

Evaluation Report

on

Area of Intervention

1.2.3 Development of PR/communication capacities

5.2.2.1. Dedicated PR/communication capacities
of all justice sector governance bodies
and sector institutions

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National Expert

October 2019

Kyiv



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PRAVO-JUSTICE

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EVALUATION PACKAGE-SPECIFIC INTRODUCTION

The Report has been developed as a part of the overall JSRSAP evaluation exercise¹ by Lukasz Bojarski² and Andrii Khymchuk³ in the capacity of international/national experts of EU Project PRAVO-Justice (PJ). It is concerned with Area of Intervention 1.2.3 'Development of PR/Communication capacities' and 5.2.2.1 'Dedicated PR/communication capacities of all justice sector governance bodies and sector institution'.⁴

The evaluation has been conducted in accordance with the area-specific methodology (Matrix)⁵ designed on the basis of the relevant template developed for the purposes of the Exercise in issue. It was carried out and benefited from support provided by the PJ team and valuable co-operation extended by the High Council of Justice, in particular its Communications Department, individual representatives and staff of the secretariat of the Council of Judges of Ukraine, representatives of 'Human Rights Vector' and 'Legal Communications Bureau' NGOs, individual judges, experts and legal professionals met or interviewed for the purposes of evaluation concerned.

The Report has been drafted according to the uniform table of content and technical template. Its sections are internally structured according to the blocks of outcomes, as they have been grouped for the evaluation purposes in the attached methodological Matrix. As a rule, they are followed by recommendations that are formulated in bold and recapitulated at the end of the Report accordingly.

¹ The Exercise. See the general introduction to the set of assessment reports preceding this compilation.

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Lukasz Bojarski has most of his professional life worked for Civil Society Organizations (CSOs) and Think Tanks as lawyer, researcher, trainer and expert. His main fields of interest include: judiciary, legal services, legal profession, legal education and methodology of teaching, non-discrimination, human rights. Lukasz was the author of the reform proposals on access to legal aid and the legal profession. He is an author of numerous publications and policy papers on the judiciary, access to justice and interactive methods in legal education.

Lukasz co-funded some organizations and initiatives, most recently (2018) the [Justice Defence Committee KOS](#), the organization grouping judges' and lawyers' organizations with civil society initiatives, that was created by legal and civil circles in order to defend the independence of judges and lawyers.

³ Andrii Khymchuk, a national short-term expert at the EU Project 'Support to Justice Sector Reforms in Ukraine Pravo-Justice', has more than 5 years of experience working in the rule of law sphere. He started his career in a law firm, litigation practice department, where he worked for 2 years. Later on, he interned and worked at OSCE/ODIHR's Rule of Law Unit, where he assisted in the organization of bi-annual forums on criminal justice for Central Asia. During the last 2.5 years, he has been working as a lawyer at DEJURE Foundation NGO, established by experts and lawyers to promote the rule of law and reforms in the sphere of justice in Ukraine. He is the author of several analytical publications regarding competitions for judicial vacancies in the newly created Ukrainian courts and on problems with the disciplinary liability of judges.

⁴ The parts of the Action Plan under consideration are attached to this report. See Annex III.

⁵ See the assessment-specific activities matrix attached.



ABBREVIATIONS

COJ	Council of Judges
HCJ	High Council of Justice
HQC	High Qualification Commission of Judges of Ukraine
HRV Report	Rybak. “Media openness of the Ukrainian courts: results of the all-Ukrainian survey of workers of courts in 2018”, Kharkiv, 2019
JSRSAP	Justice Sector Reform Strategy and Action Plan of Ukraine for 2015-2020
Law on the Judiciary	The Law of Ukraine “On the Judiciary and the Status of Judges” of 02.06.2016 № 1402-VIII (in the edition on the day of writing this Report)
Law on the HCJ	The Law of Ukraine “On the High Council of Justice” of 21.12.2016 № 1798-VIII (in the edition on the day of writing this Report)
MOU	Memorandum of Understanding
MT	JSRSAP monitoring tool
NGO	Non-governmental organization (civil society organization)
NSJ	National School of Judges of Ukraine
PCIE	Public Council of International Experts
PIC	Public Integrity Council
PJ	EU funded Project Support to Justice-related Reforms in Ukraine (PRAVO-JUSTICE)
SAWC	“System of the assessment of the work of a court: standards, criteria, indicators, and methods”
SAQWC	“System of the assessment of the quality of work of a court: standards, criteria, indicators, and methods”
SC	Supreme Court
SJA	State Judicial Administration
SJGB	State Judicial Governance Bodies (HCJ, HQC, CJ)



1. BASELINE

Overall state of affairs

All the matters related to the communication within the judiciary and with the outside world have their history prior to the adoption of the JSRSAP. The main objective of the strategy was to strengthen already existing activities, develop new ones and do it in a more formalised and organized manner. What partially used to be of more experimental, innovative character was to be standardised.

There were no formalized channels of internal communication between the SJGB's before. The Press Centre already existed but was established under the management of the Council of Judges. There were already several important recommendations formulated prior to the adoption of the JRS: positions of judges speakers and press officers to be established in all the courts.

Some materials related to judicial communication were already developed by the NSJ (handbooks).

The COJ was regularly making public statements with regard to the threats to judicial independence and had such measures prescribed by their communication guidelines.

Publicity of the SJGBs work /sessions (except the COJ, regarding which the law was and is silent) was prescribed by law. As to the public announcement of the meetings agendas, only the HQCJ was obliged by law to do so. However, other bodies were doing it anyway. All the SJGBs were obliged by law to publish their decisions on their websites since 2011. And all the bodies, except for the HQCJ, were doing so.

The idea of treating openness to the public by judges, as a formal career incentive, was brought by the Strategy, it did not exist before.

When it comes to feedback gathering the COJ has already developed (couple of months prior to the adoption of the JRS) a comprehensive courts' work evaluation guidelines which included a feedback gathering module.

All the SJGB's took part in some international cooperation but only the HCJ has concluded bilateral memorandums on cooperation with the judicial councils of 5 countries.

Internal communication of judicial bodies and courts

Outcomes: *Internal communication channels among judiciary governance bodies, between judiciary governance bodies and courts, and between judiciary/courts and judges/staff formalised and used regularly. Mechanism for handling regulatory and governance issues among judiciary governance bodies in place.*

Measures: *SJGB Communication Committee fully operational.*

There were no formalized, official channels of communication either among judicial governance bodies or courts prior to 2015 There were also no mechanisms for handling regulatory and governance issues between SJGBs in place.

External communication of judicial bodies and courts

Outcomes: External communication channels between judiciary/courts and other State/non-State actors in the justice sector formalised and used. Regularly.

Measures: Press centre at SJGB fully operational. Press units (officers) in all appellate regions. Practice guides and training modules on PR/communication developed, disseminated and updated regularly. Written rules of procedure drafted and applied by SJGB in all matters.

Means: Decisions, contracts, job descriptions, placement plans, trainings. Press releases/briefings at courts following examination of high-profile cases.

Press releases/briefings at courts following examination of high-profile cases.

Regular study visits of schoolchildren, students and other groups organised at courts.

There were a number of important developments prior to the adoption of the JSRSAP regarding external communication of the judiciary. In September 2012, the NSJ approved a textbook “Communications of the judiciary”⁶ for printing. This was the first textbook for judges on this topic published on the NSJ’s website.

In November 2012, the COJ, by its decision № 72,⁷ approved a Concept of Informational-Communication Activities of the COJ.⁸ The concept outlined the goals and means of the COJ’s communication.

By Decision of the XI Regular Congress of Judges of Ukraine of February 22, 2013,⁹ the Congress prescribed the COJ to take measures aimed at establishing the position of press-secretary in courts. Decree of the SJA of 6 November 2013 № 145¹⁰ approved a model job profile/instruction for the position of the main specialist in media relations (press-secretary). The instruction outlined that the press-secretaries are responsible, among other things, for the development of the courts’ communication strategy, preparation of press-releases and briefings, content management of a courts’ website.

In August 2014, the COJ established the Press Centre of the Ukrainian Judiciary,¹¹ and, in September of the same year, approved a Regulation on its work.¹² The Centre was structurally established as a department within the SJA, while the organizational management was done by the Head of the COJ.

⁶ Lohunova, Lashkina, Hvozdyk, Alekseyev. “Communications of the judiciary: a practice book”, 2012, Kyiv, available at: <http://www.nsj.gov.ua/files/1452500582posibnyk.pdf>.

⁷ Decision of the COJ № 72 of 30.11.2012, available at: <https://rsu.court.gov.ua/rsu/rishennya/mfh>.

⁸ Concept of Informational-Communication Activities of the COJ, as approved by the decision of the COJ № 72 of 30.11.2012, available at: <https://rsu.court.gov.ua/userfiles/dodat72.pdf>.

⁹ Decision of the IX Regular Congress of Judges of 22.02.2013, available at: <http://rsu.gov.ua/uploads/article/spilne-rishennj-79d012e6d2.pdf>.

¹⁰ Decree of the SJA № 145 of 06.11.2013, available at: <https://dsa.court.gov.ua/dsa/inshe/14/4564563khgkjgg>.

¹¹ Decision of the COJ № 9 of 08.08.2014, available at: <http://rsu.gov.ua/uploads/article/risenna-rsu-no-9-vid-08082014-fc0361c9f2.pdf>.

¹² Regulation on the Press Centre of the Judiciary (as a department), as approved by the Decision of the COJ № 21 of 05.09.2015, available at: <https://zakon.rada.gov.ua/rada/show/vr021414-14#n9>.



In March 2015, the COJ supported, by its decision № 14,¹³ the recommendations¹⁴ of the international conference “Strengthening the trust in the judiciary via improvement of mutual communication”, recommending courts, among other things, to appoint no less than one judge-speaker in the first instance courts, not less than 2 judge-speakers in appeal courts, and not less than one for cassation courts and the Supreme Court.

Public reactions of the judiciary to the threats of independence

Outcomes: *Consistent response of judiciary governance bodies on behalf of corporation to any attempts at interference with independence, and promote interests of corporation.*

Active role and timely statements by justice sector governance bodies in response to perceived threats to independence and fairness of justice by reason of media coverage or public statements of State officials.

Measures: *Practice guides and training modules on PR/communication developed, disseminated and updated regularly. Written rules of procedure drafted and applied by SJGB in all matters.*

Active role and timely statements by justice sector governance bodies in response to perceived threats to independence and fairness of justice by reason of media coverage or public statements of State officials.

The problem of threats to judicial independence, including those verbalised in public debate, was obviously present and judicial bodies occasionally responded with statements underlying the importance of the independence and the impropriety of the attacks (done by officials and media) going beyond the needed and acceptable criticism.

In November 2012, the COJ, by its decision № 72,¹⁵ approved a Concept of Informational-Communication Activities of the COJ, para 3.7 of which prescribed a quick response to publications or media statements related to the activities of the judiciary which are not true, incompetent, and undermine the public trust in the judiciary.

Since then, the COJ was periodically making public statements with regard to specific types of problems in the sphere of judicial independence, for example, regarding the common violations of judicial independence by the law enforcement agencies.¹⁶ For example, one of such violations is initiation of criminal proceedings against a judge which is, in fact, based on the disagreement of a law enforcement agency (which was a party to a case) with the court decision.

In February 2015, the COJ adopted a decision,¹⁷ by which referred to with an open letter¹⁸ to media, MPs, the President, and the executive bodies of the government, underlining that certain expressions of those organs or persons undermine the authority of the judiciary and that they should discreetly and constructively approach to any criticism regarding judges and their decisions. It also assigned the Press Centre of the Ukrainian Judiciary and all the press secretaries of the courts to notify the general public via official courts websites of any

¹³ Decision of the COJ № 14 of 12.03.2015, available at: <http://rsu.gov.ua/uploads/article/risenna-rsu-no-14-vid-12032015-502524fc98.pdf>.

¹⁴ Recommendations of the international conference “Strengthening the trust in the judiciary via improvement of mutual communication” (Kyiv, 24-25.02.2015), available at: <http://rsu.gov.ua/uploads/article/rekomendacii-mijnarodnoi-confere-a8cac1e60f.doc>.

¹⁵ Decision of the COJ № 72 of 30.11.2012, available at: <https://rsu.court.gov.ua/rsu/rishennya/mfh>.

¹⁶ Statement of the COJ № 27 of 21.06.2013, available at: <https://zakon.rada.gov.ua/rada/show/v0027414-13>.

¹⁷ Decision of the COJ № 1 of 05.02.2015, available at: [https://rsu.court.gov.ua/userfiles/1\(28\).pdf](https://rsu.court.gov.ua/userfiles/1(28).pdf).

¹⁸ Open letter of the COJ, as approved by the decision of the COJ № 1 of 05.02.2015, available at <https://rsu.court.gov.ua/userfiles/vidkrutuu%20list.doc>.



attempts of interference with the adjudication of disputes or attempts to exert pressure on judges in any manner.

In March 2015, the COJ supported, by its decision № 14,¹⁹ the recommendations²⁰ of the international conference “Strengthening the trust in the judiciary via improvement of mutual communication”. The recommendations suggested the COJ to establish a practice of publishing the COJ’s positions on each draft law registered in the Parliament, the provisions of which could pose a potential threat to the independence of the judiciary in light of internationally recognized standards.²¹ Another suggestion was that, should there be facts of disrespect or abuse by state officials against the judiciary, the COJ should raise attention to those by ways of notifying international organizations (including the judicial organizations), and informing about it by press-conferences for media and the general public.²² The recommendations also reiterate the provisions of the Concept of Informational-Communication Activities of the COJ with regard to the quick response to publications or statements which undermine the trust in the judiciary.²³

Transparency of judicial bodies

Outcome: *Clear, foreseeable and applicable conditions on public access and participation at SJGB hearings, timely prior announcement of meeting agendas, public nature of SJGB decisions.*

Striving for transparency of judicial bodies: their operation and documents/decision produced, have also its history prior to the adoption of the JSRSAP. Let us show it in more detail.

a. Public access to hearings

The High Council of the Judiciary. According to law,²⁴ the hearings of the HCJ (Vyshcha Rada lustytsiyi, a body which was reorganized into Vyshcha Rada Pravosuddia in January 2017) were conducted openly. Closed hearing could be held upon the decision of the constitutional majority of the HCJ. In February 2015, this provision was amended, clarifying that the HCJ’s hearing could be held in camera only on the grounds prescribed for closing the court hearings.²⁵

The High Qualification Commission of Judges. Prior to the adoption of the JRSAP, the law envisaged²⁶ that the sessions of the HQCJ’s and hearings of its chambers should be conducted publicly, except for cases prescribed by law. The law did not prescribe any of such cases, however.

The Council of Judges. The law was silent on the conditions of public access to the COJ sessions.

¹⁹ Decision of the COJ № 14 of 12.03.2015, available at: <http://rsu.gov.ua/uploads/article/risenna-rsu-no-14-vid-12032015-502524fc98.pdf>.

²⁰ Recommendations of the international conference “Strengthening the trust in the judiciary via improvement of mutual communication” (Kyiv, 24-25.02.2015), available at: <http://rsu.gov.ua/uploads/article/rekomendacii-mijnarodnoi-confere-a8cac1e60f.doc>.

²¹ Recommendation 2.2, Ibid.

²² Recommendation 2.3, Ibid.

²³ Recommendation 15, Ibid.

²⁴ Article 24 of the Law of Ukraine “On the High Council of Justice” of 15.01.1998 № 22/98-BP, in the edition as of 26.10.2014, available at: <https://zakon.rada.gov.ua/laws/show/22/98-%D0%B2%D1%80/ed20141026#n158>.

²⁵ Amendments were introduced by the Law of Ukraine “On securing the right to a fair trial” of 12.02.2015 № 192-VIII, available at: <https://zakon.rada.gov.ua/laws/show/192-19/ed20150227#n662>.

²⁶ Part 7 of Article 105 of the Law of Ukraine “On the Judiciary and the Status of Judges” of 07.07.2010 № 2453-VI, in the edition as of 01.04.2015, available at: <https://zakon.rada.gov.ua/laws/show/2453-17/ed20150401#n4713>.



b. Prior announcement of the meeting agendas

The High Council of the Judiciary. Law did not oblige the HCJ to announce its meeting agendas. In practice, however, this was done via the news section of the website.²⁷

The High Qualification Commission of Judges. The law²⁸ specified that: the Head of the HQCJ/Heads of the HQCJ's chambers should decide on the date, time and place of the HQCJ session/chamber session; an organ, no later than 10 days before such a session, should notify the persons whose issues were under consideration; an organ should publish this information on the website of the HQCJ.

The Council of Judges. The law did not oblige the COJ to announce the agenda of its hearings. According to the old COJ's website, the announcements of the session results were made post-factum.²⁹

c. Public nature of the decisions

The High Council of the Judiciary. The HCJ became obliged to publish its decisions as a public sector body³⁰ according to the provisions of the Law of Ukraine "On Access to Public Information" since May 2011, and indeed, decisions since this month are available at the HCJ's website.³¹

Moreover, according to Law of Ukraine "On the High Council of Justice",³² the official materials of the HCJ are published in the Supreme Court of Ukraine bulletin, and in urgent matters also in the newspapers "Holos Ukrayiny" and "Uryadovyi Kurier". This provision was amended in March 2014³³ taking into account the provisions of the Law "On Access to Public Information", and prescribing that all the HCJ's acts and other information on its activities are subject to the publication in accordance with the mentioned Law.

The High Qualification Commission of Judges. Similarly, HQCJ became obliged to publish its decisions as a public sector body³⁴ according to the provisions of the Law of Ukraine "On Access to Public Information" since May 2011. However, the HQCJ seemed not to follow the law provisions, and currently, the respective website division is empty.³⁵

The Council of Judges. According to the law, the decisions of the COJ should have been published on the official web-portal of the judiciary no later than the next day of their adoption.³⁶

²⁷ See, for example, the announcement of the HCJ session on 19.04.2010, made on 06.04.2010, available at: <http://www.vru.gov.ua/news/126>.

²⁸ Part 8 of Article 105 of the Law of Ukraine "On the Judiciary and the Status of Judges" of 07.07.2010 № 2453-VI, in the edition as of 01.04.2015, available at: <https://zakon.rada.gov.ua/laws/show/2453-17/ed20150401#n4713>.

²⁹ Such announcements are available since October 2010 at: <https://rsu.court.gov.ua/rsu/?page=51>.

³⁰ Part 2 of Article 15 of the Law of Ukraine "On Access to Public Information" of 13.01.2011 № 2939-VI, available at: <https://zakon.rada.gov.ua/laws/show/2939-17#n107>.

³¹ The first decisions of the HCJ published online can be found at: http://www.vru.gov.ua/act_list/page/19375.

³² Article 49 of the Law of Ukraine "On the High Council of Justice" of 15.01.1998 № 22/98-BP, in the edition as of 28.02.2014, available at: <https://zakon.rada.gov.ua/laws/show/22/98-%D0%B2%D1%80/ed20140228#n383>.

³³ The Law of Ukraine "On amending certain laws of Ukraine due to the adoption of the Law of Ukraine "On information" and the Law of Ukraine "On Access to Public Information" of 27.03.2014 № 1170-VII, available at: <https://zakon.rada.gov.ua/laws/show/1170-18/ed20141026#n171>.

³⁴ Part 2 of Article 15 of the Law of Ukraine "On Access to Public Information" of 13.01.2011 № 2939-VI, available at: <https://zakon.rada.gov.ua/laws/show/2939-17#n107>.

³⁵ Division of the HQCJ's website where the decisions are supposed to be published is available at: <https://vkksu.gov.ua/rishiennia-komisii/rishiennia-komisii-za-2016/>.

³⁶ Part 6 of Article 131 of the Law of Ukraine "On the Judiciary and the Status of Judges" of 07.07.2010 № 2453-VI, in the edition of 01.04.2015, available at: <https://zakon.rada.gov.ua/laws/show/2453-17/ed20150401#n4901>.

Openness of judges as a career incentive

Outcome: Career and performance management system of judiciary containing incentives for judges to more frequently enter into contact with public by way of writing articles, conducting research, visiting educational establishments, and engaging in other socio-educational activities.

Measures: Written rules of procedure drafted and applied by SJGB in all matters.

Prior to the adoption of the JSRSAP the involvement of judges in all activities related to communication with the public largely depended on their own initiative and dedication. Such activities took place, whether under various projects or within the initiatives of the COJ which was the big promoter of the openness of courts and communication.

The involvement of judges in communication activities was a subject of discussion within the judiciary, a new open approach clashed with a more traditional one, according to which the judge should rather stay in the court and communicate through his/her judgments only.

There were no formal incentives for the judges' activities in the field of communication or public education.

Feedback gathering by the judiciary

Outcomes: User satisfaction surveys used regularly by judiciary governance bodies and courts to measure and improve quality of services.

Measures: Decisions, reports.

