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# ANNUAL REPORT

2012-2013

## JUDICIAL EDUCATION FOR ECONOMIC GROWTH

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1 April, 2012 – 31 March, 2013

Submitted by the National Judicial Institute: May, 2013

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## EXECUTIVE SUMMARY

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The five-year, Judicial Education for Economic Growth (JEEG) project combines CIDA's economic growth priority with the cross-cutting themes of governance, rule of law, and gender equality. The goal of CIDA's program in Ukraine is to improve economic opportunities for Ukrainians in a strengthened democracy. CIDA provides support to affect this goal through strengthening public institutions built on the rule of law and accountability. A competent, effective, and fair judiciary is a vital component of an effective democracy and contributes to Canada's support for Ukrainian efforts towards a free, democratic and prosperous society. JEEG seeks to promote an enabling environment for economic growth through increasing the capacity of the judiciary to respond to a variety of business-related disputes.

The Annual Report describes the methodology and areas of work implemented under JEEG over Fiscal Year 2012-2013, the first year of the project's time frame following its approval on March 31<sup>st</sup> 2012. Initiatives and activities in relation to each project outcome and output are articulated in this report following the annual work plan FY 2012-13 and in accordance with the anticipated results set out within the Project Implementation Plan (PIP) which covers the life of the project. The first year of the project started with two inception missions by Canadian and Ukrainian partners<sup>1</sup> (with FJA and NJI coordinating to implement the first together in May 2012) and one additional outgoing technical exchange to Ukraine in the final quarter of the fiscal year; and two technical exchanges in Canada one led by NJI and one led by FJA.

The first year of the project saw activities in research, consultations, coordination and networking, and orientation to the judicial contexts in Canada and Ukraine.<sup>2</sup> Project partners exchanged knowledge and approaches to institutional strengthening and judicial education processes, methodologies and content (Components 1 and 2 respectively, implemented by NJI), and mechanisms for enhancing the judicial process (Component 3 implemented by FJA) in Ukrainian courts. The project established a local office; introduced key local institutional representatives of the NSJ and HQCJU including senior judicial associates of the HQCJU to Canadian models and methodologies for judicial education, processes related to institutional strengthening and specific judicial and court mechanisms; selected two interns for preparation for job shadowing at the NJI; and agreed on preliminary areas of assistance in institutional judicial education reform including

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<sup>1</sup> The Ukrainian project partners are the High Qualification Commission of Judges of Ukraine (HQCJU) and the National School of Judges of Ukraine (NSJ), with additional cooperation assistance provided to judges who hear business-related cases and to selected pilot courts.

<sup>2</sup> As will be referred to in the PIP, since the CEA's last involvement in Ukraine under the Canada-Ukraine Judicial Cooperation Project and particularly since 2010, there have been significant and wide-ranging changes within the political environment and a different approach will be applied to this project.

the identification of two core judge trainer groups under the NSJ comprising a total of 18 judges and 5 NSJ trainers. The project also determined subject areas for course development by the first two groups (property rights with a focus on Land Law and Statutory Interpretation) and on gaps and possible approaches relating to court settlement mechanisms in selected pilot courts. Based on these identified subject areas, Canadian judges were selected for the judicial education and gender quality component of JEEG. In the last quarter of the year, the development of the courses and materials began.



## OPERATIONAL SECTION

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The vision and anticipated results and methodology of the project have been formulated below and will be implemented in this fiscal year on the broad basis of the PIP and as set out specifically in the first Annual Workplan. This section of the Annual Report provides progress on activities, outputs and financial information for the entire 2012-2013 fiscal year with the purpose: to monitor progress of the project, to review and learn from the annual operations compared to the activities set out in the 2012-2013 Annual Workplan and to better plan the next 2013-2014 fiscal year.

The narrative subsection below describes the activities undertaken and outputs achieved in relation to the annual work plan. Analytical comments on the variances between WBSs that were planned in the AWP and accomplished in 2012-2013 are provided.

### KEY MILESTONES AND OUTPUTS TIED TO GROUPS OF ACTIVITIES FOR THE FISCAL YEAR 2012-2013

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Targeted technical assistance, training and education delivered by the Canadian partners through three components are outlined below. In general, project progress was achieved towards the following project impact, anticipated ultimate and intermediate outcomes:

**Anticipated ultimate outcome:** to increase court efficiency and fairness in resolving commercial disputes for Ukrainian businesses in order to contribute to improving the business enabling environment in Ukraine.

**Anticipated intermediate outcomes:**

- 1) Improved institutional performance of the NSJ, and the HQCJU in its responsibility for judicial education; and
- 2) Skills-based, gender and social context-sensitive and business-related education content integrated within the curriculum of the NSJ and HQCJU.

In fulfillment of the foregoing results, the following section lists and describes the key activities for 2012-2013 fiscal year presented by WBS.

IMMEDIATE OUTCOME 1: STRENGTHENED INSTITUTIONAL CAPACITY OF HQCJU AND NSJ TO SUPPORT THE DEVELOPMENT AND DELIVERY OF SKILLS-BASED, GENDER AND SOCIAL CONTEXT-SENSITIVE, AND BUSINESS-RELATED EDUCATION TO CANDIDATE, 5-YEAR TERM JUDGES AND PERMANENT JUDGES

**Component 1** of the project strengthens the institutional capacity and framework of the HQCJU and NSJ to support effective judicial education processes and outcomes, by developing skills in organizational development, strategic and business planning, technical management, knowledge of leadership skills and assessment tools to gauge the effectiveness of management systems and educational services and align local systems and processes with best practices. NJI in the project's first fiscal year also planned to facilitate opportunities to explore, consider, and recommend areas for gender equality integration within NSJ institutional policies and procedures, so as to promote and integrate GE principles organizationally.

110 Institutional and technical capacities of NSJ and HQCJU in its responsibility for judicial education analyzed with recommendations for improvement developed

WBS 1101 Inception Missions to Ukraine (completed in Q1, Kyiv, Ivano-Frankivsk, Odesa)

The inception of the project started in May 2012 and provided the Canadian expert team with a better understanding of the issues that both Ukrainian partners – HQCJU and NSJ – are facing. The inception mission allowed for discussion about institutional structural issues and judicial education challenges faced by NSJ. The mission provided the opportunity to begin discussions of gender-related concerns and issues in the institutional context.

The May 2012 mission was implemented as follows (for more details please refer to Annex 1):

- a) Week 1 - Members of the Canadian project team [REDACTED] held preliminary meetings with Ukrainian partners on the details of the project, and with relevant stakeholders involved in the legal and judicial fields in Ukraine.
- b) Week 2 - The Canadian team (joined by [REDACTED] and [REDACTED]) met with the project partners to review the findings of the Canadian team and examine the broad outcomes, outputs, activities and resources anticipated for the project.

c) Week 3 –FJA team

WBS1102a Follow-up Technical Exchange to Ukraine (completed in Q2, Kyiv, Lviv)

The July 2012 follow up technical exchange provided the Canadian expert team

with a better understanding of the issues that Ukrainian partners face. NJI presented the Canadian model of judicial education to Ukrainian partners and shared best practices about the engagement of judges in the development and delivery of judicial education with NSJ. NJI facilitated a discussion of institutional structural issues and judicial education challenges that are faced by NSJ. NJI also visited the NSJ regional branch office in Lviv (for more details please refer to Annex 2).

WBS1102b Participation in HQCJU conference (completed in Q3, Kyiv)

NJI attended the HQCJU conference on judicial discipline which provided the Canadian expert team

with a better understanding of training needs of judges in Ukraine. It also provided a unique opportunity for the experts to meet project partners and donors working in the legal and judicial sector. More than 74 participants of the conference had a chance to hear about the principles and procedures of judicial discipline in Canada.

WBS 1103 Technical Exchange to Canada (completed in Q3, Niagara-on-the-Lake, and Ottawa)

A delegation of 12 senior officials – 7 from the HQCJU including 3 judges who are members of the HQCJU (among them

and five senior personnel from the NSJ – attended an NJI-designed judicial education seminar between November 18 and 30, 2012. This exchange provided an opportunity for participants to gain understanding of the content and topics of a newly-appointed judges' education program in Canada as well as skills-based and experiential approaches to educating judges. The delegation was then oriented in the second week by

with assistance from NJI senior personnel and to best practices in national judicial education institutional leadership and governance, including the mandates, practices,

functions and operations of the Canadian Judicial Council; the NJI Board of Governors; the NJI Senior Management Committee and the NJI Education Department, and an overview of NJI operations and human resources departments, its sources of funding, etc. (See WBS 1201 for further detail). NJI's approach to equipping judges with skills and awareness to respond to gender equality and social context issues as well as GE in the Canadian justice system was emphasized including the history and the development of gender equality in Canada's justice system and modern developments.

WBS 1104 Coordination with USAID (FAIR) (ongoing activity, completed for the period of Q2-4, Kyiv)

JEEG Canadian and Ukrainian office representatives participated in bi-weekly Rule of Law donors meetings conducted at FAIR offices as well as quarterly FAIR-JEEG meetings to exchange relevant project documentation and information, review candidate judge involvement, project progress, strategic planning plans and activities and address other coordination and implementation issues as they arise.

120 Technical assistance in gender-sensitive judicial education institutional strengthening

WBS 1201 Targeted technical assistance on Canadian JE institutional systems, processes and practices (completed in November 2012, Ottawa)

In the course of the technical exchange WBS 1103 (described above), Ukrainian senior decision-makers of partner organizations were familiarized in several topics fundamental to institutional strengthening including: governance (definition of governance, practices of governing boards including composition, functions, organizational accountability, operational and strategic planning); organizational structure and roles and responsibilities (review of organizational structure and department functions; review of senior management, roles and responsibilities of department heads and senior advisors); management (practices in operational and strategic planning, human resources, financial management, communications and succession planning, mechanisms and means to involve judges in curriculum and course development). Mechanisms to ensure consideration, support and accommodation for men and women's needs in and outside the workplace, including leave, harassment and discrimination policies were discussed in relation to NJI's policies and support for gender equality. For more details, please refer to Annex 3.

WBS 1202 Workshop on JE institutional strengthening (scheduled for January/February 2013, Kyiv and postponed till May 2013)

This activity has been postponed to the second fiscal year. It is envisaged that



assistance under JEEG, will deliver a comprehensive workshop to HQCJU and NSJ personnel and associate judges, relating to areas of most need in the institutional setting, anticipated to be among the following areas: governing boards, advisory committees, and composition of the senior advisor cadre including how to increase composition at the NSJ.

The new timing for this activity will allow for better coordination and synergies between the efforts of USAID-FAIR initiative and JEEG project. In collaboration with

will engage NSJ senior decision makers and strategic working group in exercises that facilitate institutional strengthening. JEEG representatives will ultimately facilitate discussion of project plans in relation to institutional strengthening assistance. Once selected areas are targeted for reform, partners will agree on plans together with timelines for development and establishment of key institutional components.

WBS 1210 Prep for Job Shadowing Internships (English language training) (started in Q4 FY 2012-13 – ongoing till Q2 FY 2013-14, Ukraine)

In preparation for FY 2013/2014 job-shadowing internships are designed which will match senior personnel of NJI and HQCJU whose roles most closely correspond to the work of core senior positions at NJI. Due to language abilities, senior staff who will be strongly considered for the internships will include

{Both interns already have a certain level of English and will have brief and intensive English language training in this period in Ukraine (this is not planned for other than this group of interns which is staying for a longer period in Canada under JEEG)}. Other preparatory information such as orientation information to NJI, to Ottawa and to the internships will be provided.

In the next fiscal year, the internships will take place at the NJI in Ottawa. Interns will be placed with and alternated between the Academic Director, the Education Director, a Senior Advisor and a Project Manager.

WBS 1223 Networking with relevant non-partner stakeholders including gender-related organizations (ongoing, Kyiv)

In various exchanges including the inception mission, a number of relevant non partner stakeholders were consulted as follows: Juvenile Justice Project (Agriteam), Legal Aid Projects of (USAID-MSI) and UNDP, Help Project (Council of Europe), Strengthening of the Independence, Efficiency, and Professionalism of the Judiciary in Ukraine (Council of Europe), Support to Criminal Justice Reform in Ukraine (Council of Europe funded by the Government of Denmark), ADRA, Agroinvest Project (USAID Chemonics International), Land Union of Ukraine, Pact UNITER, the

Ukrainian Legal Foundation, PRISM (CBIE), and the Rule of Law initiatives of OSCE, among others were consulted about both substantive and operational issues including the reality of the Ukrainian context. Related to gender, during the January/February technical exchange in Kyiv, the [REDACTED] exchanged knowledge and perspectives as well as information about the project with relevant non-partner stakeholders including La Strada, Rozrada, and Ukrainian Women's Fund. For more details on the gender related networking, please see the report on this visit in the Annex 4.

### 130 Distance education mechanisms implemented in NSJ central and regional offices

In-person discussion during the inception missions (WBS 1101, 1102a and 1102b) and subsequent technical exchanges examining Canadian distance learning approaches enabled partners to determine the possibility of, and approaches for, implementing distance learning under the NSJ over the term of the project. As well, discussion with other donors such as FAIR took place to assure coordination of effort and synergies between the two projects.

WBS 1310 Familiarization with Canadian institutional models and methodological frameworks relating to adult distance education (completed November 2012, Ottawa)

During the incoming exchange, the delegation (see WBS 1103) of Ukrainian judges and senior NSJ and HQCJU personnel was introduced to Canadian institutional frameworks and methodology relating to adult distance education. Presentations and activities about the history and current model of distance education at [REDACTED]

[REDACTED] Discussion on other models and methodologies for adult distance learning education were facilitated by [REDACTED]

In addition, a presentation about the organization of NJI's database and taxonomy, and data retrieval was provided. The delegates together with the project team [REDACTED] initiated planning discussions relating to the regions selected in relation to this output.

### 140 Institutional research and analytical support

In part to ensure that the areas of institutional strengthening assistance are carefully selected by the project partners, and in part to enhance institutional capacity to gather, assess and apply relevant institutional research and data to processes and systems implemented by the institutional partners, the project supports ongoing research, consultation and analysis relating to institutional strengthening overall, including consideration and integration where possible of

gender equality principles within institutional strengthening measures. During this reporting period, [REDACTED] was appointed by the NSJ. For the duration of the project, she will be joined by other gender and subject matter consultants in Ukraine, who will continue to identify, analyze and propose areas for gender equality integration in institutional strengthening plans. In Canada, [REDACTED] to JEEG as well as [REDACTED] have joined the project to ensure an adequate support in GE planning, development and implementation of activities.

WBS 1420 Consideration of information gaps and agreement on areas for data collection relating to institutional strengthening measures (postponed from Q4, Kyiv and continuing in next fiscal year in Canada and Ukraine)

This WBS was postponed until the coming fiscal year. Subsequent to the workshop on institutional strengthening (see WBS 1202 – postponed from Jan/Feb to May 2013), the partners together in Kyiv will consider both the availability of gender specific data and gaps in gender specific data. [REDACTED]

[REDACTED] will facilitate a dialogue with senior HQCJU and NSJ personnel on areas in which institutional data collection are important at the level of the two partner institutions including data relating to gender equality (gender parity, human resources and institutional policies etc.). Finally, JEEG will research other judiciaries and courts in key EU states and other states in the region surrounding Ukraine to explore whether gender-related statistics are collected among other their state judiciaries and court systems, to provide evidence of the importance of statistics collection for Ukrainian partners.

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**IMMEDIATE OUTCOME 2: STRENGTHENED CAPACITY OF THE NSJ TO DEVELOP AND DELIVER SKILLS-BASED, GENDER AND SOCIAL CONTEXT-SENSITIVE, AND BUSINESS-RELATED EDUCATION TO CANDIDATE, 5-YEAR TERM AND PERMANENT JUDGES**

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Component two aims to strengthen the capacity of NSJ to develop and deliver skills-based, gender and social context-sensitive, and business-related education to candidate judges, five year term judges, and permanent judges, targeting judges of the Commercial Courts, Administrative Courts and Courts of General Jurisdiction before all of which disputes between business litigants can be presented. JEEG's approach is to ultimately equip trainers, NSJ staff and faculty judges to generally use a variety of adult learning techniques including:

- Designing curricula

- Planning and developing courses which incorporate best practices in education development,
- Leading small group exercises,
- Creating model fact situations for training purposes,
- Creating videos and other learning tools

The project also intends to develop curricula and courses in a sustainable manner, assessing carefully the potential and relevance of a subject area for integration into the annual two-week courses delivered by the NSJ<sup>3</sup>, particularly the annual two week mandatory training for five year term judges.

JEEG provides familiarization and opportunities for exchange and development of recommendations relating to integrating gender equality and social context within the development of faculty capacity, systems and processes for designing and delivering judicial education (including faculty development or training of trainer) programming; and relating to actual judicial education content delivered to judges by the NSJ.

Efforts continue to be made to ensure that gender equality and social context issues are considered and integrated where possible into the new courses in development in this fiscal year, under JEEG.

210 Curriculum covering competency in judicial skills, and general, civil, administrative, and commercial matters, prepared and training courses designed

The first cycle of Ukrainian training of trainers by the NJI expert team and course development (by the core trainers, with Canadian support) was initiated in the first year of the project, with subject areas and trainers identified in two subject areas. This first cycle (of three under the project) of training of trainers and course development will extend through the second fiscal year.

The first subject area for course development is the subject of property rights, in particular relation to land issues. This topic was selected by mutual agreement between the partners on the basis of its relevance to many judges (property issues arise in civil, commercial, and administrative courts<sup>4</sup>) and across many business and

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<sup>3</sup> Most donors in Ukraine develop courses that are delivered over a one or two day time frame.

<sup>4</sup> This fits with the project's targeting of judges of general courts who hear and decide business-related civil cases.

economic matters<sup>5</sup>. The second subject area for course development, will be in the judicial skill-set relating to statutory interpretation<sup>6</sup>.

#### WBS 2101 Conduct Training Needs Assessment (completed Q1-2, Ukraine)

In the process of implementing the early inception missions NJI and Ukrainian partner representatives identified a number of possible subjects for potential course development and training of trainers including the subjects selected and described in previous paragraphs and others as follows: legal definitions in commercial disputes, social protection, procedural law, bankruptcy, corporate law, IP, competition law, antitrust Law Permits and tax law.<sup>7</sup> In addition to these specific commercial law areas, other areas include skills-building in generic judicial leadership subject areas such as the interpretation of statutes and the use of legal precedents (as a tool to rationalize and generalize the law ensure consistent application of the law, and resolve cases through a much simplified and more expeditious process). These areas are suggested in order to address significant backlogs in the courts and the lack of uniform decision making within the courts of different jurisdictions. The NJI team involved in the inception missions (see WBS 1101-1102) will review these areas going forward (annually) to determine with the partners, topics for subsequent course development and training of trainer cycles.

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<sup>5</sup> Ukraine has experienced a vast transformation as a post-socialist system and in its transition to a European style of civil law, has embraced a western property law framework. Nevertheless at the level of the judiciary, the application of property laws continues to be fragmented and inconsistent, and judges require substantive and skills-oriented education in the area of land and property rights, and interpretation and application of the current body of laws relating to this subject area.

<sup>6</sup> In Ukraine, the inheritance of soviet legal education processes has resulted in a continued lack of practical research, study, or instruction in the area of interpretation of codified laws which today constitute the core of Ukrainian law (with case law commonly applied in support of statutory law). The skill of statutory interpretation is vital across all areas of law and is considered paramount in strengthening the fairness, clarity and consistency applied to the adjudication of cases. Law students, lawyers and judges do not learn how to interpret statutes which cannot be underestimated as a major shortcoming of the justice system. Because of a lack of rounded education programming in this area in which models and practices applied by countries such as Canada are demonstrated, judges are not considered by partners to be well equipped to make clear and consistent determinations. Ukrainian partners wish to focus on practical, skills-focused elements of statutory interpretation rather than theoretical bases though the state of theory in Ukraine may require some review prior to course development. Emphasis on the use of a plain language approach in particular – such as has been developed in Canada in recent decades and which has become the norm in Canadian courts – as well as emphasis on logic rather than intuitive interpretations of statutes (the latter of which has been the case in Ukraine) – is sought by Ukrainians from the Canadian experience. Businesses in particular would benefit from better statutory interpretation ensuring predictability of litigation. Lawyers would be able to advise business clients as to the state of law and likely outcomes increasing the stability of businesses and their according planning capacity.

<sup>7</sup> These suggestions were expressed by Ukrainian partners during the inception mission in May 2012; the NJI team agreed that these are vital areas for learning given challenges (and a lack of understanding) in applying the law in these areas.

WBS 2110 Introductory workshops on skills-based methodology (in conjunction with WBS 1102) (completed Q2, Q4, Kyiv)

In addition to the scope of work under WBS 1100, during the July 2012 technical exchange to Ukraine, Canadian experts, [REDACTED] conducted sessions and an overview on the methodology of skills-based education with more than 25 NSJ core staff and trainers.<sup>8</sup> Participants learned about NJI's approach to judicial education including judge peer-to-peer training, and adult experiential and skills-based, learner-centered methodology.

WBS 2111 Peer-to-peer consultations and preparation for faculty and course development (completed Q2-Q4, Kyiv)

The inception missions as well as the incoming technical exchange (see WBS 1103) enabled the Canadian and Ukrainian partners to clarify and ensure agreement on and the goals and methodology of the project including in relation to the training of trainers and their development of courses (vital to the project's sustainability strategy) under Cycle 1. The NSJ and HCJCU identified the Ukrainian core trainer groups that began developing courses (with Canadian facilitation) in both of the new subject areas under Cycle 1. The trainees for this process (who are the "core trainer groups" for the project) include judges and particularly first-instance general jurisdiction judges and judges from the Commercial and Administrative courts. The trainee group also includes the NSJ staff members with functions of Senior Advisor, Project Manager, Gender Advisor and a distance education technology expert as well as a judicial expert/trainer associated with the NSJ who potentially will adapt and duplicate the course for candidate judges.

WBS 2112a Faculty and course development with Ukrainian Core Trainers for Land Law course (completed January-February 2013, Kyiv)

The Land Law workshop was organized in Ukraine from January 29-31, 2013. It was attended by NJI staff and a Canadian [REDACTED] and eleven Ukrainian judge/trainers & staff of the NSJ core support group (Please refer to the Technical Exchange agenda in Annex 5 for more details). The objectives of the workshop were the following: (i) Thoroughly familiarize Ukraine officials,

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<sup>8</sup> For the purpose of international projects, the term 'trainers' is typically used to refer to local judicial educators and does not imply any other meaning than a judicial educator. JEEG uses the phrase "training of trainers", commonly used in the international technical assistance framework, to describe part of its planned technical support in Ukraine. Secondly, reference to core staff typically implies key staff who work in areas relating to course research, design, planning, development and delivery.

judges and educators with skills-based interactive educational methodology and enhance their ability to use this methodology to design and deliver education to Ukraine judges; (ii) Identification of the learning needs by Ukrainian judges and educators and articulation of learning objectives for a course in land law for Ukrainian judges; and (iii) Initiation of the course creation process for a course on land law by Ukrainian judges and educators.

The workshop began with presentations by Canadian experts on the NJI as a judicial education body and on the methodology of skills-based judicial education. Some exercises demonstrating interactive education were also conducted. After extensive discussions during the workshop, three important issues were identified for inclusion in the development of the modules of the land law course:

- Problems associated with the original transfer of land ownership from the State to an individual or legal entity (Module 1).
- Problems associated with a subsequent transfer of land ownership between individuals or legal entities (Module 2).
- Problems associated with leases (Module 3).

These issues were identified and tabled for further development. The Project Manager, the designated Project Judicial Associates and gender experts liaised in order to determine relevant GE and social context sub-topics that would be appropriate for JE in Ukraine, for research and partners' consideration in the next quarter.

WBS 2112b Faculty and course development with Ukrainian Core Trainers for Statutory Interpretation course (completed February 2013, Kyiv)

The Statutory Interpretation workshop, which was organized in Ukraine from January 05-07, 2013, was attended by NJI staff and [REDACTED]; eleven Ukrainian judges, two Ukrainian academics and four members of the support team from the NSJ (Please refer to Annex 6 for details). The workshop began with presentations by Canadian experts on the NJI as a judicial education body and on the methodology of skills-based judicial education. Some exercises demonstrating interactive education were also conducted during the workshop. The group of Ukrainian judges, academics and the support team has successfully developed four agendas based on the four scenarios developed by the Ukrainian judges and participants. The objectives of the course were: (i) Thoroughly familiarize Ukraine officials, judges and educators with skills-based interactive educational methodology and enhance their ability to use this methodology to design and deliver education to Ukraine judges; (ii) Identification of the learning needs by Ukrainian judges and educators and articulation of learning objectives for a course in Statutory Interpretation for Ukrainian judges; and (iii) Initiation of the course creation process for a course on statutory interpretation by Ukrainian judges and

educators. The topics covered in the 4 agendas which were referred to include identification issues related to special legal norms, identification of presence or lack of settlement opportunity, systemic conflicts arising from time frames of passing legislation, and the overlapping application of laws. During this period, the Canadian experts involved in the GE component identified how GE applies and is relevant in the context of statutory interpretation in Canada, for discussion and reflection with partners in the next quarter; in the coming fiscal quarters, course development and design will ensure opportunities for partners to integrate gender equality and social context considerations into course content.

230 Development, integration of gender and social context issues and standalone gender modules into new NSJ courses and training of core trainers

Gender equality was emphasized as a key element of all JEEG-led and -implemented initiatives from the inception mission onward. The Ukrainian context, reticence in response and interest by Ukrainian partners was noted in the early project documents. Primarily, partner representatives under the NSJ and HQCJU do not view the issue in a consistent manner; in part perhaps because so far, there is a lack of statistical data on the shortfalls of the judicial system relating to, and challenges faced by women in particular seeking justice. This is itself perceived by some as evidence of a lack of any such shortfalls, rather than as a lack of attention and importance of gathering gender disaggregate and relevant data. Opportunities to discuss the issue of GE are themselves very important for this reason. In spite of differing views, progress has been made - partners ultimately agree that GE sensitization is at least somewhat, if not strongly important among judges and this is reinforced at all opportunities by the Canadian team.

GE-related efforts were initiated as follows: In this reporting period, gender experts and judicial associates were identified to support the GE components of the project, a project gender strategy was defined, gender research and analysis were undertaken as to context and areas of need, gender networking was undertaken and GE was raised consistently (together with other relevant social context issues) in workshops both in Canada and Ukraine before the core partners, Ukrainian judges, and other judicial officials. The Ukrainian gender expert was familiarized with NJI education delivery and gender-related content in a first instance, in Canada. The Ukrainian and Canadian gender experts engaged in consultations (including with the Canadian judicial associates), research, and analysis relating to the subject areas identified for course development under Component 2. Research on women's equality in these subject areas was reviewed for implications in the identified subject areas and will be raised in ongoing working sessions in Ukraine in the coming fiscal quarters. The Canadian approach to balancing needs and interests of men and women in decision-making and skills issues relating to the course subjects



was planned to be reviewed by the judicial associates prior to the May 2013 technical exchange to Ukraine, so as to determine in addition if elements of the Canadian approach would be relevant in the Ukrainian context. The NJI PM, NSJ Research Department and the project gender experts with the input of the judicial associates involved in the GE components [REDACTED] liaised regularly on the courses in development and determined a plan for the upcoming fiscal year in relation to the development of a standalone GE course, and planned research in statistics collection in identified countries and examination of existing GE programs in JE institutions elsewhere across Europe.

