- promoting human rights awareness among judges, prosecutors and other law enforcement agencies by common measures on enhancing trainings of judges, prosecutors and law enforcement officers on human rights issues and in particular on combating torture and inhuman and degrading treatment.*

The Associated Agenda was endorsed by the EU-Ukraine Association Council on 16 March 2015.

2.4.2 Justice Sector Reform Strategy and the Action Plan

In March 2015, the Justice Sector Reform Strategy (JSRS) was adopted by the Judicial Reform Council under the President of Ukraine, and on 20 May 2015³ was approved by the Decree of the President of Ukraine 276/2015. The JSRS aims to unite all justice sector stakeholders around a clear "roadmap" of the sector-wide reforms, explained and supported by the Action Plan (JSRS AP) with clearly defined tasks, benchmarks, and resources allocated to each task.

3. DESCRIPTION

³ <http://zakon2.rada.gov.ua/laws/show/276/2015>

3.1. Background and justification

Since the time Ukraine gained its independence, the approach towards the European integration became a priority direction of its internal and external policy. In the context of the European integration, Ukraine needs to carry out large-scale internal transformations in order to achieve sustainable economic development and implement the necessary legislative reforms.

Among the major reforms in the field of democracy, rule of law, human rights and fundamental freedoms stipulated by the Association Agenda are: the continuing reform of the judicial system so as to further strengthen the independence, impartiality, and professionalism of the judicial branch of power, notably by increasing the number of training programs for judges and court staff, for the prosecution agencies and their staff, as well as for the representatives of the law enforcement agencies.

Ukraine has made the significant progress and has taken legislative and regulatory steps to reform the judicial system within 24 years of its independence.

With the adoption of the Constitution of Ukraine on 28 June 1996 the status of the SCU as the highest judicial body in the system of the courts of general jurisdiction has become enshrined at the constitutional level.

In the process of carrying out the judicial reform, the powers of the SCU have been adjusted and changed, while its role in the judicial system remains fundamental and its decisions and legal position remain crucial for the development of the judiciary in the country.

With the adoption of the Law of Ukraine “On the Judiciary and the Status of Judges” on 7 July 2010 a number of procedural laws were updated in Ukraine. The significant changes to the system of the judicature, the judiciary and the status of judges took place there. However, five years of experience of applying the provisions of this Law have proven the need for its improvement, particularly the refinement of its provisions relating to the operation of the SCU as, reportedly, it is quite difficult to ensure a uniform and correct application of the law by courts only in a procedural way by the SCU rendering decisions containing legal opinions on the application of only the substantive law (by 2015, the number of judgments delivered by the SCU was only 0.01% of the number of the decisions rendered by the first instance courts).

In 2014, Ukraine entered a new stage of the judicial system reform. On 12 February 2015, the Law of Ukraine “On Ensuring the Right to a Fair Trial” was adopted. This Law, in particular, amended the procedure codes and provided a new edition to the Law of Ukraine “On the Judiciary and the Status of Judges”, increased the procedural powers of the SCU as the highest judicial body, that is entrusted it with the authority to independently decide on the admissibility of cases for revision and extended the list of grounds for the revision of cases by the SCU.

Novelties in the powers of the SCU proposed in the Law of Ukraine “On Ensuring the Right to a Fair Trial” are intended to strengthen the institutional capacity of the SCU as a judicial body.

Herewith, in addition to the administration of justice the SCU has to ensure the efficiency of the national legal system operation and the rule of law principle. For doing this, it must have an appropriate scope of powers that would correspond to its status and give it the opportunity to ensure the consistency of judicial practice, guarantee the stability of law and order, objectivity and predictability of justice.

In addition, the experience of operation of the four-tier judicial system in Ukraine compared to the results of a multiannual operation of this system in a three-tier form demonstrates the need for the in-depth reforming of the judicial system to ensure its effectiveness, efficiency, clarity and accessibility for the litigants for Ukraine to be able to guarantee its citizens the rights stipulated by Article 6 of the European Convention on Human Rights.

The priority of reforming the judicial system of Ukraine in view of its European integration aspirations is strengthening the European model of the judiciary based on the rule of law principle, the international standards of justice, human rights and freedoms, including the statutory recognition of the institutional capacity of the SCU to execute powers of the highest judicial body in the state, the main priority among which is to ensure the consistency of judicial practice.