Prior to the adoption of the JSRSAP, several projects and activities aimed at conceptualising the assessment of the court work, including the element of the client satisfaction surveys, were undertaken.

In 2008, the COJ started to develop a system of assessment of the work of courts and established the respective working group.³⁷ The same year, the pilot program of surveying the participants of the court proceedings was launched, with the use of so-called "citizen report cards". In the course of this project, five NGOs conducted surveys in 12 Ukrainian courts. The program was prolonged in 2009, in cooperation with 15 courts.³⁸

In 2010, the COJ working group developed modules for the assessment of the timeliness of the consideration of cases and the quality of writing of the judicial decisions. The pilot application of these modules was conducted in 6 courts.³⁹ The quality of the writing module entailed assessment, by an external group of experts (retired judges, attorneys, academics) of anonymized judicial decision according with the use of a specific template. The latter entailed 12 questions asking each expert to evaluate different properties of a decision on a scale from 1 to 3 (or 4). Those questions ask whether a decision contains the grounds for accepting or rejecting the evidence provided by the parties, whether it has grammatical or stylistic mistakes, and whether the text of the decision is simple to read and understood by a person without a legal background.

In 2012, the draft methodology of "System of assessment of quality of work of a court: standards, criteria, indicators, and methods" (SAQWC) has been finished and was tested in 13

³⁷ This is mentioned in the text of the decision of the COJ of 02.04.2015 № 28, available at: https://rsu.court.gov.ua/userfiles/file/DSA/RSU_site/2015/risennya2802042015.pdf.

³⁸ Vaughn, Ohay, Sedyk, Serdiuk, Tampi. "Research on the quality of work of courts with the use of citizen report cards methodology", Kyiv, 2010, available at: https://newjustice.org.ua/wp-content/uploads/2018/05/UROL_CRC_Manual_UKR_DRAFT_20.08_10.pdf

³⁹ Experts of the USAID New Justice Project. "Application of the system of assessment of work of a court». Methodical guidelines.", Kyiv, 2016, as approved by the decision of the COJ № 26 of 08.04.2016, available at: <http://rsu.gov.ua/uploads/article/cpeguidelines2016web-60a66d2465.pdf>.



courts. The methodology included such modules as the effectiveness of judicial administration, timeliness of adjudication of disputes, the quality of judicial decision, and the satisfaction of participants of the proceedings with the court's work (based on the methodology of the citizen report cards used by NGOs).⁴⁰

The COJ's "Strategic plan of the development of the judiciary in Ukraine for 2013-2015" (2012)⁴¹ included among its goals the creation of a national system of standards for quality and court effectiveness with the purpose of their evaluation and application of internal and external evaluations of the courts' work for improving their functioning.

The COJ's "Strategy for the development of the Ukrainian Judiciary for 2015-2020" (2014)⁴², Action 2.1, envisaged the development of "a system of measuring the effectiveness of the judiciary and mechanisms of its application via clear and transparent policy of securing the quality of the adjudication of disputes and effectiveness standards". This Action included a step 11, entailing user satisfaction surveys, on the basis of the SAQWC, in at least in 10 pilot regions prior to the end of 2015, in all the country - prior to the end of 2017, and regular surveys since 2019.

In February 2015, the COJ decided⁴³ to adopt the SAQWC methodology as a basis of courts assessment, excluding from it the module related to the assessment of quality of writing judicial decisions. The draft SAQWC methodology was distributed among all the courts for providing the comments within one month timeframe. Finally, on March 13, 2015, the COJ discussed the received comments and, among other things, changed the name of the draft methodology to "System of assessment of work of a court: standards, criteria, indicators, and methods".⁴⁴

International cooperation

Outcome: regular exchanges with European judiciary governance bodies and other international counterparts.

Measures: European and international cooperation network fully operational.

Means: Decisions, MOUs, conferences, traineeships.

According to the HCJ's website,⁴⁵ the HCJ (as Vyshcha Rada lustytsiyyi, a body which was reorganized into Vyshcha Rada Pravosuddia in January 2017) has concluded bilateral memoranda with the judicial councils of Hungary (1999), Portugal (2002), Georgia (2004, 2012), and Bulgaria (2012). Those memoranda are covering such cooperation mechanisms as short-term study visits and exchange of information.

As to the HQCJ and the COJ, those bodies were not formally a part of any of the international cooperation networks prior to the adoption of the JRSAP. The international cooperation had rather an ad hoc character.

⁴⁰ Babiy, Serdiuk, Moskvych et al. The assessment of quality of the work of courts in Ukraine: the results of pilot research in 2012, 2013, available at: https://newjustice.org.ua/wp-content/uploads/2018/06/CPE_pilot_testing_summary2013_FINAL.pdf.

⁴¹ Para 6.1, 6.2 of the Strategic plan of the development of the judiciary in Ukraine for 2013-2015, as approved by the COJ on 21.12. 2012, available at: <https://court.gov.ua/userfiles/Strateg%20plan.doc>.

⁴² Action 2.1, the Strategy for the development of the Ukrainian Judiciary for 2015-2020, approved by the COJ on 11.12. 2014, available at: <http://nsj.gov.ua/files/1467884108%D0%A1%D1%82%D1%80%D0%B0%D1%82%D0%B5%D0%B3%D1%96%D1%8F%20%D1%80%D0%BE%D0%B7%D0%B2%D0%B8%D1%82%D0%BA%D1%83%20%D1%81%D1%83%D0%B407.pdf>.

⁴³ Decision of the COJ № 5 of 05.02.2015, available at: <http://rsu.gov.ua/ua/site/download?doc=L3VwbG9hZHMvZG9jdW1lbnRzLzU4LnBkZg==>.

⁴⁴ Experts of the USAID New Justice Project. "Application of the system of assessment of work of a court». Methodical guidelines.", Kyiv, 2016, as approved by the decision of the COJ № 26 of 08.04.2016, available at: <http://rsu.gov.ua/uploads/article/cpeguidelines2016web-60a66d2465.pdf>.

⁴⁵ Division of the HCJ's website named "Bilateral cooperation" can be found at: http://www.vru.gov.ua/add_text/19.



2. ADEQUACY OF JSRSAP AND ITS PARAMETERS

Overall assessment

Chapter 1.2.3 “Development of PR/communication capacities” of the JRSAP formulates several outcomes. It focuses on both internal and external communication channels in between State Judiciary Governance Bodies (the High Council of Justice, the High Qualification Commission, the Council of Judges), courts, judges and court staff, as well as other state and non-state actors. It does list a wide range of activities and cover many important fields. It may be always argued that something else could be added (see more in our recommendations), but the way the JSRSAP was designed creates opportunities for positive changes.

Regarding the title of the subchapter we would like to make a language comment (however it goes deeper than just a language). When it comes to communication of the judiciary we are of the opinion that one should focus on *communication* and *information* rather than *PR* (*public relations*) capacities. There are many definitions of the PR, but PR strategies understood often as focusing mostly on creating good public image of the organization are not particularly suitable for the judiciary. Judiciary should create its image mostly by delivering timely justice, by being transparent and accountable. Its communication should focus on information and education (including in response to unfair attacks) and not creating good image “despite” not adequate performance. Respect for the judiciary may not be forced, should not be manipulated. It should arise naturally. It needs assistance of thought through information and education policy, that will influence the image but PR and image should not be the starting point and the main focus.

It may be also mentioned that the JSRSAP includes similar action in Chapter 5. Namely, within the part 5.2.2 “Development of transparent justice-sector governance” there is point 1. “Dedicated PR/communication capacities of all justice sector governance bodies and sector institutions”. This overlaps with the actions from Chapter 1 and is not necessary, it would be more reasonable to cover the same issue in one place.

One more linguistic comment is that many measures as prescribed by the JRSAP are written with the use of passive voice, which often makes unclear which specific bodies are responsible for certain actions.

Internal communication of judicial bodies and courts

Outcomes: *Internal communication channels among judiciary governance bodies, between judiciary governance bodies and courts, and between judiciary/courts and judges/staff formalised and used regularly. Mechanism for handling regulatory and governance issues among judiciary governance bodies in place.*

Measures: *SJGB Communication Committee fully operational. Press centre at SJGB fully operational. Press units (officers) in all appellate regions.*

Practice guides and training modules on PR/communication developed, disseminated and updated regularly.

Written rules of procedure drafted and applied by SJGB in all matters

Outcomes envisage creation (in a formalized way) and regular usage of communication channels in between SJGBs, as well as between courts and judges/staff. The action should also include creation of a mechanism for handling regulatory and governance issues.



Measures include creating fully operational Communication Committee and a press center. Such measures are adequate, however formulated in quite general terms. One could imagine designing more detailed measures that would help to formulate more clear expectations vis a vis relevant bodies, that would serve as signposts for more concrete activities. For instance, it could include more precisely envisaged competences of the body created (Committee), its position, obligations and resources.

When it comes to the internal communication on the national level it could be assessed as satisfactory. But the measures for ensuring good internal communication between courts and judges/staff seems not to be adequately formulated. When it comes to the local level, the JSRSAP envisages only *Press units (officers) in all appellate regions*. None of the measures designed really addresses directly the communication of courts with its judges and staff.

The measures with regard to the practice guides and training modules on communication are formulated in an overly general manner and could be more precise. For example, it could have been stated that such guides should be developed for press secretaries, judges speakers, and all the judges in general. That would have made the means clearer and easier to measure.

External communication of judicial bodies and courts

Outcomes: *External communication channels between judiciary/courts and other State/non-State actors in the justice sector formalised and used regularly.*

Measures: *Press centre at SJGB fully operational. Press units (officers) in all appellate regions. Practice guides and training modules on PR/communication developed, disseminated and updated regularly. Written rules of procedure drafted and applied by SJGB in all matters.*

Means: *Decisions, contracts, job descriptions, placement plans, trainings. Press releases/briefings at courts following examination of high-profile cases.*

Press releases/briefings at courts following examination of high-profile cases.

Regular study visits of schoolchildren, students and other groups organised at courts.

When it comes to the judiciary external communication measures, they include creating central press centre and press units in all appellate regions, but also assisting those engaged in communication with specialised training modules, practice guides, written rules of procedure. All those measures are adequately designed.

Again, the level of generalisation of the JSRSAP could be replaced by measures defined in more precise manner. For instance, '*job description*' as a mean could include information on what exact positions should have their job description. The measure '*Written rules of procedure drafted and applied by SJGB in all matters*' could be more specific and include information on what procedures authors had in mind, or what was the minimum requirement.

What seems to be missing in the JSRSAP is a separate, specialised approach to the external communication in between judiciary and other branches of government, mainly legislative and executive powers (apart from reactions of the judiciary to the *perceived threats to independence and fairness of justice by ... public statements of State officials*, see separate section devoted to this problem).

On the one hand, actors of justice sector complain about the relations between branches of the government, on the other hand this issue was not addressed by any special measures.

Similar situation refers to the communication between the judiciary and institutions like prosecution and legal profession. The lasting critique of these relations was not pictured in the particular measures of the action plan.

Summing up, external communication could be divided into several streams depending on different targets of this communication. Of course, part of this communication would be the same, common, but different problems in communication with particular target groups could be also addressed by different, adequate, special measures.

Public reactions of the judiciary to the threats of independence

Outcomes: *Consistent response of judiciary governance bodies on behalf of corporation to any attempts at interference with independence, and promote the interests of corporation.*

Active role and timely statements by justice sector governance bodies in response to perceived threats to independence and fairness of justice by reason of media coverage or public statements of State officials.

Measures: *Practice guides and training modules on PR/communication developed, disseminated and updated regularly. Written rules of procedure drafted and applied by SJGB in all matters.*

The JSRSAP's outcomes related to the response of the judiciary to the attacks on independence and fairness of justice (by reason of media coverage or public statements of State officials) are formulated well. They underline the seriousness of the problem and the need for an active role and timely responses.

But when it comes to the measures designed to achieve these outcomes, they are quite general. They include *development of practice guides, training modules and written rules of procedure*. However, again, we do not know what guides, what rules, and of what character should be prepared. Therefore, based on looking at this formulation of measures one has a problem in determining what specific documents should be prepared. Also, the measures limit to the preparation on written documents and do not for instance envisage other forms of possible specific activities, like for instance empirical research or regular evaluation of the state of affairs when it comes to the attacks on judicial independence and providing feedback and recommendations.

Transparency of judicial bodies

Outcome: *Clear, foreseeable and applicable conditions on public access and participation at SJGB hearings, timely prior announcement of meeting agendas, public nature of SJGB decisions.*

Measures: *Written rules of procedure drafted and applied by SJGB in all matters.*

The above outcome regarding *public access and participation at SJGB hearings* already includes itself some specific measures like *timely prior announcement of meeting agendas*, also the outcome of *public nature of SJGB decisions* is quite self-explanatory. Those outcomes are narrow and concrete and additionally might be more developed by measures like *preparing rules of procedure*.

The JSRSAP could be however more concrete, by providing for example that *public nature of SJGB decisions* should be secured by online publications of all of them. Or by determining that *applicable conditions on public access and participation at SJGB hearings* should only have technical character (focused on organizations issues) and not character of substantive conditions that could limit public access in reality.



Openness of judges as a career incentive

Outcome: *Career and performance management system of judiciary containing incentives for judges to more frequently enter into contact with public by way of writing articles, conducting research, visiting educational establishments, and engaging in other socio-educational activities.*

Measures: *Written rules of procedure drafted and applied by SJGB in all matters.*

The JSRSAP's outcome of introducing adequate, formal, incentives in the career and performance management system of the judiciary in order to enhance judges' engagement in communication activities with the public is well formulated.

When it comes to measures however, the JSRSAP does not include any specific method of introducing these changes, stating which body in which act of law or regulations should include those formal incentives. One can presume that this is covered by the general measure of: *Written rules of procedure drafted and applied by SJGB*. The measures do not suggest what kind of possible *incentives for judges to more frequently enter into contact with public* authors of the JSRSAP had in mind. In what way relevant bodies should incite judges, but also how to weight this kind of engagement of judges (to avoid the situation that it is taken into consideration but has minimal impact, if any).

Feedback gathering by the judiciary

Outcomes: *User satisfaction surveys used regularly by judiciary governance bodies and courts to measure and improve quality of services.*

Measures: *Decisions, reports.*

The way the JSRSAP formulated the above outcome is very concrete and detailed. It does not leave much space for interpretation. Both SJGBs and courts should regularly conduct among clients/citizens satisfaction surveys in order to measure quality of services and to receive feedback needed for possible improvements.

The measures for a change are not that concrete. They could for instance include development of the concrete template satisfaction surveys or refer to already existing tools. They could also clarify what is meant by regularity (for instance minimum once a year).

International cooperation

Outcome: *regular exchanges with European judiciary governance bodies and other international counterparts.*

Measures: *European and international cooperation network fully operational.*

Means: *Decisions, MOUs, conferences, traineeships.*

The above outcome is limited to the exchanges with foreign institutions and organizations while it could be wider and include other forms of collaboration. Also measures are formulated in a narrow way focusing on *international cooperation networks*. It could include more specific activities and address concrete institutions, like for instance establishing working relations with the ENCJ (European Network Of Councils of the Judiciary), since at the moment, Ukraine may not become a member of this organization.

3. ACCURACY OF MONITORING OF AND REPORTING ON JSRSAP IMPLEMENTATION

Below Experts provide information based on the monitoring tool, together with information provided regarding implementation of the action plan (in brackets) and short comments. See also: “Progress of attainment of JSRSAP’s outcomes in the area of ‘Development of PR/ communication capacities’ - experts’ estimates” in chapter 5. Conclusions, below.

Chapter 1.2.3

Securing proper functioning of the Communication Committee:

- the model of the Committee’s functioning is chosen; (no information provided)
- legal basis for the Committee’s functioning are created and approved; (a link to the news piece on the Memorandum signature)
- the creation of the Committee is secured; (no information provided)
- the Committee is fully functioning. (2 links to the news pieces on the Committee sessions).

Indicators 2-4 are basically identical. There was monitoring and reporting on the signature of the Memorandum by which the Committee was created (Indicator 2) as well as on its functioning (links to the HCJ’s website reporting on the Committee’s meetings were provided).

Securing the functioning of the press centre of the judiciary

- the model of functioning of the press centre is chosen; (no information provided)
- the legal basis for the establishment of the press centre has been created; (news piece at the HCJ website on the creation of the Press Centre)
- training for the employees of the press centre are conducted; (no information provided)
- press centre properly functions; (webpage of the Press Centre with all the news items).

Establishment of press offices in all the appeal courts:

- an algorithm of judicial media coverage is developed; (no information provided)
- an algorithm of judicial media coverage is introduced; (no information provided)
- effective communication between courts and media is achieved; (link to the main page of the website of Kharkiv appeal administrative court).

Development, distribution, and regular update of the publications/ guidelines related to the communication with the public:

- practical handbooks and study modules are developed; (information that the course “communications in the judiciary” has been developed)
- practical handbooks and study modules are distributed; (link to the distance education NSJ’s website provided)
- regular update of practical handbooks and study modules is secured; (information that the course “communications in the judiciary” was updated).



Written rules of procedure drafted and applied by SJGB in all matters:

- the concepts of changes to the regulations are developed; (no information provided)
- the new draft regulations are prepared; (no information provided)
- the regulations are adopted; (link to the HCJs regulation is provided).

Organization of periodical study visits for schoolchildren, students, and other groups to courts:

- the concept of study visits is developed; (reference to the “Direct relations with the public” document approved by the Com. Committee)
- the concept of study visits is approved; (no information provided)
- the program of regular study visits is implemented. (The link to the news digest on the HCJs website is provided. One news item informs that the methodology is planned to be developed).

Preparation by courts of press releases and post-adjudication briefings with regard to the cases of a public interest:

- an algorithm of judicial media coverage is developed; (no information provided)
- media monitoring with regard to the coverage of court cases; (no information provided)
- analysis of media in light of the publications is made; (link to the division of the HCJs website having links to articles related to the HCJ is provided)
- an algorithm of judicial media coverage is introduced; (the link to the website of Sumy court announcing some interesting cases with their short description is provided).

Securing proper functioning on an international cooperation network:

- the analysis of format of international network functioning is conducted; (no information provided)
- legal basis for international cooperation is prepared and approved; (no information provided)
- International consultative council is created (link to the decision creating the council is provided).

Chapter 5.2.2.1

Creation of special opportunities in PR/communications in all the management bodies and institutions:

- decisions are adopted; (link to the COJ decision on liquidation of the press centre under the COJ’s management)
- reports are prepared; (no information provided)
- trainings are prepared; (reference to the creation of the Communication Committee and to the course “communications in the judiciary” plus information that 108 persons passed it).

The information included in the monitoring tool does correspond with the measures/outputs as planned in the action plan. As shown in the information above, based on the monitoring tool, a number of measures has not been linked to any information (no information provided). Therefore, one may conclude that the body responsible for updating the monitoring tool did not do this in detail. At the same time, however, when it comes to determining in what part the action plan has been implemented, the values given are close to 100% implementation. Therefore, one might suspect that some of these measures were reported as implemented under other points, using a kind of shorthand, without developing information on the implementation of each point separately. This makes complete assessment of adequacy of the monitoring tool difficult.

In chapter 5 of the report, below, experts evaluate “Progress of attainment of JSRSAP’s outcomes in the area of ‘Development of PR/communication capacities’ estimating the percentage of implementation/achievement of those outcomes.



4. ATTAINMENT OF RELEVANT JSRSAP OUTCOMES

Internal and external communication of judiciary governance bodies, courts, judges

A. Internal communication of judicial bodies and courts

Outcomes: *Internal communication channels among judiciary governance bodies, between judiciary governance bodies and courts, and between judiciary/courts and judges/staff formalised and used regularly. Mechanism for handling regulatory and governance issues among judiciary governance bodies in place.*

Measures: *SGGB Communication Committee fully operational.*

a. Internal communication channels among judiciary governance bodies

On February 10, 2017, the HCJ, the HQCJ, the COJ, the SJA, and the NSJ signed a “Memorandum on cooperation of the representatives of the Ukrainian judiciary”.⁴⁶ On April 27, 2018, the same memorandum was re-signed to include the newly established SC⁴⁷.

The Memorandum establishes Communication Committee of the Judiciary, consisting of the Heads of six signatories plus 2 representatives from each body. The Committee should meet at least once every three months. Organizational support for the Committee’s meetings is provided by the HCJ’s staff, unless the Committee decides otherwise. According to the information provided by the HCJ, the Committee has gathered 3 times in 2017, 5 times in 2018, and 2 times in 2019 (till September).⁴⁸ The Committee established also a working group⁴⁹ consisting of 11 members from among the employees of the Memorandum signatories.

The Memorandum outlines 10 goals, that can be summarised as three main directions of cooperation: improvement of communication between the judicial bodies; securing coordinated and consistent communication of the judiciary with the media, general public and civil society; and development of general rules in the communication sphere.⁵⁰

The Memorandum lists out both independent spheres of communication of each body as well as their common mandate. There are four annexes to the memorandum.