WBS 2301 Familiarization of NSJ core personnel with NJI's education methodology in specific relation to treatment of gender equality issues (October/November 2012, Vancouver)

The [REDACTED] attended an NJI-delivered domestic education program on the subject of Domestic Violence in Vancouver, 29 October-2 November. [REDACTED] exposure to the program familiarized [REDACTED] with NJI education methodologies and one area of substantive content relating to GE in which complex and sensitive issues were raised and discussed with Canadian judges. Domestic violence is a major and repeated course provided for Canadian judges by the NJI and raises a cross-section of issues, some of which meet with varying understanding and perspectives among judges. [REDACTED] observation of dialogue among Canadian judges on challenging social issues that affect women in particular supported her in her project role of advancing JE delivery at the NSJ in relation to sensitive GE issues.

WBS 2310 Gender-related data collection, research, and analysis of trends and issues in Ukraine, approaches in Canada, and related education needs at NSJ (Q1, 2, 4), Ukraine and Canada)

During the inception mission and subsequently through research efforts, general areas of concern were determined in relation to the local GE context, particularly in relation to existing laws and the known experience of women in the courts. Information remains scarce in relation to GE, and more so in relation to court processes and judicial attitudes and outcomes relating to GE issues. Nevertheless consultations assisted in determining the relevant needs of women and GE shortfalls in general in relation to the judiciary. It is expected that the development of all courses and of a standalone course in particular over the coming fiscal year will draw attention to prominent gaps in knowledge and skills within the judiciary.

Research was also planned for the first quarter of the next fiscal year (see also WBS 1420) on the existence of systems of statistics collection in identified countries and on existing GE programs in JE institutions elsewhere across Europe. The project's

ability to note advances in those countries (as those unfolding in Canada) will be helpful in promoting similar advancements, where relevant within the NSJ.

WBS 2330 Consideration and input/integration where appropriate of gender equality and social context into judicial education courses (Q3-4, Ukraine and Canada)

The Ukrainian and Canadian gender experts engaged in consultations in Ukraine and GE-related research and analysis relating to the subject areas identified for course development under Component 2. Available research was reviewed for implications in the identified subject areas and will be raised in ongoing working sessions in Ukraine in the coming fiscal quarters. Canadian issues and related judicial skills will also be reviewed by the judicial associates prior to the May 2013 technical exchange to Ukraine, so as to determine in addition if elements of the Canadian approach would be relevant in the Ukrainian context. The experts and judicial associates will propose areas for gender equality integration into the course development process over the May 2013 exchange.

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**IMMEDIATE OUTCOME 3: IMPROVED CAPACITY OF SELECTED PILOT COURTS  
IN THE OBLASTS OF IVANO-FRANKIVSK AND ODESA TO HANDLE COMMERCIAL  
CASES AND BY MEANS OF PILOTING JUDICIAL PRETRIAL SETTLEMENT  
MECHANISMS**

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The third component (led and implemented by FJA) is aimed at improving the capacity of selected pilot courts in the Oblasts (regions) of Ukraine to handle economic cases more efficiently and effectively, and use judicial pre-trial settlement mechanisms. This is being undertaken through a number of practical steps based on best Canadian and international practices in early case settlement, including provision of assistance in relation to pilot implementation of pre-trial settlement mechanisms in selected courts in the Ivano-Frankivsk and Odesa Oblasts (regions). The component looks to establish in these courts appropriate human capacity and institutional conditions for the introduction, where appropriate, of judge-led, gender-sensitive settlement conferences as an alternative to longer, more expensive traditional trial processes. Among other efforts, the utilization of the new mechanisms will also require some reorganization of administrative aspects of case management processes and mechanisms in support of judicial pre-trial settlement. The NJI would take part in this component to the extent judicial education is gradually needed to train judges in the practical application of dispute resolution mechanisms.

In relation to GE, this component examined gaps in relation to court management processes, training, case examination, and the judicial organizational culture at selected courts and engaged local judicial officials and representatives within the target courts through a workshop on GE and the judiciary. A training session was provided on GE that will make way for continuing discussions on the importance of GE in the settlement context.

**310 Training in judicial pre-trial settlement mechanisms designed and delivered, including effective settlement of disputes; managing the mediation process and facilitating advanced negotiations; effective communications, etc**

WBS 3101 Inception/Needs Assessment Mission to Ukraine (May 2012)

The May 17-25, 2012 FJA Inception Mission to Ukraine set the foundation and parameters for the implementation of the FJA-led component of the JEEG Project dealing with strengthening the capacity of selected pilot courts in Ukraine to handle economic cases more efficiently and effectively. The Inception Mission achieved a number of objectives: establishment of a dialogue with, and discussion and agreement with Ukrainian partners on the goals of this component as well as measures for their implementation; mutual familiarization between partners including the familiarization of the Canadian team with the organization and the functioning of the HQCJU, and commercial, administrative and general jurisdiction courts of Ivano-Frankivsk and Odesa; analysis of the current legal and judicial climate; analysis of existing settlement-related mechanisms and processes; collection of baseline data where possible; gender-related analyses; and the development of recommendations for the Technical Exchange to Canada by Ukrainian judges and judicial educators, with partners' dialogue and interface on the development of the Project Implementation Plan.

During the Consultation meetings in the Regions, the Canadian experts had a chance to introduce the Ukrainian counterparts to the concept and some details of the procedure for early judicial dispute resolution. It allowed for a more constructive dialogue between the partners on the possibility of institutionalizing such procedure in the courts of Ukraine. The idea of JDR (the judicial dispute resolution practice) had a great support on the part of the courts of general jurisdiction (both first instance and the appeal level) and the administrative courts, which saw a great potential in its use for backlog reduction and promotion of amicable dispute resolution among parties. While the idea was an interesting one for the commercial courts, due to the fact that the volume of cases in their jurisdiction is rather insignificant and there exist mechanisms for outside of court system resolution of commercial disputes (either by international arbitration or private mediators), they were not as enthusiastic to embrace JDR in their courts. For that reason the decision was made to focus on general and administrative jurisdictions primarily during the

project, yet inviting commercial courts to the workshops and engaging them in discussions on the implementation and institutionalization of JDR in the courts of Ukraine.

In the course of the consultation it also became apparent that the current legislation in Ukraine does allow for an introduction of such procedure, although certain modification will be necessary and limitations would apply (e.g. time frames, the passing on a case to a different judge should the settlement not be reached, the extent to which a judge might be free to voice his/her opinion on the strength of the case of each of the parties, the process of caucusing). These types of limitation were to be further discussed and worked out with an interest to pilot (and benefit from) the procedure to the full extent possible under the existing legislation.

WBS 3102 Technical Exchange to Canada (Regina, Winnipeg, Ottawa November 2-14, 2012)

This Exchange provided a Ukrainian delegation of 12 judges from the pilot courts and judicial system officials from the HQCJU and Judicial Councils (7 male & 5 female) with a theoretical foundation and practical introduction to the Canadian context relevant to the focus of this component of the project. The Component's [REDACTED] as well as other judges and lawyers available to participate, led substantive components of the exchange. These experts reviewed for the delegates the legal environment in which the Canadian courts operate, the background and evolution of early settlement procedures applied in Canadian courts including how the perceptions of judges' roles are managed, how parties are educated about the settlement process, and how the success of the process is assessed. The exchange enabled the delegates to observe judicial and administrative processes surrounding pre-trial settlement mechanisms, including steps taken from initial pre-trial conferencing through the settlement agreement, so as to understand the nuances of the Canadian model in practice. Practical exposure to the Canadian model involved the facilitation by Canadian experts of mock judicial pre-trials and settlement conferences. Footage was taken of pre-trial exercises and will be dubbed for use in Ukraine as a training/reference tool for judges at a seminar in the next fiscal year.

Ultimately the exchange proved valuable in reconfirming the findings of the assessment mission, reinforcing the value of settlement processes (cost, backlog reduction and enhanced case management, a culture of compromise and win-win outcomes in regard to party interests) and bridging technical and institutional gaps between the courts of the two Regions in Ukraine. A final workshop on results-based management in Ottawa, reviewing the Component objectives and expected outcomes (a key output of which is set out in bullet form below) enabled the delegation to gain understanding and preliminary competencies in conducting pre-trial settlement conferences - and the judge delegates to take initial steps in

designing and setting up necessary procedures for testing settlement conferences back home.

The steps agreed between participants included the following actions:

- The pilot courts would, by March 2013, formulate a vision on how the pre-trial settlement method should be introduced and applied in their jurisdiction, describe specific application procedures, and identify expected results, steps (actions) toward achieving them;
- The pilot courts would identify the type of cases, which could/should be channelled through a possible judge-facilitate settlement conference and gather statistics on these types of cases (including the litigation party gender statistics), and on the number of disputes that end with “peace agreements” where parties decide to not proceed with the case;
- An official letter will be drafted by the High Qualification Commission of Judges of Ukraine (HQCJU), and potentially endorsed by the Council of Judges of Ukraine (CJU), and State Judicial Administration of Ukraine (SJAU) attesting that the model courts (which are to be named) will be, within the framework of the project, experimenting with the introduction of JDR procedure in their respective jurisdictions; The letter/resolution is to allow the judges who will partake in the experiment avoid disciplinary repercussions, which otherwise might arise in the course of a complaint from an unsatisfied party or prosecutors, based mostly on the use of non-standard/unknown practices;  
The partners are further to discuss the issue of standardization of a procedure, the piloting of it in the courts and further steps for its institutionalisation.

WBS 3104 (Q3) Gender awareness and sensitivity building workshops (Ottawa, November 12, 2012)

A gender equality training was delivered by the FJA local Gender Advisor to the delegation. The workshop covered issues relating to gender equality in the legal context including a refresher on relevant laws and international treaties adopted by Ukraine. This discussion constituted a first broad review for those representatives partnering under Component 3 and will be elaborated further for a larger audience early in the next fiscal year. The focus of GE training will be refined over further technical exchanges to focus on gender in mediation/settlement processes, including power and knowledge imbalances, etc. These discussions additionally will look to support gender mainstreaming to the extent possible in the anticipated gradual introduction of new procedures in the pilot courts.

*Participation of Director of International in Steering Committee Meeting and Project Follow-On (Kyiv, Ivano-Frankivsk and Odesa)*

Subsequent to the above technical exchange, in January 2013, [REDACTED] travelled to Ukraine to attend the Joint Project Steering Committee meeting, and met with the representatives of the HQCJU to discuss next steps and preparation for a planned April 2013 workshop. It was determined that senior officials of the HQCJU would travel to the pilot court sites (in Ivano-Frankivsk and in Odesa) over the coming months to directly follow up on how the regions saw this procedure being introduced, as well on the drafting of various approaches to implementing the settlement procedure in their court.

[REDACTED] is enthusiastic and committed to seeing the process introduced within the pilot courts and has been strongly supportive of implementation efforts. It has been decided that the HQCJU will directly oversee the implementation of the JDR component on the part of Ukrainian partners (whereas it was contemplated earlier that the School of Judges might coordinate the work among the model courts) and provide all necessary support for advancing the work on this component.

**320 Historical system for handling commercial disputes analyzed and recommendations made for system-wide integration of judicial pre-trial settlement mechanisms into court processes**

WBS 3201 is to be undertaken in FY 2014/15, Q1. It will entail a drafting and planning meeting on recommendations for the institutionalization of judicial settlement conferencing (April 2014).

**PROJECT MANAGEMENT**

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Several areas of responsibility have been determined within the project in accordance with commitments and agreement by all partners. NJI is established as the Canadian Executing Agency (CEA) - the lead Canadian organization responsible and accountable to CIDA for the overall implementation of the project through the delivery of activities and outputs as well as reporting on the achievement of immediate and intermediate outcomes. NJI is responsible for collaborating with FJA in the assignment, management and administration of Canadian and Ukrainian inputs including expertise, technical assistance, and training resources. While it is understood by both partners that the overall responsibility for project execution

and official representation with all stakeholders of JEEG lies with NJI, FJA is responsible for the implementation of activities under Outcome 3.<sup>9</sup>

FJA manages Outcome 3 of the JEEG Project and reports to NJI on the progress achieved as well as the overall results. Financial reporting for Outcome 3 of the JEEG Project is carried out by FJA directly to CIDA. Through open, frequent and regular communication both formal and informal between NJI and FJA, both organizations will be updated on mutually relevant activities and aspects of JEEG. Monthly project update meetings are held; FJA is also an observer at the Joint Project Steering Committee. FJA also has been liaising with key stakeholders and partners in Ukraine utilizing the local office in the field retained by NJI.

In Ukraine and over the course of the project, JEEG will promote local ownership in planned project work and results by allocating clear leadership and responsibilities to senior representatives of the HQCJU and NSJ including securing their leading input into workplans, selection of areas of focus, study and reform, and implementation of initiatives.

Project management in the first year of the project was engaged on an ongoing and routine basis with the process of project planning and implementation, monitoring of results, personal management, budget and expenditure monitoring, reporting and networking. However, in this first year activities unique to project start-up were undertaken as follows. Project inception required substantive efforts in documents preparation including drafting and several revisions of the Project Implementation Plan, the first year WP, and a baseline study. The determination of Canadian staff and roles under the project (set out in the PIP), and subsequent to approval of the PIP by CIDA, the Canadian project team with assistance from the Ukrainian partners began the formal procedures of registering the JEEG project in Ukraine<sup>10</sup>. In addition, in this reporting period, the Ukrainian staff

\_\_\_\_\_ were selected and hired. Their terms of reference and positions of the local Project Manager and Project Coordinator were elaborated. A project office, necessary equipment, furniture and services were identified and purchased. The full establishment of a local office will be fully secured subsequent to the registration of the project by the Ukrainian Ministry of the Economy. The JEEG team has been working to ensure that the project retains proximity and close communications and interaction with local partners, stakeholders and local and international implementing agencies.

The first JPSC meeting was held in Ukraine on February 4, 2013 (for more details on the agenda, please refer to Annex 7 and, on the minutes of the meeting to Annex 8). A Canadian Project Advisory Board has been established and project partners in

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<sup>9</sup> A list of division of tasks between the NJI and FJA is set out in the PIP, Appendix E.

<sup>10</sup> Documentation is now submitted to the Ministry of Economy of Ukraine.

Ukraine are considering the establishing of the Ukrainian Advisory Board<sup>11</sup>. Project management additionally participated in USAID-FAIR facilitated bi-weekly meetings with donors and implementing agencies, attended by the project's Ukrainian and Canadian staff when possible so as to ensure that project initiatives are appropriately coordinated with other agencies.

Significant networking and consultation has taken place with many stakeholders and colleagues both from Canadian projects as well as projects funded by US AID and the European Council. Local NGOs were identified and consulted for input as well as individuals involved in relevant work in the Ukrainian justice sector.

### Implementation of Gender Equality Strategy

Gender equality initiatives and results are integrated within immediate results 100, 200 and 300 throughout this work plan. In general, JEEG will facilitate gender awareness-raising among project participants and other stakeholders; promote women's equal representation in the leadership and institutional management of courts and judicial self-governing bodies; promote participation of a reasonable balance of men and women in project activities; integrate gender principles across all areas of the project work; highlight examples of successful relevant reforms in the Canadian gender equality context; and will document and disseminate information on achievements in the area of gender equality and lessons learned.

Efforts in this fiscal year toward the achievement of the gender equality results included:

- Institutionalizing Gender Equality expertise within NSJ
- Identifying Canadian judicial associates and gender expertise who input into and support the GE components of the project
- Introduction of NSJ senior management and senior staff responsible for developing and delivery of judicial education in Ukraine to the NJI model of addressing gender and social context
- Research and consultations with partners and judicial experts considering trends in Ukraine at the level of judicial institutional process and competencies at the level of individual behaviour and decision-making
- Identification of Canadian legal-GE related areas relevant to the project themes
- Consultations and knowledge-sharing with external gender specialists in Ukraine and Canada on the intersections between gender equality, judicial function and decision making, and judicial education
- Initiation of discussions as to gender-disaggregated judicial statistics collection, including development of minimum required gender indicators to be included and used in the judicial system (such as gender of plaintiffs and defendants)

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<sup>11</sup> The terms of Advisory Board functions and meetings are set out in the PIP.



- Exposure of Ukrainian HQCJU and NSJ, and pilot court judicial representatives to the Canadian gender-judicial context and broader gender equality matters relevant in judiciaries in both Canada and Ukraine including a presentation under Component 2 and a gender training under Component 3.
- Identification and implementation of training for NSJ gender expert

## UPDATED RISK REGISTER

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The full version of the Risk Register is appended as Appendix B in this document. No updates on Risks or Risk Response Strategies are necessary at this point.

## LESSONS LEARNED

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1. ***Subject areas for judicial education when they are cross jurisdictional create the unintended consequence of enhanced communication between jurisdictional courts in Ukraine.*** Because of the relevance of the selected subject areas – Property Rights and Statutory Interpretation core trainers including judges of all target courts are able to participate in the development and delivery of the courses, thus disseminating learning across a wider sphere; and also enabling dialogue and learning opportunities between the jurisdictions of different courts.
2. ***Enhanced coordination between projects creates synergies and thus enhanced results.*** In JEEG, from the outset of the project, NJI has consistently consulted with other key stakeholders and in particular with FAIR and the European Union. In the former case, this has resulted in joint work together, not simply coordination of activities. It is important not only to inform other projects and implementing agencies of activities and work to be undertaken but to identify common areas of interest in order to:
  - a. Maximize absorptive capacity of partners
  - b. Maximize resources
  - c. Create synergies between projects and activities
3. ***Effective collaboration and open and honest dialogue has resulted in a more comprehensive understanding of each other's context and has allowed for programming that is customized to the local context.***
  - a. Canadian experts learn a great deal about Ukraine's justice system, and the project serves as a means of enlightening Canadian judges who participate in its activities; thus fostering a more sympathetic view towards Ukraine's reform challenges. To this effect, in every component, programs have been constructed in a manner that

ensures a dialogue or exchange rather than unidirectional flow of information. This has to date resulted in beneficial learning for Canadian and Ukrainian experts, thus providing greater understanding of the local contexts of each counterpart, with a view to more effective further collaboration.

- b. The NJI does not simply lead groups through standardized programming under each component, but develops a customized programming involving preparation of documentation to be shared, design and delivery of moot scenarios, creation of progressive presentations that account for changes achieved in the partner context, and other methods requiring greater attention and focus by all involved in programming on both sides. The lesson learned is that such customised programming despite expended time and resources taken in preparation for, and implementation of unique customized activities, is not only sustainable but also highly relevant to the current focus of reforms in the context of Ukraine.
  - c. Some areas of technical exchanges require both sides to re-assess their progress towards goals and ideals and to be open and honest about each other's problems. For example, an effective way to assist Ukrainian judges to begin thinking about gender issues in Ukraine was for Canadian judges to be open and candid about gender issues and the problems that we have here in Canada. The law and judges have made great progress in Canada in the last 25 years, but gender is clearly, still a work in progress. To show our vulnerabilities made it easier for Ukrainian participant's to acknowledge their issues.
4. ***Technical Exchanges to Canada have proven themselves to be good "eye-openers"***. These experiential learning opportunities, although costly, allow Ukrainian partners to see how Canadian justice system functions and get a real sense exposure to judicial education methodologies. As we know from NJI's own pedagogy and experience, an interactive opportunity is many times more effective than all lectures, exercises and other teaching methods; this has certainly held true in the context of this project.

# THE CANADA FILES

## FINANCIAL SECTION

CANADIAN INTERNATIONAL DEVELOPMENT AGENCY (CIDA) ANNUAL FINANCIAL REPORT (FORM E)		Purchase Order 765844
		Project Number 2-620943-001
		GT Account/CU/Fund 52302/3116/0300
		Vendor 102101
Project Title Judicial Education for Economic Growth in Ukraine		Fiscal Year 2012-2013

Line Item Breakdown	CIDA CONTRIBUTION				Reason For Variance	FORECAST FOR COMING YEAR	ORGANIZATION CONTRIBUTION FOR YEAR	LOCAL BENEFICIARY CONTRIBUTION FOR THE YEAR
	ANNUAL FORECAST COST OF YEAR JUST COMPLETED	ACTUAL COST FOR YEAR JUST COMPLETED	VARIANCE					
			\$	%				
1.1 - Remuneration - Organization's Employees	445,545	345,739	- 99,806	-22.4%	Project could not commence activities without PIP being approved.	519,237		
1.2 - Remuneration - Local Employees	28,600	25,253	- 3,347	-11.7%	A local project manager was hired as of April 1, 2013.	96,040		
1.4 - Fees - Subcontractor's	-	22,387	22,387		A consultant was hired to advise largely on Gender Equality Issues.	34,300		
1.6.1 - Travel Costs	180,852	119,354	- 61,498	-34.0%	WBS 1202 was re-scheduled to May 2013 to take advantage of synergies with US AID FAIR strategic planning workshop.	177,370		
1.6.2 - Students and Trainees Training Costs	47,420	135,012	87,592	184.7%	Due to [REDACTED] availability, the course location was changed which was more costly; an additional invitee from the Office of the President of Ukraine attended; the Gender Advisor attended a course on Domestic Violence.	31,919	95,331	26,100
1.6.3 - Other Training Costs	416,333	56,590	- 359,743	-86.4%	Project could not commence activities without PIP being approved. WBS 1202 was re-scheduled to May 2013 to take advantage of synergies with US AID FAIR strategic planning workshop.	97,030	134,666	67,725
1.6.4 - Recipient Country Government Employees	95,334	20,133	- 75,201	-78.9%	Project could not commence activities without PIP being approved. WBS 1202 was re-scheduled to May 2013 to take advantage of synergies with US AID FAIR strategic planning workshop.	130,000		
1.6.5 - Goods, Assets, and Supplies	-	-	-	0.0%		100,000		
1.6.6 - Project Administration	118,000	17,570	- 100,430	-85.1%	Project could not commence activities without PIP being approved.	89,256	44,339	54,075
1.7 Allowance for indirect/Overhead Costs	112,270	89,045	- 23,225	-20.7%		153,258		
<b>TOTAL</b>	<b>1,444,354</b>	<b>831,083</b>	<b>- 613,271</b>	<b>-154%</b>		<b>1,430,410</b>	<b>274,936</b>	<b>147,900</b>

Under Component 3, additional delegates were added to the incoming (WBS 3102: November 2012) Technical Exchange so as to ensure all core decision makers were exposed (together with the pilot court judges), to Canadian models and practices of judicial dispute resolution. The exposure of all these delegates was vital to ensure senior level buy-in for the piloting process and later for the further integration of the procedure in court practice in Ukraine. The budget was varied accordingly.



## PERFORMANCE SECTION

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Please see Appendix A for details.



APPENDIX A: SUMMARY TABLE OF PROJECT OUTCOME AND OUTPUT RESULTS FOR THE FISCAL YEAR 2012-2013

<b>JEEG Ultimate Outcome: Greater court efficiency and fairness in resolving commercial disputes for Ukrainian businesses</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
Percentage of public having confidence in the courts' capacity to fairly treat commercial disputants/litigants	Ultimate Outcome level results, according to principles of Results Based Management, is to be realized and measured at around 3-5 years; thus it is premature to report results. The first measurement is scheduled in FY 2013-14.	n/a
Relative ranking of the judicial system in relation to international standards	Ultimate Outcome level results, according to principles of Results Based Management, is to be realized and measured at around 3-5 years; thus it is premature to report results. The first measurement is scheduled in FY 2013-14.	n/a
Average time and effort required for resolving a commercial lawsuit, from filing to court hearing to final resolution	Ultimate Outcome level results, according to principles of Results Based Management, is to be realized and measured at around 3-5 years; thus it is premature to report results. The first measurement is scheduled in FY 2013-14.	n/a
<b>Intermediate Outcome 1: Improved institutional performance of the National School of Judges (NSJ) and the High Qualifications Commission (HQCU) in its responsibility for judicial education</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
Extent to which the key organizational features and processes to support education (involvement of	Intermediate level results, according to principles of Results Based Management, is to be realized and measured at around 2-3 years; thus it is premature to report results. The first measurement is scheduled in FY 2013-14.	n/a

judges in education; strategic and operational planning; governance structure, roles and responsibilities, and management, procedures, practices) are established		
Number and type of policies developed and implemented based on recommendations elaborated under JEEG	The draft recommendations for improved institutional performance of the NSJ and HQCJU in its responsibility for judicial education has been drafted by Canadian expert team for NSJ and HQCJU consideration.	n/a
<b>Intermediate Outcome 2: Established skills-based, gender- and social context-sensitive and business-related judicial education at the National School of Judges (NSJ)</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
Degree to which m/f judges are able to apply gender and social context sensitivity in their work	Intermediate level results, according to principles of Results Based Management, is to be realized and measured at around 2-3 years; thus it is premature to report results. The first measurement is scheduled in FY 2013-14.	n/a
Proportion of courses that are skills-based, gender- and social context-sensitive, integrated into NSJ curriculum	Intermediate level results, according to principles of Results Based Management, is to be realized and measured at around 2-3 years; thus it is premature to report results. The first measurement is scheduled in FY 2013-14.	n/a
Extent of judicial institutional support <sup>12</sup> for new skills-based, gender- and social context-sensitive education content	Intermediate level results, according to principles of Results Based Management, is to be realized and measured at around 2-3 years; thus it is premature to report results. The first measurement is scheduled in FY 2013-14.	n/a

<sup>12</sup> This includes support as relevant from the HQC, the State Courts Administration, the Council of Judges, and the courts.