One of the conditions for Ukraine’s accession to the EU is bringing Ukraine's judicial system in line with the European standards, according to which the main purpose of the highest judicial authority of the state is to ensure the consistency of judicial practice in all courts.

At present, the SCU is responsible for the uniform application of laws by the high courts, and the respective high specialized courts are responsible for the uniform application of laws by the local and appellate courts. While the "arsenal" of means, by which the SCU may regulate activities of lower courts in order to ensure the consistency of judicial practice, was expanded by the Law of Ukraine “On Ensuring the Right to a Fair Trial”, it is still, apparently, remains insufficient.

Therefore, there is a need for further confirm the legal status of the SCU especially as regards its ensuring the consistency of court practice. Hence, relevant experience of developed democracies, should be reviewed and assessed with due regard to the domestic legal system peculiarities and doctrinal developments.

Until recently, before the Law of Ukraine “On Ensuring the Right to a Fair Trial” was adopted in 2015, the court of cassation in Ukraine (High Administrative, High Economic and High Specialised Courts), which passed the decision, could decide on its own, whether to forward its decision to the SCU for consideration or not. One could only apply to the SCU for the protection of his/ her rights only through the appropriate high court, which allowed for the unequal legal enforcement.

According to the Law of Ukraine “On Ensuring the Right to a Fair Trial” the SCU decides on the admissibility of cases for consideration on its own. Therefore, it would be useful for the SCU to receive conclusions of an in-depth study of the issue of functioning of the institution of admission of cases for consideration by the Supreme Court and on the appropriate filtration mechanisms used by the high courts of the EU MS.

Currently, the high courts of several European countries successfully implement the powers granted to them aimed at preventing miscarriages of justice. Thus, in some of them the court that considers the case on the merits may apply to the court of cassation for the interpretation of the law, if the respective legal issue is new, quite difficult and appears in many cases. Provision of such an interpretation of the law is used for a quicker and more efficient addressing the issue of applying the relevant legislative norms at the lower courts level. A similar procedure has been introduced in the European Union Court of Justice: the judicial bodies of the EU Member States can apply to it with a request for a preliminary ruling for the interpretation of a legal norm.

Therefore, it would be appropriate to explore this experience with the aim of possible implementation into the national legislation of provisions on empowerment of the SCU with the authority to provide opinions at the requests of courts of general jurisdiction regarding their appropriate application of legal norms, if during the proceedings there was identified the uncertainty in the application or interpretation of these norms.

Until 2015, the provision on the binding character of legal opinions of the SCU was largely of a declarative nature, since there was no mechanism of ensuring the compliance with them by lower courts. By the Law of Ukraine “On Ensuring the Right to a Fair Trial” (2015), this declarative nature was in some way eliminated, because the non-adherence of the SCU decision will be an independent basis for the revision of the case by the SCU.

However, this mechanism does not fully resolve the problem of compliance by all the concerned and/or obliged subjects with the principle of binding character of legal opinion of the SCU and control over its adherence. In this regard, a study of the relevant mechanisms, which exist in EU MS is needed. Experience of the "common law" legal systems is much valuable as they successfully use the judicial precedent as a source of law.

Shortcomings of the judicial system of Ukraine are also reflected in the fact that there are numerous cases, where a person is unable to defend his/ her rights due to the refusal of courts of different jurisdictions to initiate proceedings due to the lack of jurisdiction of the case.

In the European countries, the issue of delimitation of jurisdiction of the courts is resolved differently. The Opinion of the Venice Commission No. 588/2010 as of 18 October 2010 recommended that the issue of delimitation of jurisdiction should belong to the authority of the SCU.

The Law of Ukraine “On Ensuring the Right to a Fair Trial” gives the SCU the authority to consider cases in relation to the unequal application by the court of cassation of the same norms of procedural law when appealing against the court decision rendered in violation of the rules of jurisdiction or the competence of courts established by the law. This power is intended to give the SCU the instrument for resolving jurisdictional conflicts. Yet the presence in the country’s legal system of the efficient mechanisms of eliminating jurisdictional conflicts is extremely important in terms of the citizens’ right to a fair trial (access to court) guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms. The solution of the raised issue is also necessary for executing the general measures mentioned, in particular, in the judgment of the European Court of Human Rights (ECtHR) in the Case of *Mosendz v. Ukraine* as of 17 January 2013.