- Annex 1 – Approved on 10 February 2017 - Regulation on the creation and activities of the Communication Committee.
- Annex 2 – Approved on 10 February 2017- Mechanism of actions in situations requiring immediate reaction (like, for instance, publication of negative information regarding judiciary etc.).
- Annex 3 – Approved on 21 July 2017 - Provides the “Concept of direct contacts between society and the judiciary”,⁵¹ recommending all the judicial authorities and courts to develop and implement joint and individual action plans for 2018-2020.
- Annex 4 – Approved on 1st of August 2017 - Regulation on the Press Centre of the Ukrainian Judiciary.

⁴⁶ Memorandum on intercommunication and cooperation of the representatives of the Ukrainian judiciary of 10.02.2017, available at: http://www.vru.gov.ua/content/file/Memorandum_.pdf.

⁴⁷ Memorandum on on intercommunication and cooperation of the representatives of the Ukrainian judiciary of 27.04.2018, available at: http://www.vru.gov.ua/content/file/Memorandum_2018.pdf.

⁴⁸ Letter of the HCJ of 10.09.2019..

⁴⁹ The members of the Communication Committee are listed here: http://www.vru.gov.ua/add_text/212.

⁵⁰ Article 1 of the Memorandum.

⁵¹ Annex 3 of the Memorandum.



In practice, the Committee as such does not have the power to adopt any legally binding decisions binding the members or institutions they represent. All of its decisions are statements of declaratory character that might serve as recommendations. The decisions of the Committee, apart from the memorandum and annexes itself, do not have a written form.⁵² Information on the discussions during the Committee sessions and the agreements made can be found only in the news section of the HCJ website.⁵³

On the one hand, press office of the HCJ informs about meetings and activities undertaken by the Committee on its website. But on the other hand, some judges (including judges speakers) and press secretaries interviewed by authors of this report informed that the Committee is not a very well-known body even among judges who are not aware of its existence, or if so, are not aware of its work or its functions.⁵⁴

Considering the character and the competences of the Committee it may not be seen as a *mechanism for handling regulatory and governance issues among judiciary governance bodies*. Such a function is not directly stated in the quoted memorandum. Plus, the Committee does not have any real powers. Therefore, this particular outcome of the strategy seems not to be fulfilled. However, *mechanism for handling* is quite vague term. One may argue that it does not need a formal written formulation and that it could be just a practical arrangement - during the meetings of the Committee its members may definitely discuss *regulatory and governance issues*.

b. Internal communication channels between SJGBs and courts

In May 2017,⁵⁵ the HCJ formed an advisory body named Consultative Council of Presidents of Courts under the HCJ. The Council comprises of the presidents of the appeal courts, cassation courts, the President of the Supreme Court, and the Head of the HCJ.⁵⁶ The Council was established in order to discuss the actual questions of the courts' functioning,⁵⁷ during the meetings which should happen at least once per 3 months.⁵⁸ Upon the consideration of the issues, the Council adopts decisions of non-binding character.⁵⁹

The Consultative Council of Presidents is not the body that would have competence of handling *regulatory and governance issues among judiciary governance bodies* since only two of them are represented in the Council. But it may be a platform for relevant debates and exchange of views.

c. Internal communication channels between courts and judges/staff

The authors were unable to identify any documents formalizing the internal communication channels between courts and judges/staff. A model regulation on the court's apparatus does not cover the issues of internal communication.⁶⁰

According to the report prepared by an NGO 'Human Rights Vector' (Report on Media Openness of Courts in Ukraine for 2018),⁶¹ findings of which are based on the replies of 269

⁵² Interview with Oksana Lysenko, the Head of the Press Centre of the Ukrainian Judiciary, held on 05.09.2019 in Kyiv.

⁵³ See, for example, news piece of the HCJ of 28.09.2018, available at: <http://www.vru.gov.ua/news/4128>.

⁵⁴ Interviews with presidents of courts, judges, judges speakers and press secretaries, August-September 2019.

⁵⁵ Regulation of the Consultative Council of the Presidents of Courts under the High Council of Justice, approved by decision of the HCJ № 1331/0/15-17 of 30.05.2017, available at: <http://www.vru.gov.ua/act/9858>.

⁵⁶ Article 2.1, Ibid.

⁵⁷ Article 3.1, Ibid.

⁵⁸ Article 4.4, Ibid.

⁵⁹ Article 6.1, Ibid.

⁶⁰ Model Regulation on the court's apparatus, as approved by the Decree of the SJA № 131 of 08.02.2019, available at: <https://zakon.rada.gov.ua/rada/show/v0131750-19>.

⁶¹ Rybak. "Media openness of the Ukrainian courts: results of the all-Ukrainian survey of workers of courts in 2018", Kharkiv, 2019, available at: <http://hrvector.org/zviti/19-07-17-admin>.



courts out of 674 functioning at the time of the survey (40% of all the courts participated in the survey), the main actions courts take to form internal communications of employees are the educational activities – 108 courts, and gatherings of the court employees – 79 courts. Thirty one courts did not conduct any actions to form internal communications within the court (12% of all the courts that participated in the survey).

During the meeting with the representatives of Zarichniy Rayonnyi Sud of Sumy,⁶² its employees informed that the court employees use an internal messenger called “CommFort”⁶³ for work-related communications or, alternatively, their private emails if outside of the workplace. However, the mentioned “CommFort” system is not in use in all of the Ukrainian courts and is more of a local-level tool. Some court departments also have their email addresses registered at court.gov.ua domain, but not all the court employees personally.

Prymorskyi Raionnyi Sud of Odesa informed⁶⁴ that the court has the following channels of internal communication:

- personal reception by the president of the court of judges and administrative staff;
- holding meetings and gatherings of judges;
- holding meetings of administrative staff;
- exchange of letters among the court departments;
- distribution of information among judges and administrative staff via local computer network.

B. External communication of judicial bodies and courts

Outcomes: External communication channels between judiciary/courts and other State/non-State actors in the justice sector formalised and used regularly.

Measures: Press centre at SJGB fully operational. Press units (officers) in all appellate regions. Practice guides and training modules on PR/communication developed, disseminated and updated regularly. Written rules of procedure drafted and applied by SJGB in all matters.

Means: Decisions, contracts, job descriptions, placement plans, trainings.

Press releases/briefings at courts following examination of high-profile cases.

Regular study visits of schoolchildren, students and other groups organised at courts.

a. State Judicial Governance Bodies

All the SJGBs have their own websites, Facebook pages, and Youtube channels.⁶⁵ The HCJ also has a Twitter account⁶⁶ and a Telegram channel.⁶⁷ All those bodies actively use these channels of communication on a daily basis. The unified communication strategy of the Ukrainian judiciary is still in the process of development.⁶⁸

⁶² Interview with the representatives of Zarichniy Court of Sumy held on 17.09.2019 in Sumy.

⁶³ <http://www.commfort.com/>.

⁶⁴ Letter of Prymorskyi Raionnyi Sud of Odesa as of 19.09.2019.

⁶⁵ Websites: <http://hcj.gov.ua/>; <https://vkksu.gov.ua/>; <http://rsu.gov.ua/>; Facebook pages: <https://www.facebook.com/highcouncilofjustice/>; <https://www.facebook.com/vkksu/>; <https://www.facebook.com/judiciarypressoffice/>; Youtube channels: https://www.youtube.com/channel/UCOD_RiWuU5kR2yMmwDWIfRw; <https://www.youtube.com/channel/UChKmqVip1LMz-IR0nIUxkAw>; https://www.youtube.com/channel/UCXX98gEFyFIGvfx9rltr_gA.

⁶⁶ <https://twitter.com/hcjnews>.

⁶⁷ https://t.me/hcj_gov_ua.

⁶⁸ See the respective news piece on the HCJ's website dated 15.03.2019, available at: <http://www.vru.gov.ua/news/4763>.



b. Courts

All the courts of Ukraine have an official webpage as a subpage of the unified platform “The Ukrainian Judiciary”, and it is obligatory for the courts employees to use it for the purposes of external communication since February 2014.⁶⁹ According to the HRV Report,⁷⁰ most of the news on those sites are published by appeal courts (around 100-200 per year), while the local courts have around 50-100 news pieces per year. However, as was found by authors of report on courts and media,⁷¹ it is not always the news that are of interest to media and citizens, which are interested mostly in the information on court cases.

There is also an interactive tool⁷² created by an NGO (Справедливий Суд. Бюро Правничих Комунікацій) which allowed to analyse and rate the courts’ communication activities during the year 2018 according to a number of criteria, such as, for example, the amount of news published, the announcement of the court cases, the presence of certain visualization in the news pieces etc.

The HRV report also found that 69 % of the surveyed courts (185 courts) are present in social networks (mostly Facebook), and comparing this data with the 2017 survey, there was a 24% growth in such a presence.⁷³ Out of those courts which do not have a social network page, they explain it either by the fact that the official website of the court is enough for communication (24 %) or that the press-secretary (or another responsible person) does not have a capacity to cover social media (15%). At the same time, no legal document obliges the courts or their apparatus to register/have court pages in social networks.⁷⁴

Some courts have a practice of approving a communication strategy of a court, either as a guideline document, or as an event plan per year/other period of time (although this is not obligatory, according to law). Those strategies in the form of guidelines are being published on the websites of the courts.⁷⁵

Some courts prepared their own internal rules on relations with media and journalists (adopted by the gathering of judges of a court),⁷⁶ elaborating on the procedural rules of access to the court premises and hearings as well as ethical rules of judges.

The SJA Decree № 1123 of December 22, 2017, obliged the courts to file quarterly reports on their communicational activities to the SJA.⁷⁷ Reports include a list of events they conducted, their objectives, links to information on those events etc. (Form 1).⁷⁸ Courts also

⁶⁹ The Regulation on the publication of information at the official webportal “The Ukrainian Judiciary”, as approved by the decree of the SJA № 30 of 17.02.2014, available at: <https://dsa.court.gov.ua/dsa/inshe/14/gjflvghvtrjg>.

⁷⁰ Rybak, “Media openness of the Ukrainian courts: results of the all-Ukrainian survey of workers of courts for 2018”, Kharkiv, 2019, available at: <http://hrvector.org/zviti/19-07-17-admin>.

⁷¹ Rybak. “Courts and media: the experience of cooperation. Results of the all-Ukrainian survey of journalists regarding the cooperation with courts”, Kyiv, 2019, available at: <http://hrvector.org/mediacourts2-hrv-mf-web.pdf>.

⁷² Rating of the informational openness of courts can be found at: <http://faircourt.in.ua/news/180220191852.html>.

⁷³ Rybak. “Media openness of the Ukrainian courts: results of the all-Ukrainian survey of workers of courts in 2017”, Kyiv, 2017, available at: <http://hrvector.org/zviti/18-02-06-mediajustice>.

⁷⁴ Rybak. “Media openness of the Ukrainian courts: results of the all-Ukrainian survey of workers of courts in 2018”, Kharkiv, 2019, available at: <http://hrvector.org/zviti/19-07-17-admin>.

⁷⁵ For example, see the Communication strategy of Vinnytsia District Administrative Court per 2018-2020, as approved by the Decree of the President of the court № 006 of 06.02.2018, available at: <http://voas.gov.ua/work/komunikaz-strategiya/>.

⁷⁶ See, for example, the Regulation of Commercial Court of Mykolayivs’ka Oblast’, approved by the decision of the gathering of judges of the court № 6 on 29.05.2015, available at: https://mk.arbitr.gov.ua/sud5016/inshe/vzayemodiya_z_gromadskistiuzmi.

⁷⁷ Decree of the SJA № 1123 of 22.12.2017, available at: https://dsa.court.gov.ua/userfiles/file/DSA/DSA_2017_all_docs/17ordersmarch/N_1123.pdf.

⁷⁸ Annex 1 to the decree of the SJA № 1123 of 22.12.2017, available at: https://dsa.court.gov.ua/userfiles/file/DSA/DSA_2017_all_docs/17ordersmarch/Dod_1_N_1123.doc.



transfer the contact data of press-officers and judges-speakers appointed in courts (Form 2).⁷⁹ The latter resulted in the creation of electronic registry of the press-services of the Ukrainian courts, having the names of judge-speakers and press-secretaries of the court with their phone numbers and emails.⁸⁰ According to the Head of the Press Centre of the Ukrainian Judiciary,⁸¹ that is all the information collected by SJGBs from the courts on their activities in the sphere of communication.

c. Press releases/briefings by courts

As found by the authors of the HRV Report,⁸² courts rarely use press briefings as a communication tool. Among the first instance courts which participated in the 2017 survey, only 18 (8 % of those which replied) conducted press events, while in 2018 – 27 courts (11%) conducted from 1 to 3 events. As to the appeal courts, 5 of them (16% of those which participated in a survey) conducted some press events in 2017, while in 2018, 9 courts (29% of the surveyed) plus 2 more (6% of the surveyed) newly established appeal courts. The most popular type of press events were press-breakfasts and press conferences.

In case of considering high profile cases, cases that resonate in the public, many courts publish press-announcements (40 % of all the surveyed), press releases (47 %) and monitor media/social networks (55%).⁸³

From the forms submitted by courts in 2018 following the SJA's Decree, it stems that 25% of them do not communicate with the public via events at all.⁸⁴

d. Regular study visits taken by courts as a host

According to the HRV report,⁸⁵ 147 first instance courts (out of 238) that participated in the 2018 survey (62%) conducted from 1 to 36 study visits during 2018. Among the surveyed appeal courts which provided their replies (31 appeal court), almost half (14) conducted from 1 to 19 study visits. The main beneficiaries of such visits are school children and students, rarely representatives of NGOs or the media. Comparison with the 2017 data demonstrates a tendency of growth in the amount of study visits.

Among all the Ukrainian courts, only the SC has a specific, detailed Regulation on the organization of study visits.⁸⁶

⁷⁹ Annex 2 to the decree of the SJA № 1123 of 22.12.2017, available at: https://dsa.court.gov.ua/userfiles/file/DSA/DSA_2017_all_docs/17ordersmarch/Dod_2_N_1123.doc

⁸⁰ Electronic register of the press services of courts of Ukraine, Kyiv, 2018, available at: <http://www.vru.gov.ua/content/file/Court-press-services-register29.08.2019.pdf>.

⁸¹ Interview with Oksana Lysenko, the Head of the Press Centre of the Ukrainian Judiciary, held on 05.09.2019 in Kyiv.

⁸² Rybak. "Media openness of the Ukrainian courts: results of the all-Ukrainian survey of workers of courts in 2018", Kharkiv, 2019, available at: <http://hrvector.org/zviti/19-07-17-admin>.

⁸³ Rybak. "Media openness of the Ukrainian courts: results of the all-Ukrainian survey of workers of courts in 2018", Kharkiv, 2019, available at: <http://hrvector.org/zviti/19-07-17-admin>.

⁸⁴ Yearly Report of the HCJ on the status of securing the independence of judges in Ukraine for 2018, Kyiv, 2019, available at: http://www.vru.gov.ua/content/file/%D0%A9%D0%BE%D1%80%D1%96%D1%87%D0%BD%D0%B0_%D0%B4%D0%BE%D0%BF%D0%BE%D0%B2%D1%96%D0%B4%D1%8C_%D0%B7%D0%B0_2018_%D1%80%D1%96%D0%BA.pdf.

⁸⁵ Rybak. "Media openness of the Ukrainian courts: results of the all-Ukrainian survey of workers of courts in 2018", Kharkiv, 2019, available at: <http://hrvector.org/zviti/19-07-17-admin>.

⁸⁶ Regulation on the study visits to the Supreme Court, as approved by the Decree of the Head of the SC Apparatus № 73-ОД of 08.06.2018, available at: <https://supreme.court.gov.ua/userfiles/media/Ekskursii.pdf?fbclid=IwAR2vkwvbRTkAwTqN7zd95bWUeye9JLTBfX8qa2wUmaxdEcbxFghD9YxBc-s>.



e. Press Centre of the Ukrainian Judiciary

On August 1, 2017, the COJ canceled its previous decisions establishing the Press Centre of the Ukrainian Judiciary under the COJ's management.⁸⁷ The new Press Centre was established under the HCJ within the framework of the Memorandum on cooperation of the representatives of the Ukrainian judiciary in August 2017.⁸⁸ Essentially, it was not an entirely new institution, but a set of additional functions put on the employees of the Department of information and communication activities of the HCJ's Secretariat. The mentioned department currently consists of 2 persons, the Head and Deputy.⁸⁹ The Head of the Centre is subordinated to the Head of the HCJ.⁹⁰

The main tasks of the Press Centre are outlined as follows: publishing public information on the activities of the judicial system, external and internal communication with the judicial bodies, Communication Committee, regional centres of judicial communications with the purpose of securing their relations with the media and public in Ukraine and abroad.⁹¹ The Press Centre is also in charge, among other tasks, with the development and implementation of a unified communication strategy of the Ukrainian judiciary and implementation of the JRSAP in its communication-related part.⁹²

In an interview, the Head of the Press Centre underlined that the Press Centre experiences difficulties due to the lack of their own premises, lack of human resources (operators, SMM-specialists, designers etc.), and lack of adequate funding for financing its activities as well as for qualification improvement.⁹³

f. Press units (officers) in all appellate regions

According to information provided to authors (in response to the public information requests, in September 2019) six appeal courts (out of 37 appeal courts asked) did not have a press-secretary as a separate position in the courts' apparatus, having other employees bearing the related responsibilities.⁹⁴

Moreover, as the Head of the Press-Service of the Ukrainian Judiciary informed,⁹⁵ the staff turnover in these positions (judges-speakers and press-officers) is rather high, and constituted around 15% during the year 2018.

⁸⁷ Decision of the COJ № 40 of 01.08.2017, available at: <https://zakon.rada.gov.ua/rada/show/vr040414-17>.

⁸⁸ Annex 4 to the Memorandum on cooperation of the representatives of the representatives of the Ukrainian judiciary of 10.02.2017, available at: http://www.vru.gov.ua/content/file/%D0%94%D0%BE%D0%B4%D0%B0%D1%82%D0%BE%D0%BA_41.pdf.

⁸⁹ Page of the Press Centre at the website of the HCJ is available under the following link: http://www.vru.gov.ua/add_text/274.

⁹⁰ Article 4.2 of the Regulation on the Press Centre of the Ukrainian Judiciary of 01.08.2017, as approved by Annex 4 to the Memorandum on cooperation of the representatives of the representatives of the Ukrainian judiciary of 10.02.2017, available at: http://www.vru.gov.ua/content/file/%D0%94%D0%BE%D0%B4%D0%B0%D1%82%D0%BE%D0%BA_41.pdf.

⁹¹ Article 1.3, Ibid.

⁹² Article 3.1.2, Ibid.

⁹³ Interview with Oksana Lysenko, the Head of the Press Centre of the Ukrainian Judiciary, held on 05.09.2019 in Kyiv.

⁹⁴ The authors of the report sent public information requests to all the appeal courts of Ukraine asking whether they have press officer position as a separate one in the court's apparatus. Out of 37 courts, only one court refused to provide information (East Appeal Commercial Court, Kharkiv).

⁹⁵ Interview with Oksana Lysenko, the Head of the Press Centre of the Ukrainian Judiciary, held on 05.09.2019 in Kyiv.



g. Practice guides and training modules on PR/communication developed, disseminated and updated regularly

The Press Centre of the Ukrainian Judiciary provides at the HCJ's website⁹⁶ news and links to all the webinars conducted on the topic of judicial communications, as well as presentations from the events and practice guides created by the Press Centre and representatives of the Communication Committee.

The NSJ and its 7 regional departments provide on-ground trainings for judges and the court apparatus on the topic of the court communication. They take place in different regions at the initiative of the local departments of the NSJ and have diverse audience and different topics. For example, trainings on court communication were conducted for the presidents and deputies of courts,⁹⁷ for judges-speakers,⁹⁸ all the interested judges,⁹⁹ and for the press-secretaries of courts.¹⁰⁰

The latter one (training for press-secretaries) was recently converted into a distance education course¹⁰¹ titled "Communications in the judicial activities". In 2019, the course will be presented during two sessions, each lasting for around a month: in March – April, and November – December.

There are however no distant courses on the topic for judges speakers. The unified curriculum for one-day training of judges-speakers is currently being developed to be later included in the NSJ's study program.¹⁰²

The website of the NSJ contains also a number of practice guides related to the topic, for instance a practical guide for judges and the court staff titled "Public relations in courts",¹⁰³ revised in July 2017. Moreover, there are methodical guidelines for conducting trainings on "Professional psychological preparation of judges" (2018),¹⁰⁴ and "Social competence of a judge" (2019),¹⁰⁵ where a number of questions are dedicated to communication of a judge with media and the general public.