<b>Immediate Outcome 100: Strengthened institutional capacity of HQCJU and NSJ to support the development and delivery of skills-based, gender-and social context-sensitive and business-related education to 5-year term and permanent judges</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
Number and type of organizational processes and procedures being strengthened or newly developed to support the design and delivery of skills-based, gender- and social context-sensitive and business-related judicial education	The issues related to organizational processes and procedures are articulated in the draft reports of Canadian expert team and are to be considered by the senior management of the NSJ and HQCJU.	n/a
Number of f/m core staff trained in development and delivery of judicial education	13 senior management representatives of NSJ and HQCJU have increased knowledge of development and delivery of the skills-based judicial education, due process and gender equality. 2 support groups of 3 persons each have been established at the NSJ to pilot and model the skills based judicial education approach.	n/a
<b>Immediate Outcome 200: Strengthened capacity of the NSJ to develop and deliver skills-based, gender- and social context-sensitive and business-related education to 5-year term and permanent judges</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
Level of satisfaction of f/m judge participants with judicial education programming	No results to report as this is an early stage of the project and the courses are being developed and to be piloted in FY 2013-2014.	n/a
Number of skills-based and business-related courses developed and delivered by the NSJ	2 skills-based, gender-sensitive, social context and business-related courses are being developed.	n/a
Extent to which gender equality is integrated in the new courses developed under JEEG	The gender-sensitive, social context is being analyzed for further integration into the two new courses	n/a
<b>Immediate Outcome 300: Improved capacity of selected pilot courts in the Oblasts of Ivano-Frankivsk and Odesa to handle commercial cases by means of piloting judicial pre-trial settlement mechanisms</b>		

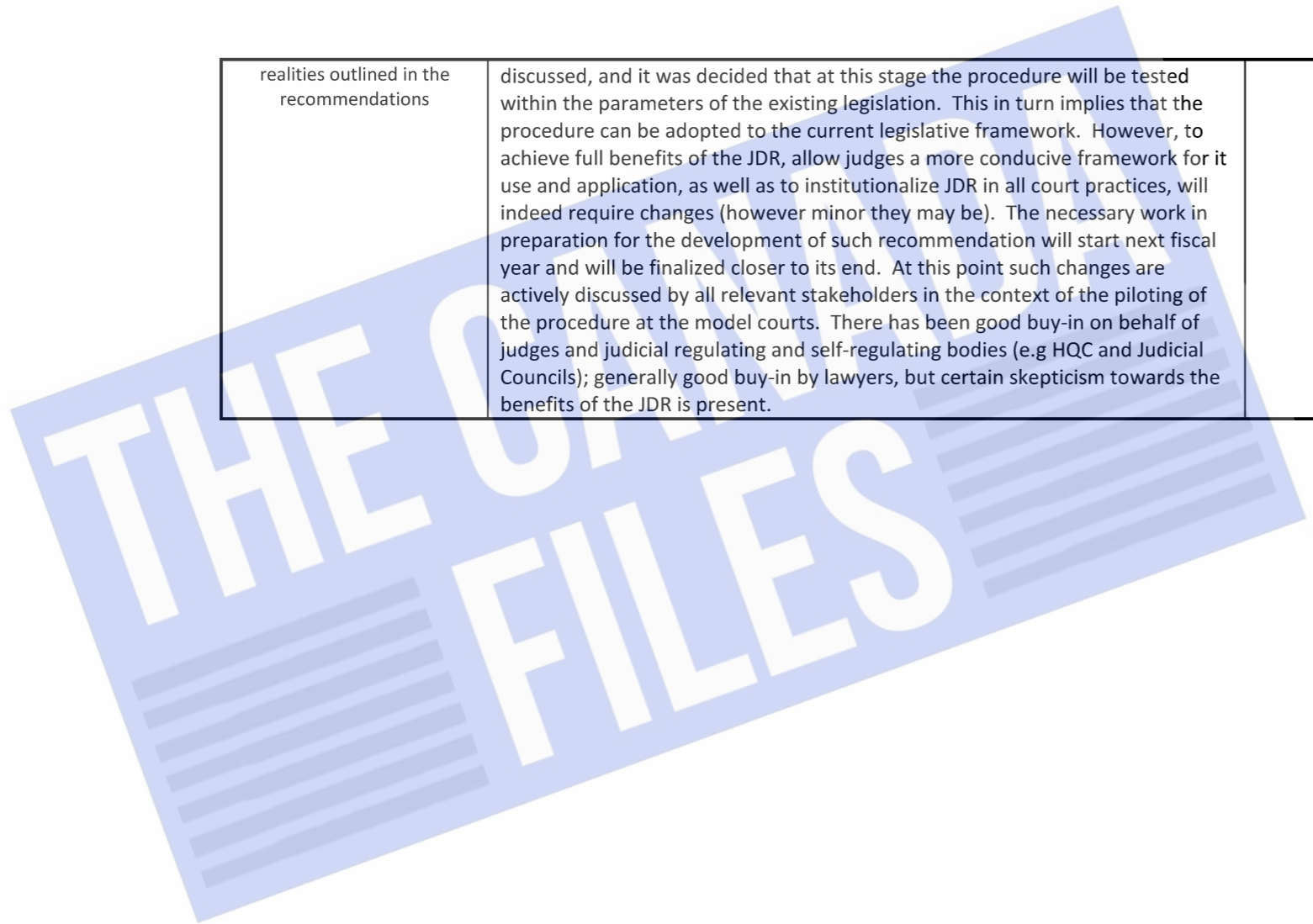
Indicators	Progress Towards Results During Reporting Period	Cumulative Results
Decrease in duration and cost of dispute settlement using judicial pre-trial settlement mechanisms compared to similar cases addressed through traditional trial processes	It is too early to measure success in relation to this indicator. Progress to date has nevertheless begun through consultations and the Technical Exchange to Canada on JDR which are the steps towards introducing this procedure at the courts in Ukraine.	n/a
Improved ratings of court system performance by commercial case disputants and other stakeholders (e.g. lawyers, businesses, etc.) comparing use of early settlement mechanisms to traditional trial processes	It is too early to measure success in relation to this indicator. The introduction through the above activities is the first step toward improving the ratings of the court system and making it more effective and efficient in resolving business/commerce related cases.	n/a

<b>OUTPUT 1: 110 Institutional capacities of NSJ and HQCJU in its responsibility for judicial education analyzed with recommendations for improvements developed</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
# of issues identified through a completed needs assessments and completion of HQCJU and NSJ strategic and operational plans	The Canadian expert report summarizes 9 areas that relate to the institutional capacity of the NSJ to support effective curriculum and course planning: workload; facility, material and human resource; organizational structure; strategic planning; management across sites; internal faculty development systems, practices; judicial leadership in course development and delivery; course planning, design and delivery processes; distance learning system.	n/a
# of recommendations made to strengthen NSJ's and HQCJU's institutional capacity as a judicial education body	Short and long term recommendations by Canadian expert team were developed for each of the 9 areas identified for institutional strengthening.	n/a
<b>OUTPUT 1: 120 Technical assistance in gender-sensitive judicial education institutional strengthening provided to HQCJU and NSJ</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
Internships completed by # of people (f/m)	2 senior management staff (m) from HQCJU and NSJ were identified and enrolled into English language training in preparation for the internship to Canada	n/a
# (f/m ) and % of personnel trained at # workshops on gender-sensitive, judicial education institutional management	5 male and 2 female HQCJU as well as 2 male and 5 female senior management representatives have increased knowledge on gender-sensitive, judicial education institutional management as well as 8 male and 26 female NSJ representatives exposed to NJI model for gender-sensitive judicial education	n/a
<b>OUTPUT 1: 130 Distance education mechanisms implemented in NSJ regional and central offices</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
# of NSJ regional and central offices equipped	The plans for the NSJ central and regional offices have been discussed with the NSJ.	.n/a
# of changes leading to the implementation of effective distance education mechanisms in central and regional offices	The Canadian expert team with the assistance of Ukrainian distance learning expert drafted recommendations for the NSJ. The plans for the NSJ central and regional offices have been discussed with the NSJ.	n/a

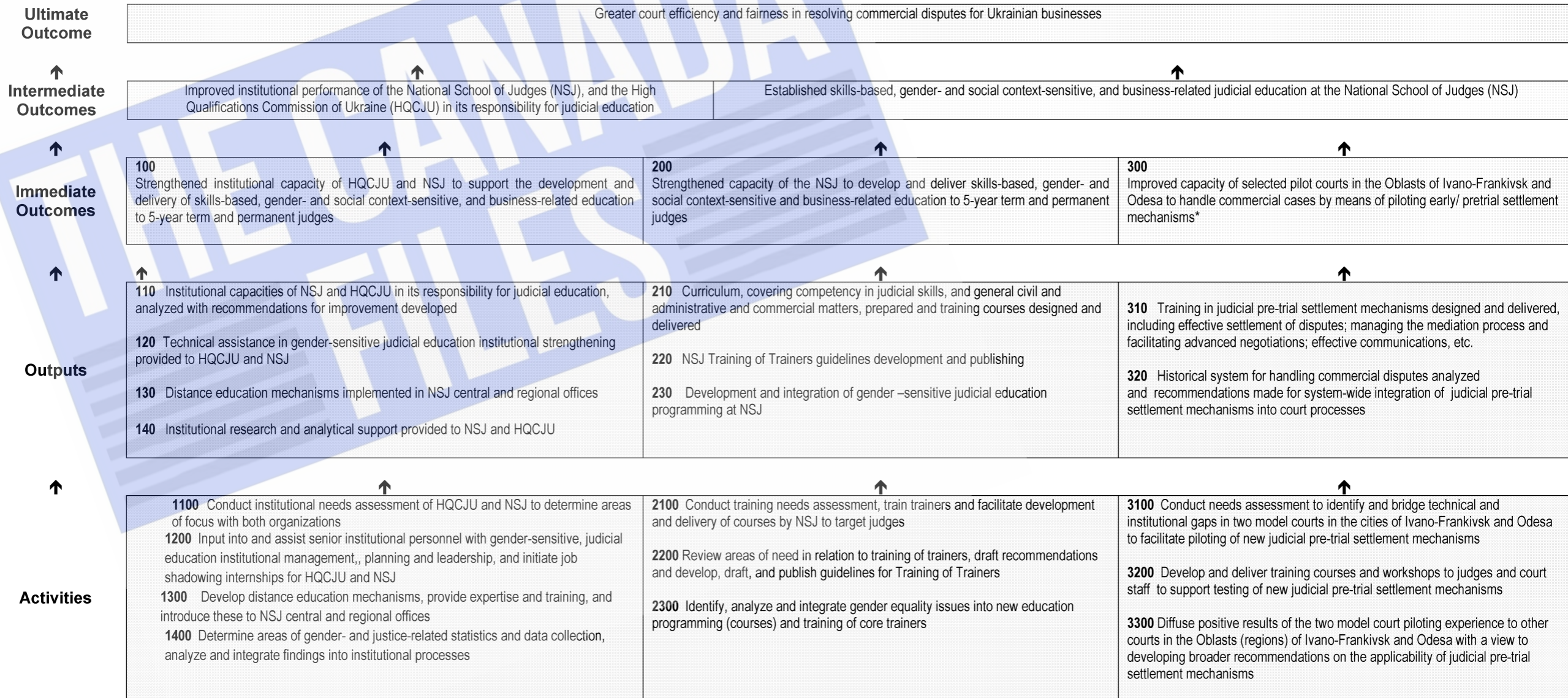
<b>OUTPUT 1: 140 Institutional research and analytical support provided to NSJ and HQCJU</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
Increased ability at NSJ and HQCJU to identify areas for improvement, gather institutional performance data and assess performance	The Canadian expert team drafted recommendations for the NSJ. Both Ukrainian partner will be required to confirm and to identify areas for improvement, gather institutional performance data and assess performance.	n/a
<b>OUTPUT 2: 210 Curriculum covering competency in judicial skills and general, civil, administrative, and commercial matters prepared and training courses designed and delivered</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
# of f/m trainers trained to use skills-based methodology	14 male and 13 female judge-trainers and NSJ staff trainers trained to use skills-based methodology.	n/a
Existence and # of consultations, research studies.	2 peer-to-peer consultations among NSJ and NJI expert teams and 1 research study on land law by NSJ conducted.	n/a
<b>OUTPUT 2: 220 NSJ Training of Trainers guidelines development and publishing</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
# of NSJ TOT guidelines developed and published	No results to report as this is an early stage of the project.	n/a
<b>OUTPUT 2: 230 Development and integration of gender-sensitive judicial education programming at NSJ</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
# of courses developed integrate gender equality considerations	Both new courses developed under Cycle 1 of JEEG are being analyzed for further development and integration of gender-sensitive judicial education programming at NSJ	n/a
# of judges trained (f/m) in gender equality awareness	Increased awareness of gender equality issues for 14 judges and senior decision-makers of NSJ and HQC as well as 27 core trainers.	n/a
Trainers' (f/m) perception of participants' and judges'	No result to report as this is an early stage of the project.	n/a

acceptance (f/m) to gender equality issues		
<b>OUTPUT 3: 310 Training in judicial commercial pre-trial settlement mechanisms delivered</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
# of judges and officials (f/m) exposed to Canadian practices in commercial dispute resolution processes	<p>12 judges and judicial system officials (7 male &amp; 5 female) have been exposed/trained on the JDR procedure.</p> <p>Approx. 45 judges and judicial system officials (32 males and 13 females) have been introduced to the concept of the JDR; Approx. 12 (12 male) lawyers were introduced to the concept of JDR.</p> <p>The project conducted consultations with the partners in May, during the Inception mission, where the concept and elements of the JDR procedure were introduced during the meetings. Canadian experts and project personnel met with approx. 28 judges and court system officials in Ivano-Frankivsk (these include judges and officials of the commercial, administrative and general jurisdiction courts, as well as reps of state court administration; 19 judges of the 21 of the administrative court came to a meeting) and approx. 18 judges and officials in Odesa. Meetings with lawyers (6 lawyers in I-F and 6 in Odesa) were also conducted to explain the procedure and seek feedback on its introduction within Ukrainian context.</p>	n/a
# of workshops conducted on case-management practices relating to commercial dispute resolution (pre-trial settlement) mechanisms	<p>As part of training, one practical exposure technical exchange was conducted.</p> <p>The project also conducted Technical Exchange to Canada for 12 Judges, members of the Judicial Councils and the High Qualification Commission to introduce them in greater detail to the procedure, including first hand observations of the process in two staged proceedings. Information on legislative framework, governing rules and the actual stages of the procedure were studied.</p>	n/a
<b>OUTPUT 3: 320 Recommendations drafted for system-wide integration of judicial pre-trial settlement mechanisms into court processes relating to commercial cases</b>		
# and type of procedures adaptable to Ukrainian	No recommendations for the system-wide integration of early judicial dispute resolution (JDR) into the court practices were drafted during the reporting period. However, the process of piloting of the JDR has been extensively	n/a

<p>realities outlined in the recommendations</p>	<p>discussed, and it was decided that at this stage the procedure will be tested within the parameters of the existing legislation. This in turn implies that the procedure can be adopted to the current legislative framework. However, to achieve full benefits of the JDR, allow judges a more conducive framework for its use and application, as well as to institutionalize JDR in all court practices, will indeed require changes (however minor they may be). The necessary work in preparation for the development of such recommendation will start next fiscal year and will be finalized closer to its end. At this point such changes are actively discussed by all relevant stakeholders in the context of the piloting of the procedure at the model courts. There has been good buy-in on behalf of judges and judicial regulating and self-regulating bodies (e.g HQC and Judicial Councils); generally good buy-in by lawyers, but certain skepticism towards the benefits of the JDR is present.</p>	
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## APPENDIX B: LOGIC MODEL



\* Judicial pre-trial settlement mechanisms: Time and cost-saving dispute resolution/mediation mechanisms typically led and implemented by judges outside the formal court-room setting.

APPENDIX C: RISK REGISTER

<b>Initiative Name:</b>	<b>Judicial Education for Economic Growth in Ukraine</b>						
<b>Implementing Organizations:</b>	<b>National Judicial Institute (NJI) and The Office of the Commissioner for Federal Judicial Affairs (FJA)</b>			<b>Country/Region/Institution</b>	<b>Ukraine The High Qualifications Commission of Judges of Ukraine and the National School of Judges of Ukraine</b>		
<b>Risk Definition</b>	<b>Risk Response</b>	<b>Investment LM Result Statement</b>	<b>Residual Risk Level – Low/Very Low/High/Very High</b>				
				Date 1 <b>Dec. 2012</b>	Date 2	Date3	
<b>Operational Risks</b>							



<p><b>OP1</b></p>	<p>Project partners are unable to implement activities in a timely manner due to the lack of institutional capacity including lack of physical facilities</p>	<ul style="list-style-type: none"> <li>▪ In the initial phase clear agreements between NSJ and HQCJU on their roles, responsibilities and expectations will be developed &amp; frequently reviewed.</li> <li>▪ HQCJU and NSJ will be strengthened from the inception phase to ensure they are able to function at sufficient capacity according to the schedule.</li> <li>▪ Advance planning will anticipate work schedules of judges. Flexibility in adapting to emergency (external) circumstances.</li> <li>▪ Work jointly with NSJ champions on training of trainers, especially judges who were previously involved with NJI in developing skills-based experiential courses as part of the project, course content and gender equality aspects; ensure fluid communication.</li> <li>▪ Explore other possibilities where face-to-face training could be conducted in the interim such as NSJ regional offices, courts with conference facilities and hotels</li> <li>▪ Advance distance learning methodology and mechanisms</li> </ul>	<p>Immediate Outcome 1:  Strengthened institutional capacity of HQCJU and NSJ to support the development and delivery of skills-based, gender- and social context-sensitive and business-related education to 5-year term and permanent judges</p>	<p>L= Low/Med  I= Med</p>	<p>L=  I=</p>	<p>L=  I=</p>	<p>Project Manager in the field</p>
<p><b>OP2</b></p>	<p>HQCJU and NJS officials do not approve skills-based curricula, approaches, course content</p>	<ul style="list-style-type: none"> <li>▪ Conduct accurate needs assessment</li> <li>▪ Work with HQCJU supporters together with NJS to solicit their support vis-a-vis government departments if necessary.</li> <li>▪ Seek input of respected Ukrainian adult education specialists with</li> </ul>	<p>Immediate Outcome 2:  Strengthened capacity of NSJ to develop and deliver skills-based, gender- and social context-</p>	<p>L= Low  I= Med</p>	<p>L=  I=</p>	<p>L=  I=</p>	<p>Project Manager in the field</p>

		judicial education experience, particularly staff at the NSJ and judges who have experience in using skills-based training.	sensitive, and business-related education to 5-year term and permanent judges				
<b>OP3</b>	Judges reject or are slow to implement new pre-trial settlement mechanisms	<ul style="list-style-type: none"> <li>▪ Building confidence in processes &amp; guidelines through an appropriate collaborative design of the project, with the Ukrainian team playing a leading role in the drafting of processes and guidelines.</li> <li>▪ Seek champions</li> <li>▪ Strengthen knowledge of new approaches in key offices of HQCJU and NSJ.</li> <li>▪ Seek endorsement from HQCJU or other required authoritative body to pilot pre-trial conferencing by judges given that judges may perceive a violation of their civil code</li> </ul>	Immediate Outcome 3:  Improved capacity of selected pilot courts in the Oblasts of Ivano-Frankivsk and Odesa to handle commercial cases and use judicial pre-trial settlement mechanisms	L= Low I= Med	L= I=	L= I=	Project Manager in the field
<b>OP4</b>	Obstacles to roll-out of distance learning programming (e.g. relating to establishing a secure network)	<ul style="list-style-type: none"> <li>▪ Investigate the degree or percentage of distance learning programming that would require a secure network (at the current time, NSJ implements distance learning programming on an unsecured network)</li> <li>▪ Identify the feasibility of securing an offsite secure server consistent with NJI's experience</li> <li>▪ Determine a timeframe for implementation of an onsite secure network.</li> </ul>	Immediate Outcome 1 (as above)	L = Med I = Med			
<b>Financial Risks</b>							

<p><b>FIN1</b></p>	<p>Insufficient financial and other resources negatively affect the institutional strengthening component in the project</p>	<ul style="list-style-type: none"> <li>▪ Project will support the key governmental decision makers who are seeking greater funding for judicial education, especially HQCJU, but also the State Court Administration to help ensure that appropriate budget and administrative issues supporting institutional strengthening are addressed.</li> <li>▪ The project will explore less resource-intensive strategies such as working with stakeholders committed to reform (judges, academics, other donors and business associations) to ensure training opportunities are well coordinated and leverage other resources.</li> </ul>	<p>Immediate Outcome 2:  Strengthened capacity of NSJ to develop and deliver skills-based, gender- and social context-sensitive, and business-related education to 5-year term and permanent judges</p>	<p>L= Med I= Med</p>	<p>L= I=</p>	<p>L= I=</p>	<p>Project Manager in the field</p>
<p><b>FIN2</b></p>	<p>Budgetary shortfalls or changes in anticipated state-allocated budget reduce pilot courts' contribution</p>	<ul style="list-style-type: none"> <li>▪ Notification to pilot courts of possible reduction in project activities;</li> <li>▪ Negotiation with the HQCJU, Council of Judges, and SCA to re-establish support</li> </ul>	<p>Immediate Outcome 3:  Improved capacity of selected pilot courts in the Oblasts of Ivano-Frankivsk and Odesa to handle commercial cases and use judicial pre-trial settlement mechanisms</p>	<p>L= Med I= Med</p>	<p>L= I=</p>	<p>L= I=</p>	<p>Project Manager in the field</p>
<p><b>Development Risks</b></p>							
<p><b>DEV1</b></p>	<p>Political and economic situation deteriorates radically and disrupts functioning of the judiciary because of</p>	<ul style="list-style-type: none"> <li>▪ Monitor political and economic situation and anticipate implications of the impact on judiciary and changes in government through</li> </ul>	<p>Ultimate Outcome:  Greater court efficiency and</p>	<p>L= Med I= Med</p>	<p>L= I=</p>	<p>L= I=</p>	<p>Project Director</p>

	insufficient independence and undue pressure from the executive branch	regular situation analysis and dialogue with judicial and government contacts. <ul style="list-style-type: none"> <li>▪ CIDA to work with other donors to promote with appropriate Ukrainian government officials the necessity of building an independent judiciary.</li> </ul>	fairness in resolving commercial disputes for Ukrainian businesses				
<b>DEV2</b>	Ukrainian judges reject all or some of the new ideas/approaches being introduced. Ukrainian judges and to develop and deliver judicial education at NSJ resulting in inadequate supply of sitting judges to develop and deliver judicial education in Ukraine.	<ul style="list-style-type: none"> <li>▪ Demonstrating value via technical exchange programs, judicial training on the new approaches, senior SCU judges and HQCJU awareness building.</li> <li>▪ Judge to judge approach will facilitate acceptance of new skills and approaches ("testimony" of Canadian judges).</li> <li>▪ Set up criteria for identifying national experts taking into account openness to new ideas, influence, and experience in specific reform areas. Identify "champions."</li> <li>▪ Involve judges at all levels of court in training and developing curricula.</li> <li>▪ Provide adequate advance notice and preparation time for all project activities, and seek time commitment at an early stage from judge participants</li> <li>▪ HQCJU to play a key leadership role in ensuring that CJs will allow for judges to participate in JE development including directly leading development of first course (statutory interpretation).</li> </ul>	Immediate Outcome 2:  Strengthened capacity of NSJ to develop and deliver skills-based, gender- and social context-sensitive, and business-related education to 5-year term and permanent judges	L= Low I= Med	L= I=	L= I=	Project Manager in the field
<b>Reputation Risks</b>							

<b>REP1</b>	Canadian stakeholders may not publicly support program due to changing realities of Ukrainian politics	<ul style="list-style-type: none"> <li>Monitor Ukrainian context; engage with Canadian stakeholders as necessary.</li> </ul>	<b>Ultimate Outcome:</b> Greater court efficiency and fairness in resolving commercial disputes for Ukrainian businesses	L= Very Low I= Med	L= I=	L= I=	Project Director
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APPENDIX D: PERFORMANCE MEASUREMENT FRAMEWORK

PERFORMANCE MEASUREMENT FRAMEWORK							
Expected Results	Indicators	Baseline	Targets	Data Source	Data Collection Method	Frequency	Responsible
ULTIMATE OUTCOME Greater court efficiency and fairness in resolving commercial disputes for Ukrainian businesses	Percentage of public having confidence in the courts' capacity to fairly treat commercial disputants/litigants	7.5% of citizens have full confidence in the courts (TI, National Integrity System 2011)	Incremental increases in public confidence rankings.	Existing national, regional and international reports and assessments	Reports and literature reviews	Mid-term and final year	NJI Project Manager
	Relative ranking of the judicial system in relation to international standards	WJP ranks efficiency (timeliness and effectiveness) relating to criminal adjudication at 0.45 of 1; Ukraine is at 152nd of 182 in terms of transparency (TI, CPI 2011); judicial independence was 143th of 142 (WEF GCR 2011-2012). In addition: Ukraine is ranked 152nd of 183 in 2012 Doing Business Report (WB); 82nd of 142 in GCR (WEF 2011-2012).	Increase in efficiency and fairness (including independence and transparency) rankings over time compared with similar transition economies.	Existing national, regional and international reports and assessments	Reports and literature reviews		
	Average time and effort required for resolving a commercial lawsuit,	30 procedures and 343 days in 2011 (WB Doing Business 2012)	Reduction in number of procedures and length of time required to resolve a	Doing Business Report, existing statistics, senior stakeholders	Reviews of statistics where available and Doing Business		

	from filing to court hearing to final resolution		commercial lawsuit to align more closely with European Standards (applying WB measures).		Report, consultations		
<b>Intermediate Outcome 1</b>  Improved institutional performance of the National School of Judges of Ukraine (NSJ) and the High Qualifications Commission of Ukraine (HQCJU) in its responsibility for judicial education	Extent to which the key organizational features and processes to support education (involvement of judges in education; strategic and operational planning; governance structure, roles and responsibilities, and management, procedures, practices) are established	Basic structures in place; limited mechanisms for accessing expertise and leadership of judges; idea of strategic plan in discussion; governance and oversight practices, as well as management, procedures, practices still being determined.	Effective mechanisms articulated and in development or in place in relation to utilization of judges, strategic planning, governance and oversight systems and practices, and organizational management, procedures and practices.	NSJ and HQCJU reports, documentation regarding existing and new practices and systems	Institutional assessment including observations, review, consultations	Mid-term and final year	NJI Project Manager
	Number and type of policies developed and implemented based on recommendations elaborated under JEEG	Baseline status at 0.	New policies articulated and developed relating to institutional practices and systems in support of judicial education.				
<b>Intermediate Outcome 2</b>  Established skills-based, gender- and social context-sensitive and business-related judicial education at the National School of Judges (NSJ)	Degree to which m/f judges are able to apply gender and social context sensitivity in their work	Agreement to be established as to the articulation and applicable indicators of gender sensitivity – thus no baseline available.	A majority of judges report that they are able and willing to apply core gender-sensitive knowledge and skills after related training.	Judges and judge faculty	Questionnaires/ consultations	Mid-term and final year	NJI Project Manager
	Proportion of courses that are skills-based, gender- and social context-sensitive, integrated into NSJ curriculum	Limited number of 'practical' courses or courses integrating skills practice available for judges; curriculum rarely integrates content that is directly attentive to GE issues.	15-20% of all courses integrated into curriculum are practical or skills-based and integrate gender-sensitive content.	NSJ calendar and curriculum, changes in academic plans.	Assessment of curriculum progression		
	Extent of judicial institutional support <sup>13</sup> for new skills-based, gender-and social context-sensitive education content	New course content in the areas listed has been endorsed by senior institutional staff; courses to be developed under JEEG to be determined on basis of recognized needs and institutional interest and support.	Judicial institutional support continues to be strong and ensures continued design and delivery of this new program content and methodology into the curriculum.	Partners, judge-faculty and personnel of the NSJ, other stakeholders.	Surveys/ consultations		

<sup>13</sup> This includes support as relevant from the HQCJU, the State Courts Administration, the Council of Judges, and the courts.