Therefore, it is reasonable to continue to study the relevant experience of the EU MS related to the mechanisms for eliminating the jurisdictional conflicts with the purpose of giving such powers to the SCU, which deals with the cases of all jurisdictions.

Ukraine has a four-tier (level) court system, which consists of administrative, commercial and general: criminal & civil jurisdictions.. Such a court system is considered by many experts as cumbersome, hard to understand by the citizens and, reportedly, does not contribute to the observance of reasonable time limits for consideration of a case by courts.

Therefore, there is a necessity for the SCU to become acquainted with the models of the judiciary, specificities of functioning of the judicial systems of the European countries, which are close to Ukraine by the law and order and the territorial structure, to study the principles and mechanisms of building the efficient three-tier judicial systems, organization of administration of justice by courts on the basis of the specialization of judges, but not that of courts. It will be especially useful to study the experience of the European countries that reformed or are planning to reform their judicial systems into the three-tier ones.

3.2. Linked activities (other international and national initiatives)

There is good cooperation of the SCU with the European Union (EU), Council of Europe (CoE), the United Nations (UN), the Organization for Security and Cooperation in Europe (OSCE), which aims at introducing the international standards and mechanisms of the judiciary functioning into the Ukrainian national legislation.

Currently, the SCU participates in:

- the EU Project “**Support to Justice Sector Reforms in Ukraine**” (2013 – 2016). The project brings together all justice sector stakeholders in order to assist them with the development of the joint sector-wide justice reform strategy and also to ensure the strategy's implementation. The strategy is implemented through a robust sector coordination mechanism and hinges on a tight

implementation schedule backed by a multi-year financial commitment from the Ukrainian Government. Substantial progress in justice sector reforms may be the pre-condition for possible future large scale interventions in this sector.

- the CoE Project **“Strengthening the System of Judicial Accountability in Ukraine”** (2013 – 2016). *Objective:* providing support in the field of elaboration of legislative amendments required for Ukraine to enforce the ECtHR judgments in the Case of Oleksandr *Volkov v. Ukraine* and in the Case *Salov v. Ukraine*; also, providing support in improving the rules and procedures of the disciplinary bodies within the judicial system to ensure the fair and efficient consideration of any complaints against judges’ actions;

- the CoE Project **“Preventing and Combating Violence Against Women and Domestic Violence”** (2013 – 2016).

- the OSCE Project **“Safeguarding Human Rights through Courts”** (2014 – 2017). *Objective:* to strengthen the human rights protection in the administration of justice in Ukraine;

- the EU/CoE Project **“Consolidation of Justice Sector Policy Development in Ukraine”** (2015 – 2016). *Objective:* to contribute to strengthening the rule of law in Ukraine by supporting a sustainable reform of the justice sector in line with the Council of Europe standards.

In 2014, the SCU took part in the following CoE Projects, cofounded by EU or EU Member States:

- “Enhancing Judicial Reform in the Eastern Partnership Countries”**;

- “Strengthening the Independence, Efficiency and Professionalism of the Judiciary in Ukraine”**;

- “Preventing and combating violence against women and domestic violence in Ukraine”** (2013 – 2016).

as well as in the following OSCE Projects:

- “Safeguarding Human Rights through Courts”** (2014 – 2017);

- “Enhancing the Capacity of the Judiciary in Legal Opinion Writing”**;

- “Strengthening the Consistency of Judicial Practice in the Sphere of Human Rights”**

3.3. Results

RESULT 1. The legal framework as regards the operation of the SCU in accordance with the EU standards has been improved.

The first result is related to the further improvement of the legislation defining the judicial system of Ukraine. Presently, the problem of the consistency of the national judicial practice is very urgent, and the mechanisms for its securing need improvement. In view of this, the main attention will

be given to the comprehensive analysis of the current situation, comparative analysis and generalization of best practices worked out in similar institutions of the EU Member States, preparation of recommendations as regards changes and improvements, support of the initial phase of implementing the innovation in the SCU. Taking into account the need for approximation of operation of the highest judicial body of Ukraine to the EU standards, the focus will be placed on strengthening the role of the SCU, in particular, in ensuring the uniform application of the Ukrainian law by all the courts of general jurisdiction.