⁹⁶ Division of the HCJ's website titled "Methodical Guidelines" is available at: http://www.vru.gov.ua/add_text/218?fbclid=IwAR0l-wK2UY4OSwqHjH3O0tkjKDb6W11vQSns1Rn3nQSVA0Eei4rzSb7a4VQ.

⁹⁷ See the news piece on the NSJ's website regarding the event "Professional communication of the court activities by the court's management" which took place on 30.09-02.10.2019, in Kyiv, available at: <http://www.nsj.gov.ua/ua/news/fahove-visvitlennya-pitan-diyalnosti-sudu-ochilnikami-sudiv/>.

⁹⁸ See the news piece on the NSJ's website regarding the event "The personality of a judge speaker" which took place on 1-02.10.2018, in Lviv, available at: <http://www.nsj.gov.ua/ua/news/osobistist-suddi-spikera/>.

⁹⁹ See the news piece on the NSJ's website regarding the seminar "Communication with the public for courts" which took place on 11.10.2018, in Vinnytsia, available at: <http://www.nsj.gov.ua/ua/training/judges/programi-pidgotovki-kiiv/11-jovnya-2018-r-mvinnitsya-programa-na-temu-zvyazki-z-gromadskistu-v-sudah/>

¹⁰⁰ See the news piece on the NSJ's website regarding the program of preparation of the press secretaries of courts of local and appeal courts for several oblast's, which took place on 18-22.09.2017, in Kyiv, available at: <http://www.nsj.gov.ua/ua/pidgotovka-pratsivnikiv-aparativ-sudiv/program-3/18-22-veresnya-2017r-mkiiv-programa-pidgotovki-spetsialistiv-iz-zabezpechennya-zvyazkiv-zi-zmi-pres-sekretari/>.

¹⁰¹ See the schedule of distance education events for the courts' apparatus workers for 2019, as approved by the Decree of the NSJ № 265-n of 21.03.2019, available at: <http://bit.ly/2mylOHh>.

¹⁰² See the news piece on the NSJ's website regarding the meeting of the working group on the development of communication training program for judges speakers, which happened on 22.11.2018, available at: <http://www.nsj.gov.ua/ua/news/trivae-rozrobka-treningu-z-komunikatsiy-dlya-suddiv-spikeriv/>.

¹⁰³ Vaughn, Petrova, Filipenko, et al. "Public relations in courts. Guidebook for judges and apparatus workers. Second Edition", 2015, available at: http://www.nsj.gov.ua/files/1471945669USAID_Court-Communication_book_170x240_2015-10_015_interactive.pdf.

¹⁰⁴ Savchenko. "Professional psychological preparation of judges. Training guidebook", Kyiv, 2018, available at: http://www.nsj.gov.ua/files/1517557864savchenko_posibnuk_2018.pdf.

¹⁰⁵ Savchenko, Masliuk. "Methodical guidelines for the training on socio economic competence of a judge", Kyiv, 2019, available at: <http://www.nsj.gov.ua/files/1562069492%D0%9C%D0%B5%D1%82%D0%BE%D0%B4%D0%B8%D1%87%D0%BA%D0%B0%20%D0%A1%D0%BE%D1%86%D1%96%D0%BE%D0%BD%D0%BE%D0%BC%20%D0%BA%D0%BE%D0%BC%D0%BF%20%D1%81%D1%83%D0%B4%D0%B4%D1%96%20%D0%9D%D0%A8%D0%A1%D0%A3%202019.pdf>



Some NGOs also conduct trainings¹⁰⁶ and develop practice guides¹⁰⁷ for judges and press-secretaries in the field of communication.

h. Written rules of procedure drafted and applied by SJGB in all matters

Annex 2 to the “Memorandum on cooperation of the representatives of the Ukrainian judiciary”¹⁰⁸ outlines the mechanism of action for its signatories in case of situations requiring special reaction. It outlines step-by-step action plan for their employees, depending on a situation that took place (published information is true, partially false, or false), and the reaction time for those reactions (3, 8, and 2 hours, respectively). The Press-Service of the Ukrainian Judiciary has also developed Methodical Guidelines¹⁰⁹ for the press-secretaries of courts elaborating on the provisions of the mentioned Annex and giving some additional advice.

In January 2019,¹¹⁰ the COJ approved tentative guidelines for the courts on: communication with the civil society in cases of crisis situations in courts, as well as proposals on reactions to media information undermining the trust in the judiciary.

The Communication Committee also developed a booklet for media and interested persons on the rules of behaviour during the court hearings as well as rules for access to hearings and their recordings¹¹¹ (summarizing the provisions of the relevant laws).

C. Conclusions

The issue of internal and external communication of the judiciary is multi-threaded and complex.

Generally, it should be assessed that a lot is happening in this area in Ukraine, a number of activities are being undertaken which are aimed at building sustainable solutions. Changes that have taken place in other countries over the long term in Ukraine seem to be faster. Of course, this does not mean that the situation is satisfactory, but all efforts, both institutional and those undertaken by individual judges, as well as civil society organizations, should be recognized and appreciated.

As for the formal implementation of the assumed measures regarding the cooperation of SJGBs, a lot has been done – Communication Committee was established, a memorandum of cooperation was signed. Regarding the relationship between national institutions and courts, Consultative Council of Presidents of Courts was created, a nationwide communication platform.

At the central level, the main burden of organizing support for communication activities rests with the HJC’s Press Office (previously the leading role was played by the COJ), within a few years a number of training sessions were conducted for spokespersons and press officers, and relevant guidebooks were developed.

¹⁰⁶ For example, informational and awareness-raising events conducted by Human Rights NGO Vector are listed at: <http://hrvector.org/navchalni-ta-prosvitniczki-zaxodi/>.

¹⁰⁷ Ruzlutska, Rybak. “How to establish a dialogue between a court and community?”, Kyiv, 2019, available at: <http://hrvector.org/publikaciyi/19-04-11-press>.

¹⁰⁸ Memorandum on cooperation of the representatives of the representatives of the Ukrainian judiciary of 10.02.2017, available at: http://www.vru.gov.ua/content/file/Memorandum_.pdf.

¹⁰⁹ Lysenko, Palamarchuk. “Handbook of a press secretary. Methodical guidelines of the Press Centre of the Ukrainian Judiciary”, Kyiv, 2017, available at: http://www.vru.gov.ua/content/file/Book_press.pdf.

¹¹⁰ Decision of the COJ № 3 of 25.01.2019, available at: <http://rsu.gov.ua/uploads/news/risenna-rsu-no-3-vid-25012019-pr-b1f889cbe0.pdf>.

¹¹¹ Booklet for media and civic society representatives is available at: http://www.vru.gov.ua/content/file/Pamphlet-E-version_v_2.pdf.



Because already much has been done in the sphere of communication, first of all one needs to focus on continuing the current activities, their development, popularization and standardization.

However, we may identify elements that clearly require additional measures and effort.

It might be seen somewhat questionable or at least as controversial to believe that the justice system and all its organs should and could have one media and communication policy. And this being set “ex officio”, if not ‘imposed’ from above. This is more a PR approach to the issue, and not the delivery of information and communication that should dominate. The Communication Committee consists of members representing different state bodies including, for instance, HJC, which is a platform for the debate of representatives of different authorities, and COJ, which is an organization representing judges. Both have different character and might also have different communication objectives.

Of course, one should strive for the general message about the judiciary to be based, in the case of judicial institutions (but also more broadly), on the same set of values, like the independence of the court, but also its transparency, accountability of judiciary and judges and their competence. But this kind of message should result from the internalisation of these values by representatives of the judiciary, and not by imposing a “single message of the day” by an authorized institution. As one person interviewed expressed it “the judiciary should have a united voice, not a single one”.

Although the process of appointing spokespersons and press officers is well developed, especially these groups need constant support. The opinions of these people, especially press officers, prove this. But also, the reluctance among judges to undertake the trouble of being a spokesperson should be analyzed and addressed.

D. Recommendations

The judiciary largely focuses on the message regarding the independence of the judiciary and repelling attacks on this independence. However, in order to build trust in the courts within the society, there is also a need for openness, transparency of the administration of justice and communication regarding the accountability of the judiciary as well as the accountability of individual judges and their competences.

The organs and persons responsible should communicate honestly about the judiciary and not create just a PR image. Of course, this does not mean that PR methods are not useful, one can and should use them, but one needs to remember about the proportions and a primary mission of the judiciary, securing right to court and fair trial.

Judges speakers should be partly relieved of their adjudication obligations. If they are required of active attitude and dedication, this should not be at the expense of adjudication. Some courts have adopted such solutions, but it seems that recommendations at national level could facilitate this situation.

The communication of the responsible bodies should be monitored and tested from the point of view of the target groups. One shall always ask questions – what is important and interesting for people, for the general public, for the users of the courts, for the legal profession, for other branches of the government? And not just ask the questions, but seek the answer from them using empirical methods.

The courts should also report to the local community. For public trust and accountability reasons, the most important thing is transparency and a well-established culture of reporting to citizens on the actions taken. Meanwhile, detailed reports on the activities of each individual

court are rare (except for supreme courts). In addition, their accessibility is questionable (it is worth comparing them, for example, with the reports of the European Courts in Strasbourg^[1] and Luxembourg^[2]).

It should be clear what is the objective of the particular message being communicated – is it providing information, is it education? By visiting some websites of judicial bodies sometimes one may have the impression that those sites are ‘about us and for us’. Photos from events, meetings and life of an institution might be interesting, but this should be additional to the main task: informing the citizens about the law, judiciary, and not official meetings.

Considering the responsibilities of the Press Office it should be strengthened. There are two employees working in the office with a wide range of responsibilities. They need more humanforce and other resources.



Public reactions of the judiciary to the threats of independence

Outcomes: *Consistent response of judiciary governance bodies on behalf of corporation to any attempts at interference with independence, and promote the interests of corporation.*

Active role and timely statements by justice sector governance bodies in response to perceived threats to independence and fairness of justice by reason of media coverage or public statements of State officials.

Measures: *Practice guides and training modules on PR/communication developed, disseminated and updated regularly. Written rules of procedure drafted and applied by SJGB in all matters.*

Active role and timely statements by justice sector governance bodies in response to perceived threats to independence and fairness of justice by reason of media coverage or public statements of State officials.

Prior to August 2016, the law obliged judges to file notices to the COJ and the law enforcement bodies should they believe that there was a fact of intrusion in the delivery of justice by them.¹¹²

In June 2015, the COJ established¹¹³ a public registry of all the complaints received from judges with regard to the interference in their work, listing the text of the complaints, the decision of the COJ upon them, and reactions of the respective bodies. By the same decision, the COJ also asked the General Prosecutor's Office to initiate verification of all the criminal investigations opened under Article 375 of Criminal Code of Ukraine (delivery of a knowingly unfair judgment) in order to double check whether there were any serious grounds to initiate criminal investigations, or it was simply "an act of revenge, pressure" by the prosecution.

In July 2015 the COJ delivered another decision,¹¹⁴ by which, among other things, resorted to the Speaker of the Parliament calling him to ascertain that the MPs should refrain from any statements that damage the reputation of the Ukrainian judges and undermine the authority of the judiciary.

Since August 2016, judges became obliged by law to file notices **to the HCJ (instead of the COJ) and the General Prosecutor Office** should they believe that there was a fact of intrusion in the delivery of justice by them.¹¹⁵ Judges should do this within 5 days after such an incident took place.¹¹⁶

The HCJ is responsible¹¹⁷ for registering such notices and publishing them on its website, and they are considered in a procedure similar to disciplinary one. Upon receipt of the notice, the responsible HCJ member conducts verification of facts outlined in a given notice and submits his/her conclusion to the plenary composition of the HCJ. The HCJ, in its plenary composition, may found that there was a violation of the principle of independence of a judge and to take measures such as filing a submission to a state body demanding to take certain actions and/or hold persons who violated the mentioned principle responsible,

¹¹² Part 3 of Article 48 of the Law of Ukraine "On the Judiciary and the Status of Judges" of 07.07.2010 № 2453-VI, in the edition of 01.05.2016, available at: <https://zakon.rada.gov.ua/laws/show/2453-17/ed20160501#n4114>

¹¹³ Decision of the COJ № 53 of 04.06.2015, available at: <http://rsu.gov.ua/ua/site/download?doc=L3VwbG9hZHMvZG9jdW1lbnRzL3Jyc3U1MzA0MDYyMDE1LnBkZg==>

¹¹⁴ Decision of the COJ № 72 of 22.07.2015, available at: <https://zakon.rada.gov.ua/rada/show/vr072414-15>.

¹¹⁵ Article 48 of the Law on the Judiciary.

¹¹⁶ Ibid.

¹¹⁷ Article 73 of the Law on the HCJ.



demanding information from the investigative bodies on the course of investigation of crimes committed against a judge or his/her family, making a public statement, and suggesting bodies with the power of legislative initiative to amend/introduce laws strengthening the judicial independence etc.

The HCJ since 2017, prepares an annual report¹¹⁸ on the state of independence of judges in Ukraine, where it summarizes trends and, partially, practice of considering the mentioned notices. Local NGOs also prepare an alternative annual report,¹¹⁹ where they provide an alternative view on the issue.

The HCJ also uses its powers¹²⁰ to provide consultative conclusions on the draft laws related to the judiciary as a communication tool to raise concerns with regard to those bills it considers to be dangerous to the independence of the judiciary.¹²¹

Aside from mentioned procedures, SJGBs response mechanism to the negative information is prescribed by Annex 2 to the “Memorandum on cooperation of the representatives of the Ukrainian judiciary” (described more in-depth in the chapter on internal communications).¹²²

The HCJ¹²³ and the COJ¹²⁴ on a number of occasions have resorted to public statements with regard to the threats to judicial independence. According to the decision of the COJ of May 2018,¹²⁵ it also planned to develop an algorithm for a complex coverage of high profile cases by August 2018, but apparently it has not been developed yet. Moreover, the COJ has refused to provide information on whether it has been developed or not.¹²⁶

According to the HCJ’s 2018 annual report on the state of independence of judges in Ukraine,¹²⁷ more than 100 refutations of false information regarding the courts were published on the web portal of the Ukrainian judiciary.

Conclusions

It is important that the false information, whoever produces it, is refuted. It is important to educate society about the role of the judiciary and the meaning of independence and that it should not be undermined by generalisations or attacks of politicians and public officials. But representatives of the judiciary should be careful as they are often perceived as ‘trade union’, ‘corporation’, ‘cast’, group focusing more on common interests and not the public good. So the defence should be balanced with transparency and accountability. If there is no accountability and representatives of the judiciary defend their fellow members despite

¹¹⁸ Yearly Report of the HCJ on the status of securing the independence of judges in Ukraine for 2018, Kyiv, 2019, available at: http://www.vru.gov.ua/content/file/%D0%A9%D0%BE%D1%80%D1%96%D1%87%D0%BD%D0%B0_%D0%B4%D0%BE%D0%BF%D0%BE%D0%B2%D1%96%D0%B4%D1%8C_%D0%B7%D0%B0_2018_%D1%80%D1%96%D0%BA.pdf.

¹¹⁹ Kuybida, Sereda, Smaliuk et al. “Alternative yearly report on the status of securing the independence of judges in Ukraine for 2017”, Kyiv, 2018, available at: <http://pravo.org.ua/img/zstored/files/AltReport%202017%20Final.pdf>.

¹²⁰ Article 3 of the Law on the HCJ.

¹²¹ See, for example, the statement of the HCJ of 12.09.2019, available at: <http://www.vru.gov.ua/news/5319>.

¹²² Memorandum on cooperation of the representatives of the representatives of the Ukrainian judiciary of 10.02.2017, available at: http://www.vru.gov.ua/content/file/Memorandum_.pdf.

¹²³ See, for example, the public statement of the HCJ of 19.02.2018, available at: <http://www.vru.gov.ua/act/13408>.

¹²⁴ See, for example, the public statement of the COJ of 16.09.2019, available at: <http://rsu.gov.ua/ua/news/zatverdzeno-zvernenna-rsu-sodo-zakonoproektu-1008>.

¹²⁵ Decision of the COJ № 2 of 18.05.2018, available at: <https://zakon.rada.gov.ua/rada/show/vr022414-18>.

¹²⁶ Letter of the COJ of 11.10.2019.

¹²⁷ Yearly Report of the HCJ on the status of securing the independence of judges in Ukraine for 2018, Kyiv, 2019, available at: http://www.vru.gov.ua/content/file/%D0%A9%D0%BE%D1%80%D1%96%D1%87%D0%BD%D0%B0_%D0%B4%D0%BE%D0%BF%D0%BE%D0%B2%D1%96%D0%B4%D1%8C_%D0%B7%D0%B0_2018_%D1%80%D1%96%D0%BA.pdf.



the serious accusations, polishing the image by defending the judiciary will not bring fruits. On the one hand, special procedures were established in order to enhance judges to report attempts of illegal pressure on them, but on the other hand number of judges whistleblowers is very limited. And also, even if the judge reports such a fact against other judge, the reaction of fellow colleagues is controversial.¹²⁸

Refuting an unfounded critique, false accusations, generalisations produced by the media and representatives of public bodies, politicians, prosecutors, other professionals like advocates, in the form of written documents/statements/dementi is not enough. Each target group needs separate strategy.

Recommendations

Judicial authorities should continue to respond to unreasonable criticism, the reproduction of false news and attacks on the independence of the judiciary. However, this is only a responsive action. It is also necessary to develop a positive strategy, making individual (target) groups aware of the difference between (often justified) criticism of individual cases, and undermining the idea of an independent judiciary – prerequisite of democracy. Representatives of the judicial bodies should promote European standards, e.g. restrictions on the statements of representatives of state organs resulting from the jurisprudence of the European Court of Human Rights.

In addition to declarations and statements, regular dialogue with representatives of other authorities or the media is needed. It seems that a good platform for such a dialogue is HCJ, which, by its very nature, is a platform for cooperation of various actors.

Openness of judges as a career incentive

Outcome: *Career and performance management system of judiciary containing incentives for judges to more frequently enter into contact with public by way of writing articles, conducting research, visiting educational establishments, and engaging in other socio-educational activities.*

Measures: *Written rules of procedure drafted and applied by SJGB in all matters.*

General framework

The Law of Ukraine “On the Judiciary and the Status of Judges” establishes that judges have not only the right to improve their qualification level,¹²⁹ but also an obligation to develop and maintain professional knowledge and skills required for their positions.¹³⁰

Legislation does not limit a judge in the ways of exercising his/her right to improve qualification level. At the same time, it financially encourages them to obtain Ph.D./Doctor degrees, as having one entails a monthly surcharge to their judicial salary in the amount of 15 or 20 percent, respectively.¹³¹ For judges of the Supreme Court, such a surcharge might reach the amount of around 1 320 EUR per month (for a Doctor degree).¹³²

¹²⁸ For example, the story of a whistleblower judge from Oktiabrskyi Raionnyi court of Poltava Larysa Holnyk, available at: <https://en.hromadske.ua/posts/lone-judge-fights-corruption-in-provincial-ukraine-wows-the-country>.

¹²⁹ Part 5 of Article 56 of the Law on the Judiciary.

¹³⁰ Part 7 (8) of Article 56 of the Law on the Judiciary.

¹³¹ Part 7 of Article 135 of the Law on the Judiciary.

¹³² Letter of the Supreme Court of 16.09.2019.



The obligation to improve the qualification level entails participation in ongoing trainings conducted by the National School of Judges of Ukraine – the total minimum volume of such trainings should not be less than 40 academic hours every three years.¹³³ These trainings might be either of obligatory nature or free to choose.

Qualification assessment of judges

As of 2016, all the Ukrainian judges have to undergo an evaluation procedure, within the course of which each judge has to confirm his/her ability to adjudicate in a given court.¹³⁴ Failure of a judge to get a sufficient score within this procedure leads to the dismissal on the basis of non-compliance with the occupied position.

The Law establishes the following **evaluation criteria**: competency (professional, personal, and social), professional ethics and integrity.¹³⁵

The process of judicial evaluation against those criteria is detailed in the internal Regulation of the HQCJ (the Regulation).¹³⁶ According to it, the maximum score a judge may obtain during the assessment is 1000 points, out of which:

- 500 points stand for competency criterion, with 300 points for professional competency, 100 for social and 100 for personal competencies;
- 250 points stand for judicial ethics criterion;
- 250 points stand for integrity criterion.

The mentioned Regulation also outlines **indicators** for each criterion. For example, when it comes to professional competency sub-criterion, it consists of four indicators: knowledge of law, practical skills in the application of law, effectiveness in delivering justice, and activities of a judge to improve his/her qualification level. The latter one stands for **10 points** out of 300 points granted for professional competency sub-criterion.

The Regulation also outlines non-exhaustive list of sources/types of information to be considered and taken into account during the assessment of the mentioned indicator, namely:

- preparation and qualification improvement during a judge's term of office;
- research and teaching activities of a judge;
- participation in the preparation of draft laws;
- authorship of legal scientific publications;
- participation in professional activities (discussions, roundtables, conferences etc);
- a scientific degree, scientific title.