<p><b>Immediate Outcome 100</b></p> <p>Strengthened institutional capacity of HQCJU and NSJ to support the development and delivery of skills-based, gender- and social context-sensitive and business-related education to 5-year term and permanent judges</p>	<p>Number and type of organizational processes and procedures being strengthened or newly developed to support the design and delivery of skills-based, gender- and social context-sensitive and business-related judicial education</p>	<p>Organizational processes and procedures still under review and not fully articulated as a necessary stage in their strengthening and development.</p>	<p>Review of all processes completed within 1-2 years; mechanisms for their strengthening or development in place and implemented within the project's timeline.</p>	<p>Management and non-management institutional personnel</p>	<p>Annual institutional assessments including interviews, collaborative review</p>	<p>Annual</p>	<p>NJI Project Manager</p>
	<p>Number of f/m core staff trained in development and delivery of judicial education</p>	<p>NSJ has reported having 46 full-time and 8 part-time personnel that have various and ad hoc training in the development and delivery of judicial education in general.</p> <p>The baseline is set at 0 for the purposes of the project</p>	<p>The full staff contingent that is required to meet the demands of mandated judicial education requirements, trained in the development and delivery of judicial education.</p>				
<p><b>Immediate Outcome 200</b></p> <p>Strengthened capacity of the NSJ to develop and deliver skills-based, gender- and social context-sensitive and business-related education to 5-year term and permanent judges</p>	<p>Level of satisfaction of f/m judge participants with judicial education programming</p>	<p>Judges have varying perspectives on the effectiveness and variety available to them in current JE programming at the NSJ and elsewhere. Some degree of dissatisfaction as to ability to select content and methods of education, including relevant skills education.</p>	<p>Judges rate themselves as satisfied with judicial education programming (content and methodologies) developed and offered under the education.</p>	<p>f/m judge trainees, judge faculty and institutional personnel and trainers as appropriate</p>	<p>Questionnaires, consultations</p>	<p>Annual</p>	<p>NJI Project Manager</p>
	<p>Number of skills-based and business-related courses developed and delivered by the NSJ</p>	<p>Some limited practical, skills-related education content – far more substantive, lecture based courses. Some limited business-related courses available.</p>	<p>It is expected that 3 cycles of up to 5 courses each developed and delivered under JEEG will prompt the NSJ to integrate skills-based and business-related content (where applicable) into remaining curricula.</p>				
	<p>Extent to which gender equality is integrated in the new courses developed under JEEG</p>	<p>Limited integration of gender equality considerations into curriculum.</p>	<p>15-20% of all courses developed and integrated into the curriculum incorporate gender-sensitive content after 1-2 years.</p>				

<b>Immediate Outcome 300</b>  Improved capacity of selected pilot courts in the Oblasts of Ivano-Frankivsk and Odesa to handle commercial cases by means of piloting judicial pre-trial settlement mechanisms	Decrease in duration and cost of dispute settlement using judicial pre-trial settlement mechanisms compared to similar cases addressed through traditional trial processes	Judicial early/pretrial settlement processes are not available in the pilot courts. Baseline is therefore considered to be at zero.	Decreased time and cost for a commercial case to proceed through the court system after judicial pre-trial settlement mechanisms in place.	Court statistics where available, anecdotal evidence from business and legal representatives and others	Review of case statistics <sup>14</sup>	End of 3 <sup>rd</sup> (final) year of component	NJI Project Manager (FJA Program Manager for implementation and reporting to NJI)
	Improved ratings of court system performance by commercial case disputants and other stakeholders (e.g. lawyers, businesses, etc.) comparing use of early settlement mechanisms to traditional trial processes	Lawyers, businesses and others rate the existing traditional trial process poorly; however early settlement mechanisms are not yet utilized and procedural changes are required for their comprehensive integration. Baseline for comparison is therefore at zero.	Increase in the number of cases resolved through judicial pre-trial settlement mechanisms; improved overall perspective of the pre-trial and trial process by stakeholders.	Court statistics where available, business litigants and legal representatives	Interviews/questionnaire	End of 2 <sup>nd</sup> and 3 <sup>rd</sup> year	NJI Project Manager (FJA Program Manager for implementation and reporting to NJI)
<b>Output 1:</b>							
<b>110</b> Institutional capacities of NSJ and HQCJU in its responsibility for judicial education analyzed with recommendations for improvements developed	# of issues identified through a completed needs assessments and completion of HQCJU and NSJ strategic and operational plans	There are several issues identified by both Canadian and Ukrainian experts during the inception mission. The specific issues will be described in details in the forthcoming strategic and operational plans	Review of processes demonstrate that the strategic and operational plans are in place and issues raised are being addressed in timely manner.	NSJ report / standardized assessment criteria	Analysis/Review	Annual	NJI Project Manager
	# of recommendations made to strengthen NSJ's and HQCJU's institutional capacity as a judicial education body	Established at 0	At least one annual recommendation by the expert team is produced per issue identified	NSJ report / standardized assessment criteria/ participant lists	Analysis/Review	Mid-term and final year	NJI Project Manager

<sup>14</sup> Where gathered and tracked by relevant courts, and provided to project partners.



120 Technical assistance in gender-sensitive judicial education institutional strengthening provided to HCCJU and NSJ	Internships completed by # of people (f/m)	Established at 0	At least 4 senior management staff (m/f) from HCCJU and NSJ completed internships	Partners	Review	Annual	NJI Project Manager
	# (f/m ) and % of personnel trained at # workshops on gender-sensitive, judicial education institutional management	Established at 0	At least 50 % of HCCJU commissioners and required percentage of personnel (f/m) and (and over 60% of NSJ personnel m/f) exposed				
130 Distance education mechanisms implemented in NSJ regional and central offices	# of NSJ regional and central offices equipped	Established at 0	Max. 2 NSJ regional and 1 central offices equipped	NSJ report / standardized assessment criteria/ Canadian experts' reports	Analysis/Re-view	Mid-term and final year	NJI Project Manager
	# of changes leading to the implementation of effective distance education mechanisms in central and regional offices	Established at 0	At least one annual recommendation by the expert team is produced per issue identified and selected	NSJ report / standardized assessment criteria	Stats analysis/re-view	Annual	NJI Project Manager
140 Institutional research and analytical support provided to NSJ and HCCJU	Increased ability at NSJ and HCCJU to identify areas for improvement, gather institutional performance data and assess performance	Established at or near 0	NSJ and HCCJU have identified up to 6 key areas for improvement in which data was collected and against which performance was assessed	Partners/partner reports	Institutional review, consultations	Annual	NJI Project Manager
<b>Output 2</b>							
210 Curriculum covering competency in judicial skills and general, civil, administrative, and commercial matters	# of f/m trainers trained to use skills-based methodology	To be established at inception (f/m %)	Up to 90 (directly) (f/m) NSJ staff and faculty judges, up to 300 (via ToT) NSJ staff	NSJ report / standardized assessment	Stats Analysis/Re-view	Annual	NJI Project Manager

prepared and training courses designed and delivered			and faculty judges (f/m determined)	criteria/participant lists			
	Existence and # of consultations, research studies.		Up to 15 peer-to-peer (trainer to trainer and judge to judge) consultations, 6 research studies required for program development conducted	NSJ report / standardized assessment criteria	Stats Analysis/Re-view	Annual	NJI Project Manager
<b>220</b> NSJ Training of Trainers guidelines development and publishing	# of NSJ TOT guidelines developed and published	Established at 0	At least 3 multidisciplinary guidelines developed and published	NSJ report / standardized assessment criteria	Stats Analysis/Re-view	Mid-term and final year	NJI Project Manager
<b>230</b> Development and integration of gender-sensitive judicial education programming at NSJ	# of courses developed integrate gender equality considerations	Gender equality principles applied sporadically	8-10 newly delivered courses reflect gender equality considerations	NSJ reports/ curriculum/agenda/ participant lists/trainer evaluations of participants	Statistical Analysis/Re-view	Annual	NJI Project Manager
	# of judges trained (f/m) in gender equality awareness	Established at 0	Up to 300 judges (f/m) trained over the lifecycle of the project through courses that incorporate gender issues (piloting); the same number of judges (f/m) to be trained annually after year 5 of the project/	NSJ reports/NSJ Curricula/Standardized assessment criteria/ Participant lists/trainer evaluations			
	Trainers' (f/m) perception of participants' and judges' acceptance (f/m) to gender equality issues	Overall resistance to accept gender equality issues	Incremental change in each year in accepting the gender problematic	Participant lists/trainer evaluations of participants			
<b>Output 3</b>							
<b>320</b> Training in judicial commercial pre-trial settlement mechanisms delivered	# of judges and officials (f/m) exposed to Canadian practices in commercial dispute resolution processes	Few, if any, judges know of Canadian practices in commercial dispute resolution processes	Train/expose at least 100 judges and court staff on/to new procedures	Canadian and Ukrainian legal expert team report/PM monitoring technical exchange reports	Review and analysis of reports  Review PM monitoring	Annual	NJI Project Manager (FJA Program Manager for

				and list of training equipment provided to the courts	technical exchange report and relevant records of purchase		implementation and reporting to NJI)
	# of workshops conducted on case-management practices relating to commercial dispute resolution (pre-trial settlement) mechanisms	No judicial pre-trial settlement mechanisms have been applied or tested in Ukraine in relation to commercial cases	Conduct up to 4 workshops (2 in each Oblast) on judicial case-management of pre-trial settlement mechanisms relating to commercial cases	Canadian and Ukrainian legal expert team report/PM monitoring technical exchange reports and list of training equipment provided to the courts	Review and analysis of reports  Review PM monitoring technical exchange report and relevant records of purchase	Annual	NJI Project Manager (FJA Program Manager for implementation and reporting to NJI)
<b>330</b> Recommendations drafted for system-wide integration of judicial pre-trial settlement mechanisms into court processes relating to commercial cases	# and type of procedures adaptable to Ukrainian realities outlined in the recommendations	No judicial pre-trial settlement mechanisms have been applied or tested in Ukraine in commercial dispute resolution processes	Active participation and substantive feedback during judicial pre-trial settlement by all key stakeholders (f/m)	Canadian and Ukrainian legal expert team report/PM monitoring technical exchange reports /Canadian and Ukrainian legal expert team recommendations	Review and analysis of reports and recommendations/Review PM monitoring technical exchange report	End of 2 <sup>nd</sup> /3 <sup>rd</sup> yr	NJI Project Manager (FJA Program Manager for implementation and reporting to NJI)

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## SEMI-ANNUAL REPORT

# JUDICIAL EDUCATION FOR ECONOMIC GROWTH

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1 April, 2013 – 30 September, 2013

Submitted by the National Judicial Institute: 15 November, 2013

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## EXECUTIVE SUMMARY

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The five-year, Judicial Education for Economic Growth (JEEG) project combines Foreign Affairs, Trade and Development Canada (DFADT) economic growth priority with the cross-cutting themes of governance, rule of law, and gender equality. The goal of DFADT's program in Ukraine is to improve economic opportunities for Ukrainians in a strengthened democracy. DFADT provides support to affect this goal through strengthening public institutions built on the rule of law and accountability. A competent, effective, and fair judiciary is a vital component of an effective democracy and contributes to Canada's support for Ukrainian efforts towards a free, democratic and prosperous society. JEEG seeks to promote an enabling environment for economic growth through increasing the capacity of the judiciary to respond to a variety of business-related disputes.

This Semi Annual Report describes the methodology and areas of work implemented under JEEG over the first half of the Fiscal Year 2013-2014. Initiatives and activities in relation to each project outcome and output planned according to the Annual Work Plan (AWP) FY 2013-14 are articulated in this report and are in accordance with the anticipated results set out within the Project Implementation Plan (PIP) which covers the life of the project.

In general, having compared the project results accomplished against planned, the project is on track in all three components of the JEEG. The project progress was achieved towards intermediate outcomes: 1) Improved institutional performance of the NSJ, and the HQCJU in its responsibility for judicial education; and 2) Skills-based, gender and social context-sensitive and business-related education content integrated within the curriculum of the NSJ and HQCJU. As well, there are a number of significant unintended results which are discussed throughout the text of this report.

This reporting period – beginning of the second year of JEEG – saw activities in all three components of the project. As well work continued in research, coordination and networking with donors and civil society related to the judicial contexts in Canada and Ukraine. Project partners exchanged knowledge of and approaches to institutional strengthening and judicial education processes, methodologies and content (Components 1 and 2 respectively, implemented by NJI), and mechanisms for enhancing the judicial process (Component 3 implemented by FJA) in Ukrainian pilot courts.

Specifically, the project completed the establishment of the local office and trained local staff; reviewed and analysed the aspects of models and methodologies for judicial education based on the Canadian model with key local institutional representatives of the NSJ and HQCJU including senior judicial associates of the HQCJU, drafted recommendations on processes related to institutional strengthening and specific judicial and court mechanisms; and conducted detailed

and targeted internship at NJI for the two senior representatives of NSJ and HQCJU. The project also continued the development of the first two courses with core trainers (Statutory Interpretation and Property Rights with a focus on Land Law); determined subject areas for the next areas of assistance in judicial education including the identification of two core judge trainer groups under the NSJ. The four pilot courts developed and introduced on a pilot basis the guidelines for judicially assisted pre-trial settlement conferences; the guidelines make part of the regular proceedings of the court supported by the existing procedural codes.

## NARRATIVE SECTION

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This section of the Semi Annual Report provides information on the progress on activities, outputs and financial information for April –September 2013 with the purpose of monitoring progress of the project. The narrative subsection below describes the activities undertaken and actual outputs achieved in relation to the annual work plan. Analytical comments on the variances between WBSs that were planned in the AWP and accomplished in 2013-2014 as well as problems/difficulties and remedial actions taken are provided where applicable.

### KEY MILESTONES AND OUTPUTS TIED TO GROUPS OF ACTIVITIES FOR THE FIRST HALF OF THE FISCAL YEAR 2013-2014

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Targeted technical assistance, training and education delivered by the Canadian partners through three components are outlined below. In general, project progress was achieved towards the project ultimate and intermediate outcomes as follows:

#### **Anticipated ultimate outcome:**

- To increase court efficiency and fairness in resolving commercial disputes for Ukrainian businesses in order to contribute to improving the business enabling environment in Ukraine.

#### **Anticipated intermediate outcomes:**

- Improved institutional performance of the NSJ, and the HQCJU in its responsibility for judicial education; and
- Skills-based, gender and social context-sensitive and business-related education content integrated within the curriculum of the NSJ and HQCJU.

In fulfillment of the foregoing results, the following section lists and describes the key activities for 2013-2014 fiscal year presented by WBS.

<b>List of completed activities and activities in progress by Component and Work Breakdown Structure number</b>	
<b>Outcome 1</b>	
<b>Series 110</b>	<b>Institutional capacities of NSJ and HQCJU in its responsibility for judicial education analyzed with recommendations for improvement developed</b>
WBS 1104	Coordination with USAID FAIR Project (ongoing)
<b>Series 120</b>	<b>Technical assistance in gender-sensitive judicial education institutional strengthening</b>
WBS 1202(A&B)	Workshop on JE institutional strengthening (Q1)
WBS 1202 (C)	Workshop on Judicial Faculty Development (Q1)
WBS 1210	Preparation for job shadowing internships (English language training) (Q1-Q2)
WBS 1211	Internship of Ukrainian institutional staff (Q2)
WBS 1223	Networking with relevant non-partner stakeholders including gender-related organizations (ongoing)
<b>Series 130</b>	<b>Distance education mechanisms implemented in NSJ central and regional offices</b>
WBS 1330	Familiarization with Ukrainian environment to support institutional models and methodological frameworks relating to adult distance education (ongoing)
<b>Series 140</b>	<b>Institutional research and analytical support</b>
WBS 1410	Research on statistical data gathering in EU states and states in the region surrounding Ukraine (Q1)
WBS 1411	Collation of information on Canadian institutional development relating to gender equality with focus on NJI (Q1)
<b>Outcome 2</b>	
<b>Cycle 1 - TOT and course development</b>	
WBS 2101	Peer-to-peer consultations and preparation for faculty and course development (Q1-Q2)
WBS 2113a	Curriculum and course design, development, planning by NSJ core trainers with Canadian support - Land Law (Q1)
WBS 2113b	Curriculum and course design, development, planning by NSJ core trainers with Canadian support - Statutory Interpretation (Q1)
WBS 2113c	Curriculum and course design, development, planning by NSJ core trainers with Canadian support - Land Law in Administrative Courts (Q1)
WBS 2113d	Curriculum and course design, development, planning by NSJ core trainers with Canadian support - Courtroom Management (Q1)
<b>Cycle 2</b>	
<b>WBS 230</b>	<b>Development, integration of gender and social context issues and standalone gender modules into new NSJ courses and training of core trainers</b>
WBS 2302	Project participation in GE training with Mosaic (Q2)



WBS 2303	Direct familiarization of NSJ gender expert with NJI education methodology and its institutional development in relation to gender equality issues (Q2)
WBS 2310	Gender-related data collection, research, and analysis of trends and issues in Ukraine, approaches in Canada, and related education needs at NSJ
WBS 2320	Implement standalone GE workshops (development in Q1-Q4)
WBS 2330	Consideration and input/integration where appropriate of gender equality and social context into judicial education courses (Q3-Q4)
<b>Outcome 3</b>	
<b>Series 310</b>	<b>Training in judicial pre-trial settlement mechanisms designed and delivered, including effective settlement of disputes; managing the mediation process and facilitating advanced negotiations; effective communications; etc.</b>
WBS 3103	Trainings of Ukrainian judges and court officials in case management and settlement conferences (Two (2) workshops: April 2013, October 2013) (FYs 2013-2014; Q1, Q3)
WBS 3104	Gender awareness and sensitivity building workshops (Two (2) Workshops: April 2013, October 2013) (FYs 2013-2014; Q1, Q3)
<b>Series 320</b>	<b>Historical system for handling commercial disputes analyzed and recommendations made for system-wide integration of judicial pre-trial settlement mechanisms into court processes</b>
WBS 3201	<i>Introduce on-going sub-activity around the drafting and planning meeting(s) on recommendations to facilitate the work of the model courts on the experiment with JDR, as well as capture/document the experience and analyse relevant information and data required for drafting the recommendations for system-wide integration of the procedure (May 2013-April/May2014; FYs 2013-2014 Q1,2,3,4)</i>
WBS 3201	Drafting and planning meetings on the recommendations for the institutionalization of the judicial settlement conferencing (April 2014) (FY 2014/15, Q1)
<b>Series 4000 Project Management</b>	
WBS 4102	JPSC meeting year 2 (Q1)
WBS 4200-4300	Local office in Ukraine and NJI project management
WBS 4400	Project Advisory Board meetings

IMMEDIATE OUTCOME 1: STRENGTHENED INSTITUTIONAL CAPACITY OF  
HQCJU AND NSJ TO SUPPORT THE DEVELOPMENT AND DELIVERY OF SKILLS-  
BASED, GENDER AND SOCIAL CONTEXT-SENSITIVE, AND BUSINESS-RELATED  
EDUCATION TO 5-YEAR TERM JUDGES AND PERMANENT JUDGES

**Component 1** of the project strengthens the institutional capacity and framework of the HQCJU and NSJ to support effective judicial education processes and outcomes, by developing skills in organizational development, strategic and business planning, technical management, knowledge of leadership skills and assessment tools to gauge the effectiveness of management systems and educational services and align local systems and processes with best practices including promotion and integration of GE principles.

110 Institutional and technical capacities of NSJ and HQCJU in its responsibility for judicial education analyzed with recommendations for improvement developed

WBS 1104 Coordination with USAID, FAIR project (Q1-Q2 completed, ongoing for the rest of the project, Kyiv)

JEEG scheduled and participated in bi-weekly FAIR-JEEG project meetings supplemented with ongoing e-mail communication to exchange relevant project documentation and information, review project progress, strategic planning plans and activities, distance learning plans and address other coordination and implementation issues as they arise. As has been agreed since JEEG inception, JEEG and FAIR projects are cooperating in selected thematic areas such as institutional strengthening, strategic planning, and distance learning. From the time of the FAIR-JEEG agreement to invite JEEG staff to FAIR project activities and vice versa, both projects collaborated in several areas of focus (please refer to WBS 1202b for more details).

120 Technical assistance in gender-sensitive judicial education institutional strengthening

WBS 1202a Strategic Planning Discussion and Faculty Development Workshop (completed Q1: May 13-14, 2013 Kyiv)

In May 2013, [REDACTED]

[REDACTED] – facilitated a discussion of strategic and operational planning with the senior management of the NSJ. The Canadian experts drafted the recommendations for discussion in relation to institutional strengthening including the following four thematic areas (for more details please refer to recommendations in the Annex 1):

- *Role of Judges, Courts and Other Judicial Institutions in Governance* of judicial education institute and design and delivery of educational programs. This theme increases the engagement and support of the judiciary to the NSJ and give the judiciary a voice in curriculum development at the NSJ.
- *Organizational Structure and Operations* of judicial education institute (support teams). This thematic area is focused on the strengthening of the support groups at the NSJ established in the first year of the project to support judge/trainers as they design and develop judicial education.
- *Curriculum and Course Priority Setting* is required in reaching a consensus on the areas of the educational curriculum to be given priority over the next 3-4 years in order to ensure the School has the time and resources to fully commit to building curricula that incorporates experiential, skills-based education along with education that adopts more traditional educational approaches.
- *Electronic Resources, Communications, and Technology-Based Distance Learning*.

WBS 1202b Introductory Workshop on Judicial Education Institutional Strengthening (completed Q1: May 15-17, 2013, Kyiv)

The *Strengthening of Leadership and Management* of NSJ workshop in May 2013 was designed to provide the Ukrainian stakeholders with a better understanding of management approaches, strategic planning, as well as to continue the targeted discussion about institutional structural issues and judicial education challenges faced by NSJ. This workshop was prepared and conducted in co-operation with the USAID FAIR Justice project with the objective of enhancing the NSJ leadership and management skills and capacity to conduct an effective strategic planning process that leads to design, implementation and evaluation of judicial education programs.

In the May 2013 workshop on *Strengthening of Leadership and Management of NSJ*, the NJI experts, [REDACTED] delivered comprehensive sessions, relating to areas of greatest need in the institutional setting. These sessions outlined the steps and challenges which NJI (and in NJI's experience other judicial training institutes) have taken in order to create, deliver and sustain quality judicial education with particular focus on curriculum development. During the workshop, the plenary discussion of the elements of NSJ's SWOT (Strengths, Weaknesses,

Opportunities and Threats) confirmed the analysis, identified the objectives and focus on issues pertaining to curriculum design and delivery.

As a result of this workshop, the NSJ participants were able to: explore effective team building skills; experience a variety of communication strategies; observe and experience team building approaches; understand conflict resolution mechanism and learn additional tools for efficient time management. Most importantly, the selected areas targeted for reform were chosen by the partners and were formulated in an Action Plan report. The Action Plan outlines the plans, timelines for development and the establishment of key institutional components (for more details, please refer to the Report and Action Plan in Annex 2).

WBS 1202c Introductory Workshop on Judicial Faculty Development  
Institutional Strengthening (completed Q1: June 5, 2013, Kyiv)

Under the thematic area of *Organizational Structure and Operations* of judicial education institute (support teams), this one-day Faculty Development Workshop for NSJ staff was mainly focused on the strengthening of the support groups at the NSJ to design and develop judicial education.

The main purpose of the workshop was to further deepen the understanding of the skills-based judicial education model and familiarize participants with the tools and techniques in development and delivery of skills based judicial education training programs. The workshop familiarized trainers with the different adult education techniques and methods that can enhance the learning experience. These included the effective conduct of plenary and small group discussions and a demonstration of different methods that increase the skills-based elements of training as well as adding variety and interest to education and training programs. This workshop itself was intended to be a hands-on skills-based course where participants had the opportunity to prepare materials, demonstrate the various adult education techniques and generally develop their own skills in leading experiential and interactive training.

WBS 1210 Preparation for Internship(s) (English language training) (completed Q1, Ukraine)

In preparation for the internship in 2013, two senior NSJ and HQCJU personnel whose roles most closely correspond to the work of core senior positions at the NJI were selected as interns and were provided with language training. Due to language abilities, the candidates chosen for the internship were:

Prior to language training, both candidates had achieved a certain level of English, and following selection, they were provided with brief and intensive English language training in Ukraine. The language training was to be enable the interns to

stay for a longer period in Canada and facilitate their immersion into day-to-day NJI activities, seminars, and meetings.

WBS 1211 Internship(s) (completed Q2: September 15-October 4, 2013, Ottawa, Kingston, Canada)

The internship for [REDACTED]

[REDACTED] took place at the NJI office in Ottawa as well as NJI's programs in Ottawa and Kingston.

The purpose of the internship was to strengthen the institutional capacity of the NSJ and the HQCJU (as it pertains to judicial education), and in particular:

- Demonstrate how a judicial education institute (based on the NJI model) remains actively involved with judiciary and develops its own staff and faculty to keep abreast with the evolving body of knowledge and judicial education methodology;
- Provide the Ukrainian interns an opportunity to observe the operations of NJI and the work of NJI personnel in preparation of courses for the Canadian judiciary;
- Demonstrate how a judicial education institute (based on the NJI model) works with courts to assist them in specific education requests – “court requested programming”.

The internship was designed to follow the Action Plan produced in May 2013 (under WBS 1202b and referenced in the Annex 2). The design of the internship program was focused on key thematic areas: (i) the role of judges, courts and other judicial institutions in governance of judicial education institute (based on NJI model) and in the design and delivery of educational programs; (ii) curriculum and course priority setting; (iii) organizational structure of judicial education institute; (iv) electronic resources, communications and distance learning.

At the NJI office, the interns had productive meetings with NJI's department and were also placed at various times with Senior Advisors and Project Managers to observe the NJI's processes and procedures of the development and delivery of judicial education in Canada. Thus, the interns had a unique opportunity to observe the work of NJI personnel in preparation of courses for Canadian judiciary (for more details, please see the internship agenda in Annex 3).

The interns were also engaged on the integration of gender equality and social context at the institutional and at the programming level including reviewing materials, methodologies and planning and design processes as well as policy and administrative matters, all of which are relevant in terms of the present and future

growth of the NSJ. Exposure to some of the issues was relatively new for the interns and was deemed useful and engaging by them as they committed to raising elements of NJI practice to senior personnel of the NSJ in light of their learning. This is considered a small but positive step given both interns are well established but still relatively early in their careers at the partner organizations and are anticipated to have an impact on its continuing development.

The interns also participated in two types of NJI programs: a *national* program on Judicial Faculty Development and a *court-requested* program for federal courts (for more details, please see agendas of these programs in Annexes 4 and 5). The Judicial Faculty Development program covered areas such as adult education principles, teaching and learning principles, the development of sessions and programs, and tools and materials for teaching.

