JUSTICE SECTOR

REFORMS NEWSLETTER

August-November 2019 — MOVING FORWARD TOGETHER — PROJECT FUNDED BY EUROPEAN UNION — PRAVO-JUSTICE

Dear friends,
Here is the newsletter prepared by the EU-funded Project Pravo-Justice about our support to the justice sector reform.

Joint Vision of Justice Sector

*Modernisation of **Procedural Law and Practice***

The Project collected and analysed significant amounts of data by **monitoring** the **practice** of application of **Civil and Commercial Procedural Codes** by a dedicated team including **Dutch, French and English** experts. The monitoring was based on more than **300 comprehensive questionnaires** collected from legal practitioners, **in-depth interviews** conducted with more than 50 individual stakeholders, series of **round tables** in different regions, and the on-sight attendance of **court hearings**. As a result, the Project prepared a **Report** focusing on both the **mechanism of the authorities' coordination**

in the course of the regulatory development process, and the specific **gaps in the Codes** and their application in practice.

The key **findings** of the Report will set the stage of the Project's further work with the [the Ministry of Justice (MOJ) and other Ukrainian counterparts](#), in order to make judicial process less cumbersome and more **efficient**, while placing a particular emphasis on **mediation** and other forms **Alternative Dispute Resolution (ADR)** in the resolution of disputes.

Legal Education *Reform for Building* *Competent Legal Community*

The Project's **Lithuanian** experts contributed to the Draft Concept on the Reform of the High Legal Education, advanced the **standardisation** of Bachelor and Master of Law programmes**, evaluated** the Bachelor of Law programme of the Law Faculty of the Chernivtsi National Yuriy Fedkovych University, **organised** summer school on EU law for students and scholars from Kharkiv, Lviv and Chernivtsi law schools, **developed testing database** for a **unified exam** for entering **Master of Law** programmes, which is now required for admission to the Master level studies for **all law students** in Ukraine.

Ukrainian Media Explores *Modern Techniques* *of Writing About Justice*

A Project team of **French** experts led the recruitment of a new group of 10 journalists for another cycle of **[trainings](#)**, engaging the **media** from Chanel 24, Hromadske, Grati, UA:PBC, Espreso.tv and other outlets to present various **justice-related issues** to the public.

Engaged Communities of Legal Professionals by Way of *Regional Justice Reform Councils (RJRCs)* *in Chernivtsi, Dnipro, Kharkiv, Lviv and Odesa*

RJRCs were convened on various occasions, bringing representatives of regional legal communities for the discussion of the next justice policy cycle in view of the **political changes** that took place in the **summer 2019**.

3 [Inter-Regional Working Groups](#) (IRWGs), driven by experts from **Bulgaria, Germany, Georgia and Lithuania**, were established from among RJRCs members, analysing the current state of affairs and developing proposals for reform in the areas of **enforcement, bankruptcy and people-driven justice**.

The results of these activities are reflected in the RJRC-developed **[Justice Sector Reform Priorities](#)** and **[Gap Analysis](#)** Reports, which have already been presented to the

Legal Reform Commission (LRC) under the President's Office, MOJ, the High Council of Justice (HCJ) and other central-level policy-makers.

Fair Resolution of Court Disputes

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*Merits-Based **Judicial Selection and Evaluation***

The Project's experts from **Austria, Canada, Lithuania, Poland and the Netherlands** have helped institutionalising the principle that judges are selected on merit, taking advantage of the already existing complex processes to establish relevant **legal and socio-psychological qualifications** and **skills** of candidates, including through **psychological testing**. In particular, the Project promoted the unique experience of the **Public Council of International Experts** obtained in the selection of judges of the High Anti–Corruption Court. A **Practice Guide** has been developed to facilitate cooperation between the judiciary governance bodies and the **Public Integrity Council**, building on that experience.

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*Building **Service-Oriented Courts** by Way of **Model Courts Initiative***

The Model Court Initiative (MCI), led by dedicated group of experts from **Armenia, Finland, France, Lithuania, Poland, Sweden, the Netherlands and U.K.**, is aiming at three pillars of a modern court: **customer service, security and effective organisation of business processes**. First of all, the **Model Court Handbook** has been developed to standardise the various relevant rules. The MCI solutions are further being implemented in **selected courts** of Ukraine. Owing to the **standard operational procedures** endorsed by the Ukrainian authorities, the MCI solutions will be disseminated in other courts.

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*Helping Supreme Court to Promote **Uniformity of Practice***

The Project experts from **Germany and the Netherlands** helped the Supreme Court in developing its own case-law through application of **standardised** approaches to

registering and **handling** of cases, **templates for writing decisions** and better internal organisation of the relevant departments. The improved algorithm of **case reporting and incoming cases screening** by the Registry of the Supreme Court will lay the foundations for a **user-friendly** database and **search mechanism** of the Supreme Court decisions, contributing to the promotion of **uniformity of practice**.