Competition for the judicial vacancies

Each higher judicial vacancy in Ukraine is competition-based since 2016. Thus, if a judge from a local court applies for a position at an appeal or other high courts, s/he has to compete for it with other candidates from among judges, attorneys, academics, or people with combined working experience.

¹³³ Parts 1 and 2 of Article 89 the Law on the Judiciary.

¹³⁴ Article 83 of the Law on the Judiciary.

¹³⁵ Part 2 of Article 83 of the Law on the Judiciary.

¹³⁶ Regulation on the procedure and methodology of qualification assessment, indicators of compliance with the criteria of qualification assessment, and the means of their establishment, approved by the HQCJ's decision No 143 / zp-16 of 03.11.2016, in the edition of 21.01.2018, available at: <https://vkksu.gov.ua/ua/ociniuwannia-suddiw/dokumenty/poloziennia-pro-poriadok-ta-mietodologiiu-kwalifikacijnogo-ociniuwannia-pokazniki-widpowidnosti-kritieriam-kwalifikacijnogo-ociniuwannia-ta-zasobi-ich-wstanowliennia1/> [the HQCJ Methodology].



The competition procedure is similar to the qualification assessment of judges (the same evaluation criteria apply), with the differences resulting from the fact that people of different professional backgrounds may apply for a vacant judicial position.

Namely, when it comes to professional competency sub-criterion (300 points), 80 points out of those are granted on the basis of “professional activities” indicator. And if, for a judge, this criterion is evaluated on the basis of data related to his/her delivery of justice, other sources of data are used to evaluate academics and attorneys. For academics the following information is considered for the evaluation purposes: the experience in scientific work, participation in conferences, membership in editorial boards, experience in supervising PhD and Doctorate candidates, information on the published scientific works etc.¹³⁷ As to the attorneys, participation in the activities of human rights defense organizations and internship supervision are mentioned among the possible activities to consider.¹³⁸ Consequently, the sources of information to be taken into account when considering “activities of a candidate to improve his/her qualification level” (which is worth 10 points out of 300) are somewhat expanded, and include internships at scientific institutions and research activities.¹³⁹

Academic plagiarism as a professional ethics criterion indicator

Academic plagiarism of judges/judicial candidates is considered by the Public Integrity Council (the PIC) as a potential reason to find a given judge/candidate to be non-compliant with the professional ethics criterion during judicial competitions/qualification assessment.¹⁴⁰

For instance, during the competition to the Supreme Court (2016-2017), the PIC delivered three conclusions on non-compliance of candidates with the professional ethics criterion due to the facts of alleged academic plagiarism.¹⁴¹

The Public Council of International Experts, which assesses compliance of judicial candidates to the High Anti-Corruption Court with the rules of ethics for academics (for candidates with the relevant experience), also considers plagiarism as a potential reason to find a candidate non-compliant with the professional ethics criterion.¹⁴²

Regular evaluation of judges

According to the law,¹⁴³ in addition to the qualification assessment, each judge should also undergo regular evaluation. The aims of the evaluation are the following: the identification of the judge’s individual needs in order to improve performance; the stimulation for maintaining his/her qualification at the high level and for professional growth. The methodology of such evaluation has to be approved by the HQCJ.¹⁴⁴ So far, the HQCJ did not approve it, and only a draft version of methodology was published on the HQCJ’s website (not dated).¹⁴⁵

¹³⁷ Article 4 of Division 3 of the HQCJ Methodology.

¹³⁸ Article 5 of Division 3 of the HQCJ Methodology.

¹³⁹ Article 7 of Division 3 of the HQCJ Methodology.

¹⁴⁰ Article 4.4 of the Indicators of assessment of compliance of a judge (judicial candidate) with the criteria of integrity and professional ethics, approved by the PIC on 11.01.2019, available at: https://grd.gov.ua/data/files/docs/indikatory_%2011.01.2019.pdf

¹⁴¹ See the conclusions of the PIC on candidates Huzela, Sytnykov, Podkopaiev: https://grd.gov.ua/data/files/conclusions/05_05_2017/vysn/huzela_vysn.pdf; https://grd.gov.ua/data/files/conclusions/vysn/sytnykov_vysn.pdf; https://grd.gov.ua/data/files/conclusions/vysn/podkopaiev_vysn.pdf.

¹⁴² Indicator 4. Guidelines for assessment of integrity, knowledge and practical skills of judicial candidates for the High Anti-Corruption Court by the PCIE, as approved by the PCIE Protocol № 4 of 28.12.2018, available at: <http://bit.ly/pcie-guidelines-ukr>.

¹⁴³ Article 90 of the Law on the Judiciary.

¹⁴⁴ Part 6 of Article 90 of the Law on the Judiciary.

¹⁴⁵ Draft Procedure and methodology of regular evaluation and self-evaluation of judges, as proposed by the HQCJ, available at: <https://www.vkksu.gov.ua/userfiles/doc/proektporiadku1801.docx> [the Draft Procedure].



According to law, evaluation results shall be taken into consideration for making a decision in connection with the competition for vacancy filling in the relevant court.¹⁴⁶ The HQCJ Regulation also mentions that its results should be taken into account during the qualification assessment of judges.¹⁴⁷

The mentioned draft methodology outlines that a judge can be assessed by the National School of Judges of Ukraine trainers, other judges of the respective court, non-governmental organizations, and himself/herself. Both judge himself and his/her peer judges should, among other things, evaluate one's interest in improving his/her qualification. Self-evaluation should also include skills in communication with the media and the public.¹⁴⁸

Conclusions

Judges speakers interviewed by authors were of the opinion that undertaking this kind of additional work stems rather from individual enthusiasm, dedication, sometimes sacrifices and is not awarded by the system in any way, there are no motivators, no bonuses. One of the indicators proving this thesis could be lack of persons willing to take responsibility of the judge speaker. Court presidents complained during interviews that it is difficult to find a judge willing to take this additional responsibility.

One judge speaker presented her particular case showing that during the qualification procedure she went through, the fact that she was performing the function of the judge speaker and was deeply involved in communication matters was not mentioned by anybody, both in the written or oral form.

It is important that all judges engage in communication activities. However judges speakers play a crucial role in this field. Therefore, especially they need formal incentives and support. In fact, judges speakers do not receive additional remuneration. Also, law is silent on the possibility of reducing the workload of judge speaker. It happens however that such reduction is granted by the decision of the general assembly of judges on the particular court (for instance reduction by 10%).

As pointed out above, this element (skills in communication with the media and the public) is included in the draft methodology of self-evaluation, but it is still a draft and one can not say whether HQCJ will adopt this draft and when.

So far it seems that the only clear and objective criterion is obtaining scientific degree because this directly translates into the raise of the salary. Same time this is a controversial issue because it caused the problem of alleged 'buying' phds (plagiarism). Also, other achievements of judges that may actually outrank getting a phd (for example, active role of the judge speaker) do not count.

One can conclude that in practise management system of judiciary does not contain **clear and objective** incentives for judges to more frequently enter into contact with the public. In fact in the documents providing criteria for evaluation there is very little devoted to the judge's openness to the public, so this issue disappears in the general statements.

¹⁴⁶ Article 91 of the Law on the Judiciary.

¹⁴⁷ Article 4.9 of Division 2 of the HQCJ Methodology.

¹⁴⁸ Annexes 2 and 3 of the Draft Procedure.



Finally, it should be emphasized that even where the judge's involvement in the communication could be taken into account in the assessment process, the number of points that can be obtained for such activities is very low and has very little impact on the overall assessment of the judge's competence (maximum 10 points out of 1000, so one percent only).

Recommendations

When formulating incentives (criteria for evaluation) relevant bodies should do it in a more obvious way, and make it a clear element of evaluation.

If the incentives for communication activities are to be taken seriously, the number of points that can be obtained in this connection should be significantly bigger than 1 percent of the overall rating.

One should consider creating incentives for judges speakers (extra money or reduction of the workload or both); with the current workload of judges expectations of serious engagement of judges speakers have no basis.

One should consider resigning from paying extra money to judges possessing phd title. Firstly, it may redirect judges attention from adjudication to obtaining a doctoral degree, secondly, it creates additional risk of dishonesty (plagiarism), and thirdly, it disproportionately prefers obtaining a PhD degree over other achievements and commitment.



Transparency of judicial bodies

Outcome: Clear, foreseeable and applicable conditions on public access and participation at SJGB hearings, timely prior announcement of meeting agendas, public nature of SJGB decisions.

- a/ Clear, foreseeable and applicable conditions on public access and participation at SJGB hearings

The High Council of the Judiciary. According to Article 30 of the Law of Ukraine “On the High Council of Justice”,¹⁴⁹ the sessions of the HCJ and its Disciplinary chambers are held publicly. Such sessions could be held in camera exclusively on the grounds for closing the court hearings. Decision to close a session is adopted by majority of the members of the HCJ/its Disciplinary chamber. Persons wishing to attend the HCJ session are allowed to enter the respective hall prior to the beginning of a session and remain there subject to the availability of free seats. Visitors have the right to take notes and use portable audio-recorders. Taking photos, recording audio/video using the stationary equipment requires permission of the chairperson. Chairperson may refuse a person the right to be present during the hearing should a person unlawfully obstruct it.

The HCJ’s internal Regulation¹⁵⁰ fully mirrors the provisions of the Law on HCJ, adding only that the representatives of media and journalists should have accreditation with the HCJ, subject to the provisions of the Law “On information”.¹⁵¹

The website of the HCJ¹⁵² does not have a specific page/subpage where conditions on public access to its hearings would be described.

Currently, neither the law, nor the Regulation obliges the HCJ to stream/publish the video recordings of its sessions. It might be seen as a step back. Earlier, in July 2015, the predecessor body – Vyscha Rada Iustytseyi, had its Regulation amended, prescribing that audio/video recordings of its hearings should be published online on the official website.¹⁵³ The plenary hearings of the HCJ and the hearings of its disciplinary panel were since then recorded and published online.

When Vyscha Rada Iustytseyi was transformed into the HCJ – Vyscha Rada Pravosuddia (January 2017), the HCJ decided to continue streaming its plenary hearings but stopped streaming the hearings of its disciplinary bodies. It was explained by “the lack of technical capacity”,¹⁵⁴ though the disciplinary chambers often conducted their hearings in the same room where plenary meetings happen. In fact, disciplinary hearings are being audio-recorded but are not published and remain in the case file for documentation reasons.¹⁵⁵

¹⁴⁹ Article 30 of the Law on the HCJ.

¹⁵⁰ Regulation of the HCJ, as approved by the Decision of the HCJ № 52/0/15-17 of 24.01.2017, in the edition of 18.12.2018, available at: http://www.vru.gov.ua/content/docs/Reglament_zminy_18.12_2018_docx [the HCJ Regulation].

¹⁵¹ The Law of Ukraine “On Information” of 02.10.1992 № 2704-VIII, available at: <https://zakon0.rada.gov.ua/laws/show/2657-12>.

¹⁵² See: <http://www.vru.gov.ua/>.

¹⁵³ Article 43 of the Regulation of the Vyscha Rada Iustytseyi, as approved by the decision of the HCJ № 355/0/15-15 of 30.07.2015, available at: <https://zakon.rada.gov.ua/rada/show/vr355423-15/ed20161020#n53>.

¹⁵⁴ The Head of the HCJ Benedysiuk Ihor Mykhailovych, PROSUD Investigation, 08.08.2017, available at: https://blog.prosud.info/benedisyuk_igor_mihaylovich.html.

¹⁵⁵ Article 6.1 of the HCJ Regulation.



The High Qualification Commission of Judges. According to the Law of Ukraine “On the Judiciary and the Status of Judges”,¹⁵⁶ the hearings of the HQCJ, its chambers and collegiums are conducted publicly, except in cases prescribed by law (no such provisions currently exist, see however the comments below).

Article 2.2.3 of the HQCJ Regulation states that the representatives of the media are allowed to enter the HQCJ session hall if they are listed on the list compiled by the HQCJ’s department responsible for communication with the public, upon their accreditation and presenting media ID. The HQCJ Regulation (in Article 2.2.4) establishes also that the HQCJ sessions may be closed:

- 1) when it is necessary to prevent disclosure of legally protected secrets or information on private life of persons of persons, or due to other reasons found by the HQCJ as sufficient;
- 2) for consideration of issues as decided by the HQCJ as well as consideration of issues related to the organization of the HQCJ’s work or the work of its Secretariat.

Decision to have a closed session should be delivered by the majority of the HQCJ’s members/chamber/collegium.¹⁵⁷

It is worth underlying that HQCJ Regulation has internal character and is not the binding statutory law. Especially “other reasons found by the HQCJ as sufficient” or “consideration of issues as decided by the HQCJ” leave too much discretion to the HQCJ and in fact allow for closing any meeting without clear statutory basis.

The HQCJ decides whether to live-stream its session¹⁵⁸ The HQCJ Regulation prescribes only one situation where videostreaming is obligatory – where a special joint meeting of the HQCJ with the Public Council of International Experts (PCIE) takes place (in the framework of the selection of judges to the High Anti-Corruption Court).¹⁵⁹

As of October 9, 2018, the HQCJ held closed interviews within the qualification assessment procedure on 180 occasions. The formal reasons for closing those were: personal security (110 occasions), security of close persons (145), security of property (124), protection of private life (9), protection of state secrets (1), and protection of secrets other than the state’s one (1).¹⁶⁰

The practice of applying the mentioned powers by the HQCJ are considered questionable by NGOs. They claim that though most of those HQCJ decisions were related to the judges who were forced to leave temporarily occupied territories of Ukraine, the HQCJ has never tried to evaluate risks on a case-by-case basis and was closing its sessions simply because of the fact that a judge has relatives/property at such territories. Moreover, the interviews were closed even with those judges who left the temporarily occupied territories years prior to their occupation.¹⁶¹

The HQCJ does not deliver separate motivated decisions as to why it has closed a specific session/interview, only broadly stating the reason for that in the minutes of a given session.¹⁶²

¹⁵⁶ Part 9 of Article 98 of the Law on the Judiciary.

¹⁵⁷ Article 2.2.5 of the HQCJ Regulation.

¹⁵⁸ Article 2.2.2 of the HQCJ Regulation.

¹⁵⁹ Article 4.11.8.3 of the HQCJ Regulation.

¹⁶⁰ Letter of the HQCJ of 11.10.2018, available at: https://drive.google.com/drive/folders/1AVLi9-vRjv1k89orhYf9223ry_-rlwex.

¹⁶¹ Butko, Kuybida, Maselko, et al. “Qualification assessment of judges 2016-2018: interim results”, April 2019, page 45, available at: <http://bit.ly/qualification-report-2016-2018>.

¹⁶² Decision of the Grand Chamber of the Supreme Court of 02.04.2019 in case № 9901/650/18, available at: <http://reyestr.court.gov.ua/Review/81287841>.



The website of the HQCJ does not have a specific page/subpage where conditions on public access to its hearings are described.

The Council of Judges. The Law does not define the conditions of the public access to the CoJ sessions. Nor it is established by the COJ's Regulation. The latter only states¹⁶³ that members of the public and other people might be invited to the COJ sessions, however, it does not clarify who has a right to invite them. The COJ's website¹⁶⁴ is also silent as to this issue.

Occasionally, in the news section of the website announcing the COJ session,¹⁶⁵ it is stated that the accreditation of media is obligatory to be present at a given session, and some term for accreditation is provided.

The COJ is not obliged to stream or record its sessions, yet, since July 2018, it has started doing so.¹⁶⁶

b/ Timely prior announcement of meeting agendas

The High Council of the Judiciary. According to Part 4 of Article 30 of the Law “On the High Council of Justice”, information on the date, time, and place of the HCJ sessions as well as its draft agenda should be published on the HCJ's website. The HCJ Regulation mirrors¹⁶⁷ this provision, excluding only sessions related to the organizational issues of the HCJ. In general (see exceptions below) there are no requirements as to what time in advance announcement of the agendas should be done, yet in practice those are available around one week prior to the session on the respective website.¹⁶⁸ At the same time, such agendas are not final and might be updated even 1 day prior to a given session without any additional notification, especially in cases where no prior notification of the hearing participants is required. The HCJ Regulation establishes some specific deadlines for the announcement of particular agendas on its website, namely: 1) when issue of dismissing a judge on general grounds is to be considered (at least three days prior to a session);¹⁶⁹ 2) when the issue of suspending a judge due to an ongoing criminal investigation is to be considered (urgently).¹⁷⁰

The High Qualification Commission of Judges. The Law of Ukraine “On the Judiciary and the Status of Judges”¹⁷¹ specifies that:

- the Head of the HQCJ/Heads of the HQCJ's chambers/Secretariat decide on the date, time and place of the HQCJ session/chamber session/collegium session,
- an organ, no later than 10 days before such a session, notifies the persons whose issues will be considered,
- an organ publishes this information on the website of the HQCJ.

¹⁶³ Article 22, Regulation of the COJ, adopted by the decision of the X Extraordinary Congress of Judges on 16.09.2010 (in the edition of 14.03.2017), available at: <https://zakon.rada.gov.ua/rada/show/n0001415-10>.

¹⁶⁴ See: <http://rsu.gov.ua/>.

¹⁶⁵ For example, see the announcement on the interviews with the candidates for the positions of the Constitutional Court judges of 13.08.2019, available at: <http://rsu.gov.ua/ua/news/do-uvagi-zurnalistiv-spiybvesidi-z-kandidatami-na-posadu-suddi-ksu-vidbudutsa-u-budivli-verhovnogo-sudu>

¹⁶⁶ Recordings of the COJ sessions can be found at the Youtube-channel of the Press-service of the COJ: https://www.youtube.com/channel/UCXX98gEFyFIGvfx9rltr_gA/videos.

¹⁶⁷ Article 5.6 of the HCJ Regulation.

¹⁶⁸ The draft agendas of the HCJ sessions are available under the following link: http://www.vru.gov.ua/day_activity.

¹⁶⁹ Article 15.11 of the HCJ Regulation.

¹⁷⁰ Article 19.8 of the HCJ Regulation.

¹⁷¹ Article 98 of the Law on the Judiciary.



Article 3.1.8 of the HQCJ's Regulation has slightly different wording, stating that the persons whose issues will be considered by the HQCJ should be notified no later than 10 days prior to the respective session **by means of publishing** the respective information on the HQCJ's website, and also, if required, by means of mail, e-mail or fax.¹⁷²

The Council of Judges. Nothing in the law or bylaws establishes requirements for the COJ to announce its sessions agendas, yet in practice those are available in the news section of the website, sometimes more than a week prior to a session,¹⁷³ sometimes only a couple of days before.¹⁷⁴

c/ Public nature of SJGB decisions

The High Council of the Judiciary. Part 6 of Article 34 of the Law of Ukraine "On the High Council of Justice" stipulates that the full text of the HCJ's decision should be published on its official website no later than on the 7th day since the day of its adoption, unless otherwise established by law. Disciplinary decisions against judges should also be published on the websites of courts where the respective judges work.¹⁷⁵

Moreover, the HCJ is obliged to publish its decisions as a public sector body,¹⁷⁶ and since June 05, 2019, also obliged to publish them in an open data format.¹⁷⁷ At the meeting with the HCJ representative, it was mentioned that the work on converting the HCJ decisions in open data format has just started, but, being a process that requires a lot of resources, will take significant amount of time.¹⁷⁸

In practice, not all the decisions are being published on the website. Namely, the individual decisions of the HCJ members declaring a disciplinary complaint against a given judge to be inadmissible are not published and can be obtained only upon a separate public information request.

Moreover, the current search engine of the HCJ's website does not allow to search the text within the HCJs decisions. The search is possible only within their headlines. At the meeting with the HCJ representative, it was mentioned that the new version of the website allowing searching within the decision will be deployed by the end of this year.¹⁷⁹

Discussing the access to public information as a transparency indicator, the HCJ demonstrated a tendency to limit access to public information on numerous occasions. According to the information provided by the HCJ, it has lost 3 out of 6 court cases during 2017-2019 on this matter.¹⁸⁰ Those cases were related, among other things, to the information on the

¹⁷² Article 3.1.8 of the HQCJ Regulation, as approved by the HQCJ's decision № 81/3п-16 of 13.10.2016, available at: <https://vkksu.gov.ua/userfiles/doc/regulations020719>.

¹⁷³ See the announcement of the agenda of the COJ's meeting in Kherson of 11.09.2019, available at: <http://rsu.gov.ua/ua/news/cergove-zasidanna-radi-suddiv-ukraini-vidbudetsa-u-hersoni>.

¹⁷⁴ See the announcement of the agenda of the COJ's meeting in Kyiv of 29.07.2019, available at: <http://rsu.gov.ua/ua/news/zasidanna-radi-suddiv-ukraini-vidbudetsa-2-serpna>.

¹⁷⁵ Article 12.40 of the HCJ Regulation.