This result will be reflected through enhancing the ability of the SCU to provide an opinion on the appropriate application of the legislative norms by the courts of general jurisdiction of Ukraine to decide on cases related to the separation of the jurisdiction of courts, the creation of an efficient model of admission of judicial cases for consideration by the SCU. These changes will have a positive impact on the quality of justice in general, make easier the citizens' access to justice, facilitate the rapid resolution of legal disputes and strengthen the authority of the Supreme Court of Ukraine and the judicial power as a whole.

The first result will also contribute to establishment of the efficient and accessible judicial system in Ukraine by – still open for debate - introducing a three-tier system of courts of general jurisdiction based on the principles of specialization of judges, but not of courts.

RESULT 2. The level of proficiency of judges and members of court staff at all the levels of general jurisdiction has been increased.

The second result is related to the professional development of court personnel on the issues of the correct application of current legislation, timely and high-quality consideration of cases. The focus will be on gaining practical experience of the best practices in the development of training programs for judges and members of the court staff of all levels of general jurisdiction; conducting the workshops on the present-day methods of administration for judges and court staff; and studying the best European practices. This will include the development of common curricula and educational tools package (methodology, trainees, educational materials and distribution) and organization of a study visits to the ECtHR and the EU member state.

RESULT 3. The institutional capacity of the SCU has been strengthened by improving the public access to information concerning the role, status and activities of the SCU and improving the workflow and videoconferencing systems of the SCU.

The third result is related to the development of the SCU capacity to interact with the stakeholders to strengthen the confidence in the judicial power (media, NGOs, national and international partners); establishment of communication channels and development of methods of

presentation of the activities of the SCU to the society. This will result in the facilitation of citizens' access to justice and the creation of a positive image of the judicial power in Ukraine. This result is also aimed at improving the "electronic justice" system (e-justice), video conferencing system and introducing the new technologies into the organization of the Court's activities.

3.4 Activities

RESULT 1. The legal framework as regards the operation of the SCU has been improved in accordance with the EU standards.

Activity 1.1 Analysis of the national legislation regarding the activities of the SCU.

Activity 1.2. Conducting the comparative analysis of the current legislation of Ukraine and that of the EU member countries:

- in the sphere of ensuring the uniform application of legislation;
- as regards the functioning and structure of the judicial system;
- as regards the provision of opinions at the requests of the courts of general jurisdiction concerning the correct application of the legal norms;
- as regards the provision of clarification of the recommendation character regarding the application of legal provisions;
- as regards the resolution of jurisdictional conflicts;
- as regards the functioning of the institution of admission of cases for consideration by the highest judicial institution.

Activity 1.3. Elaboration of proposals for amending the national legislation making the court system of Ukraine more effective (possibly through the introduction of a three-tier court system), consolidation of the power of the SCU to give opinions at the requests of the courts of general jurisdiction regarding the correct application of legal provisions by them, if during the consideration of a case there has been revealed the uncertainty in the application or interpretation of these provisions, resolution of jurisdictional conflicts and creation of an efficient model of admission of judicial cases for consideration by the SCU.

Activity 1.4. Organization of a study visit aimed at familiarization with the European experience of operation of the judicial systems of the partner country of the Project.

Activity 1.5. Holding a round table to discuss the proposals for amending the legislation on consolidation of the powers of the SCU.

Activity 1.6. Conducting of an expert mission on the assessment of the existing mechanisms of ensuring the uniform application by all the courts of general jurisdiction in Ukraine of the norms of

substantive and procedural laws, resolution of jurisdictional conflicts and admission of cases to the highest judicial institution for consideration.

Activity 1.7. Organization of a study visit aimed at the familiarization of the SCU's staff with the functioning of institutions for admission of cases to the SC proceedings.

Activity 1.8. Holding the international scientific and practical conference on ensuring the consistency of judicial practice as the main task of the SCU.

RESULT 2. The level of proficiency of judges and members of court staff at all levels of general jurisdiction has been increased.

Activity 2.1. Assessment of training needs and determination of areas of professional development of the staff of the SCU.