Among the topics covered during the internship at the Judicial Faculty Development program a particular emphasis was given to adult education, for example:

- the principles of 'learning style preferences' to judicial education design and instruction (Kolb Learning Style Inventory);
- the principles of teaching style preferences (Zinn Inventory);
- the principles of adult education and the characteristics of adult learners;
- the concept of instructional strategy, and its application into the selection and sequencing of learning activities when designing a program, session or teaching segment ;
- the application of adult learning theories to planning design and delivery of judicial education sessions;
- the design of effective small group learning sessions (size, purpose, task) including designing learning activities (problems, scenarios, practice tasks) and using instructional techniques to strengthen the learning format (flip chart and placement techniques);
- the effective facilitation of small groups; and
- the effective facilitation of large group (plenary) learning including various techniques for debriefing and reporting back (LCD projection, mind-mapping) and fostering transfer of learning back to court.

An important result of this activity was the preparation by the interns of written recommendations for institutional strengthening of their respective organizations covering the thematic areas outlined in the Action Plan (for more details, please see draft written recommendations in Annex 6).

WBS 1223 Networking with relevant non-partner stakeholders including gender-related organizations (ongoing, Kyiv)

During the April 2013 mission in Kyiv, the NJI expert team [REDACTED] together [REDACTED] exchanged knowledge and perspectives as well as information about the project with relevant non-partner stakeholders including the Council of Europe (CoE), OSCE, PACT-Uniter, Rozrada Centre, the US AID MSI Legal Aid project, and La Strada who have led gender equality-related education programs for judges, and the Ukrainian Women's Fund. A communication network was initiated with selected organizations, judges committed to GE, and other stakeholders to promote the GE component of the Project. Networking efforts with a cross-section of stakeholders will continue on regular basis in Ukraine.

130 Distance education mechanisms implemented in NSJ central and regional offices

In-person discussion that took place during the first year of the project as well as the subsequent review of Canadian distance learning approaches and existing distance learning opportunities in Ukraine (which include: CoE distance learning course on the European Convention on Family Law, USAID FAIR project initiatives to conduct online training, the SIDA pilot course on communications, as well as initiatives of the Association of Judges network of 25 appellate courts to handle questions on decisions of European Courts) enabled partners to further determine likely approaches for the implementation of distance learning under the NSJ over the term of the project. In relation to this output, the partners will look at integrating project work at NSJ Lviv and Odesa regional branches. In relation to this output as well, it is important to continue close coordination with other projects working in distance such as US AID FAIR to maximize resources and synergy.

WBS 1330 Familiarization with Ukrainian environment to support institutional models and methodological frameworks relating to adult distance education (May 2013, Kyiv-Lviv)

During the WBS 1202a&b technical exchange to Ukraine, discussion of institutional frameworks and methodology relating to adult distance education with NSJ senior management was led by [REDACTED] together with the project team collected relevant information from the courts and NSJ regional branches in Lviv and Odesa and prepared a report and roadmap for the next steps of the project in distance learning (for more details, please refer to the report in Annex 7).

The partners suggested and agreed on the piloting of distance learning courses on a MOODLE platform in a joint effort with USAID FAIR project. While the FAIR project

undertakes the Judicial Ethics course, JEEG will develop the Courtroom Management distance learning version once its face-to-face course have been developed under WBS 2113. The distance learning course in Courtroom management will be a mere replication of its face-to-face version. The idea is to develop the parts that complement each other in cost-effective and time-saving fashion. Justice Shendrikova and Ihor Katernyak are now part of the face-to-face Courtroom Management team to transfer it into Distance Learning version.

#### 140 Institutional research and analytical support

In part to ensure that the areas of institutional strengthening assistance are carefully selected by the project partners, and in part to enhance institutional capacity to gather, assess and apply relevant institutional research and data to processes and systems implemented by the institutional partners, the project continues to support ongoing research, consultation and analysis relating to institutional strengthening, including consideration and integration where possible of gender equality principles within institutional strengthening measures.

led the identification, analysis and determination of areas for research, consultation and analysis as required for gender equality integration in institutional strengthening plans.

WBS 1410 Research on statistical data gathering in EU states and states in the region surrounding Ukraine (Q1)

Research was undertaken by the Canadian and Ukrainian teams into the existence of statistics gathering systems and methodologies across EU and other regional states, including the availability of gender-disaggregated statistics and other data relating to women's claims and use of courts and judicial outcomes on gender-related matters. Overall the practice (and systems) of court-based statistical collection and management of data in relation to women's participation in the courts, cases involving gender equality and other areas relating to gender equality remained new or weakly developed across the judicial systems about which information was available or provided. The matter of an appropriate model for GE-related statistical collection in Ukraine continues to be explored.

WBS 1411 Collation of information on Canadian institutional development relating to gender equality with focus on NJI (Q1)

The NJI's own human resource and institutional policies relating to gender equality and social equity (including in relation to entitlements, discrimination and harassment policies), as well as those of two other organizations, were reviewed and collated in order to assist and guide the Ukrainian gender expert and NSJ in the examination of the NSJ's own GE-related policy framework in the context of institutional strengthening efforts. The exercise assisted in expanding local



appreciation of the extent of attention given to social equity in the construction of government and non-government institutional frameworks.

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**IMMEDIATE OUTCOME 2: STRENGTHENED CAPACITY OF THE NSJ TO DEVELOP AND DELIVER SKILLS-BASED, GENDER AND SOCIAL CONTEXT-SENSITIVE, AND BUSINESS-RELATED EDUCATION TO 5-YEAR TERM AND PERMANENT JUDGES**

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Component 2 aims to strengthen the capacity of NSJ to develop and deliver skills-based, gender and social context-sensitive and business-related education primarily to permanent judges of the Commercial Courts, Administrative Courts and Courts of General Jurisdiction all of which hear and decide disputes between business litigants. JEEG is to ultimately equip judge trainers, NSJ staff and faculty judges, to design curricula, plan and develop courses incorporating best practices in education development, lead small group exercises, create model fact situations for training purposes, create videos and other learning tools, and generally use a variety of adult learning techniques. The project develops curricula and courses in a sustainable manner, assessing carefully the potential and relevance of a subject area that could be integrated into the annual two-week courses delivered by the NSJ<sup>1</sup>, particularly the annual two week mandatory training.

Using these skills, trainers design practical interactive education courses for judges assigned to Commercial, Administrative and Courts of General Jurisdiction (the project targets judges of general courts who hear and decide business-related civil cases in the General courts).

JEEG provides familiarization and opportunities for exchange and development of recommendations relating to integrating gender equality and social context within the development of faculty capacity, systems and processes for designing and delivering judicial education (including faculty development or training of trainer) programming; and relating to actual judicial education content delivered to judges by the NSJ. Efforts are made to ensure that gender equality and social context issues are considered and integrated where possible into the new courses in development in this fiscal year, under JEEG.

210 Curriculum covering competency in judicial skills, and general, civil, administrative, and commercial matters, prepared and training courses designed

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<sup>1</sup> Most donors in Ukraine develop courses that are delivered over a one- or two- day timeframe.

The first cycle of the training of trainers and course development (by the Ukrainian core trainers, with Canadian support) was initiated in the first fiscal year, with trainers identified in two subject areas. This first cycle (of three cycles in the project) of training of trainers and course development extends through the second fiscal year.

The first two subject areas for course development that will be piloted in the second half of the 2013-2014 FY period are: (i) property rights, in particular relating to land issues, and (ii) the judicial skill-set relating to statutory interpretation. Because of the relevance of these subject areas across courts, core trainers including judges of all target courts are participating in the development and delivery of the courses, thus disseminating learning across a wider sphere; and also enabling dialogue and learning opportunities between the jurisdictions of different courts.

During the second fiscal year, the project focuses its efforts in building a highly qualified corps of trainers including staff at NSJ (WBS1202b and WBS 1212) and judges.

WBS 2101 Peer-to-peer consultations and preparation for faculty and course development (Q1-Q2, Kyiv, Ottawa)

The Canadian and Ukrainian partners consulted each another directly through remote communications and other consultations in order to clarify and ensure agreement on and the goals and methodology of the project including in relation to the training of trainers and their development of courses (vital to the project's sustainability strategy) under Cycle 1. As mentioned in the previous paragraphs,, Ukrainian core trainer groups continue to develop courses on property rights and statutory interpretation (with Canadian facilitation) and are to deliver the courses in both of the subject areas under Cycle 1.

WBS 2113a Course development with Ukrainian Core Trainers in Property Rights (Land Law) for all courts (completed Q1: June 20-21 2013, Kyiv)

The topic of Property Rights was selected on the basis of its importance and its relevance to most judges. Property issues arise in civil, commercial, and administrative courts and across many business and economic matters. Ukraine has experienced a vast transformation as a post-socialist system and in its transition to a European style of civil law, has embraced a western property law framework. Nevertheless at the level of the judiciary, the application of property laws continues to be fragmented and inconsistent, and judges require substantive and skills-oriented education in the area of land and property use and rights, and interpretation and application of the current body of laws relating to this subject area.

The technical exchange program in Kyiv was the second meeting of the core trainers (not including the interim meetings that took place without Canadian expert participation). The program continued the development of skills-based, experiential courses in Property Rights with a focus on land law. The group of core trainers, totaling 7 Ukrainian experts, were involved in further refining of the agendas for the course, as well as further developing materials and developing new modules. The workshop and working sessions were led and managed by the NJI team including [REDACTED] as well as the JEEG project local team [REDACTED] with teaching and mentoring as required. In particular, Ukrainian and Canadian experts developed the following modules in this workshop:

Module 1 *Acquisition of Rights to Land by Citizens and Legal Entities* including production of the materials such as the *Framework for Granting State-Owned and Communal Lands to Individuals and Legal Entities*.

Module 2 *Transfer of Land Rights* dealing with the extent of jurisdictional separation issues, identification of parties to the claim, the grounds of gaining the land plot, procedural laws and legislation application.

Module 3 *Legal Framework for Land Lease in Ukraine* includes 4 subtopics: (i) Basic Provisions. Jurisdiction (Territorial and Subject Matter) of Land Lease Cases; (ii) Grounds for citizens and legal entities to acquire land use rights; (iii) Amending the Terms of Land Leases. Extending Land Leases; (iv) Compensation of Damages Suffered by Land Users.

An unintended result of this technical exchange was the creation of an opportunity to bring judges of different jurisdictions together and have a fruitful discussion on the rationale for separate land law courses for each of the specialized courts. While the need to develop separate courses for each jurisdiction had been agreed upon, judges had an opportunity to discuss challenges faced by each jurisdiction. It is not common for the courts of different jurisdictions to have opportunities to work together.

WBS 2113b Course development with Ukrainian Core Trainers in Statutory Interpretation (completed Q1: June 3-4 2013, Kyiv)

It is important to note at the outset, the importance of statutory interpretation to the jurisprudence of Ukraine. In Ukraine, the inheritance of soviet legal education processes has resulted in a continued lack of practical research, study, or instruction in the area of interpretation of codified laws which today constitute the core of Ukrainian law (with case law commonly applied in support of statutory law). The skill of statutory interpretation is essential and central to all areas of law and is considered paramount in strengthening the fairness, clarity and consistency applied

to the adjudication of cases. Law students, lawyers and judges do not learn how to interpret statutes which is a major shortcoming of the justice system of Ukraine.

The technical exchange program in Kyiv was the second meeting of the core trainers (not including the interim meetings that took place without Canadian expert participation). The program continued with the development of skills-based experiential course in statutory interpretation. The group of core trainers, totaling 22 Ukrainian experts, were involved in further refining the agendas for the course, developing materials and developing new modules. The workshop and working sessions were led and managed by the NJI team including [REDACTED], as well as JEEG project local team.

The course development in this subject matter of statutory interpretation is facing several challenges. First, the lack of comprehensive education programming in this area means that judges are not well equipped to make clear and consistent determinations. Second, while new theoretical academic approaches could help Ukraine to establish better education programming in Statutory Interpretation, Ukrainian judges wish to focus on practical, skills-focused elements of statutory interpretation. The academics in the team selected by partner organizations wish to continue the development of theoretical bases though the state of theory in Ukraine. After this exchange, the project will prioritize the development of skills of experiential model of judicial education for the core trainers working in the area of Statutory Interpretation.

WBS 2113c Course development with Ukrainian Core Trainers in Property Rights (Land Law) for Administrative Courts (completed Q1: June 25-26 2013, Odesa)

The technical exchange program in Odesa was the first workshop in the development of skills-based experiential course in Land Law for Administrative Courts. The group of core trainers, totaling 10 Ukrainian experts, were involved in introduction sessions led and managed by the NJI team including [REDACTED], as well as JEEG project local team. During the working sessions, Ukrainian and Canadian experts discussed the need for the following modules:

Module 1 *Jurisdiction Issues in Land Disputes* aimed at developing the skills of judges in the determination of the jurisdiction of a claim which judge receives for consideration.

Module 2 *Procedural Issues in Land Disputes* aimed at providing judges with knowledge and skills in procedural issues of land law dispute consideration in administrative court including: the determination of parties including the role of the state and governmental agencies, the role of the prosecutor, and emerging issues of precedence; procedural time framework; available remedies including rights to

remedy, categories of administrative claims (types of remedies), the authority of court, the delineation of authority of governmental agency in accordance with Code of Administrative Proceedings.

Module 3 *Particularities of Disputes on State/Communal Property* aimed at giving judges knowledge and skills on the application of legislation and the resolution of disputes on the acquisition of different types of land in different areas: the resolution of disputes on providing rights on the land depending on the category of land by purpose; zoning; changes to the targeted usage of land; competing claims for land, including rights of displaced persons, Crimean Tatars, families of many children etc.

Module 4 *Protection/ Damage to Land* deals with disputes related to the contamination of the land and compensation for damage for certain usage.

Module 5 *Suspension of the rights on the land/ alienation* aimed at the resolution of disputes and decision-making on the alienation of land plots: resolution of disputes on the expropriation of land for public needs, the sensitivity of issues on rights to property, judgments of the European Court on Human Rights (e.g. Bulgaria case related to moving Roma community - proportionality principle test); particularities of the resolution of disputes on suspension rights on the land depending on the category of land.

Module 6 *Taxation and Evaluation of the Land* on the claims regarding taxation of the land and evaluation of the land cost.

The core trainers decided to focus on the development of materials for Modules 3 – 6 and build on the materials developed under WBS 2113a for Modules 1-2 to avoid any duplication of efforts.

WBS 2113d Course development with Ukrainian Core Trainers in Courtroom Management (completed Q1: June 6-7 2013, Kyiv)

The technical exchange program in Kyiv initiated the development of skills-based experiential course in courtroom management. The group of core trainers, totaling 12 Ukrainian experts, was involved in the first introductory workshop led and managed by the NJI team including [REDACTED] as well as the JEEG project local team.

After an introduction to the methodology of skills-based education, the discussion of the Courtroom management issues took place including: the nature of the course, the possible structure and the target group. It was agreed that the target group for this course is the newly appointed judges. As well, the core trainers discussed the

recycling of particular parts of the course developed under the previous Canada-Ukraine Judicial Cooperation project (with the Academy of Judges of Ukraine).

The core trainers then compiled the list of core competencies of the newly appointed judge including the following: the role of the judge in proceedings, communications skills, tolerance and respectfulness to parties and representatives, ability to control parties, the ability to demonstrate proper and ethical behavior, ability to analyze information and exclude irrelevant information (analysis of evidence in the case), the ability to identify subject, aim and grounds for claim, admissibility of the claim and supporting documents, preparedness to resolve conflicts, to deal with non-standard situations emerging in the courtroom, the ability to conduct a hearing in compliance with procedural norms, the ability to explain the parties their rights, and time management.

The following modules were selected for further development; some modules simply needed revisions of the earlier versions developed with the Academy of Judges of Ukraine:

Module 1 *Organization and Preparation of a Hearing* aimed at providing judges with knowledge and skills on the preparation of trials and the conduct of preliminary hearings if necessary.

Module 2 *Conducting a Hearing: Communication with Parties* aimed at skills development in the organization of hearings and the step-by-step conduct of hearing, keeping order in the courtroom as well as skills of communication with different types of parties including those who are not represented by council.

Module 3 *Particularities of Conducting Hearing* focusing on mass media and technical equipment aimed at the development of skills of courtroom management with the presence of mass media as well as the use of cameras and other technical equipment for video and audio recording.

Module 4 *Conducting a Hearing in the Framework of the Claim* aimed at the development of skills to keep parties and the hearing within the scope of a claim.

Module 5 *Announcement of Judgment* aimed at the development of skills on the reading/announcement of judgments, including the issues of interruption of judgment announcements in large and complex cases.

230 Development, integration of gender and social context issues and standalone gender modules into new NSJ courses and training of core trainers

Gender Equality (GE) continues to be emphasized as a necessary element of all training initiatives. Research and analysis were undertaken in relation to GE considerations including the prevalence of GE programming across Europe; project personnel and experts were provided continuing training in GE; the Ukrainian Gender Advisor was oriented to GE in the Canadian judicial education setting; efforts were made to initiate the development of a standalone course on GE; and relevant GE and social context matters were integrated within model course content where appropriate.

#### WBS 2302 Project participation in gender training (Q2, Ottawa)

Project personnel including the [REDACTED] and the Canadian gender expert, participated in a Gender Training Workshop facilitated by Mosaic International in Ottawa, July 15-19, 2013. Learning acquired during the training was subsequently reviewed in relation to the work of the project. The face-to-face time between the GE team members including the Project Director and Manager enabled continued elaboration of workplan aims and enhanced understanding of cultural variances including historical contexts, use of language and emerging/changing definitions and assumptions, that have been discussed with other project staff over the course of this reporting period. This understanding was important to the larger project in ensuring the continued sensitive communication of ideas and strategies in relation to GE and social context.

#### WBS 2303 Direct familiarization of NSJ gender expert with NJI education methodology and its institutional development in relation to gender equality issues (July 2013, Ottawa)

Through the course of a three day orientation, the Ukrainian Gender Advisor was provided greater exposure to the NJI's GE-related and institutional framework and education programming, including new and upcoming issues that the institution is tackling in relation to GE, and to the practical application of social context principles through observation of court hearings in sensitive subject areas (mental health and child abuse). [REDACTED] met with NJI personnel on NJI's electronic benchbooks (including benchbooks on domestic violence) and convened with the project gender team on institutional policies relevant to GE and short-term planning issues. [REDACTED] with members of the Canadian team was able to interact with [REDACTED] on the development of social context education in Canada and at the NJI, the evolution of GE in Canada and Ukraine, continuing differences among judges and other judicial experts in relation to social equality issues and approaches used in communicating with and engaging judges on contentious subjects. [REDACTED] also spoke with [REDACTED] and the Canadian team about the development and design of social context courses utilizing judges' leadership and input.

WBS 2310 Gender-related data collection, research, and analysis of trends and issues in Ukraine, approaches in Canada, and related education needs at NSJ (Q1, 2, 4), Ukraine and Canada)

Research and analysis were undertaken in relation to GE considerations arising in the context of Ukrainian land law and property law frameworks. Given some paucity of Ukrainian-sourced GE-related research in these areas, questions raised in other states and regions on these subjects were also examined from a Ukrainian legal perspective. Second, the project researched the integration of gender equality into judicial education programs across key EU countries and other states in the region surrounding Ukraine in order to provide a comparative basis for the Ukrainian context and promote further advances in integrating GE in programs. Research was relatively successful and determined that many jurisdictions across Western and Eastern Europe are developing and implementing programs relating to gender and social equality across a number of subject areas in order to sensitize judges to their larger social environments. Information culled was shared with judicial experts and judges taking part in the project so as to strengthen their knowledge of the broader context of socially-oriented judicial education in their efforts to promote it in Ukraine. Additionally as noted above at WBS 1410, research efforts were made to determine the presence and scope of efforts underway to collect and apply gender-disaggregated statistics across Europe.

WBS 2320 Implement standalone gender equality workshops

The Canadian Project and expert team with the assistance of the Gender Advisor held a half-day Roundtable on June 21, 2013 (in the context of the June exchange, 2113B) in Kyiv, in which project personnel, GE experts, Canadian and Ukrainian judges committed to GE, representatives of civil society organizations (La Strada, Rozrada, and Women's Fund in particular), International Organization for Migration and other judicial officials finalized the selection of the topic of labour and employment matters for a first standalone GE course, shared national experiences in the evolution of judicial approaches in those areas, and brainstormed some of the key gaps in knowledge and skills that require attention in this area. The civil society representatives raised issues in their organizational areas of expertise including categories of women who face challenges entering the labour force, sexual harassment in the workplace, access and use of land plots, shortfalls in the practical application of benefits legislation, and the lack of utilization of courts by many women for gender- or social rights-related matters. [REDACTED] facilitated the Roundtable, which proved productive in establishing a positive foundation for future interaction between the NSJ and civil society. The course is anticipated to be offered in the 2014-15 fiscal year.

The Canadian team also spent time during the mission dialoguing with the NSJ including with [REDACTED] who is included in all planning at the NSJ. The



time spent with senior personnel and experts of the NSJ assisted in further isolating issues that could be raised in the standalone course and reviewing recommendations raised by the Roundtable.

WBS 2330 Consideration and input/integration where appropriate of gender equality and social context into judicial education courses (Q3-4, Ukraine and Canada)

During course design and development exercises implemented in this semi-annual period, the Ukrainian counterparts were responsive to and participated in efforts to integrate relevant GE and social context matters into model course content. In relation to the Courtroom Management module, training included consideration of the child's perspectives where a hearing or case involves a child, as well as the development of judges' abilities to communicate with different types of people including persons with special needs and varying social or socioeconomic backgrounds and to respond impartially and with sensitivity to parties potentially involved in domestic violence.

In relation to the Administrative Land Law model course, the Canadian judicial team initiated a GE session through an examination of broad gender considerations relevant to the issues and sub-issues that make up the course content. A Ukrainian judge led a discussion of the use of poetry and other creative mechanisms in drawing the interest and participation of judges into social/GE discussions. The training plan has integrated the application of social criteria in adjudicating competing claims for land, including, where applicable, the rights of displaced persons, Crimean Tatars, families having many children and other socially marginalized or disadvantaged demographics.

Also in the context of development of the Generic Land Law Dispute Resolution model course, a presentation was delivered on Gender Equality and Law in Canada by [REDACTED]. The presentation triggered a productive discussion of contextual variances between Canada and Ukraine and was followed by a facilitated session on GE issues in Ukraine. The Ukrainian judges discussed Ukrainian matrimonial law in relation to property and land rights as well as division of business assets. The related legal frameworks are advanced compared with many other countries, and it was considered among the Ukrainian judges that these could be raised in the context of trainings to draw attention to Ukraine's strengths in GE and areas for possible improvement in the application of law. Other areas under this course subject were also touched on including the challenges women litigants face in accessing justice both in Canada and Ukraine, in Ukraine's instance owing to the lack of rights awareness or legal literacy among many (particularly rurally-based) women and among vulnerable social groups in general. Women in rural areas typically face other difficulties such as the lack of property registration, which has

favoured male heads of households and precluded the fair division of property. [REDACTED] favoured integrating the most prominent issues (underlining both strengths and weaknesses) into course development to draw attention to GE in the judicial training context.

IMMEDIATE OUTCOME 3: IMPROVED CAPACITY OF SELECTED PILOT COURTS  
IN THE OBLASTS OF IVANO-FRANKIVSK AND ODESA TO HANDLE COMMERCIAL  
CASES AND BY MEANS OF PILOTING JUDICIAL PRETRIAL SETTLEMENT  
MECHANISMS

The statistics indicate that every year the Ukrainian courts of general jurisdiction receive close to 2 million civil claims. The extreme workload/caseload, the lengthy process to advance cases through the system, the complexity of these cases, and the high costs associated with their processing, coupled with a low public trust in the justice system, are all factors prompting the Ukrainian judiciary to not only find the alternative methods for dispute resolution, but also to introduce improvements in the procedure of resolving disputes within the existing court system. Practice shows that the adjudication, based exclusively on the facts of the matter, is not always the best method to resolve a dispute. Therefore, an alternative procedure - one that is simpler, flexible, less costly, and which results in an amicable resolution - is preferred. The experience of Canadian judges in facilitating early resolution of disputes is therefore of significant value to the Ukrainian justice system.

**320 Historical system for handling commercial disputes analyzed and recommendations made for system-wide integration of judicial pre-trial settlement mechanisms in the court process**

**WBS 3201 Drafting and planning meeting on the recommendations for the institutionalization of judicial settlement conferencing**

**Meeting of the JDR Working Group - Kyiv, April 1-2, 2013**

In April 2013, FJA conducted a meeting of the Working Group on the Matters of Piloting the Judicial Dispute Resolution Procedure in four Pilot courts of Ukraine (referred to further as Working Group on JDR). The meeting was attended by [REDACTED]

and [REDACTED]

[REDACTED]  
[REDACTED] (Agenda of the Working

Group Meeting is attached as Annex 8)

During the discussions of the Group it was recognized that 1) judicially assisted pre-trial settlement of cases is extremely important for the Ukrainian judicial system and society as a whole, and 2) introduction of such a procedure would require thorough preparation and analysis, and therefore the project should consider retaining a local expert with a good knowledge of Ukraine procedural laws, who could assess the efficiency of pre-trial settlement for various types of cases, systematize and summarise results, and develop appropriate recommendations for judges and legislators.

After four chief justices presented their vision of the introduction of the procedure, and after discussion with the engaged expert, it was confirmed that it was indeed possible to introduce a JDR procedure in the courts within the framework of the existing procedural legislation (with the administrative procedural code being more flexible than the civil procedural one). In fact, there is a preliminary hearing stage in the process that a judge can use to facilitate the resolution of a dispute between the parties by finding a mutually accepted compromise without having to go further with a potentially lengthy trial. Unfortunately, due to this “chase” of efficiencies, this important stage in the process has not been utilized to the benefit of the parties and the justice system. The result is that almost all cases proceed to trial, many being lengthy and very costly to both the parties and the justice system in general. As a result, judges get swamped. Appeals are almost always guaranteed because one party is unsatisfied. In the end, it takes years for a case to proceed through all instances of courts, often resulting in obvious winner. Even then, the enforcement of the final decision is a very difficult process. [REDACTED]

[REDACTED] reported that, out of 10,000 claims reviewed by his Court (divorce cases not included), only 125 (or 1%) were resolved with a peace agreement. This number could and should be much higher. Judicial settlement conferences can therefore bring about a very positive change.