¹⁷⁶ Part 2 of Article 15 of the Law of Ukraine "On Access to Public Information" of 13.01.2011 № 2939-VI, available at: <https://zakon.rada.gov.ua/laws/show/2939-17#n107>.

¹⁷⁷ Decree of the Cabinet of Ministers of Ukraine № 835 of 21.10.2015 (in the edition of 05.06.2019), available at: <https://zakon.rada.gov.ua/laws/show/835-2015-%D0%BF>.

¹⁷⁸ Interview with Oksana Lysenko, the Head of the Press Centre of the Ukrainian Judiciary, held on 05.09.2019 in Kyiv.

¹⁷⁹ Ibid.

¹⁸⁰ Letter of the HQCJ of 26.09.2019.



remuneration of the HCJ members¹⁸¹ and information on the name of the HCJ members in charge of reviewing a given disciplinary complaint.¹⁸²

The High Qualification Commission of Judges. The HQCJ is obliged to publish its decisions as a public sector body,¹⁸³ and since June 05, 2019, also obliged to publish them in an open data format.¹⁸⁴ The HQCJ Regulation only mentions that the HQCJ publishes the information on the results of its sessions on their website.¹⁸⁵

In practice, however, only a fraction of those has been published. The part of the website named “Decisions of the Commission”¹⁸⁶ has only 1 decision published, dated December 2016. Some of the HQCJ decisions are available in the dossiers of the winners of the judicial competitions¹⁸⁷ and those judges who undergo a qualification assessment.¹⁸⁸

On August 8, 2019, the Cassation Administrative Court within Supreme Court obliged the HQCJ¹⁸⁹ to fulfil its legal obligations and publish on the website all its decisions adopted since the day the Law of Ukraine “On Access to Public Information” became effective (10.05.2011). The decision of the court has not come into effect yet, but is likely to remain valid (depending on the possible review of the SC Grand Chamber).

Discussing the access to public information as a transparency indicator, the HQCJ also demonstrated a tendency to limit access to public information on numerous occasions. According to the information provided by the HQCJ, it has lost 8 out of 17 court cases during years 2017-2019 on this matter.¹⁹⁰ Those were related, among other things, to the provision of information from a judicial dossier¹⁹¹ and statistical data as to the votes on the candidates in the deliberation room during the competition for positions at the High Anti-Corruption Court.¹⁹²

The Council of Judges. According to Part 9 of Article 133 of the Law of Ukraine “On the Judiciary and the Status of Judges”, the decisions of the COJ should be published on the official web-portal of the judiciary no later than the next day of their adoption.¹⁹³ The COJ Regulation, contrary to the law, extends this term to three days.¹⁹⁴

¹⁸¹ Decision of the Cassation Administrative Court within the Supreme Court of 24.01.2018 in case № 800/131/17, available at: <http://reyestr.court.gov.ua/Review/71829193>.

¹⁸² Decision of the Grand Chamber of the Supreme Court of 07.02.2019 in case № 9901/478/18, available at <http://reyestr.court.gov.ua/Review/80364172>.

¹⁸³ Part 2 of Article 15 of the Law of Ukraine “On Access to Public Information” of 13.01.2011 № 2939-VI, available at: <https://zakon.rada.gov.ua/laws/show/2939-17#n107>.

¹⁸⁴ Decree of the Cabinet of Ministers of Ukraine № 835 of 21.10.2015 (in the edition of 05.06.2019), available at: <https://zakon.rada.gov.ua/laws/show/835-2015-%D0%BF>.

¹⁸⁵ Article 2.2.1 of the HQCJ Regulation

¹⁸⁶ See: <https://vkksu.gov.ua/ua/rishiennia-komisii/rishiennia-komisii-za-2016/>.

¹⁸⁷ See: <https://drive.google.com/drive/folders/1xs2gSukRxHtVtANzzA7MI1tS9BoZp6e2>.

¹⁸⁸ See: <https://drive.google.com/drive/folders/1ts4QBc969NSb0BflwRhSevUVXD8tNyWr>.

¹⁸⁹ Decision of the Cassation Administrative Court within the Supreme Court of 08.08.2019 in case № 9901/76/19, available at: <http://reyestr.court.gov.ua/Review/83602669>.

¹⁹⁰ Letter of the HQCJ as of 25.09.2019.

¹⁹¹ Decision of the Grand Chamber of the Supreme Court of 25.06.2019 in case № 9901/924/18, available at: <http://www.reyestr.court.gov.ua/Review/82885713>.

¹⁹² Decision of the Cassation Administrative Court within the Supreme Court of 11.07.2019 in case № 9901/246/19, available at: <http://reyestr.court.gov.ua/Review/83070061>.

¹⁹³ Part 9 of Article 133 of the Law on the Judiciary.

¹⁹⁴ Article 31 of the COJ Regulation, as adopted by the decision of the X Extraordinary Congress of Judges of 16.09.2010 (in the edition of 14.03.2017), available at: <https://zakon.rada.gov.ua/rada/show/n0001415-10>.



In practice, the section of the official web-portal of the judiciary related to the COJ¹⁹⁵ was abandoned since April 2016, as the new independent website of the COJ was created.¹⁹⁶ The old website contains decisions of the COJ since 2003 and up to the beginning of 2016¹⁹⁷, while the new one – all the decisions since 2016 and until now.¹⁹⁸

Conclusions

The table below summarizes the achievement of the outcomes related to the openness of SJGB meetings and access to decisions.

Outcome	The High Council of Justice	The High Qualification Commission of Judges	The Council of Judges
Clear, foreseeable and applicable conditions on public access and participation at SJGB hearings	Law: positive Bylaws: positive Practice: positive/neutral Problems: lack of streaming and video recording of the disciplinary hearings; lack of information on the website on conditions of access to hearings	Law: positive Bylaws: neutral Practice: neutral Problems: statutory law 'limited' by bylaws; reasons for closing provided by bylaws very vague; lack of information on the website on conditions of access to hearings; lack of motives of closing the hearings	Law: negative Bylaws: negative Practice: neutral/positive: CoJ 'may' invite; there is streaming Problems: law and bylaws do not regulate openness of hearings
Timely, prior announcement of SJGB meeting agendas	Law: positive Bylaws: positive Practice: positive Problems:	Law: positive Bylaws: positive Practice: positive Problems:	Law: negative Bylaws: negative Practice: positive Problems:
Public nature of SJGB decisions	Law: positive Bylaws: silent Practice: positive/neutral Problems: lack of some decisions; limited search engine; lost cases on right to public information	Law: positive Bylaws: positive Practice: neutral/negative Problems: only few decisions published; lost case regarding non-publishing; lost cases on right to public information	Law: positive Bylaws: positive Practice: positive Problems: bylaws slightly extending legal term for publication

To sum up, it is evident from the table that a lot has been achieved. When it comes to the legal provisions, the transparency of the operation of SJGBs has been secured. It is also true in the case of most bylaws.

¹⁹⁵ See: <https://rsu.court.gov.ua/rsu/>.

¹⁹⁶ See: <http://rsu.gov.ua/>.

¹⁹⁷ See: <https://rsu.court.gov.ua/rsu/rishennya/>.

¹⁹⁸ See: <http://rsu.gov.ua/ua/documents/6>.

It is controversial that sometimes the legal provisions (statutory law) are being limited by the bylaws enacted by the authorities themselves. Such bylaws should have only internal effect, should deal with organizations and administrative issues and should not shape (limit) the rights and obligations of citizens.

When it comes to practice, there are problems with accessing certain decisions or information. It is significant that two State Judicial Governance Bodies lose a number of court cases regarding access to public information.

Recommendations

Bylaws adopted by the SJGBs should not contradict (limit) statutory law. SJGBs should review their bylaws in order to avoid such contradictions.

SJGBs should review their policies on responding to public information requests. They should especially review and execute all court rulings that found them in breach of the law.

It is recommended that SJGBs prepare a separate sections on their websites containing information regarding access to their documents, hearings as well as announcement of meetings and agendas.



Feedback gathering by the judiciary

Outcomes: User satisfaction surveys used regularly by judiciary governance bodies and courts to measure and improve quality of services.

Measures: Decisions, reports.

Judicial governance bodies

According to the replies provided on public information requests, the HQCJ,¹⁹⁹ the HCJ²⁰⁰ and the COJ²⁰¹ did not conduct user satisfaction surveys.

The HCJ added however that it analyzed the citizens' requests for information received by different departments of the body, and decided to establish a phone hotline²⁰² with the purpose to reduce paperwork and provide the requested information to citizens in a more expedient manner.

Courts

On April 2, 2015 (prior to the JRSAP) the Council of Judges of Ukraine, by its Decision №28,²⁰³ approved the "System of assessment of work of a court: standards, criteria, indicators, and methods" (SAWC).²⁰⁴ The SAWC entails two levels of implementation: **basic** evaluation and **complex** evaluation.

Basic evaluation entails collection by courts of data according to a list of 7 baseline indicators approved by the COJ.²⁰⁵ Such data should be collected by all the courts and published on their respective websites twice a year (covering the first 6 months and the whole year). The data was supposed to be collected and published with the assistance of the automated document exchange system of courts. The 'indicator no. 6' informs whether a given court has conducted user satisfaction surveys, what methodology was used, who conducted it, and how many answers were received. The 'indicator 6A' serves as an alternative or an additional indicator to the 6th, and demonstrates whether the result of a given survey was published on the website of a court. The 'indicator no. 7' demonstrates the average results of the user satisfaction surveys (on a scale from 1 to 5, or otherwise, depending on the methodology used).²⁰⁶

Complex evaluation is suggested by the COJ as an additional tool. Its application by courts is not obligatory; courts's managements decide whether to apply it and to what extent – fully or just particular modules. However, in the mentioned Decision № 28, the COJ advised each court to conduct complex evaluation at least once every three years.

The complex evaluation entails 6 modules: financing and technical equipment of a court, judicial administration, judicial self-governance, effectiveness and quality in the consideration of cases, **satisfaction of citizens** with the work of a court, and openness and transparency of a court.

¹⁹⁹ Letter of the HQCJ of 05.09.2019.

²⁰⁰ Letter of the HCJ of 09.09.2019.

²⁰¹ Letter of the COJ of 09.09.2019.

²⁰² Division of the HCJ's website named "Phone hotline" is available at: http://www.vru.gov.ua/add_text/271.

²⁰³ Decision of the COJ № 28 of 02.04.2015, available at: https://rsu.court.gov.ua/userfiles/file/DSA/RSU_site/2015/risennya2802042015.pdf.

²⁰⁴ "System of assessment of work of a court: standards, criteria, indicators, and methods", as approved by decision of the COJ № 28 of 02.04.2015, available at: <https://court.gov.ua/userfiles/sors15.pdf>.

²⁰⁵ Annex 1 to the Decision of the COJ № 28 of 02.04.2015, available at: https://rsu.court.gov.ua/userfiles/file/DSA/RSU_site/2015/dod%20do%20ris%202802042015.pdf.

²⁰⁶ Ibid.



Since the approval of the SAWC (April 2015), more than 350 local and appeal courts began to use it within the first six months (according to data available at the end of January 2016).²⁰⁷ Such a wide use of the SAWC was achieved also thanks to the third parties – NGOs who conducted surveys of the participants of judicial proceedings using the SAWC methodology.²⁰⁸

In April 2016, the COJ, by its Decision № 26,²⁰⁹ approved methodological guidelines «System of assessment of work of a court»²¹⁰ and recommended a standardized form of basic indicators of court's work (Annex 4 to the Guidelines). In the mentioned decision, COJ stated that only 143 courts collected basic indicators related information and published it on their websites as of the beginning of 2016. Furthermore we can learn from the decision that the automated collection of data for basic indicators “was still impossible”. There was also no standardized way on how that data should be displayed on the courts' websites, hence, the COJ suggested a standardized format for that.²¹¹ The 2016' updated template provides (comparing to the 2015 edition), that the 'indicator 6A' is not additional/alternative anymore, but serves as an indicator no. 7. The former 'indicator 7' is split into two: average satisfaction of user on a scale from 1 to 5 (from now on, indicator № 8), and the percentage of citizens who assess the work of a court as “excellent” or “good” (indicator № 9).

On August 17, 2018, the COJ adopted a decision № 53 “On the use of the system of assessment of work of a court (SAWC)”. The decision informs that the last evaluation of courts' work was conducted in 2016 by the selective application of the SAWC modules. Hence, the COJ recommended all the courts, among other things, to evaluate their work using the basic indicators of work of courts, to collect feedback from judges and the courts' apparatus workers (using the questionnaires as envisaged by Annexes 2 and 3 to the Guidelines) during November – December 2018, and to collect feedback from the court visitors (using the questionnaire as envisaged by Annex 6 of the Guidelines) during December 2018 – January 2019.

During the interview with the COJ member,²¹² he provided information that the COJ neither monitor whether the courts of Ukraine indeed publish the basic indicators on their websites nor collects information/statistics on the use by courts of the SAWC or its particular modules in their work. That includes also the information on possible user satisfaction surveys.

According to the survey conducted by the Centre of Policy and Legal Reforms (50 courts provided their replies out of more than 600 requested), 10 courts informed that they are regularly conducting user satisfaction surveys, and 3 courts notified that they have conducted internal surveys of the court staff.²¹³

Individual courts inform also at their websites (or in news feed) that they have conducted user satisfaction surveys.²¹⁴ However, from such news pieces it is not always clear whether the courts have used the SAWC or their internally developed methodology.

²⁰⁷ This information is provided in the decision of the COJ № 26 of 08.04.2016, available at: <http://rsu.gov.ua/uploads/article/risenna-rsu-no-26-vid-08042016-s-fcde236a3c.pdf>.

²⁰⁸ Ibid.

²⁰⁹ Ibid.

²¹⁰ Experts of the USAID New Justice Project. “Application of the system of assessment of work of a court». Methodical guidelines.”, Kyiv, 2016, as approved by the decision of the COJ № 26 of 08.04.2016, available at: <http://rsu.gov.ua/uploads/article/cpeguidelines2016web-60a66d2465.pdf>.

²¹¹ Ibid.

²¹² Information provided by the Deputy Head of the COJ, Vadym Butenko, on 19.09.2019.

²¹³ Smaliuk, Sereda. “Judicial innovations: do courts keep up with the times?”, March 2019, available at: <http://www.pravo.org.ua/ua/news/20873590-sudovi-innovatsiyi-chi-krokuyut-sudi-v-nogu-z-chasom>.

²¹⁴ See, for example, the news piece on the website of the Commercial Court of Odes'ka Oblast' of 19.12. 2017, available at: <https://od.arbitr.gov.ua/sud5017/pres-centr/news/408276/>; news piece on the website of the Commercial Code of Dnipropetrovska Oblast of 05.07.2018, available at: <https://dp.arbitr.gov.ua/sud5005/pres-centr/news/517524/>.



In practice, the surveys of the courts visitors are also conducted by NGOs in cooperation with the courts and with the use of the SAWC methodology. For example, in between February-September 2019, 94 courts were surveyed in Poltavaska,²¹⁵ Kharkivska,²¹⁶ and Chernivetska²¹⁷ Oblasts.

The SAWC methodology entails²¹⁸ questionnaire with 3 chapters. First chapter collects information on demographic characteristics of the surveyed persons (age, gender, procedural status etc.). Second chapter focuses on the evaluation of the conditions at a court's building, its convenience for citizens, sufficiency of the information provided at the court premises, timeliness of judicial proceedings, opinions on the quality of work of judges and the court's apparatus, motivation and comprehensiveness of court decisions. Each of these blocks has from 1 to 6 questions asking the surveyed person to assess specific measurement on a scale from 1 to 5. There is also a third chapter of the questionnaire, where, among other things, a person could elaborate on what should be specifically improved in the work of a court.

In July 2015, the COJ also became a member of the International Consortium for Court Excellence²¹⁹ which elaborated a quality management system designed to help courts improve their performance. One out of seven areas of Court Excellence is "5. User Satisfaction – Excellent courts systematically assess the needs and perceptions of court users and use the information received to improve the processes and services they offer." (see more in the section on international cooperation, below).

Conclusions

Judges, as persons well educated and experienced in "administering justice" tend to focus too much on themselves as teachers of the society. They are often convinced that they only know what the justice system should be like and others need to be simply taught and explained. Too little importance is attached to seeking feedback from justice users, both citizens and representatives of other legal professions.

COJ did a lot of work to popularize among the courts the practice of conducting satisfaction surveys. There are good examples and best practices of courts in this respect as described above. Also NGOs, often in collaboration with partners from the judiciary, engaged in the process. But provided information proves that number of courts collecting and analyzing feedback is not satisfactory and that seeking feedback still has not become an established practice.

²¹⁵ Cherchatyi, Klymenko, Kykat'. "Assessment of satisfaction of citizens by the quality of certain aspects of work of the Poltavaska Oblast' courts. Analytical report.", Poltava, 2019, available at: https://ldn.org.ua/wp-content/uploads/2019/09/USAID_LDN_Courts-Evaluation_Report_Poltava_2019.pdf.

²¹⁶ Lykhachov, Lykhachova. "Assessment of satisfaction of citizens by the quality of certain aspects of work of the Kharkivska Oblast' courts. Analytical report.", Kharkiv, 2019, available at: https://ldn.org.ua/wp-content/uploads/2019/09/USAID_LDN_Courts-Evaluation_Report_Kharkiv_2019.pdf.

²¹⁷ Ilchyshena, Petrun'kova, Yavornytska. "Assessment of satisfaction of citizens by the quality of certain aspects of work of the Chernivetska Oblast' courts. Analytical report.", Kamianets'-Podil'skyi, 2019, available at: https://ldn.org.ua/wp-content/uploads/2019/09/USAID_LDN_Courts-Evaluation_Report_Chernivtsi_2019.pdf.

²¹⁸ "System of assessment of work of a court: standards, criteria, indicators, and methods", as approved by decision of the COJ № 28 of 02.04.2015, available at: <https://court.gov.ua/userfiles/sors15.pdf>.

²¹⁹ See: <http://www.courtexcellence.com/>.



Despite clearly formulated outcome (user satisfaction surveys used regularly by judiciary governance bodies and courts to measure and improve the quality of services) according to information provided the HQCJ, the HCJ and the COJ did not conduct user satisfaction surveys.

Recommendations

The HQCJ, the HCJ and the COJ shall consider conducting user satisfaction surveys as planned in the strategy. Depending on the character of the body the surveys should cover not only citizens but also judges and other relevant personnel.

Respective bodies should not just promote the satisfaction surveys but also monitor the implementation of the guidelines.

The COJ or judicial administration should also collect data on the use of the SAWC by the courts, including on the execution by courts of the obligation to publish the basic indicators of their work on the websites.

Hence courts are supposed to prepare periodical 'communication plans/strategies' they should include in the plan the client satisfaction surveys.

International cooperation

Outcome: *regular exchanges with European judiciary governance bodies and other international counterparts.*

Measures: *European and international cooperation network fully operational.*

Means: *Decisions, MOUs, conferences, traineeships.*

The High Council of Justice

The HCJ is not a member of any European or international cooperation networks.²²⁰

The HCJ considered the possibility of joining the European Network of Councils for the Judiciary.²²¹ However, the rules of this organization²²² prescribe that the membership is open exclusively to judicial councils of the EU countries. Also, the status of observer is not possible for the Ukrainian Council (possibility for councils from the EEA countries and EU candidate states).

In June 2017, the HCJ established an International Consultative Council under the HCJ,²²³ the main task of which is the development and support of international relations with the purpose of fulfilling the JRS between the HCJ, Ukrainian judicial bodies, foreign judicial bodies, and international organizations.²²⁴ The Council consists of the representatives of foreign justice bodies, foreign judicial bodies, international unions, international projects of legal and technical assistance who conduct activities in the field of justice sector and/or in the judicial

²²⁰ Letter of the HCJ of 19.09.2019.

²²¹ Interview with Oksana Lysenko, the Head of the Press Centre of the Ukrainian Judiciary, held on 05.09.2019 in Kyiv.

²²² Statutes, Rules, and Regulations of the International Not-For-Profit Association European Network of Councils for the Judiciary (i.n.p.a) 2014 (in the edition of May 2019), available at: https://pgwrk-websitemedia.s3.eu-west-1.amazonaws.com/production/pwk-web-encj2017-p/Administration/Statutes%20and%20Rules%20%20ENCJ-RECJ%202014-finances_2020.pdf.

²²³ Regulation of the International Consultative Council, as approved by the decision of the HCJ № 1548/0/15-17 of 13.06.2017, available at: <http://www.vru.gov.ua/act/10075>.