Activity 2.2. Elaboration of proposals for improving the training programs for the staff of the SCU.

Activity 2.3. Holding a seminar for judges at the national, regional and local levels as regards ensuring of the uniform application of the norms of substantive and procedural law by all the courts of general jurisdiction in Ukraine.

Activity 2.4. Holding a seminar for judges at the national, regional and local levels as regards the resolution of jurisdictional conflicts and criteria for admission of cases for consideration by the highest judicial institution.

Activity 2.5. Holding a seminar for judges at the national, regional and local levels as regards the provision of opinions at the requests of the courts of general jurisdiction as to their correct application of legal provisions, as well as recommendatory clarifications as regards the application of legal provisions.

Activity 2.6. Organization of a study visit to the partner country of the Project aimed at familiarization with the process of resolution of jurisdictional conflicts and criteria for admission of cases for proceedings at the highest judicial institution.

RESULT 3. The institutional capacity of the SCU has been strengthened by improving the public access to information concerning the role, status and activities of the SCU and improving the workflow and videoconferencing systems of the SCU.

Activity 3.1. Conducting of comparative analysis of the current legislation of Ukraine and that of the EU MS in the field of electronic justice and videoconferencing of court hearings.

Activity 3.2. Elaboration of recommendations concerning the improvement of E-justice (electronic justice).

Activity 3.3. Conducting of a press conference to inform the public about the activities of the judicial system.

Activity 3.4. Elaboration of recommendations for improving the website of the SCU.

Activity 3.5. Holding a round table with the representatives of courts, law enforcement agencies, penitentiary system and the State Judicial Administration of Ukraine to improve interaction, namely with the use of modern technologies.

Activity 3.6. Organization of a study visit to the partner country of the Project to learn about the process of courts' interaction with the media.

Activity 3.7. Holding a seminar on the ways of improving access to justice, ensuring the transparency and publicity of the judicial processes, efficiency of communication with the media for the representatives of the press services and journalists.

Activity 3.8. Holding an international conference to exchange experience on the issues of electronic justice.

3.5. Means/ input from the MS Partner Administration

The MS partner administration is expected to provide the Project Leader (MS PL) and Resident Twinning Advisor (RTA) as well as a team of short-term experts (STEs) to support them in implementation of the project activities.

The implementation of a Twinning projects requires the Commitment of two Project Leaders, appointed in the MS and the BC administrations respectively. The MS Project Leader should be a high-ranking civil servant or equivalent staff commensurate with the requirement for an operational dialogue and backing at political level, therefore he/she cannot come from an *ad hoc* mandated body. The MS Project Leader is not an adviser he/she directs the implementation of the project. The MS PL is the key link between the partners, acting at an overall operational and strategic level. The MS PL is complemented by the RTA. The RTA is seconded and resides in the BC for the entire duration of the project. He/ she co-operates day-to-day with the BC partners and the MS STEs.

3.5.1. Profile and tasks of the Project Leader

The Project Leader will guide, coordinate and manage the overall project implementation. He/ she will administer the project activities, ensure the achievement of mandatory results and bear responsibility for performing activities within the framework of the project.

The Project Leader is expected to commit a minimum of 3 days per month working on the project in his/her administration. At least every 3 months he will pay a visit to Ukraine. He/she will

also perform the co-chair duties at the Steering Committee meetings of the in Ukraine, which will take place quarterly.

MS Project Leader Profile:

Qualifications and skills:

- University Degree

General professional experience

- experience in working at the position of a judge at the judicial institution of the EU Member State;
- at least 5 years of professional experience in the area of human rights protection;

Specific professional experience

- work experience in a national ombudsman's office, an international human rights organization or participation in projects in the field of human rights will be an advantage;
- fluency in English language;
- organizational skills;
- experience in project management.

Role and tasks of Project Leader:

- close cooperation with the Ukrainian BC project leader ;
- general supervision and coordination of the project implementation;
- preparation of the project reports;
- financial support and project management in the EU Member State;
- participation in the Steering Committee meetings.

3.5.2. Profile and Tasks of the Resident Twinning Advisor

The Resident Twinning Adviser (RTA) will be seconded in Ukraine for the entire duration of the project implementation (24 months) managing all the aspects of operation of the Member State team. He/she will work directly with the sector manager of the Delegation of the European Union to Ukraine and with the RTA counterpart in the day-to-day activities to promote and coordinate the activities implemented in the beneficiary country. His/her role is not only administrative, since it is assumed that he/she will provide a high-level advice and will direct the project.