Additional priorities for the pilot project were identified as a result of the meeting, which included:

- 1) Define the procedure and commit it to writing, possibly with slight differences for administrative and general courts;
- 2) Collect data (statistics) on the available results of pre-trial settlement processes; monitor the results with the collection of statistics; collect if possible statistics of other countries where such procedure had a great success; study the case of European (civil law countries)
- 3) Identify the type of cases that are eligible for pre-trial settlement;
- 4) Identify judges who will conduct pre-trial settlement conferences for specific types of cases (labour disputes, contractual disputes, family cases (property division), etc.);

- 5) Justify the need for the pre-trial settlement procedure, which would support the recommendations to the legislators;
- 6) Conduct public awareness and sensitization for the justice system stakeholders (legal profession, relevant state organizations, especially those who appear as a litigant in administrative cases, etc.), private institutions (banks, others) ; Communication and visibility actions (meetings, roundtable discussions, press releases) for lawyers and governmental officers (customs and tax authorities etc), executive authorities and local governance bodies;
- 7) HQCJU to adopt a decision on isolating judges participating in the implementation of the pre-trial settlement procedure within the framework of the Project from disciplinary action;
- 8) Judges involved in the project and the retained local JDR expert to review, consider and work on resolving possible limitations to full implementation of the procedure (such as random case assignment, case processing deadlines, not being able to assign a different judge to a case (except for very serious reasons), a judge not being able to offer an opinion on his/her position on a case, signing a peaceful agreement with a clause providing an appeal is not allowed, enforcement of the peaceful decisions, etc. ).
- 9) Develop information brochures for the public on the advantages of the piloted procedure and explaining the process and its potential consequences; ensure that court staff is able to provide additional information to the litigants when required; provide adequate training and sensitization within the court; draft informative articles for legal magazines/heralds describing the rationale for a pre-trial settlement procedure;
- 10) Consider the type of training required by judges in order to successfully introduce the procedure in the court; through the process of piloting, make recommendations as to the type of training that would be required for judges involved in JDR;
- 11) Consider the following cases for pre-trial settlement:
  - a. Damages claims (contractual relations);
  - b. Family property division (including property owned by private entrepreneurs);
  - c. Probate disputes;
  - d. Disputes with local authorities (unauthorized construction);
  - e. Bank loan disputes;
  - f. Property division and alimony disputes;
  - g. Disputes involving insurance companies;
  - h. Municipal utility collection of unpaid bills;
  - i. Majority of administrative disputes (Article 112, job reinstatements, Public service appointments, performance and discharges; Disputes over penalties applied by tax authorities; Disputes over penalties applied by the Pension Fund, etc.) with the exception of those specified in Part 6 of the Code (i.e. Elections matters).
- 12) Employ, where necessary, the rulings/decisions of the Superior Courts (Supreme Court and High Courts) on a matter to suggest a possible outcome for a case – (*NOTE: In this case we see the application of precedent law*)

- 13) For each Court to consider all of the above and come up with specific action plans to be then submitted to HQCJU by April 22, 2013 and shared with other courts in order to be consistent in the approach; and of course, again, pilot the procedure within the boundaries of the existing law;
- 14) Canadian judges to provide supporting documentation that can be of use to the Ukrainian partners and comment on the materials developed by the Ukrainian courts; support with further technical workshops for judges on the procedure and its aspects;
- 15) Project authorities to look into the possibility of retaining a local JDR consultant to assist Ukrainian judges with the analysis of the legislation.

It was agreed that the pilot of the Judicially Assisted Dispute Resolution would commence on May 15, 2013, at all four courts and would run for at least one year, after which time recommendations may be compiled for further dissemination of the experience in Ukraine along with the necessary recommended amendments to existing legislation.

Next Meeting of the Working Group is planned for October 2014 at which time the interim results of the pilot are to be reviewed and discussed. The outline of the final recommendations is to be also drafted at the time.

#### **Retention of the Local JDR Consultant**

The Project received permission from the Funding agency to retain a local consultant who would be tasked to collect information from the pilot courts (rules of procedure, statistical data on settlements, communication products that will get developed for the public, OGDs, media, etc.; needs indication as to supplementary training for judges in conducting settlement conferences, etc.), generalize it /standardize it; undertake additional research on the experience of the European countries with a JDR procedure, which, combined with that of Canada/North America, can then be used to substantiate legislative changes.

The expert is [REDACTED]

[REDACTED] participated in drafting the Civil Procedural and Administrative Procedural Codes of Ukraine and has thus a very intimate knowledge of the legislative framework within which the pilot courts are to test the procedure.

[REDACTED] has written reports analysing the current legislation and concluded that such procedure can in fact be introduced under current procedural codes, and that it has a great potential to benefit Ukraine. [REDACTED] also analysed the European countries experience and that of some of the post-soviet jurisdictions. While most of their experience comes down to mediation as an alternative method for dispute resolution, a lot can be drawn from that experience as well. He reported on the progress of piloting in each of the regions, recognising that, while the

administrative procedural code is a lot more flexible for the introduction of the JDR, it proves more challenging for courts to have parties agree and settle cases. This is so because, in administrative courts, state regulated bodies are one of the litigants, and the framework for compromise is much more constrained than in the general courts. He also reports that there is hesitance on behalf of court clients and lawyers to test the new procedure, mostly because there are many unknowns for the public on what the process will entail, and its possible outcome. At one point, the administrative courts had reported only 1 settlement. (The numbers have since increased, but not substantially). However, the experience at the courts of general jurisdiction have been by far more impressive, showing 169 peaceful agreements reached in Ivano-Frankivsk City Court and about 49 in Odesa Malynovsky Court.

**310 Training in judicial pre-trial settlement mechanisms designed and delivered, including effective settlement of disputes; managing the mediation process and facilitating advanced negotiations; effective communications, etc.**

**WBS 3103 Training of Ukrainian judges and court officials in case management and settlement conferences (2 workshops in each region) - April 2013 (FYs 2013-2014; Q1, Q3)**

**The Technical Workshops on JDR in Ivano-Frankivska and Odesa Regions**

Two technical workshops, two-days each, were conducted in Ivano-Frankivsk on April 11-12 and in Odesa on April 15-16, 2013.

The main objective of these workshops was to enhance knowledge about the pre-trial settlement procedure (PSP) among the representatives of the Ukrainian judicial system; develop practical skills in managing settlement conferences; and identify specific mechanisms to support the implementation of the pre-trial and settlement conferences in the pilot courts in Ivano-Frankivsk and Odesa. (Workshop Agenda is attached as Annex 9)

Judges, lawyers, court employees, and representatives of public authorities were able to learn about the Canadian settlement conference practices; discuss key aspects (new judge's role, confidentiality, procedural and legal aspects) after the demonstration of a video-recorded pre-trial conference conducted by [REDACTED]; take part in mock pre-trial settlement conferences featuring four real-life cases from the local and administrative courts in Ivano-Frankivsk and Odesa; consider gender and social aspects of pre-trial settlement; and identify specific steps required to implement the PSP in the pilot courts.

There were 24 workshop participants in Ivano-Frankivsk (14 men and 11 women) and 25 in Odesa (12 men and 13 women).

[REDACTED] respectively, introduced the participants to the history and development of settlement conferences as part of case management practices in Canada. They drew a distinction between a judicially-assisted pre-trial settlement procedure and mediation, noting that the primary objective of a JADR procedure is administering justice while mediation is more geared toward satisfying the interests of the parties. It was emphasized that the JADR procedure helps enhance the transparency of the judicial process, increase public confidence in the courts because settlement conferences bring the members of the public and the judges closer to each other and thereby reduce insecurity and fear the individual may feel toward the courts. Other advantages of the JADR procedures were also discussed (reduced litigation time and costs, both for the courts and the parties; reduced number of appeals; and the possibility of a creative approach to developing settlement options).

The participants were very interested in procedural aspects of the JADR procedure: documentation prepared before the conference and in case if settlement is reached; how such procedure is conducted, when and how judges meet with lawyers for the parties and clients; how caucusing is conducted; the extent to which a judge can voice an opinion on the case and its likelihood outcome; how the courts ensure the enforceability of settlement agreements; as well as the legal (e.g. the rules that regulate the process in Canada) and behavioural aspects of the JADR process (e.g. how the parties address the judge during the conference).

Answering questions about types of cases that are more often resolved through settlement, the Canadian judges stated that, while all types of civil cases are or can be subjected to settlement conferences, the highest settlement rates are recorded for family cases, property division disputes, and commercial lawsuits (in which everyone realises that if matter goes to trial the costs involved will be much higher than if settled earlier). Cases involving 3-4 parties are very challenging to resolve through pre-trial settlement.

During the workshop, the importance of developing personal skills and competences of a settlement conference judge was emphasized. This includes the judge's psychological skills, the ability to understand and establish contact with parties and their counsel, the ability to convince them to reach compromise, and how to find proper arguments in each specific case.

**A video** of a pre-trial settlement conference conducted by [REDACTED] during the study tour of Ukrainian judges to Canada was used as a visual demonstration of the pre-trial process. After the demonstration, there was a round of discussions on various aspects of the procedure. A workshop also included a **practical exercise where Ukrainian judges had to stage a pre-trial conference**, based on a real-life case scenario taken from Ukrainian courts. The Ukrainian judges and lawyers had very little time to prepare for this exercise, so as to enable

them to rely on the training received throughout the workshop and use their skills to navigate through the process. The courts developed the scenarios and Canadian judges then would pick one and have the Ukrainian judges conduct a mock pre-trial hearing.

### ***Mock Pre-Trial Settlement Conference Demonstration Video***

*Mock pre-trial procedures conducted as part of the program of the Technical mission to Canada (one in Regina and one in Winnipeg) were recorded, transcribed, translated and then dubbed into Ukrainian for training purposes. One such video was demonstrated as part of the technical workshop in Ivano-Frankivsk and Odesa (A copy of the video was provided to DFADT and is enclosed with the Report.) The second video is currently in development, with a slightly different format envisaged.*

### ***Interim/On-going work under WBS 3100***

#### *Video Development*

The second video has been transcribed and translated. [REDACTED] analysed the video to break it down by segments and to provide additional information before each of such segments in order to have instructional/explanatory notes designed to facilitate comprehension of the procedure. The video is currently being edited in Ukraine.

#### *Feedback from the Canadian Judges*

During the summer months, the model courts were in the midst of unrolling the pilot in each of their respective courts (The procedure of judicially assisted dispute resolution was available to the litigants starting May 15, 2013). The courts had by then developed procedural rules to regulate the pre-trial process within the court and within the framework of the existing legislation; developed information brochures for the public; posted required information on their court web-sites; conducted meetings of judges (the local Judicial Council Meeting), as well as their own judges and staff; met with the representatives of government agencies as well the legal profession to inform them of the new procedure. Canadian judges provided feedback on the procedure and other materials developed by the Ukrainian partners.

#### *Follow up by the HQCJU*

FJA coordinated with the HQCJU their follow up visits to the regions. The purpose was to (1) get direct feedback on the progress; (2) assist the courts in their meetings with state representatives and other stakeholders; and, (3) discuss the upcoming project activities and further steps in the piloting.

#### *Preparations for the second round of the Technical workshops in Ukraine and a Working Group Meeting to review interim results*

FJA planned a mission to Ukraine for October, to allow to gather the Working Group together to discuss the interim successes and challenges of the pilot courts in testing



out the JADR procedure, hear the report of the Local expert along with the recommendations for refinement of the process, and discuss the amendments (identified to-date) that will be required in the Procedural Codes. The workshops to be conducted in each of the regions at that time are to focus on particular aspects of the procedure such as the preparations for the settlement conferences, caucusing with the parties, and dealing with complex multi-party cases.

The project intends to organize separate meetings with lawyers, the media and the public (including legal representatives of the state institutions, representatives from the various civil society organizations, association of entrepreneurs, and, if possible, with litigants who by then have participated in JDR conferences). These meetings envisage building awareness and encouraging court users to try JADR and to attempt to settle their dispute in an expedited, more amicable and less costly fashion. With the state regulated bodies a dialogue is to be held to encourage them to find flexibility to overcome existing constraints in settling the disputes.

As per the project implementation plan, this will be the last technical mission to Ukraine with the Canadian JADR experts to work with the Ukrainian Judges on the procedure. After that, it is expected that the pilot courts would continue the experiment and, in the subsequent six months, provide feedback for the recommendations (supported by concrete results) for the institutionalization of JADR. FJA further activities on the project will be reviewed after that time.

WBS 3104 Gender awareness and sensitivity building workshops in the pilot regions (2) (April 2013 (FYs 2013-2014; Q1, Q3))

**Gender training (Ivano-Frankivsk: April 11-12, 2013; Odesa: April 15-16, 2013)**

Two gender training seminars were integrated into the technical workshops in the two regions, as originally foreseen in the design of project activities. Such integration allowed the participants to tie the technical side of the justice system work with gender equality considerations and understand how the latter affects the justice system and its individual players.

conducted the seminars. In addition to sensitizing the participants to the concept of gender equality and to the laws of Ukraine (as well as ratified international conventions) that support it, she also held a separate session specifically targeting gender aspects of the pre-trial settlement process.

The interactive format of mini-workshops was comprised of role-play exercises, brainstorming sessions, etc., and proved very successful in establishing linkages with practical experience of the participants, who were able to use it to analyse the situation, identify issues and outline options for addressing them. For example, during the Feel the Discrimination exercise, the judges, lawyers and court

employees tried to put themselves in the shoes of people discriminated for any reason, those whose access to economic resources and services (including court services) is severely impeded, and those who face significant difficulties in protecting their own interests.

Understanding social inequalities and disparities among potential court customers has underpinned the formulation of the gender mainstreaming and social inclusion strategies for the pre-trial settlement implementation process.

The following most important elements of these strategies were identified by the participants:

- Unbiased attitude (not affected by gender stereotypes regarding women and men's psychological characteristics, destiny, roles and values);
- Fair and equal treatment (language, behaviour);
- Understanding and respecting special needs of women and men; their opportunities; their interests; and their social and economic realities;
- Focusing attention on a more vulnerable party who may suffer from multiple discrimination (gender, age, ethnic origin, level of affluence etc.);
- Identify factors causing gender discrimination;
- Understanding the origins of conflict, examining the impact it may have on the course of negotiations, and on the decision-making process, as well as on the ability to achieve mutually beneficial actual results.

The subsequent discussion focused on the negative effect of society's gender stereotypes that result in discriminative and insensitive attitude of people involved in the system of justice (judges, prosecutors, lawyers and court employees). The workshop participants had a lively discussion regarding the notion of positive bias. Judges and lawyers were able to analyse their own perceptions and attitudes to answer questions such as whether they had any doubts when it came to granting child custody to a father or reducing the amount of child support paid by a mother just because of gender; whether they might treat a criminal defendant more harshly because he was male; etc.

Toward the end of the workshop, judges and lawyers split into small groups to consider various case studies and answers the following questions:

- Is there a disparity between the parties and what are the reasons?
- How a settlement conference judge can respond to this disparity in the best way?
- What kind of gender sensitive compromise would be acceptable for both parties and would help reach settlement?

To answer these questions, the workshop participants:

- Considered a man and a woman as the parties to a conflict, assessed their opportunities and resources, as well as the weaknesses and expectations they might have regarding the pre-trial settlement conference;

- Tried to identify the origins of conflict and history of relations before the conflict;
- Tried to find motivation to restore relations or resolve the conflict;
- Tried to predict the impact the outcome (successful or unsuccessful) the pre-trial settlement process may have on a woman and a man.

Despite the fact that women in some case studies looked more vulnerable and were forced to make compromise and accept unfavourable terms of agreement because of their social position or lack of money, the judges and lawyers recognized that men can also at times be disadvantaged, thus recognizing the importance of always remaining neutral and not be influenced by any stereotype.

The discussion of gender equality issues led the participants to the conclusion that ensuring gender equality is an integral component of the principle of justice underpinning the pre-trial settlement process. In other words, fair conflict resolution and settlement cannot be reached unless gender equality issues are properly addressed.

Next Gender training is planned for Oct. 2013 (format to be determined).

## PROJECT MANAGEMENT

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Several areas of responsibility have been determined within the project in accordance with commitments and agreement by all partners. NJI is established as the Canadian Executing Agency (CEA) - the lead Canadian organization responsible and accountable to DFADT for the overall implementation of the project through the delivery of activities and outputs as well as reporting on the achievement of immediate and intermediate outcomes. NJI is responsible for collaborating with FJA in the assignment, management and administration of Canadian and Ukrainian inputs including expertise, technical assistance, and training resources. While it is understood by both partners that the overall responsibility for project execution and official representation with all stakeholders of JEEG lies with NJI, FJA is responsible for the implementation of activities under Outcome 3.

FJA manages Outcome 3 of the JEEG Project and reports to NJI on the progress achieved as well as the overall results. Financial reporting for Outcome 3 of the JEEG Project is carried out by FJA directly to DFADT.

There have been no major changes in the management of JEEG; the reporting period was one of the finalization of processes and procedures and roles and responsibilities. In the recent time period, NJI and FJA have coordinated the timing of exchanges, visits and other activities. NJI has also provided logistics, procurement and other support as required. Local office staff provide assistance to both NJI and FJA and attended activities of NJI and FJA. In recent months, NJI and

FJA have participated in two formal meetings and several informal meetings and contacts between the Project Managers. In the remaining months of the fiscal year, monthly meetings are scheduled between NJI and FJA largely to coordinate, discuss and plan activities and in particular - judicial education for pre-trial settlement.

JEEG continues to promote local ownership and leadership in planned project work and results. HQCJU and NSJ together with NJI and FJA determine the work plan for the year. HQCJU and NSJ decide on their strategic plans and priorities, course work and other project activities and take the lead in project implementation in their projects.

In August and September of 2013, project management was engaged in refining processes and roles and responsibilities between the Ukraine JEEG office and the Canadian NJI office and between partners. To this end, JEEG staff met in September to: review and refine job descriptions and responsibilities, review and refine project processes including financial approvals and flow of documents. HR issues and training of local staff and team building activities were also undertaken.

The second JPSC meeting was held by video conferencing on 19 June 2013 co-chaired by Valeriy Oliynyk, DFADT Senior Project Officer and [REDACTED]

[REDACTED] The following Steering Committee members participated on behalf of following organizations:

- DFADT - Mr. Steve Podesto, Senior Development Officer;

- [REDACTED]
- [REDACTED]
- [REDACTED]

Judge-experts from Canada, representatives of FJA, ICG and Ukrainian local office were also in attendance. The JPSC meeting was successful - for more details on the agenda, please refer to Annex 10 and for the minutes of the JPSC meeting to Annex 11.

JEEG Project Management has also been meeting regularly with other donors and projects to coordinate and to engage in joint activities whenever possible. For example, JEEG participated in USAID-FAIR facilitated bi-weekly meetings and conducted workshops and other activities together.

## INITIATIVES UNDERTAKEN IN SUPPORT OF IMPLEMENTATION OF GENDER EQUALITY STRATEGY

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Gender equality initiatives and results are integrated within immediate results 100, 200 and 300 throughout this work plan. In general, JEEG continued to facilitate gender awareness-raising among project participants and other stakeholders; to promote women's equal representation in the leadership and institutional management of courts and judicial self-governing bodies as well as participation of a reasonable balance of men and women in project activities; to integrate gender principles across all areas of the project work; and to highlight examples of successful relevant reforms in the Canadian gender equality context.

Efforts in this reporting period included:

- Continued dialogue and exchange with NSJ senior management and senior staff responsible for developing and delivery of judicial education in Ukraine, and senior personnel of the pilot courts, on gender and social context, including exposure to NJI model of addressing gender and social context
- Knowledge-sharing and network building between the NSJ and Ukrainian civil society representatives on the intersections between gender equality, judicial function and decision making, and judicial education
- Research and consultations with partners and judicial experts considering trends in Ukraine at the level of judicial institutional process and competencies at the level of individual behaviour and decision-making
- Identification of Canadian and Ukrainian legal-GE related areas relevant to the project themes, relying at times on other jurisdictions for comparative analysis
- Review of available information on gender-disaggregated judicial statistics collection
- Research into GE and social context judicial education programming across Europe for comparative analysis
- Exposure to gender equality training to enable enhanced planning and design for project personnel and experts
- Continuing familiarization and exposure of Ukrainian Gender Advisor to NJI personnel and processes relating to GE programming and policy
- Sharing of NJI institutional experience with GE in relation to policy and programming and integration of gender equality principles and considerations into institutional strengthening activities

## UPDATED RISK REGISTER

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The full version of the Risk Register is appended as Appendix B in this document. No updates on Risks or Risk Response Strategies are necessary at this point.



## FINANCIAL SECTION

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Please see enclosed for details.



## PERFORMANCE SECTION

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Please see Appendix B for details.





APPENDIX A: GANTT CHART OF ACTIVITIES FOR THE FISCAL YEAR 2013-2014

ACTIVITY	APRIL	MAY	JUNE	JULY	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR
<b>1000 Series</b> <b>Immediate Outcome 1</b>												
<b>110</b> <b>Institutional capacities of NSJ and HQCJU in its responsibility for judicial education analyzed with recommendations for improvement developed</b>												
1104 Coordination with USAID FAIR Project												
<b>120</b> <b>Technical assistance in gender-sensitive judicial education institutional strengthening</b>												
1202 Workshop on JE institutional strengthening												
1210 Preparation for job shadowing internships (English language training in Ukraine for up to four interns)												
1211 Internship of Ukrainian institutional staff												
1223 Networking with relevant non-partner stakeholders including gender-related organizations												
<b>130</b> <b>Distance education mechanisms implemented in central and regional offices</b>												

ACTIVITY	APRIL	MAY	JUNE	JULY	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR
1330 Familiarization with Canadian institutional models and methodological frameworks relating to adult distance education												
<b>140 Institutional research and analytical support</b>												
1410 Research on statistical data gathering in EU states and states in the region surrounding Ukraine												
1411 Collation of information on Canadian institutional development relating to gender equality with focus on NJI												
<b>2000 Series Immediate Outcome 2</b>												
<b>210 Curriculum covering competency in judicial skills and general, civil, administrative, and commercial matters, prepared and training courses designed [Cycle 1: TOT and Course Development] Series 2101-2014</b>												
2113 a & b Working sessions and c&d Introductory workshops on skills-based methodology												
2101 Peer-to-peer consultations and preparation for faculty and course development												
2114 Faculty and course development with Ukrainian core trainers												
<b>230 Development, integration of gender and social context issues and standalone gender modules into new NSJ courses and training of core trainers</b>												
2302 Project participation in GE training with Mosaic												
2303 Direct familiarization of NSJ core personnel with NJI's education methodology in specific relation to treatment of gender equality issues												
2310 Gender-related data collection, research, and analysis of trends and issues in Ukraine, approaches in Canada, and related education needs at NSJ												

ACTIVITY	APRIL	MAY	JUNE	JULY	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR
2320 Development of standalone GE workshop												
2330 Consideration and input/integration where appropriate of gender equality and social context into judicial education courses												
<b>3000 Series Immediate Outcome 3</b>												
<b>310 Training in judicial pre-trial settlement mechanisms designed and delivered, including effective settlement of disputes; managing the mediation process and facilitating advanced negotiations; effective communications; etc.</b>												
WBS 3103 Trainings of Ukrainian judges and court officials in case management and settlement conferences (Two (2) workshops: April 2013, October 2013) (FYs 2013-2014; Q1, Q3)												
WBS 3104 Gender awareness and sensitivity building workshops (Two (2) Workshops: April 2013, October 2013) (FYs 2013-2014; Q1, Q3)												
<b>320 Historical system for handling commercial disputes analyzed and recommendations made for system-wide integration of judicial pre-trial settlement mechanisms into court processes</b>												
WBS 3201 Drafting and planning meetings on the recommendations for the Institutionalization of the judicial settlement conferencing (May 2013-April/May 2014)												
Introducing on-going activity to Facilitate the work of the model courts on the experiment with JDR, as well as capture/document the experience and analyse relevant information and data required for drafting the												

ACTIVITY	APRIL	MAY	JUNE	JULY	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR
recommendations for system-wide integration of the procedure												
WBS 3201 Planning meeting on the recommendations for the Institutionalization of the judicial settlement conferencing (February 2014) (FY 2013/14, Q4)												
<b>4000 Series</b>												
<b>4101 JPSC Meeting Year 1</b>												
<b>4200-4300 Local office in Ukraine and NJI project mgmt.</b>												
<b>4400 Project Advisory Board meetings</b>												

APPENDIX B: SUMMARY TABLE OF PROJECT OUTCOME AND OUTPUT RESULTS FOR THE FISCAL YEAR 2012-2013

<b>JEEG Ultimate Outcome: Greater court efficiency and fairness in resolving commercial disputes for Ukrainian businesses</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
Percentage of public having confidence in the courts' capacity to fairly treat commercial disputants/litigants	Ultimate Outcome level results, according to principles of Results Based Management, is to be realized and measured at around 3-5 years; thus it is premature to report results. The first measurement is scheduled at the end of FY 2013-14.	n/a
Relative ranking of the judicial system in relation to international standards	Ultimate Outcome level results, according to principles of Results Based Management, is to be realized and measured at around 3-5 years; thus it is premature to report results. The first measurement is scheduled at the end of FY 2013-14.	n/a
Average time and effort required for resolving a commercial lawsuit, from filing to court hearing to final resolution	Ultimate Outcome level results, according to principles of Results Based Management, is to be realized and measured at around 3-5 years; thus it is premature to report results. The first measurement is scheduled at the end of FY 2013-14.	n/a

<b>Intermediate Outcome 1: Improved institutional performance of the National School of Judges (NSJ) and the High Qualifications Commission (HQCJU) in its responsibility for judicial education</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
Extent to which the key organizational features and processes to support education (involvement of judges in education; strategic and operational planning; governance structure, roles and responsibilities, and management, procedures, practices) are established	Intermediate level results, according to principles of Results Based Management, is to be realized and measured at around 2-3 years; thus it is premature to report results. The first measurement is scheduled at the end of FY 2013-14.	n/a
Number and type of policies developed and implemented based on recommendations elaborated under JEEG	<p>The draft recommendations for institutional strengthening were positively commented by NSJ and HCQJU. The partners together developed more immediate Action Plan for improving institutional performance under JEEG. The NSJ begun drafting of the long term Strategic Planning.</p> <p>A Draft Report on implementation of distance learning technology was drafted by Ukrainian expert for further discussion with partners.</p>	<p>The draft recommendations for improved institutional performance of the NSJ and HCQJU in its responsibility for judicial education has been drafted by Canadian expert team and were positively commented on by NSJ and HCQJU consideration. Based on the recommendations, the partners developed together a more immediate Action Plan for improving institutional performance under JEEG. The NSJ begun drafting of the long term Strategic Planning.</p> <p>A Draft Report on implementation of distance learning technology was drafted by Ukrainian expert for further discussion with partners.</p>
<b>Intermediate Outcome 2: Established skills-based, gender- and social context-sensitive and business-related judicial education at the National School of Judges (NSJ)</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
Degree to which m/f judges are able to apply gender and social context sensitivity in their work	Intermediate level results, according to principles of Results Based Management, is to be realized and measured at around 2-3 years; thus it is premature to report results. The first measurement is scheduled at the end of FY 2013-14.	n/a
Proportion of courses that are skills-based, gender- and social context-sensitive, integrated into NSJ curriculum	Intermediate level results, according to principles of Results Based Management, is to be realized and measured at around 2-3 years; thus it is premature to report results. The first measurement is scheduled at the end of FY 2013-14.	n/a
Extent of judicial institutional support <sup>2</sup> for new skills-based,	Intermediate level results, according to principles of Results Based Management, is to be realized and measured at around 2-3 years; thus it is	n/a