²²⁴ Article 2, Ibid.



sphere (subject to their consent).²²⁵ The main form of work of the Council is its meetings, conducted subject to the necessity on the basis of the approved action plan.²²⁶ As of January 2019,²²⁷ the Council consisted of 7 people, including 1 representative of the National Judicial Administration of Lithuania and 6 representatives of the foreign technical assistance projects in Ukraine. The names of the representatives are not mentioned in the decision on the composition or the HCJ's website. From the news piece on the HCJ's website, it can be concluded that this body has so far conducted 5 meetings.²²⁸

The HCJ also informs on its website about international programs and projects related to the HCJ's activities,²²⁹ however presenting their timeframe and general goals only. Some results of the international cooperation are communicated in the news section of the website.²³⁰

The High Qualification Commission of Judges

The HCJ is not a member of any cooperation network with the judicial governance bodies.²³¹ However, the body actively cooperates with international organizations and international projects. Detailed information on cooperation is published in the annual reports of the HCJ.²³² Those reports are available since 2015.²³³ The results of the cooperation are also communicated in the news section of the HCJ's website.²³⁴

In reply to a public information request, the HCJ informed that its members have not visited any judicial councils/bodies with the same status in foreign countries. However, there is a division at the HCJ's website²³⁵ where official meetings and visits to the HCJ are listed. That division lists out, among other things, the meetings with the representatives of foreign counterparts who visited Ukraine. Each link refers to a particular news piece of the website.

In June 2018, the current Head of the HCJ was appointed as a representative of Ukraine in the Council of Europe European Commission for the efficiency of justice (CEPEJ).²³⁶

The Council of Judges

According to the Law, the COJ regularly presents reports to the Congress of Judges of Ukraine on the execution of tasks of judicial self-governance bodies.²³⁷ The most recent report²³⁸ briefly mentions activities of the COJ in light of international cooperation.

²²⁵ Article 3, *Ibid.*

²²⁶ Article 6, *Ibid.*

²²⁷ Decision of the HCJ № 295/0/15-19 of 31.01.2019, available at: <http://www.vru.gov.ua/act/17246>.

²²⁸ See the respective news piece of the HCJ website, available at: <https://vkksu.gov.ua/ua/news/zastupnik-golovi-komisii-wziaw-utchast-u-piatomu-zasidanni-miznarodnoi-konsultatiwnoi-radi-pri-wishtchij-radi-prawosuddia/>.

²²⁹ See the division of the HCJ's website named "International activities", available at: <http://www.vru.gov.ua/international>.

²³⁰ See, for example, the news piece of 06.08.2019 on the results of the project "Improving effectiveness of the processes in the High Council of Justice", available at: <http://www.vru.gov.ua/news/5219>.

²³¹ Letter of the HCJ of 11.09.2019.

²³² See, for example, pages 53-68 of the Report of the HCJ for 2018, available at: <https://vkksu.gov.ua/userfiles/zvit2018.pdf>.

²³³ See: <https://vkksu.gov.ua/ua/about/zwiti-komisii/>.

²³⁴ See, for example, the news piece of 17.05.2019 on the meeting of the HCJ members with the representatives of the USAID New Justice Program, available at: <https://vkksu.gov.ua/ua/news/widbulasia-zustritch-tchlieni-komisii-z-priedstawnikami-programi-usaid-nowie-prawosuddia/>.

²³⁵ See: <https://www.vkksu.gov.ua/ua/mijnarodne-spivrobotnitstvo/ofitsijni-zustrichi-ta-robochi-viziti-kerivnitstva-vishoi-kvalifikatsijnoi-komisii-suddiv-ukraini/>.

²³⁶ See the respective news piece on the HCJ website: <https://vkksu.gov.ua/ua/news/nowopriznatchienij-tchlieni-ewropiejskoi-komisii-z-pitan-iefiektiwnosti-prawosuddia-siergij-koziakow-wziaw-utchast-u-30-mu-iuwiliejnomu-plienarnomu-zasidanni-cepej/>.

²³⁷ Part 2 of Article 139 of the Law on the Judiciary.

²³⁸ Report of the COJ on the execution of tasks of judicial self-governance bodies in the period from September 2015 to February 2018, approved at the session of the COJ on 05.03.2018, available at: https://court.gov.ua/userfiles/file/DSA/2018_DSA_docs/ZVIT_RSU.pdf.



The COJ also has a Committee responsible for communication with international organizations, having 4 members.²³⁹ There is no formal report on this Committee's work on the COJ's website, but only a news piece that the Committee reported to the international counterparts on its activities during one of its meetings.²⁴⁰

In July 2015, the COJ accepted²⁴¹ a proposal of the International Consortium for Court Excellence to join it and become a member. Consortium adopted "The International Framework for Court Excellence", a quality management system designed to help courts to improve their performance. It represents an all-encompassing approach to achieving court excellence.²⁴²

The Seven Areas of Court Excellence are as follows:

1. Court Management and Leadership – Strong court leadership implies the promotion of an external orientation, a proactive and professional management culture, accountability and openness, an eye for innovation and a proactive response to changes in society.
2. Court Policies – Excellent courts formulate, implement and assess clear policies and strategies.
3. Court Proceedings – Excellent courts have fair, efficient and effective court proceedings.
4. Public Trust and Confidence – Excellent courts enjoy a high level of public trust and confidence.
5. User Satisfaction – Excellent courts systematically assess the needs and perceptions of court users and use the information received to improve the processes and services they offer.
6. Court Resources – Human, material and financial resources are properly, effectively and proactively managed by excellent courts.
7. Affordable and Accessible Court Services – Excellent courts are affordable and easily accessible to their users.²⁴³

Participation in the Consortium inspires Council of Judges members to undertake own activities, it is a source of information and a forum for sharing international experience.

²³⁹ The members of the Committees are listed at: <http://rsu.gov.ua/ua/pro-rsu>.

²⁴⁰ See the respective news piece on the COJ website of 14.02.2019, available at: <http://rsu.gov.ua/ua/news/view/u-radi-suddiv-ukraini-vidbulosa-zasidanna-komitetu-z-pitan-komunikacii-z-miznarodnimi-organizacijami>.

²⁴¹ See the news piece on the COJ website of 03.08.2015, available at: <http://rsu.gov.ua/en/news/rada-suddiv-ukraini-stane-clenom-miznarodnogo-konsorciumu-z-pitan-doskonalosti-sudu>.

²⁴² See: <http://www.courtexcellence.com/>.

²⁴³ See: http://www.courtexcellence.com/~media/Microsites/Files/ICCE/IFCE-Brochure_EN.ashx.



Conclusions

International cooperation and openness to the experience of the judiciary in other countries are very helpful in the reform of the Ukrainian justice system.

But there is also the other side of the coin, Ukrainian experiences and solutions can also be interesting and useful for the judiciaries in other countries. For example, a lot has been done in the sphere of communication in Ukraine and it is worth sharing this experience.

Recommendations

International cooperation, sharing mutual experience helps judges and has an inspirational character. It is important to include judges from all over the country in the international cooperation, exchange programs and study visits. Rules of admission to such programs should be transparent as some judges from interior complain about not being informed about different possibilities.

Experience from other countries shows that study visits may be an eye opener for judges. Visit to the European Court of Human Rights in Strasbourg for instance helps judges to understand the operation of the European system of human rights protection and encourages them to study the achievements of the ECtHR and to use its jurisprudence in their daily work.

Notwithstanding the fact that HCJ may not yet become a member of the European Network of Councils for the Judiciary it should try to initiate relations with this organization and its members.



5. CONCLUSIONS

Summary

There has been considerable progress in terms of attainment of outcomes envisaged by JSRSAP in the area of 'Development of PR/communication capacities. According to the expert estimates its level amounted to median 65 % accordingly (see below the more detailed explanations).²⁴⁴

When it comes to **Internal communication of judicial bodies and courts** we shall underline the cooperation of all six institutions which are playing an important role in the area of judicial communication: the Supreme Court, the High Council of Justice, the Council of Judges, the High Qualification Commission of Judges, the State Judicial Administration and the National School of Judges.

The fact that all these institutions have managed to sign an agreement memorandum and to create a Communication Committee as a consultation and decision-making body (meetings of heads of institutions) and a working group that regularly meets, cannot be underestimated.

It is not easy to set up a common strategy when so many institutions at the central level fulfil partially similar communication tasks. The work on creation of this cooperation platform, and making it operational, has neither been easy nor short-lived. It is therefore a value that should be maintained and strengthened, notwithstanding the fact that, in experts' opinion, these institutions have only in part a common denominator when it comes to communication, and some of their tasks differ.

Probably the outcome put before the Committee formulated as a "Mechanism for handling regulatory and governance issues among judiciary governance bodies in place" was too ambitious. But it is definitely good "Internal communication channel among judiciary governance bodies".

In the field of **External communication of judicial bodies and courts** a lot has been done in Ukraine and in some aspects things have been well developed. The institution of judges speakers and press officers have been established. There are different manuals elaborated and published. Numerous trainings have taken place, the online trainings are being developed. There are special units on the central level dealing with communication (the press office at the HJC, the dedicated staff at the CoJ and the SJA, communication section in the SC). Also, in terms of the theoretical knowledge about the communication between the judiciary and the society, a lot has been done and published. Meetings with judges, but also other actors, prove that when it comes to knowledge, the situation is quite satisfactory.

What is not fully satisfactory is the level of implementation of various known ideas. Also, due to limited monitoring and research activities, it is difficult to complete the picture and assess the situation in the whole country.

One very promising development is the idea that courts should prepare an 'annual communication action plan'. It is not yet fully implemented (some judges actually do not know about it), the courts differ in terms of fulfilling this recommendation, some 'action plans' could be better developed. But the idea itself is very good one, allowing the local courts to focus on rethinking and developing a communication action plan. This is a serious basis to build on.

In one of the visited courts, the communication strategy within the annual plan is being developed for particular periods of time, discussed with judges and made available on the

²⁴⁴ Outcomes, their group-specific scoring details are suggested in the left column of the attached evaluation matrix.



court's website. New strategy begins with evaluation of the previous one. This approach allows full use of the opportunities created by the idea of building a strategy at the court level and also makes it de facto a central element of communication at court level.

In many courts judges and staff may easily provide examples of different activities undertaken at the level of courts, but often those are rather single events, within given short-term project, without further continuation. Therefore, declared activities do not necessarily mirror the daily reality. What is missing, it is sustainability and a permanent mentality change (this should be analyzed further).

The communication should take into consideration the expectations and needs of the target groups, mostly citizens. Those can be learned from feedback and surveys. So it is easier to avoid situations like the example provided by us in the report regarding the quality of websites and social media profiles of institutions within the judiciary (they tend to focus too much on lawyers/judges/institutions themselves, and that the information provided is not of interest to citizens).

The subject of **Public reactions of the judiciary to the threats of independence** is very important, if not crucial. But it should not be limited to statements and rebuttal of verbal attacks but should also include real reaction, initiating adequate procedures. The fact that judges whistleblowers reveal themselves sporadically prove that they do not feel safe exposing themselves. This is partly because the judicial circles are not determined enough to fight abnormalities and even serious accusations and those who expose problems are being 'punished', not the perpetrators. This creates an obvious chilling effect among judges and dissatisfaction of the public. No communication will help with this unless the substantial issues are solved.

In the area of **Transparency of judicial bodies** a lot has been done and achieved. There are still however some elements that could be improved, there are evident problems with accessing certain decisions or information. It is proven, as we highlighted in the report, by the fact that two State Judicial Governance Bodies loose a number of court cases regarding access to public information.

The issue of **Openness of judges as a career incentive** is not really implemented in a way that would satisfy judges and have any practical meaning. The level of appreciation of such activities (10 points out of 1000, one percent) shows that it is not real but marginal incentive.

Feedback gathering by the judiciary is an essential part of the judicial reform and found its important place in the strategy. However, this is difficult field considering that the regional mentality and lack of experience hamper the ability to both – formulate and receive feedback. Lack of such skills prevents real communication, i.e. conversation, dialogue. One-sided message is what often remains.

A lot of work and effort was put into introducing user satisfactions surveys but it is not a norm for courts to organize those. So the feedback received by the judiciary is limited.

Judges also do not provide their feedback to other circles, they rather tend to take a strong position when being attacked or criticized, but do not create a forum to talk about those issues in a peaceful, relaxed atmosphere.

When it comes to **International cooperation** there is a lot of room for organizing activities for ordinary judges. There are study visits, some judges take part in international seminars or conferences but all those activities are limited in scope. Most of the cooperation takes place at the national level with representatives of foreign institutions, in particular those that provide technical support for reforms in Ukraine.

Finally, even though a lot has been done in the field of communication one may conclude that the overall situation is improving too slowly, that judges still lose public confidence. The lack of respect for the judiciary and judges is largely due to the lack of such tradition and politicization of the subject, but also due to real incidents of judicial impunity and misunderstood solidarity in the defense of colleagues.

It is still common that judges are criticized and attacked, also by the government representatives (in the rank of president and ministers). The special role of the judiciary as a controller/supervisor of other branches of the power is not sufficiently understood and stressed in the debate.

Progress of attainment of JSRSAP's outcomes in the area of 'Development of PR/communication capacities' – experts' estimates

Internal communication

Outcomes: *Internal communication channels among judiciary governance bodies, between judiciary governance bodies and courts, and between judiciary/courts and judges/staff formalised and used regularly. Mechanism for handling regulatory and governance issues among judiciary governance bodies in place.*

Measures: *SJGB Communication Committee fully operational.*

The Committee does not have any powers for handling regulatory and governance issues. Therefore, the progress here might be estimated at roughly 75%, as one of the main outcomes has not been reached.

External communication of judicial bodies and courts

Outcomes: *External communication channels between judiciary/courts and other State/non-State actors in the justice sector formalised and used. Regularly.*

Measures: *Press centre at SJGB fully operational. Press units (officers) in all appellate regions. Practice guides and training modules on PR/communication developed, disseminated and updated regularly. Written rules of procedure drafted and applied by SJGB in all matters.*

Means: *Decisions, contracts, job descriptions, placement plans, trainings. Press releases/briefings at courts following examination of high-profile cases.*

Press releases/briefings at courts following examination of high-profile cases.

Regular study visits of schoolchildren, students and other groups organised at courts.

Although the Press centre is fully operational, it lacks human resources necessary for the performance of the expected tasks. Press releases and briefings are rather rarely done by courts, as was found by NGOs reports. Therefore, the experts estimate this outcome as achieved by 70%.

Public reactions of the judiciary to the threats of independence

Outcomes: *Consistent response of judiciary governance bodies on behalf of corporation to any attempts at interference with independence, and promote interests of corporation.*

Active role and timely statements by justice sector governance bodies in response to perceived threats to independence and fairness of justice by reason of media coverage or public statements of State officials.



Measures: Practice guides and training modules on PR/communication developed, disseminated and updated regularly. Written rules of procedure drafted and applied by SJGB in all matters.

Active role and timely statements by justice sector governance bodies in response to perceived threats to independence and fairness of justice by reason of media coverage or public statements of State officials.

The implementation of this outcome is difficult to assess, because on the one hand experts notice the relevant activities in formulating response of the judiciary to attacks on judicial independence, but on the other hand these reactions are too limited to defense, and ‘promotion’, a positive message, is much rarer. That is why we estimate assessing the implementation status at about 80%.

Transparency of judicial bodies

Outcome: Clear, foreseeable and applicable conditions on public access and participation at SJGB hearings, timely prior announcement of meeting agendas, public nature of SJGB decisions.

There are no clear rules of participation at the COJ’s hearings. The HQCJ’s Regulation allows for to hold the meetings “in camera” on very vague legal basis. Only a fraction of the HQCJ’s decision are published. The HCJ and the HQCJ have lost a number of public information-related disputes. Therefore, the experts estimate this outcome as achieved by 70% only.

Openness of judges as a career incentive

Outcome: Career and performance management system of judiciary containing incentives for judges to more frequently enter into contact with public by way of writing articles, conducting research, visiting educational establishments, and engaging in other socio-educational activities.

Measures: Written rules of procedure drafted and applied by SJGB in all matters.

On the one hand, formally speaking, there were such incentives and some documents contain a place to mark the relevant activities of judges. On the other hand, this information is of minimal importance in practice, also because the evaluation process can give 10 points per 1000 for this type of activity (one percent of the point pool that makes up the grade). Therefore the experts estimate that this outcome was reached in about 50%.

Feedback gathering by the judiciary

Outcomes: User satisfaction surveys used regularly by judiciary governance bodies and courts to measure and improve quality of services.

Measures: Decisions, reports.

None of the SJGBs has conducted user satisfaction surveys so far. When it comes to courts, some of them are doing it, but usually on an irregular basis. Therefore, the experts estimate this outcome as achieved by 35% only.

International cooperation

Outcome: regular exchanges with European judiciary governance bodies and other international counterparts.

Measures: European and international cooperation network fully operational.

Means: Decisions, MOUs, conferences, traineeships.



SJGBs (except the COJ) are not members of any formal European or international cooperation networks. However, sufficient opportunities for the exchange of information and practice are available. The experts estimate the outcome is achieved by at least 80%.

Recommendations

For ensuring enhancement of the reforms and their advancement in the justice sector of Ukraine, in particular, improving relevant framework and its steering mechanisms, the assessment suggests the following:

SHORT-TERM RECOMMENDATIONS (within the period up to the end of 2020)

- Judges speakers should be partly relieved of their adjudication obligations. If they are required of active attitude and dedication, this should not be at the expense of adjudication. Some courts have adopted such solutions, but it seems that recommendations at national level could facilitate this situation;
- Considering the responsibilities of the Press Office it should be strengthened. There are two employees working in the office with a wide range of responsibilities. They need more humanforce and other resources;
- It should be clear what is the objective of the particular message being communicated by the judiciary – is it providing information, is it education? By visiting some websites of judicial bodies sometimes one may have the impression that those sites are ‘about us and for us’. Photos from events, meetings and life of an institution might be interesting, but this should be additional to the main task: informing the citizens about the law, judiciary, and not official meetings;
- If the career incentives for communication activities are to be taken seriously, the number of points that can be obtained in this connection should be significantly bigger than 1 percent of the overall rating;
- One should consider resigning from paying extra money to judges possessing phd title. Firstly, it may redirect judges attention from adjudication to obtaining a doctoral degree, secondly, it creates additional risk of dishonesty (plagiarism), and thirdly, it disproportionately prefers obtaining a PhD degree over other achievements and commitment;
- Bylaws adopted by the SJGBs (example: bylaws of the HQCJ allowing for closing any meeting) should not contradict (limit) statutory law. SJGBs should review their bylaws in order to avoid such contradictions;
- SJGBs should review their policies on responding to public information requests. They should especially review and execute all court rulings that found them in breach of the law;
- It is recommended that SJGBs prepare separate sections on their websites containing information regarding access to their documents, hearings as well as announcement of meetings and agendas;
- The HQCJ, the HCJ and the COJ shall consider conducting user satisfaction surveys as planned in the strategy. Depending on the character of the body the surveys should cover not only citizens but also judges and other relevant personnel;
- Notwithstanding the fact that HCJ may not yet become a member of the European Network of Councils for the Judiciary it should try to initiate relations with this organization and its members.



LONGER-TERM RECOMMENDATIONS (within the next full-fledged policy cycle)

- The communication strategy of the judiciary is wider than PR strategies, understood as building a good image of the institution. Communication refers to each single contact of an individual representative of the society with the court and judges. When there is a contact there is a need and a chance for communication. Communication is about a dialogue, meeting, conversation, exchange of feedback, and not just formulating the message. The future strategy should take it into account.
- The issue of communication of the judiciary and society can be dealt with on different levels – systemic level (role of state judiciary organs), community level (role of judicial associations, assemblies/gatherings of judges), and level of individual courts and judges. The future strategy should take into account.
- The communication of the responsible bodies should be monitored and tested from the point of view of the target groups. One shall always ask questions - what is important and interesting for people, for the general public, for the users of the courts, for the legal profession, for other branches of the government? And not just ask the questions, but seek the answer from them using empirical methods;
- The strategies developed by the courts for interaction with the people in the local area, diversity and richness of activities are an advantage. Regardless of the promotion of already proven best practices done by the HJC, such as open days in court or lessons for young people and use of developed guidelines and manuals, individual courts are a place where new solutions are implemented which have a chance to become future best practices for others. The CoJ is a good forum for exchange of experience in this matter between courts and judges from different regions of the country. Cooperation with the local community, local CSOs, local media creates an opportunity to develop innovative solutions. The CoJ could identify such practices and judges who work well in communication and can serve as role models;
- Judicial authorities should continue to respond to unreasonable criticism, the reproduction of false news and attacks on the independence of the judiciary. However, this is only a responsive action. It is also necessary to develop a positive strategy, making individual (target) groups aware of the difference between (often justified) criticism of individual cases, and undermining the idea of an independent judiciary - prerequisite of democracy. Representatives of the judicial bodies should promote European standards, e.g. restrictions on the statements of representatives of state organs resulting from the jurisprudence of the European Court of Human Rights;
- In addition to declarations and statements, regular dialogue with representatives of other authorities or the media is needed. It seems that a good platform for such a dialogue is HCJ, which, by its very nature, is a platform for cooperation of various actors;
- Respective bodies should not just promote conducting satisfaction surveys in courts but also monitor the implementation of the guidelines;
- Development of an annual communication action plan at a court level is an excellent solution. We recommend reflection on this subject by all the judges of a given court (not just the president, chief of staff, judge-speaker and communication officer), and planning specific actions according to the developed guidelines that could result in a greater involvement of the court and particular judges in contacts with the local community, in information and education activities.