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*Improving Curriculum for Judges on **Violence Against Women***

A Project team **developed teaching materials** for the course run by the National School of Judges (NSJ), while disseminating various international reports and other evidence needed to understand the scope and extent of the problem in Ukraine and elsewhere.

The manual **"Activity of Prosecutors on Prevention and Counteraction of Domestic Violence",** as well as a **training curriculum** on prosecuting violence against women, were developed in cooperation with the Academy of Prosecutors and are being disseminated.

Enforcement in Civil and Criminal Matters

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*Making Steps towards **Effective and Efficient Enforcement***

With the benefit of findings of Project international experts from **Bulgaria, France, Lithuania, and Serbia**, Ukrainian national experts from various regions who took part in the **Regional Justice Reform Councils**, and international expert discussions within the framework of the **Council of Europe**, a **concerted vision** was provided for an **independent and effective enforcement** system, which includes **more than 200 Private Enforcement Officers**.

It is a **consensus** opinion of all these informed observers that **further privatisation** of the enforcement profession must remain a **cornerstone** of the reform policy, alongside other necessary reform measures, such as **lifting the moratoria** on enforcement against State-owned debtors, **equalising PEOs mandate** with the State enforcement service, setting up of **bank accounts blocking** system, **automation** of business processes of enforcement officers, relieving the **excess judicial and disciplinary oversight** over enforcement.

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*Promoting Balance between **Free** and **Responsible Business***

With the assistance of Project experts from **France and Germany**, the **New Bankruptcy Code** was developed and finally became effective on 21 October 2019. The Project-run **gap analysis** exercise is now helping the Ukrainian counterparts to gather the base of **data and evidence** by **monitoring** the new bankruptcy practices for the purpose of formulating further changes in law and practice.

The remaining key issues include the fine-tuning the roles of the **self-governance** system, MOJ and **courts**, develop of relevant **IT solutions**, improvement of transparency in the **sale of assets**, improve standards of **State-owned companies** and the general **corporate governance**, promote more accountable **bank lending practises** etc.

On 20 November 2019 the constituting **Congress** created the Ukrainian National Insolvency Trustee Association (UNITA), the first ever **self-governance** organisation of the profession. UNITA leadership was elected by way of genuine pluralist democratic process, showing that the bankruptcy trustee profession is **ready to grow a mature** legal professional **community** which **no longer depends** on the **State** authorities in governing and caring for the profession and its members, with the ultimate purpose of ensuring that Ukrainian bankruptcy trustees remain **independent but accountable.**

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*Contributing to "**Anti-Raider"** Efforts*

The new **Anti-Raider Law** stringently **restricts** the mandate and the **number** of property and business **registrars**, allowing only some **6,000 notaries** and **1,000** officials at the **local** administrations to continue to **perform registration**, while **banning** other players from the provision of the service.

In order to support preparations and the entry into force of this legislation, Project experts from **Estonia and Lithuania** provided policy advice and capacity building for the development of a **quality assurance system** for registration of property titles and business, including the so-called **"two-step" registration system**.

The Project is also contributing to the so-called **Registration Task Force** of experts to help MOJ carry out various systemic solutions to **prevent faulty or fraudulent registration,** improving the actual registration processes instead of dealing merely with symptoms of the "raider" phenomena.

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*Improving Balance between **Community Safety** and **Rehabilitation***

A Project team involving experts from **Croatia and the United Kingdom** assisted the Probation Service in developing the **Human Resources Strategy and Action Plan**, defining staffing needs with the subsequent selection and recruitment modalities,

improving management and supervision, motivation and career development systems, promoting corporate culture and prevention of professional burn out.

E-justice

Reliable, Safe and Accessible Data *as a Step towards Full-Fledged e-Government*

A Project team of **Estonian and Lithuanian** experts conducted a wide-ranging **Assessment of Registers** and helped prepare the adoption of the dedicated **Registers Law**, which would for the first time clearly emphasise the **legal, financial and institutional differences** of **Registers** and their data from **other** public or private databases. **Registers** are different from any other information systems in that they provide "**authentic data**" with highest legal and presumption value. This in turn requires a higher degree of **transparency** and **interoperability** of data.

Only well-regulated and designed registers, coupled with digital identification, can create **automated data flow** between public and private institutions that will eventually **replace** a need for **documents.** These first policy and regulatory steps will promote implementation of the concept of **Core Registers**, creating the dedicated **single points of entry** of the data and **unique identifiers** on **people, businesses, addresses** and **property** ownership, in turn feeding data to all the remaining registers and databases.

Apart from serving as a **policy basis** for further **"anti-raider" efforts** by MOJ, the Project Registers Assessment also serves as a **foundation** for the future important IT-related solutions to be implemented in the justice sector, including the **e-Notary** platform, automated case management systems for **private enforcement officers** and **bankruptcy trustees**.

For additional information, please **contact** info@pravojustice.eu