<sup>2</sup> This includes support as relevant from the HQC, the State Courts Administration, the Council of Judges, and the courts.

gender-and social context-sensitive education content	premature to report results. The first measurement is scheduled at the end of FY 2013-14.	
<b>Immediate Outcome 100: Strengthened institutional capacity of HQCJU and NSJ to support the development and delivery of skills-based, gender-and social context-sensitive and business-related education to 5-year term and permanent judges</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
Number and type of organizational processes and procedures being strengthened or newly developed to support the design and delivery of skills-based, gender- and social context-sensitive and business-related judicial education	<p>The issues related to organizational processes and procedures in the draft reports of Canadian expert team were considered by the senior management of the NSJ and HQCJU. The draft report was well received. The ensuing Action Plan was produced by the partners for more immediate planning.</p> <p>There is ongoing discussion among the partners about the number and type of organizational processes and procedures which will be developed to strengthened institutions in support of the design and delivery of skills-based, gender- and social context-sensitive and business-related judicial education.</p> <p>A Draft Report on implementation of distance learning technology was drafted by the Ukrainian expert for further discussion with partners.</p>	<p>The issues related to organizational processes and procedures in the draft reports of Canadian expert team were considered by the senior management of the NSJ and HQCJU. The draft report was well received. The ensuing Action Plan was produced by the partners for more immediate planning.</p> <p>There is ongoing discussion among the partners about the number and type of organizational processes and procedures which will be developed to strengthened institutions in support of the design and delivery of skills-based, gender- and social context-sensitive and business-related judicial education.</p> <p>A Draft Report on implementation of distance learning technology was drafted by the Ukrainian expert for further discussion with partners.</p>
Number of f/m core staff trained in development and delivery of judicial education	<p>During this reporting period, in the two combined workshops, 24 female and 4 male NSJ representatives were trained in development and delivery of judicial education.</p> <p>The work continued with all 4 support groups (3-5 persons each) to model the skills-based judicial education approach.</p> <p>In addition, 2 interns in institutional strengthening and 1 Gender Advisor at NSJ received more in-depth training in Canada</p>	<p>13 senior management representatives of NSJ and HQCJU have increased knowledge of development and delivery of the skills-based judicial education, due process and gender equality.</p> <p>In the two combined workshops, 24 female and 4 male NSJ representatives were trained in development and delivery of judicial education.</p> <p>The work continued with the established two support groups and 2 new ones: all 4 support groups (3-5 persons each) trained to design and develop the skills-based judicial education.</p> <p>In addition, 2 interns in institutional strengthening and 1 Gender Advisor at NSJ received more in-depth training in Canada</p>
<b>Immediate Outcome 200: Strengthened capacity of the NSJ to develop and deliver skills-based, gender- and social context-sensitive and business-related education to 5-year term and permanent judges</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
Level of satisfaction of f/m judge participants with judicial education programming	No results to report as this is an early stage of the project and the courses are being developed and to be piloted at the end of FY 2013-2014.	n/a
Number of skills-based and business-related courses developed and delivered by the NSJ	4 skills-based, gender-sensitive, social context and business-related courses are being developed in this reporting period.	4 skills-based, gender-sensitive, social context and business-related courses are being developed.
Extent to which gender equality is integrated in the	The gender-sensitive, social context is being analyzed for further integration into all four new courses under development. Three out of four courses integrated	The gender-sensitive, social context is being analyzed for further integration into all four new courses under development. Three out of four courses integrated

new courses developed under JEEG	gender equality considerations: Administrative Land Law, Generic Land Law, and Courtroom Management	gender equality considerations: Administrative Land Law, Generic Land Law, and Courtroom Management
<b>Immediate Outcome 300: Improved capacity of selected pilot courts in the Oblasts of Ivano-Frankivsk and Odesa to handle commercial cases by means of piloting judicial pre-trial settlement mechanisms</b>		
Indicators	Progress Towards Results During Reporting Period	Cumulative Results
Decrease in duration and cost of dispute settlement using judicial pre-trial settlement mechanisms compared to similar cases addressed through traditional trial processes	It is still early to measure success in relation to this indicator, because the piloting of the pre-trial settlement procedure in two administrative and two general courts only began on May 15, 2013 (right before summer/vacation months). Also, considering that the participation in the settlement conference is voluntary and the procedure is very new, litigants are hesitant to consent to the process. However, in cases where parties have agreed to try and settle, they managed to do that in two court appearances as oppose to the process involved to get to a formal trial. While It is hard to estimate the time saved due to various categories of cases and various possible outcomes (keeping in mind a human factor where a party may or may not decide to appeal the court decision), anecdotal comparison would be a few months for the case to settle as oppose to years of having that case go through all court instances and, in the end, still have to contend with the issue of enforcement of the court decision.	It is too early to measure success in relation to this indicator. Progress to date has nevertheless begun through consultations and the Technical Exchange to Canada on JDR which are the steps towards introducing this procedure at the courts in Ukraine.
Improved ratings of court system performance by commercial case disputants and other stakeholders (e.g. lawyers, businesses, etc.) comparing use of early settlement mechanisms to traditional trial processes	It is too early to measure success in relation to this indicator. The introduction through the above activities is the first step toward improving the ratings of the court system and making it more effective and efficient in resolving business/commercial-related cases. However, the judges of the pilot courts believe it will have multiple positive effects on both the system and the public perception of its effectiveness and fairness. Judges believe that parties will appreciate a more open dialogue with judges; that the procedure can potentially safeguard parties from bad legal representation; and will definitely save a great deal of time and money by having disputes resolved in a more efficient manner.	n/a



OUTPUT 1: 110 Institutional capacities of NSJ and HQCJU in its responsibility for judicial education analyzed with recommendations for improvements developed		
Indicators	Progress Towards Results During Reporting Period	Cumulative Results
# of issues identified through a completed needs assessments and completion of HQCJU and NSJ strategic and operational plans	The nine issues related to organizational processes and procedures articulated in the draft reports of Canadian expert team were considered by the senior management of the NSJ and HQCJU. The draft report was well received. The ensuing Action Plan was drafted by the partners for more immediate planning. The following areas were identified for the project work: <ul style="list-style-type: none"> <li>▪ <i>Role of Judges, Courts and Other Judicial Institutions in Governance of judicial education institute and design and delivery of educational programs.</i></li> <li>▪ <i>Organizational Structure and Operations of judicial education institute (support teams).</i></li> <li>▪ <i>Curriculum and Course Priority Setting</i></li> <li>▪ <i>Electronic Resources, Communications, and Technology-Based Distance Learning.</i></li> </ul>	The Canadian expert report summarizes 9 areas that relate to the institutional capacity of the NSJ to support effective curriculum and course planning: workload; facility, material and human resource; organizational structure; strategic planning; management across sites; internal faculty development systems, practices; judicial leadership in course development and delivery; course planning, design and delivery processes; distance learning system. The draft report was well received. The ensuing Action Plan was drafted by the partners for more immediate planning. The following areas were identified for the project work: <ul style="list-style-type: none"> <li>▪ <i>Role of Judges, Courts and Other Judicial Institutions in Governance of judicial education institute and design and delivery of educational programs.</i></li> <li>▪ <i>Organizational Structure and Operations of judicial education institute (support teams).</i></li> <li>▪ <i>Curriculum and Course Priority Setting</i></li> <li>▪ <i>Electronic Resources, Communications, and Technology-Based Distance Learning.</i></li> </ul>
# of recommendations made to strengthen NSJ's and HQCJU's institutional capacity as a judicial education body	Each thematic area (out of four enumerated) could lead to a significant number of changes. There is an ongoing discussion among the partners about the number and type of organizational processes and procedures to strengthen institutions in support of the design and delivery of skills-based, gender- and social context-sensitive and business-related judicial education.	Short and long term recommendations by Canadian expert team were developed for each of the 9 areas identified for institutional strengthening.  Each thematic area (out of four that were agreed by the partners) could lead to a significant number of changes. There is an ongoing discussion among the partners about the number and type of organizational processes and procedures to strengthened institutions in support of the design and delivery of skills-based, gender- and social context-sensitive and business-related judicial education.
OUTPUT 1: 120 Technical assistance in gender-sensitive judicial education institutional strengthening provided to HQCJU and NSJ		
Indicators	Progress Towards Results During Reporting Period	Cumulative Results
Internships completed by # of people (f/m)	2 senior management staff (m) from HQCJU and NSJ completed their internship to Canada	2 senior management staff (m) from HQCJU and NSJ were identified, enrolled into English language training in preparation for the internship to Canada, and completed their internship to Canada
# (f/m ) and % of personnel trained at # workshops on gender-sensitive, judicial education institutional management	During this reporting period, in the two combined workshops, 24 female and 4 male NSJ representatives were trained in development and delivery of judicial education. The work continued with all 4 support groups (3-5 persons each) to model the skills-based judicial education approach.	5 male and 2 female HQCJU as well as 2 male and 5 female senior management representatives have increased knowledge on gender-sensitive, judicial education institutional management as well as 8 male and 26 female NSJ representatives exposed to NJI model for gender-sensitive judicial education
OUTPUT 1: 130 Distance education mechanisms implemented in NSJ regional and central offices		

Indicators	Progress Towards Results During Reporting Period	Cumulative Results
# of NSJ regional and central offices equipped	The plans for the NSJ central and regional offices have been discussed with the NSJ.	The plans for the NSJ central and regional offices have been discussed with the NSJ.
# of changes leading to the implementation of effective distance education mechanisms in central and regional offices	A Draft Report on implementation of distance learning technology was drafted by Ukrainian expert for further discussion with partners.	The Canadian expert team with the assistance of Ukrainian distance learning expert drafted recommendations for the NSJ. The plans for the NSJ central and regional offices have been discussed with the NSJ.
<b>OUTPUT 1: 140 Institutional research and analytical support provided to NSJ and HQCJU</b>		
Indicators	Progress Towards Results During Reporting Period	Cumulative Results
Increased ability at NSJ and HQCJU to identify areas for improvement, gather institutional performance data and assess performance	<p>Research was undertaken by the Canadian and Ukrainian teams into the existence of statistics gathering systems and methodologies across EU and other regional states, including the availability of gender-disaggregated statistics and other data relating to women's claims and use of courts and judicial outcomes on gender-related matters. Overall the practice (and systems) of court-based statistical collection and management of data in relation to women's participation in the courts, cases involving gender equality and other areas relating to gender equality remained new or weakly developed across the judicial systems about which information was available or provided.</p> <p>The NJI's own human resource and institutional policies relating to gender equality and social equity, as well as those of two other organizations, were reviewed and collated in order to assist and guide the Ukrainian gender expert and NSJ in the examination of the NSJ's own GE-related policy framework in the context of institutional strengthening efforts. The exercise assisted in expanding local appreciation of the extent of attention given to social equity in the construction of government and non-government institutional frameworks.</p>	<p>The Canadian expert team drafted recommendations for the NSJ. Both Ukrainian partners will be required to confirm and to identify areas for improvement, gather institutional performance data and assess performance.</p> <p>Research was undertaken by the Canadian and Ukrainian teams into the existence of statistics gathering systems and methodologies across EU and other regional states, including the availability of gender-disaggregated statistics and other data relating to women's claims and use of courts and judicial outcomes on gender-related matters. Overall the practice (and systems) of court-based statistical collection and management of data in relation to women's participation in the courts, cases involving gender equality and other areas relating to gender equality remained new or weakly developed across the judicial systems about which information was available or provided.</p> <p>The NJI's own human resource and institutional policies relating to gender equality and social equity, as well as those of two other organizations, were reviewed and collated in order to assist and guide the Ukrainian gender expert and NSJ in the examination of the NSJ's own GE-related policy framework in the context of institutional strengthening efforts. The exercise assisted in expanding local appreciation of the extent of attention given to social equity in the construction of government and non-government institutional frameworks.</p>
<b>OUTPUT 2: 210 Curriculum covering competency in judicial skills and general, civil, administrative, and commercial matters prepared and training courses designed and delivered</b>		
Indicators	Progress Towards Results During Reporting Period	Cumulative Results

# of f/m trainers trained to use skills-based methodology	In this reporting period, 28 female and 23 male judge-trainers have been trained to use skills-based methodology while developing 4 courses at the NSJ.	Overall under the project to date, 37 male and 41 female judge-trainers and NSJ staff trainers trained to use skills-based methodology.
Existence and # of consultations, research studies.	4 peer-to-peer multi-visit consultations among NSJ and NJI expert teams conducted. Secondary research gathered to assist the development of the four courses.	4 peer-to-peer consultations among NSJ and NJI expert teams and 1 research study on land law by NSJ conducted.
<b>OUTPUT 2: 220 NSJ Training of Trainers guidelines development and publishing</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
# of NSJ TOT guidelines developed and published	No results to report as this is an early stage of the project.	n/a
<b>OUTPUT 2: 230 Development and integration of gender-sensitive judicial education programming at NSJ</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
# of courses developed integrate gender equality considerations	Design processes and subject content in relation to three of four courses integrated gender equality considerations: Administrative Land Law, Generic Land Law, and Courtroom Management	Design processes and subject content in relation to three of four courses integrated gender equality considerations: Administrative Land Law, Generic Land Law, and Courtroom Management
# of judges trained (f/m) in gender equality awareness	Increased awareness of gender equality issues for 14 judges and senior decision-makers of NSJ and HQC as well as 27 core trainers.	Increased awareness of gender equality issues for 14 judges and senior decision-makers of NSJ and HQC as well as 27 core trainers.
Trainers' (f/m) perception of participants' and judges' acceptance (f/m) to gender equality issues	No result to report as this is an early stage of the project. Trainers have not yet delivered courses, however to date, most judge trainers have expressed a strong appreciation for Canadian-facilitated sessions in which GE/social context were highlighted.	No result to report as this is an early stage of the project. Trainers have not yet delivered courses, however to date, most judge trainers have expressed a strong appreciation for Canadian-facilitated sessions in which GE/social context were highlighted.
<b>OUTPUT 3: 310 Training in judicial commercial pre-trial settlement mechanisms delivered</b>		
<b>Indicators</b>	<b>Progress Towards Results During Reporting Period</b>	<b>Cumulative Results</b>
# of judges and officials (f/m) exposed to Canadian practices in commercial dispute resolution processes	The project conducted two technical workshops on judicially assisted dispute resolution (JADR): In Ivano-Frankivsk there were 24 judges and judicial system stakeholders (members of the legal profession) trained on JADR (14 men and 11 women) and in Odesa the number of workshop participants was 25, of which 12 were men and 13 were women.	To-date the project has trained in JADR procedure, at the two workshops approximately 49 judges and members of the legal profession;  Almost all judges of the 4 pilot courts, approximately 95 judges (I-F: 18-general court, 21-administrative court; Odesa: 26-general court, 32-admin.court) have now been familiarized with the concepts of JADR and have a good understanding of its practical application in Ukraine (approximately 1/3 have been trained at 2 workshops, others have been introduced to the procedure by their peers).

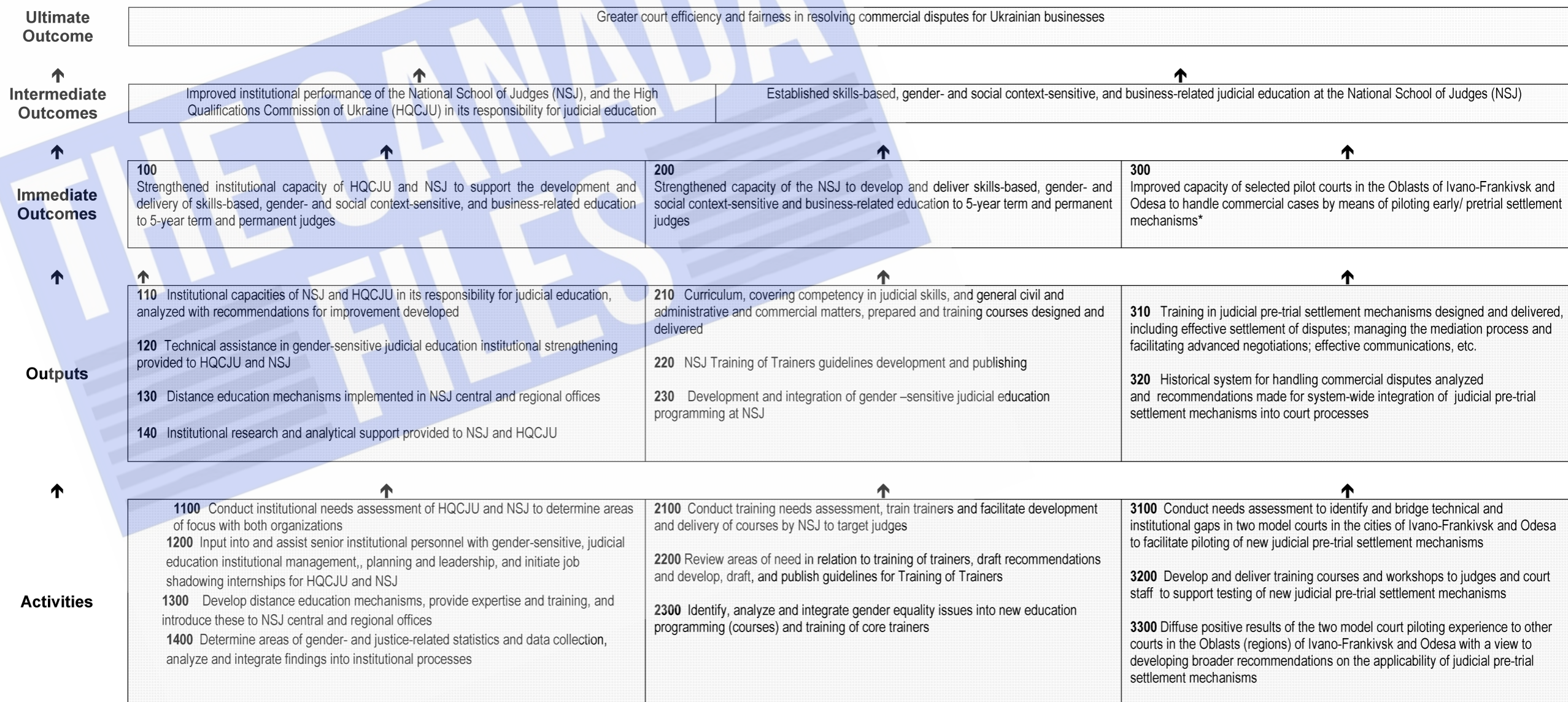
<p># of workshops conducted on case-management practices relating to commercial dispute resolution (pre-trial settlement) mechanisms</p>	<p>Two technical workshops on JADR conducted for judges and members of the legal profession in Ivano-Frankivsk and Odesa Regions. The workshops covered among many things the case and caseload management; development of the pre-trial settlement conference, how they work, judicial and administrative aspects of judicial settlement conferencing; preparation and scheduling of settlement conferencing, mock pre-trials;</p>	<p>To-date the project has conducted:</p> <ul style="list-style-type: none"> <li>• Information meetings with judges and members of the legal professions, including the representatives of state institutions litigating before the administrative courts;</li> <li>• Practical exposure mission to Canada for judges of the pilot courts, HQCJU and School of Judges</li> <li>• Training of Judges and judicial system officials (legal profession) in <i>Ivano-Frankivsk Region</i></li> <li>• Training on JADR of Judges and judicial system officials (members of the legal profession) in <i>Odesa Region</i></li> </ul>
<p><b>OUTPUT 3: 320 Recommendations drafted for system-wide integration of judicial pre-trial settlement mechanisms into court processes relating to commercial cases</b></p>		
<p># and type of procedures adaptable to Ukrainian realities outlined in the recommendations</p>	<p>Consultations on the recommendations continue with the pilot courts, which are in the midst of piloting judicially assisted settlement conferences. The pilot, which commenced at the courts on May 15, 2013, is expected to run for a year, at the end of which the courts will be in a better position to outline their recommendations. In the meantime the local project legal expert (Local JDR expert) has been analyzing the results of the pilot and is compiling some preliminary recommendations</p>	<p>n/a</p>

# THE CANADA FILES

# THE CANADA FILES

# THE CANADA FILES

## APPENDIX C: LOGIC MODEL



\* Judicial pre-trial settlement mechanisms: Time and cost-saving dispute resolution/mediation mechanisms typically led and implemented by judges outside the formal court-room setting.



APPENDIX D: RISK REGISTER

<b>Initiative Name:</b>	<b>Judicial Education for Economic Growth in Ukraine</b>						
<b>Implementing Organizations:</b>	<b>National Judicial Institute (NJI) and The Office of the Commissioner for Federal Judicial Affairs (FJA)</b>			<b>Country/Region/Institution</b>	<b>Ukraine The High Qualifications Commission of Judges of Ukraine and the National School of Judges of Ukraine</b>		
<b>Risk Definition</b>	<b>Risk Response</b>	<b>Investment LM Result Statement</b>	<b>Residual Risk Level – Low/Very Low/High/Very High</b>				
				Date 1  <b>Dec. 2012</b>	Date 2	Date3	
<b>Operational Risks</b>							

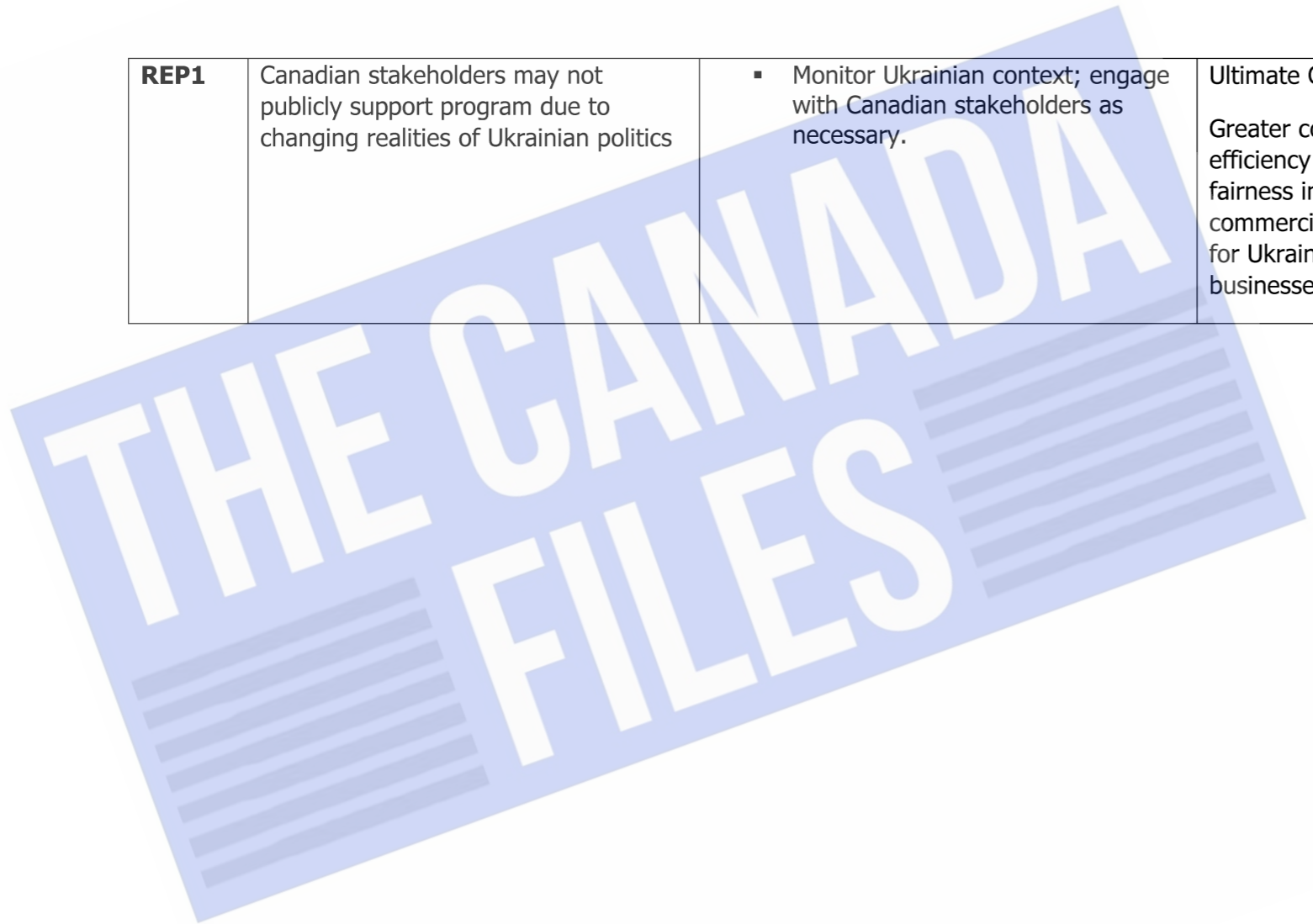
<p><b>OP1</b></p>	<p>Project partners are unable to implement activities in a timely manner due to the lack of institutional capacity including lack of physical facilities</p>	<ul style="list-style-type: none"> <li>▪ In the initial phase clear agreements between NSJ and HQCJU on their roles, responsibilities and expectations will be developed &amp; frequently reviewed.</li> <li>▪ HQCJU and NSJ will be strengthened from the inception phase to ensure they are able to function at sufficient capacity according to the schedule.</li> <li>▪ Advance planning will anticipate work schedules of judges. Flexibility in adapting to emergency (external) circumstances.</li> <li>▪ Work jointly with NSJ champions on training of trainers, especially judges who were previously involved with NJI in developing skills-based experiential courses as part of the project, course content and gender equality aspects; ensure fluid communication.</li> <li>▪ Explore other possibilities where face-to-face training could be conducted in the interim such as NSJ regional offices, courts with conference facilities and hotels</li> <li>▪ Advance distance learning methodology and mechanisms</li> </ul>	<p>Immediate Outcome 1:  Strengthened institutional capacity of HQCJU and NSJ to support the development and delivery of skills-based, gender- and social context-sensitive and business-related education to 5-year term and permanent judges</p>	<p>L= Low/Med  I= Med</p>	<p>L=  I=</p>	<p>L=  I=</p>	<p>Project Manager in the field</p>
<p><b>OP2</b></p>	<p>HQCJU and NJS officials do not approve skills-based curricula, approaches, course content</p>	<ul style="list-style-type: none"> <li>▪ Conduct accurate needs assessment</li> <li>▪ Work with HQCJU supporters together with NJS to solicit their support vis-a-vis government departments if necessary.</li> <li>▪ Seek input of respected Ukrainian adult education specialists with</li> </ul>	<p>Immediate Outcome 2:  Strengthened capacity of NSJ to develop and deliver skills-based, gender- and social context-</p>	<p>L= Low  I= Med</p>	<p>L=  I=</p>	<p>L=  I=</p>	<p>Project Manager in the field</p>

		judicial education experience, particularly staff at the NSJ and judges who have experience in using skills-based training.	sensitive, and business-related education to 5-year term and permanent judges				
<b>OP3</b>	Judges reject or are slow to implement new pre-trial settlement mechanisms	<ul style="list-style-type: none"> <li>▪ Building confidence in processes &amp; guidelines through an appropriate collaborative design of the project, with the Ukrainian team playing a leading role in the drafting of processes and guidelines.</li> <li>▪ Seek champions</li> <li>▪ Strengthen knowledge of new approaches in key offices of HQCJU and NSJ.</li> <li>▪ Seek endorsement from HQCJU or other required authoritative body to pilot pre-trial conferencing by judges given that judges may perceive a violation of their civil code</li> </ul>	Immediate Outcome 3:  Improved capacity of selected pilot courts in the Oblasts of Ivano-Frankivsk and Odesa to handle commercial cases and use judicial pre-trial settlement mechanisms	L= Low I= Med	L= I=	L= I=	Project Manager in the field
<b>OP4</b>	Obstacles to roll-out of distance learning programming (e.g. relating to establishing a secure network)	<ul style="list-style-type: none"> <li>▪ Investigate the degree or percentage of distance learning programming that would require a secure network (at the current time, NSJ implements distance learning programming on an unsecured network)</li> <li>▪ Identify the feasibility of securing an offsite secure server consistent with NJI's experience</li> <li>▪ Determine a timeframe for implementation of an onsite secure network.</li> </ul>	Immediate Outcome 1 (as above)	L = Med I = Med			
<b>Financial Risks</b>							