- The courts should also report to the local community. For public trust and accountability reasons, the most important thing is transparency and a well-established culture of reporting to citizens on the actions taken. Meanwhile, detailed reports on the activities of each individual court are rare (except for supreme courts). In addition, their accessibility is questionable (it is worth comparing them, for example, with the reports of the European Courts in Strasbourg and Luxembourg).
- The COJ or judicial administration should also collect data on the use of the SAWC by the courts, including on the execution by courts of the obligation to publish the basic indicators of their work on the websites;
- The courts should also consider including user satisfaction surveys in the periodical 'communication plans/strategies' they might be preparing;
- International cooperation, sharing mutual experience helps judges and has an inspirational character. It is important to include judges from all over the country in the international cooperation, exchange programs and study visits. Rules of admission to such programs should be transparent as some judges from interior complain about not being informed about different possibilities;
- Experience from other countries shows that study visits may be an eye opener for judges. Visit to the European Court of Human Rights in Strasbourg for instance helps judges to understand the operation of the European system of human rights protection and encourages them to study the achievements of the ECtHR and to use its jurisprudence in their daily work.



ANNEX I ASSESSMENT-SPECIFIC MATRIX – METHODOLOGY/ASSESSMENT-SPECIFIC ACTIVITIES IDENTIFICATION MATRIX

ASSESSMENT PACKAGE N2

Area of Intervention: (Chapter 1 - Increasing Independence of Judiciary, Streamlining Judicial Governance and System of Appointment of Judges); 1.2.3 Development of PR/communication capacities; (Chapter 5 - Increasing Transparency and Publicity of Justice); 5.2.2. Development of transparent justice-sector governance; 1. Dedicated PR/communication capacities of all justice sector governance bodies and sector institutions

Outcomes to be addressed	Desk research DR	Third-party reports TPR	Panel discussions PD	Interviews I	Surveys S	Data Analysis DA	Other method	Comments	Level of Implementation
I. Internal communication of Judicial bodies – Internal communication channels among judiciary governance bodies, between judiciary governance bodies and courts, and between judiciary/courts and judges/staff formalised and used regularly; – mechanism for handling regulatory and governance issues among judiciary governance bodies in place	1-2	2	1-2	1-2			A2PI		75 %
II. External communication of judicial bodies and courts External communication channels between judiciary/courts and – State actors in justice sector formalised and used regularly ; – non-State actors in justice sector formalised and used regularly	1-2	2	1-2	1-2					70 %
III. Public reactions of judiciary to threats of independence Consistent and timely response of judiciary governance bodies on behalf of corporation to any attempts or perceived threats of interference with independence and fairness of justice, including by reason of media coverage or public statements of State officials - response and promoting interests of the corporation	1-2	2					A2PI		80%



<p>IV. Transparency of judicial bodies Clear, foreseeable and applicable conditions on public access and participation at SJGB hearings, timely prior announcement of meeting agendas, public nature of SJGB decisions.</p>	1-2	2	1-2	1-2	1-2			70%
<p>V. Openness of judges as career incentive Career and performance management system of judiciary containing incentives for judges to more frequently enter into contact with public by way of writing articles, conducting research, visiting educational establishments, and engaging in other socio-educational activities</p>	1-2		1-2	1-2	2			50%
<p>VI. Feedback gathering by judiciary User satisfaction surveys used regularly by judiciary governance bodies and courts to measure and improve quality of services.</p>	2	1-2		1-2	1		A2PI	35%
<p>VII. International cooperation Regular exchanges with European judiciary governance bodies and other international counterparts.</p>	2			1-2			A2PI	80%
<p>Total (average for the assessment)</p>								65 %



ANNEX II LIST OF REPORTS, PUBLICATIONS AND OTHER DOCUMENTS REVIEWED

Laws of Ukraine

1. The Law of Ukraine “On Access to Public Information” of 13.01.2011 № 2939-VI, available at: <https://zakon.rada.gov.ua/laws/show/2939-17>.
2. The Law of Ukraine “On amending certain laws of Ukraine due to the adoption of the Law of Ukraine “On information” and the law of Ukraine “On Access to Public Information” of 27.03.2014 № 1170-VII, available at: <https://zakon.rada.gov.ua/laws/show/1170-18/ed20141026>
3. The Law of Ukraine “On the Judiciary and the Status of Judges” of 07.07.2010 № 2453-VI, in the edition as of 01.04.2015, available at: <https://zakon.rada.gov.ua/laws/show/2453-17/ed20150401>.
4. The Law of Ukraine “On securing the right to a fair trial” of 12.02.2015 № 192-VIII, available at: <https://zakon.rada.gov.ua/laws/show/192-19/ed20150227>.
5. The Law of Ukraine “On the Judiciary and the Status of Judges” of 02.06.2016 № 1402-VIII, available at: <https://zakon.rada.gov.ua/laws/show/1402-19>.
6. The Law of Ukraine “On Information” of 02.10.1992 № 2704-VIII, available at: <https://zakon0.rada.gov.ua/laws/show/2657-12>.
7. The Law of Ukraine “On the High Council of Justice” of 15.01.1998 № 22/98-BP, in the edition as of 26.10.2014, available at: <https://zakon.rada.gov.ua/laws/show/22/98-%D0%B2%D1%80/ed20141026>.
8. The Law of Ukraine “On the High Council of Justice” of 21.12.2016 № 1798-VIII available at: <https://zakon.rada.gov.ua/laws/show/1798-19>.

Decrees of the Cabinet of Ministers of Ukraine

1. Decree of the Cabinet of Ministers of Ukraine № 835 of 21.10.2015 (in the edition of 05.06.2019), available at: <https://zakon.rada.gov.ua/laws/show/835-2015-%D0%BF>.

Interviews and meetings

1. Authors used also findings and recommendations from the paper of one of them, based on numerous meetings and interviews with different actors: Bojarski, Ł, Communication Strategy of the Ukrainian Judiciary. Report and recommendations, Pravo-Justice, March 2019 (not published paper).
2. Interview with Oksana Lysenko, the Head of the Press Centre of the Ukrainian Judiciary, held on 05.09.2019 in Kyiv.
3. Interview with the judges of Prymorskyi Raionnyi Sud of Odesa, the Head of the COJ Bohdan Monich, and the Deputy Head of the COJ Vadym Butenko, held on 06.09.2019 in Odesa.
4. Interview with the President of the court, the Head of Apparatus, and the Press secretary of Zarichnyi Court of Sumy held on 17.09.2019 in Sumy.



5. Interview with the representative of the “Bureau of Legal Communications” NGO Nataliya Lebed’, held on 17.09.2019 in Sumy.
6. Interview with the representatives of Appeal Court of Sumy Oblast, Commercial Court of Sumy Oblast’, Sumskyi District Administrative Court, Kovpakivskyi District Court of Sumy, held on 17.09.2019 in Sumy.
7. Interview with the representatives of Human Rights Vector NGO, Valentyna Rybak and Nazariy Boyarskyi, held on 16.09.2019 in Kyiv.

Joint documents

1. Electronic register of the press services of courts of Ukraine, Kyiv, 2018, available at: http://www.vru.gov.ua/content/file/Court-press-services-register29.08_.2019_.pdf.
2. Memorandum on intercommunication and cooperation of the representatives of the Ukrainian judiciary of 10.02.2017 with Annexes I-IV, available at: http://www.vru.gov.ua/content/file/Memorandum_.pdf.
3. Memorandum on on intercommunication and cooperation of the representatives of the Ukrainian judiciary of 27.04.2018 with Annexes I-IV, available at: http://www.vru.gov.ua/content/file/Memorandum_2018.pdf.

Court decisions

1. Decision of the Cassation Administrative Court within the Supreme Court of 24.01.2018 in case № 800/131/17, available at: <http://reyestr.court.gov.ua/Review/71829193>.
2. Decision of the Cassation Administrative Court within the Supreme Court of 11.07.2019 in case № 9901/246/19, available at: <http://reyestr.court.gov.ua/Review/83070061>.
3. Decision of the Cassation Administrative Court within the Supreme Court of 08.08.2019 in case № 9901/76/19, available at: <http://reyestr.court.gov.ua/Review/83602669>.
4. Decision of the Grand Chamber of the Supreme Court of 07.02.2019 in case № 9901/478/18, available at <http://reyestr.court.gov.ua/Review/80364172>.
5. Decision of the Grand Chamber of the Supreme Court of 02.04.2019 in case № 9901/650/18, available at: <http://reyestr.court.gov.ua/Review/81287841>.
6. Decision of the Grand Chamber of the Supreme Court of 25.06.2019 in case № 9901/924/18, available at: <http://www.reyestr.court.gov.ua/Review/82885713>.

Decisions of the HCJ

1. Decision of the HCJ № 295/0/15-19 of 31.01.2019, available at: <http://www.vru.gov.ua/act/17246>.
2. Regulation of the Consultative Council of the Presidents of Courts under the High Council of Justice, approved by decision of the HCJ № 1331/0/15-17 of 30.05.2017, available at: <http://www.vru.gov.ua/act/9858>.
3. Regulation of the HCJ, as approved by the Decision of the HCJ № 52/0/15-17 of 24.01.2017, in the edition of 18.12.2018, available at: http://www.vru.gov.ua/content/docs/Reglament_zminy_18.12_.2018_.docx [the HCJ Regulation].



4. Regulation of the International Consultative Council, as approved by the decision of the HCJ № 1548/0/15-17 of 13.06.2017, available at: <http://www.vru.gov.ua/act/10075>.
5. Regulation of the Vyscha Rada Iustytseyi, as approved by the decision of the HCJ № 355/0/15-15 of 30.07.2015, available at: <https://zakon.rada.gov.ua/rada/show/vr355423-15/ed20161020>.
6. Yearly Report of the HCJ on the status of securing the independence of judges in Ukraine for 2018, Kyiv, 2019, available at: http://www.vru.gov.ua/content/file/%D0%A9%D0%BE%D1%80%D1%96%D1%87%D0%BD%D0%B0_%D0%B4%D0%BE%D0%BF%D0%BE%D0%B2%D1%96%D0%B4%D1%8C_%D0%B7%D0%B0_2018_%D1%80%D1%96%D0%BA.pdf.

Decisions of the HQCJ

1. “System of assessment of work of a court: standards, criteria, indicators, and methods”, as approved by decision of the COJ № 28 of 02.04.2015, available at: <https://court.gov.ua/userfiles/sors15.pdf>.
2. Annex 1 to the Decision of the COJ № 28 of 02.04.2015, available at: https://rsu.court.gov.ua/userfiles/file/DSA/RSU_site/2015/dod%20do%20ris%202802042015.pdf.
3. Concept of Informational-Communication Activities of the COJ, as approved by the decision of the COJ № 72 of 30.11.2012, available at: <https://rsu.court.gov.ua/userfiles/dodat72.pdf>.
4. Decision of the COJ № 1 of 05.02.2015, available at: [https://rsu.court.gov.ua/userfiles/1\(28\).pdf](https://rsu.court.gov.ua/userfiles/1(28).pdf).
5. Decision of the COJ № 14 of 12.03.2015, available at: <http://rsu.gov.ua/uploads/article/risenna-rsu-no-14-vid-12032015-502524fc98.pdf>.
6. Decision of the COJ № 2 of 18.05.2018, available at: <https://zakon.rada.gov.ua/rada/show/vr022414-18>.
7. Decision of the COJ № 26 of 08.04.2016, available at: <http://rsu.gov.ua/uploads/article/risenna-rsu-no-26-vid-08042016-s-fcde236a3c.pdf>.
8. Decision of the COJ № 28 of 02.04.2015, available at: https://rsu.court.gov.ua/userfiles/file/DSA/RSU_site/2015/risennya2802042015.pdf.
9. Decision of the COJ № 3 of 25.01.2019, available at: <http://rsu.gov.ua/uploads/news/risenna-rsu-no-3-vid-25012019-pr-b1f889cbe0.pdf>.
10. Decision of the COJ № 40 of 01.08.2017, available at: <https://zakon.rada.gov.ua/rada/show/vr040414-17>.
11. Decision of the COJ № 5 of 05.02.2015, available at: <http://rsu.gov.ua/ua/site/download?doc=L3VwbG9hZHMvZG9jdW1lbnRzLzU4LnBkZg==>.
12. Decision of the COJ № 53 of 04.06.2015, available at: <http://rsu.gov.ua/ua/site/download?doc=L3VwbG9hZHMvZG9jdW1lbnRzL3Jyc3U1MzA0MDYyMDE1LnBkZg==>.
13. Decision of the COJ № 72 of 30.11.2012, available at: <https://rsu.court.gov.ua/rsu/risennya/mfh>.
14. Decision of the COJ № 9 of 08.08.2014, available at: <http://rsu.gov.ua/uploads/article/risenna-rsu-no-9-vid-08082014-fc0361c9f2.pdf>

15. Draft Procedure and methodology of regular evaluation and self-evaluation of judges, as proposed by the HQCJ, available at: <https://www.vkksu.gov.ua/userfiles/doc/proektporiadku1801.docx> [the Draft Procedure].
16. Regulation of the High Qualification Commission of Judges of Ukraine, as approved by the HQCJ's decision № 81/зп-16 of 13.10.2016, available at: <https://vkksu.gov.ua/userfiles/doc/regulations020719>.
17. Regulation on the procedure and methodology of qualification assessment, indicators of compliance with the criteria of qualification assessment, and the means of their establishment, as approved by the HQCJ's decision No 143 / zp-16 of 03.11.2016, in the edition of 21.01.2018, available at: <https://vkksu.gov.ua/ua/ociniuwannia-sud-diw/dokumenty/polojiennia-pro-poriadok-ta-mietodologiiu-kwalifikacijogo-ociniuwannia-pokazniki-widpowidnosti-kriteriiam-kwalifikacijogo-ociniuwannia-ta-zaso-bi-ich-wstanowliennia1/> [the HQCJ Methodology].

Decisions of the COJ

1. Experts of the USAID New Justice Project. «Application of the system of assessment of work of a court». Methodical guidelines.», Kyiv, 2016, as approved by the decision of the COJ № 26 of 08.04.2016, available at: <http://rsu.gov.ua/uploads/article/cpe-guidelines2016web-60a66d2465.pdf>.
2. Open letter of the COJ, as approved by the decision of the COJ № 1 of 05.02.2015, available at <https://rsu.court.gov.ua/userfiles/vidkrutuu%20list.doc>.
3. Recommendations of the international conference “Strengthening the trust in the judiciary via improvement of mutual communication” (Kyiv, 24-25.02.2015), available at: <http://rsu.gov.ua/uploads/article/rekomendacii-mijnarodnoi-confere-a8cac1e60f.doc>.
4. Regulation on the Press Centre of the Judiciary (as a department), as approved by the Decision of the COJ № 21 of 05.09.2015, available at: <https://zakon.rada.gov.ua/rada/show/vr021414-14#n9>.
5. Report of the COJ on the execution of tasks of judicial self-governance bodies in the period from September 2015 to February 2018, approved at the session of the COJ on 05.03.2018, available at: https://court.gov.ua/userfiles/file/DSA/2018_DSA_docs/ZVIT_RSU.pdf.
6. Statement of the COJ № 27 of 21.06.2013, available at: <https://zakon.rada.gov.ua/rada/show/v0027414-13>.
7. The Strategic plan of the development of the judiciary in Ukraine for 2013-2015, as approved by the COJ on 21.12.2012, available at: <https://court.gov.ua/userfiles/Strateg%20plan.doc>.
8. The Strategy for the development of the Ukrainian Judiciary for 2015-2020, approved by the COJ on 11.12.2014, available at: <http://nsj.gov.ua/files/1467884108%D0%A1%D1%82%D1%80%D0%B0%D1%82%D0%B5%D0%B3%D1%96%D1%8F%20%D1%80%D0%BE%D0%B7%D0%B2%D0%B8%D1%82%D0%BA%D1%83%20%D1%81%D1%83%D0%B407.pdf>.



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Decisions of the Congress of Judges of Ukraine

1. Decision of the IX Regular Congress of Judges of 22.02.2013, available at: <http://rsu.gov.ua/uploads/article/spilne-rishennj-79d012e6d2.pdf>.
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2. Bojarski, L., Communication Strategy of the Ukrainian Judiciary. Report and recommendations, Pravo-Justice, March 2019 (not published paper).
3. Butko, Kuybida, Maselko, et al. "Qualification assessment of judges 2016-2018: interim results", April 2019, page 45, available at: <http://bit.ly/qualification-report-2016-2018>.
4. Cherchatyi, Klymenko, Kykat'. "Assessment of satisfaction of citizens by the quality of certain aspects of work of the Poltavaska Oblast' courts. Analytical report.", Poltava, 2019, available at: https://ldn.org.ua/wp-content/uploads/2019/09/USAID_LDN_Courts-Evaluation_Report_Poltava_2019.pdf.
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6. Ivanova, O., Draft of Communication Strategy for the Judiciary in Ukraine (for 2 years), January 2019, USAID Ukraine (not published paper).

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9. Progress Review Methodology of the Justice Sector Reform in Ukraine, Guide & Matrices, Council of Europe, December 2016.
10. Rybak. "Courts and media: the experience of cooperation. Results of the all-Ukrainian survey of journalists regarding the cooperation with courts", Kyiv, 2019, available at: <http://hrvector.org/mediacourts2-hrv-mf-web.pdf>.
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ANNEX III EXTRACT FROM JSRSAP

Chapter 1						
Increasing Independence of Judiciary, Streamlining Judicial Governance and System of Appointment of Judges						
Action	Implementation Deadline			Performance Criteria		
	End of 2016	End of 2018	End of 2020	Measures/Out-puts	Respon-sible Body / Means	Outcomes
1.2.3 Development of PR/communica-tion capacities				1. SGGB Com-munication Com-mittee fully oper-ational	SJGB (HCJ, HQC, CJ)/ Decision, reports	- Internal communication channels among judi-cary governance bodies, between judiciary gov-ernance bodies and courts, and between judi-ciary/courts and judges/staff formalised and used regularly; mechanism for handling regulatory and governance issues among judiciary governance bodies in place - External communication channels between judi-ciary/courts and other State/non-State actors in justice sector formalised and used regularly; consistent response of judiciary governance bodies on behalf of corporation to any attempts at interference with independence, and promote interests of corporation - Clear, foreseeable and applicable conditions on public access and participation at SJGB hearings, timely prior announcement of meeting agendas, public nature of SJGB decisions - Career and performance management system of judiciary containing incentives for judges to more frequently enter into contact with public by way of writing articles, conducting research, visit-ing educational establishments, and engaging in other socio-educational activities - User satisfaction surveys used regularly by judi-cary governance bodies and courts to measure and improve quality of services - Regular exchanges with European judiciary governance bodies and other international coun-terparts
				2. Press centre at SJGB fully opera-tional	SJGB (HCJ, HQC, CJ)/ Decisions, contracts, job descrip-tions, place-ment plans, trainings	
				3. Press units (of-ficers) in all appel-late regions	SJGB (HCJ, HQC, CJ)/ Decisions, contracts, job descrip-tions, place-ment plans, trainings	
				4. Practice guides and training modules on PR/ communication developed, dis-seminated and updated regularly	NSJ / Decisions, trainings, publications	
				5. Written rules of procedure drafted and applied by SJGB in all mat-ters	SJGB (HCJ, HQC, CJ)/ Decisions, practice guides	
				6. Regular study visits of school-children, students and other groups organised at courts	SJGB (HCJ, HQC, CJ), Courts / Decisions, reports	
				7. Press releas-es/briefings at courts following examination of high-profile cases	SJGB (HCJ, HQC, CJ), Courts / Decisions, reports	
				8. European and international co-operation network fully operational	SJGB (HCJ, HQC, CJ), Courts / Decisions, MOUs, con-ferences, traineeships	
Chapter 5						
Increasing Transparency and Publicity of Justice						
5.2.2	Development of transparent justice-sector governance			1. Dedicated PR/ communication capacities of all justice sector governance bodies and sector institutions	CJ, PG/PPO, SC, HSCs, NBC, MOI / Decisions, reports, train-ings	- Active role and timely statements by justice sector governance bodies in response to perceived threats to independence and fairness of justice by reason of media coverage or public statements of State officials - Clear, foreseeable and applicable conditions on public access and participation at hearings by all justice sector governance bodies,



Evaluation Report

on

Area of Intervention

1.2.3 Development of PR/communication capacities

5.2.2.1. Dedicated PR/communication capacities of all justice sector governance bodies and sector institutions

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