Profile:

Qualifications

- University degree

General professional experience

- experience in working at the position of a judge at the judicial institution of the EU Member State;
- at least 5 years of professional experience in the area of human rights protection will be an asset.

Specific professional experience

- at least 5 years of experience at senior positions in the international human rights organization or participation in projects in the area of human rights protection will be an asset;
- fluency in English language;
- organizational skills;
- experience in project management.

3.5.3. Profile and tasks of the short-term experts (STEs)

MS Experts seconded for a short term will provide assistance to the RTA in the performance of activities envisaged by the project. They must have the experience and skills necessary for this project and will actively cooperate with the RTA and the experts of the beneficiary administration. Their tasks will include the provision of support by holding trainings, workshops and working meetings, analysing and elaborating draft laws, regulatory and guiding documents. The experts have to be able to ensure the expected results mentioned above at a rather high level.

Tentative profile:

- higher legal education;
- at least 5 years of professional experience in the legal or international spheres;
- knowledge of the relevant EU rules and regulations;
- good command of written and spoken English;
- communication and teaching skills,

4. Institutional Framework

On 12 February 2015, Verkhovna Rada of Ukraine adopted Law “On Ensuring the Right to a Fair Trial” with the new wording of the Law of Ukraine “On the Judiciary and the Status of Judges”. This Law determines the legal basis of the judicial power organization and the administration of justice in Ukraine, including the powers and organization of operation of the SCU. This Law confirms the

high constitutional status of the SCU as the highest judicial body within the system of the courts of general jurisdiction.

The jurisdiction of the SCU includes:

- administration of justice in the manner prescribed by the procedural law;
- analysing judicial statistics and generalization of judicial practice;
- providing opinions on draft legal acts concerning the court organization, the judiciary, the status of judges, enforcement of judgments and other issues related to the functioning of the judicial system of Ukraine;
- providing an opinion on whether or not the actions of which the President of Ukraine is accused contain elements of state treason or other crime; submit, upon request of Verkhovna Rada of Ukraine, a written motion stating that the President of Ukraine is incapable of exercising his/her powers for health reasons;
- applying to the Constitutional Court of Ukraine for constitutionality of laws or other legal acts, as well as for the official interpretation of the Constitution and laws of Ukraine;
- ensuring the uniform application of the law by courts of different specializations in the order and manner prescribed by the procedural law;
- exercising other powers determined by the law.

Composition of the Supreme Court of Ukraine

The composition of the SCU comprises forty eight judges, from among which there shall be elected the President of the SCU and Vice-Presidents of the Supreme Court of Ukraine. Within the SCU there shall operate:

- the Judicial Chamber on Administrative Cases;
- the Judicial Chamber on Commercial Cases;
- the Judicial Chamber on Criminal Cases;
- the Judicial Chamber on Civil Cases.

The Plenary Assembly operates within the SC to address the issues specified by the Constitution of Ukraine and the Law of Ukraine “On the Judiciary and the Status of Judges”. Under the SCU there shall be formed the Scientific-Consultative Council. The SCU has an official publishing body.

The structure of the staff of the SCU comprises:

- Department Providing Support to the Judicial Chamber on Administrative Cases;
- Department Providing Support to the Judicial Chamber on Commercial Cases;
- Department Providing Support to the Judicial Chamber on Criminal Cases;

- Department Providing Support to the Judicial Chamber on Civil Cases;
- Department on Supporting the Leadership of the SCU;
- Office of Court Registrars;
- Department Providing Documentary Support;
- Legal Department;
- Division for Examination and Analysis of Judicial Practice;
- Personnel Department;
- First Division;
- Division of Mobilization Activities;
- Department of Information Technologies;
- Planning and Financing Department;
- Department of Ensuring Interaction with the Mass Media and Publishing Activities;
- Division of International Cooperation;
- Division of Citizens' Reception;
- Maintenance Department.

The main normative legal documents regulating the activities of the SCU

1. The Constitution of Ukraine
2. The Law of Ukraine as of 07.07.2010 No. 2453-VI "On the Judiciary and the Status of Judges" in the wording of the Law of Ukraine on "Right to Fair Justice as of 12.02.2015 No.192-VIII.
3. The Law of Ukraine as of 16.12.1993 No. 3723-XII "On State Service".
4. The Decrees of the President of Ukraine, resolutions of the Verkhovna Rada of Ukraine, resolutions of the Cabinet of Minister of Ukraine.

5. Budget

The total maximum budget for this project is **1,600,000 EUR.**

6. Implementation Arrangements

6.1. Implementing Agency responsible for tendering, contracting and accounting

The Delegation of the European Union to Ukraine will be responsible for tendering, contracting and accounting, and will work in close co-operation with the beneficiary institution.

The person in charge of this project is:

Mr Andriy Spivak

Justice Sector Manager

Delegation of the European Union to Ukraine

Address: 101 Volodymyrska str.

Kyiv, Ukraine, 01033

Tel.: +380 (44) 390 80 10, ext. 1720

Fax: +380 (44) 390 80 15

E-mail: andrei.spivak@eeas.europa.eu

Twinning Programme Administration Office in Ukraine (PAO) functioning under the National Agency of Ukraine on Civil Service is responsible for coordination of the Twinning projects preparation, support of their implementation and ensuring the consulting and methodological support of the Government authorities while preparing and implementing the Twinning projects.

The person in charge at the PAO in Ukraine is:

Ms Maryna Kanavets

Director of the Center for Adaptation of the Civil Service to the Standards of the European Union, Director of the Twinning Programme Administration Office in Ukraine.

Address: 15, Prorizna Street

Kyiv, Ukraine, 01601

Tel.: + 380 (44) 278 36 44,

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E-mail: pao@center.gov.ua

Responsible person:

Ms Yuliia Vasylo

Deputy Head of the Projects Management Unit of the Center for Adaptation of the Civil Service to the Standards of the European Union

Twinning Programme Administration Office

Tel.: +38 044 256 00 22

E-mail: yulia.vasylo@center.gov.ua**6.2. Main counterparts in the Beneficiary Country**

Project Leader:

Mr Oleh Kryvenda

Judge of the Judicial Chamber on Administrative Cases
Supreme Court of Ukraine
Tel.: +380 (44) 253 01 47
E-mail: Krivenda@scourt.gov.ua

RTA counterpart:

Ms Lina Hubar

Head of the Division of International Cooperation
Supreme Court of Ukraine
Address: 8 P. Orlyka str.
Kyiv, Ukraine, 01043
Tel.: +380 (44) 594 54 39
Fax: +380 (44) 253 56 15
E-mail: hubar@scourt.gov.ua

6.3. Contracts

Only one Twinning contract is foreseen for this project.

7. Implementation Schedule (indicative)

7.1. Launching of the call for proposals (date)

May 2016

7.2 Start of project activities (date)

Tentatively – March 2017

7.3. Project completion (date)

Tentatively – April 2019

7.4. Duration of the implementation period – 24 months

Duration of execution period: 28 months

8. Sustainability

Project sustainability will be ensured by the sustainable performance of project activities, consulting, elaboration and submission of documents, as well as by presence of the trained staff in the respective bodies and services.

Dissemination of project results and the knowledge gained will be integrated at all the levels of the project. The beneficiary institution will introduce the efficient mechanisms of the dissemination and consolidation of the project results to ensure the sustainability of the project achievements after its completion.

9. Crosscutting issues

9.1. Equal opportunities

Aspects of equal opportunities and gender equality will be integrated at all the levels of the project. This will create an adequate basis for the actualization of gender equality in the future. This will be included into the Twinning Contract as a joint responsibility of partners.

10. Conditionality and sequencing

10.1. Conditions:

Beneficiary Administration (BA) is aware that a number of issues that are important for trouble-free implementation of the Twinning project and achieving the mandatory results partly or entirely fall within its exclusive responsibility.

When the project starts, BA has to:

- provide the office equipped with means of communication for the RTA, RTA Assistant and interpreter/translator in the SCU;
- establish the working group on project implementation;
- ensure the availability of facilities that will be used throughout the project implementation as a room for meetings/trainings.

ANNEXES

Annex 1 – Logical framework matrix