<p><b>FIN1</b></p>	<p>Insufficient financial and other resources negatively affect the institutional strengthening component in the project</p>	<ul style="list-style-type: none"> <li>▪ Project will support the key governmental decision makers who are seeking greater funding for judicial education, especially HQCJU, but also the State Court Administration to help ensure that appropriate budget and administrative issues supporting institutional strengthening are addressed.</li> <li>▪ The project will explore less resource-intensive strategies such as working with stakeholders committed to reform (judges, academics, other donors and business associations) to ensure training opportunities are well coordinated and leverage other resources.</li> </ul>	<p>Immediate Outcome 2:  Strengthened capacity of NSJ to develop and deliver skills-based, gender- and social context-sensitive, and business-related education to 5-year term and permanent judges</p>	<p>L= Med I= Med</p>	<p>L= I=</p>	<p>L= I=</p>	<p>Project Manager in the field</p>
<p><b>FIN2</b></p>	<p>Budgetary shortfalls or changes in anticipated state-allocated budget reduce pilot courts' contribution</p>	<ul style="list-style-type: none"> <li>▪ Notification to pilot courts of possible reduction in project activities;</li> <li>▪ Negotiation with the HQCJU, Council of Judges, and SCA to re-establish support</li> </ul>	<p>Immediate Outcome 3:  Improved capacity of selected pilot courts in the Oblasts of Ivano-Frankivsk and Odesa to handle commercial cases and use judicial pre-trial settlement mechanisms</p>	<p>L= Med I= Med</p>	<p>L= I=</p>	<p>L= I=</p>	<p>Project Manager in the field</p>
<p><b>Development Risks</b></p>							
<p><b>DEV1</b></p>	<p>Political and economic situation deteriorates radically and disrupts functioning of the judiciary because of</p>	<ul style="list-style-type: none"> <li>▪ Monitor political and economic situation and anticipate implications of the impact on judiciary and changes in government through</li> </ul>	<p>Ultimate Outcome:  Greater court efficiency and</p>	<p>L= Med I= Med</p>	<p>L= I=</p>	<p>L= I=</p>	<p>Project Director</p>

	insufficient independence and undue pressure from the executive branch	<p>regular situation analysis and dialogue with judicial and government contacts.</p> <ul style="list-style-type: none"> <li>▪ DFADT to work with other donors to promote with appropriate Ukrainian government officials the necessity of building an independent judiciary.</li> </ul>	fairness in resolving commercial disputes for Ukrainian businesses				
<b>DEV2</b>	Ukrainian judges reject all or some of the new ideas/approaches being introduced. Ukrainian judges and Chief judges remain reluctant or unavailable to develop and deliver judicial education at NSJ resulting in inadequate supply of sitting judges to develop and deliver judicial education in Ukraine.	<ul style="list-style-type: none"> <li>▪ Demonstrating value via technical exchange programs, judicial training on the new approaches, senior SCU judges and HQCJU awareness building.</li> <li>▪ Judge to judge approach will facilitate acceptance of new skills and approaches ("testimony" of Canadian judges).</li> <li>▪ Set up criteria for identifying national experts taking into account openness to new ideas, influence, and experience in specific reform areas. Identify "champions."</li> <li>▪ Involve judges at all levels of court in training and developing curricula.</li> <li>▪ Provide adequate advance notice and preparation time for all project activities, and seek time commitment at an early stage from judge participants</li> <li>▪ HQCJU to play a key leadership role in ensuring that CJs will allow for judges to participate in JE development including directly leading development of first course (statutory interpretation).</li> </ul>	<p>Immediate Outcome 2:</p> <p>Strengthened capacity of NSJ to develop and deliver skills-based, gender- and social context-sensitive, and business-related education to 5-year term and permanent judges</p>	L= Low I= Med	L= I=	L= I=	Project Manager in the field
<b>Reputation Risks</b>							

<b>REP1</b>	Canadian stakeholders may not publicly support program due to changing realities of Ukrainian politics	<ul style="list-style-type: none"> <li>Monitor Ukrainian context; engage with Canadian stakeholders as necessary.</li> </ul>	Ultimate Outcome: Greater court efficiency and fairness in resolving commercial disputes for Ukrainian businesses	L= Very Low I= Med	L= I=	L= I=	Project Director
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## APPENDIX E: PERFORMANCE MEASUREMENT FRAMEWORK

PERFORMANCE MEASUREMENT FRAMEWORK							
Expected Results	Indicators	Baseline	Targets	Data Source	Data Collection Method	Frequency	Responsible
<b>ULTIMATE OUTCOME</b> Greater court efficiency and fairness in resolving commercial disputes for Ukrainian businesses	Percentage of public having confidence in the courts' capacity to fairly treat commercial disputants/litigants	7.5% of citizens have full confidence in the courts (TI, National Integrity System 2011)	Incremental increases in public confidence rankings.	Existing national, regional and international reports and assessments	Reports and literature reviews	Mid-term and final year	NJI Project Manager
	Relative ranking of the judicial system in relation to international standards	WJP ranks efficiency (timeliness and effectiveness) relating to criminal adjudication at 0.45 of 1; Ukraine is at 152nd of 182 in terms of transparency (TI, CPI 2011); judicial independence was 143th of 142 (WEF GCR 2011-2012). In addition: Ukraine is ranked 152nd of 183 in 2012 Doing Business Report (WB); 82nd of 142 in GCR (WEF 2011-2012).	Increase in efficiency and fairness (including independence and transparency) rankings over time compared with similar transition economies.	Existing national, regional and international reports and assessments	Reports and literature reviews		
	Average time and effort required for resolving a commercial lawsuit, from filing to court hearing to final resolution	30 procedures and 343 days in 2011 (WB Doing Business 2012)	Reduction in number of procedures and length of time required to resolve a commercial lawsuit to align more closely with European Standards (applying WB measures).	<i>Doing Business</i> Report, existing statistics, senior stakeholders	Reviews of statistics where available and <i>Doing Business</i> Report, consultations		
<b>Intermediate Outcome 1</b> Improved institutional performance of the National School of Judges of Ukraine (NSJ) and the High Qualifications Commission of Ukraine (HQCJU) in its responsibility for judicial education	Extent to which the key organizational features and processes to support education (involvement of judges in education; strategic and operational planning; governance structure, roles and responsibilities, and management,	Basic structures in place; limited mechanisms for accessing expertise and leadership of judges; idea of strategic plan in discussion; governance and oversight practices, as well as management, procedures, practices still being determined.	Effective mechanisms articulated and in development or in place in relation to utilization of judges, strategic planning, governance and oversight systems and practices, and organizational management, procedures and practices.	NSJ and HQCJU reports, documentation regarding existing and new practices and systems	Institutional assessment including observations, review, consultations	Mid-term and final year	NJI Project Manager

	procedures, practices) are established						
	Number and type of policies developed and implemented based on recommendations elaborated under JEEG	Baseline status at 0.	New policies articulated and developed relating to institutional practices and systems in support of judicial education.				
<b>Intermediate Outcome 2</b> Established skills-based, gender- and social context-sensitive and business-related judicial education at the National School of Judges (NSJ)	Degree to which m/f judges are able to apply gender and social context sensitivity in their work	Agreement to be established as to the articulation and applicable indicators of gender sensitivity – thus no baseline available.	A majority of judges report that they are able and willing to apply core gender-sensitive knowledge and skills after related training.	Judges and judge faculty	Questionnaires/ consultations	Mid-term and final year	NJI Project Manager
	Proportion of courses that are skills-based, gender- and social context-sensitive, integrated into NSJ curriculum	Limited number of 'practical' courses or courses integrating skills practice available for judges; curriculum rarely integrates content that is directly attentive to GE issues.	15-20% of all courses integrated into curriculum are practical or skills-based and integrate gender-sensitive content.	NSJ calendar and curriculum, changes in academic plans.	Assessment of curriculum progression		
	Extent of judicial institutional support <sup>3</sup> for new skills-based, gender-and social context-sensitive education content	New course content in the areas listed has been endorsed by senior institutional staff; courses to be developed under JEEG to be determined on basis of recognized needs and institutional interest and support.	Judicial institutional support continues to be strong and ensures continued design and delivery of this new program content and methodology into the curriculum.	Partners, judge-faculty and personnel of the NSJ, other stakeholders.	Surveys/ consultations		
<b>Immediate Outcome 100</b> Strengthened institutional capacity of HQCJU and NSJ to support the development and delivery of skills-based, gender- and social context-sensitive and business-related education to 5-year term and permanent judges	Number and type of organizational processes and procedures being strengthened or newly developed to support the design and delivery of skills-based, gender- and social context-sensitive and business-related judicial education	Organizational processes and procedures still under review and not fully articulated as a necessary stage in their strengthening and development.	Review of all processes completed within 1-2 years; mechanisms for their strengthening or development in place and implemented within the project's timeline.	Management and non-management institutional personnel	Annual institutional assessments including interviews, collaborative review	Annual	NJI Project Manager

<sup>3</sup> This includes support as relevant from the HQCJU, the State Courts Administration, the Council of Judges, and the courts.



	Number of f/m core staff trained in development and delivery of judicial education	NSJ has reported having 46 full-time and 8 part-time personnel that have various and ad hoc training in the development and delivery of judicial education in general.  The baseline is set at 0 for the purposes of the project	The full staff contingent that is required to meet the demands of mandated judicial education requirements, trained in the development and delivery of judicial education.				
<b>Immediate Outcome 200</b>  Strengthened capacity of the NSJ to develop and deliver skills-based, gender- and social context-sensitive and business-related education to 5-year term and permanent judges	Level of satisfaction of f/m judge participants with judicial education programming	Judges have varying perspectives on the effectiveness and variety available to them in current JE programming at the NSJ and elsewhere. Some degree of dissatisfaction as to ability to select content and methods of education, including relevant skills education.	Judges rate themselves as satisfied with judicial education programming (content and methodologies) developed and offered under the project.	f/m judge trainees, judge faculty and institutional personnel and trainers as appropriate	Questionnaires, consultations		NJI Project Manager
	Number of skills-based and business-related courses developed and delivered by the NSJ	Some limited practical, skills-related education content – far more substantive, lecture based courses. Some limited business-related courses available.	It is expected that 3 cycles of up to 5 courses each developed and delivered under JEEG will prompt the NSJ to integrate skills-based and business-related content (where applicable) into remaining curricula.	NSJ and HQCJU relevant department personnel, reports, calendar	Annual institutional review including consultations, review of training sessions /calendars, workplan	Annual	
	Extent to which gender equality is integrated in the new courses developed under JEEG	Limited integration of gender equality considerations into curriculum.	15-20% of all courses developed and integrated into the curriculum incorporate gender-sensitive content after 1-2 years.				
<b>Immediate Outcome 300</b>  Improved capacity of selected pilot courts in the Oblasts of Ivano-Frankivsk and Odesa to handle commercial cases by means of piloting judicial pre-trial settlement mechanisms	Decrease in duration and cost of dispute settlement using judicial pre-trial settlement mechanisms compared to similar cases addressed through traditional trial processes	Judicial early/pretrial settlement processes are not available in the pilot courts. Baseline is therefore considered to be at zero.	Decreased time and cost for a commercial case to proceed through the court system after judicial pre-trial settlement mechanisms in place.	Court statistics where available, anecdotal evidence from business and legal representatives and others	Review of case statistics <sup>4</sup>	End of 3 <sup>rd</sup> (final) year of component	NJI Project Manager (FJA Program Manager for implementation and reporting to NJI)

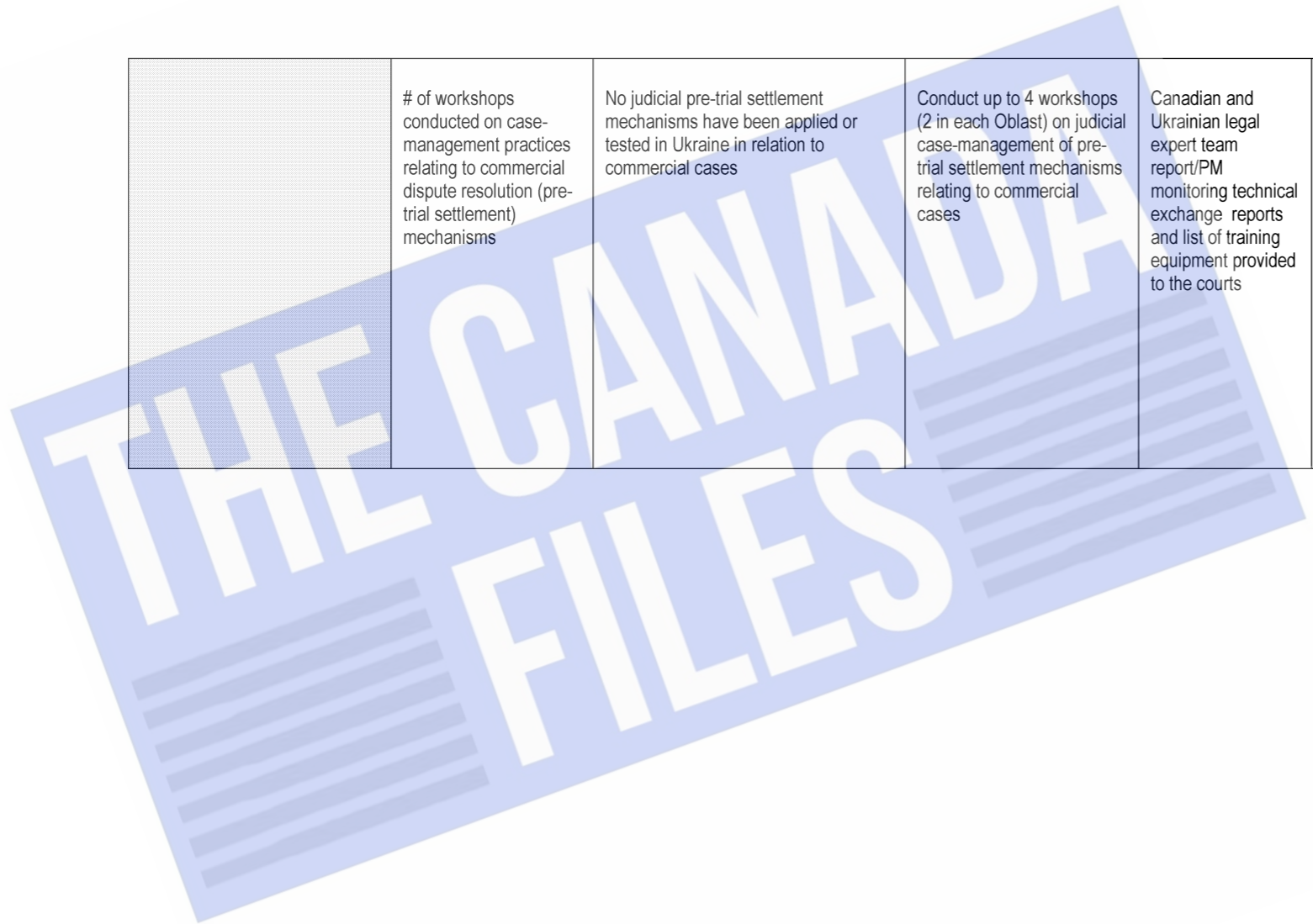
<sup>4</sup> Where gathered and tracked by relevant courts, and provided to project partners.

	Improved ratings of court system performance by commercial case disputants and other stakeholders (e.g. lawyers, businesses, etc.) comparing use of early settlement mechanisms to traditional trial processes	Lawyers, businesses and others rate the existing traditional trial process poorly; however early settlement mechanisms are not yet utilized and procedural changes are required for their comprehensive integration. Baseline for comparison is therefore at zero.	Increase in the number of cases resolved through judicial pre-trial settlement mechanisms; improved overall perspective of the pre-trial and trial process by stakeholders.	Court statistics where available, business litigants and legal representatives	Interviews/questionnaire	End of 2 <sup>nd</sup> and 3 <sup>rd</sup> year	NJI Project Manager (FJA Program Manager for implementation and reporting to NJI)
<b>Output 1:</b>							
<b>110</b> Institutional capacities of NSJ and HQCJU in its responsibility for judicial education analyzed with recommendations for improvements developed	# of issues identified through a completed needs assessments and completion of HQCJU and NSJ strategic and operational plans	There are several issues identified by both Canadian and Ukrainian experts during the inception mission. The specific issues will be described in details in the forthcoming strategic and operational plans	Review of processes demonstrate that the strategic and operational plans are in place and issues raised are being addressed in timely manner.	NSJ report / standardized assessment criteria	Analysis/Review	Annual	NJI Project Manager
	# of recommendations made to strengthen NSJ's and HQCJU's institutional capacity as a judicial education body	Established at 0	At least one annual recommendation by the expert team is produced per issue identified	NSJ report / standardized assessment criteria/ participant lists	Analysis/Review	Mid-term and final year	NJI Project Manager
<b>120</b> Technical assistance in gender-sensitive judicial education institutional strengthening provided to HQCJU and NSJ	Internships completed by # of people (f/m)	Established at 0	At least 4 senior management staff (m/f) from HQCJU and NSJ completed internships	Partners	Review	Annual	NJI Project Manager
	# (f/m ) and % of personnel trained at # workshops on gender-sensitive, judicial	Established at 0	At least 50 % of HQCJU commissioners and required percentage of personnel				

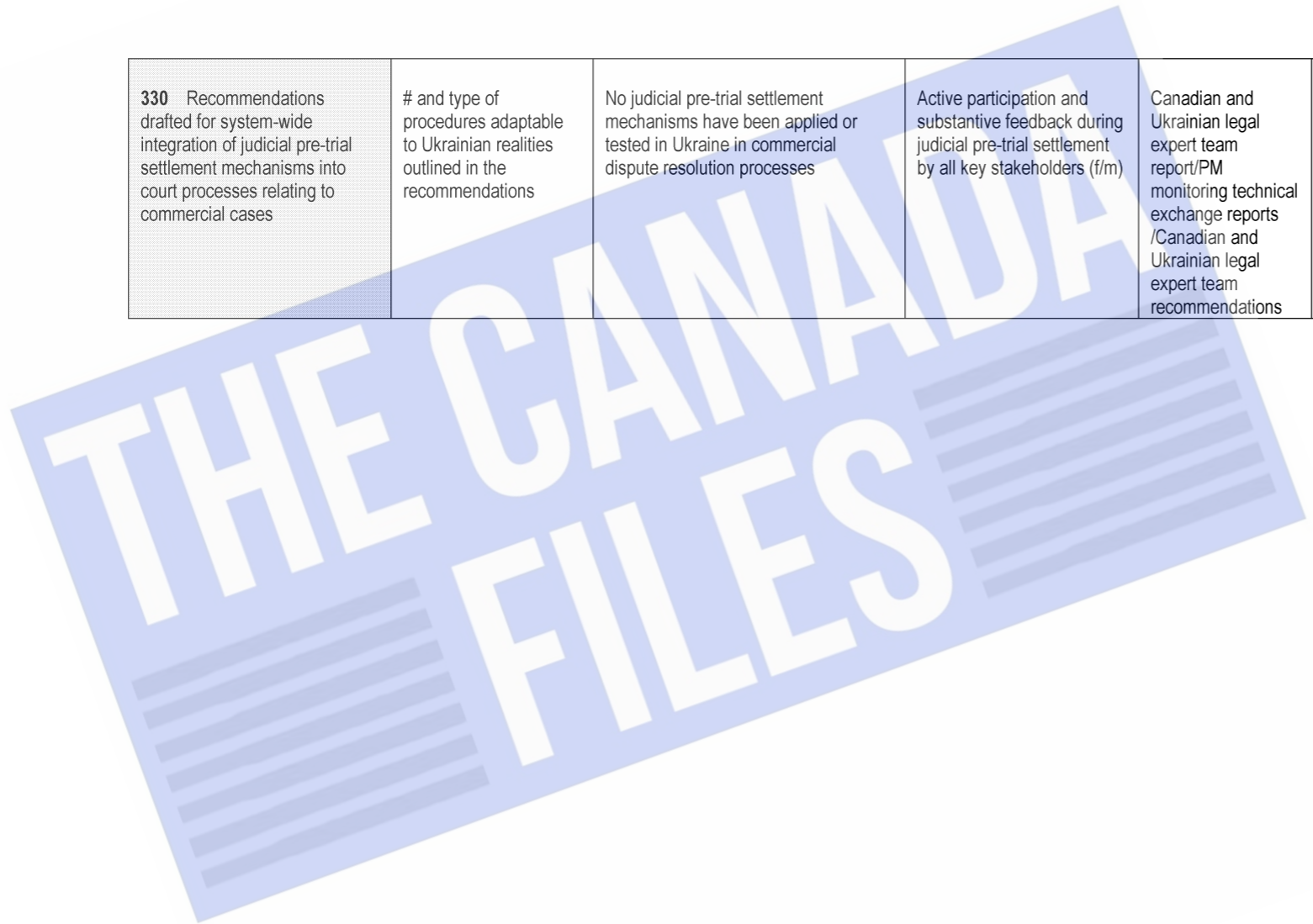
	education institutional management		(f/m)and (and over 60% of NSJ personnel m/f) exposed				
130 Distance education mechanisms implemented in NSJ regional and central offices	# of NSJ regional and central offices equipped	Established at 0	Max. 2 NSJ regional and 1 central offices equipped	NSJ report / standardized assessment criteria/ Canadian experts' reports	Analysis/Re-view	Mid-term and final year	NJI Project Manager
	# of changes leading to the implementation of effective distance education mechanisms in central and regional offices	Established at 0	At least one annual recommendation by the expert team is produced per issue identified and selected	NSJ report / standardized assessment criteria	Stats analysis/re-view	Annual	NJI Project Manager
140 Institutional research and analytical support provided to NSJ and HCCJU	Increased ability at NSJ and HCCJU to identify areas for improvement, gather institutional performance data and assess performance	Established at or near 0	NSJ and HCCJU have identified up to 6 key areas for improvement in which data was collected and against which performance was assessed	Partners/partner reports	Institutional review, consultations	Annual	NJI Project Manager
<b>Output 2</b>							
210 Curriculum covering competency in judicial skills and general, civil, administrative, and commercial matters prepared and training courses designed and delivered	# of f/m trainers trained to use skills-based methodology	To be established at inception (f/m %)	Up to 90 (directly) (f/m) NSJ staff and faculty judges, up to 300 (via ToT) NSJ staff and faculty judges (f/m) determined)	NSJ report / standardized assessment criteria/participant lists	Stats Analysis/Re-view	Annual	NJI Project Manager
	Existence and # of consultations, research studies.		Up to 15 peer-to-peer (trainer to trainer and judge to judge) consultations, 6 research studies required for program development conducted	NSJ report / standardized assessment criteria	Stats Analysis/Re-view	Annual	NJI Project Manager

<p><b>220</b> NSJ Training of Trainers guidelines development and publishing</p>	<p># of NSJ TOT guidelines developed and published</p>	<p>Established at 0</p>	<p>At least 3 multidisciplinary guidelines developed and published</p>	<p>NSJ report / standardized assessment criteria</p>	<p>Stats Analysis/Re-view</p>	<p>Mid-term and final year</p>	<p>NJI Project Manager</p>
<p><b>230</b> Development and integration of gender-sensitive judicial education programming at NSJ</p>	<p># of courses developed integrate gender equality considerations</p>	<p>Gender equality principles applied sporadically</p>	<p>8-10 newly delivered courses reflect gender equality considerations</p>	<p>NSJ reports/ curriculum/agenda/ participant lists/trainer evaluations of participants</p>	<p>Statistical Analysis/Re-view</p>	<p>Annual</p>	<p>NJI Project Manager</p>
	<p># of judges trained (f/m) in gender equality awareness</p>	<p>Established at 0</p>	<p>Up to 300 judges (f/m) trained over the lifecycle of the project through courses that incorporate gender issues (piloting); the same number of judges (f/m) to be trained annually after year 5 of the project/</p>	<p>NSJ reports/NSJ Curricula/Standardized assessment criteria/ Participant lists/trainer evaluations</p>			
	<p>Trainers' (f/m) perception of participants' and judges' acceptance (f/m) to gender equality issues</p>	<p>Overall resistance to accept gender equality issues</p>	<p>Incremental change in each year in accepting the gender problematic</p>	<p>Participant lists/trainer evaluations of participants</p>			
<p><b>Output 3</b></p>							
<p><b>320</b> Training in judicial commercial pre-trial settlement mechanisms delivered</p>	<p># of judges and officials (f/m) exposed to Canadian practices in commercial dispute resolution processes</p>	<p>Few, if any, judges know of Canadian practices in commercial dispute resolution processes</p>	<p>Train/expose at least 100 judges and court staff on/to new procedures</p>	<p>Canadian and Ukrainian legal expert team report/PM monitoring technical exchange reports and list of training equipment provided to the courts</p>	<p>Review and analysis of reports  Review PM monitoring technical exchange report and relevant records of purchase</p>	<p>Annual</p>	<p>NJI Project Manager (FJA Program Manager for implementation and reporting to NJI)</p>

	# of workshops conducted on case-management practices relating to commercial dispute resolution (pre-trial settlement) mechanisms	No judicial pre-trial settlement mechanisms have been applied or tested in Ukraine in relation to commercial cases	Conduct up to 4 workshops (2 in each Oblast) on judicial case-management of pre-trial settlement mechanisms relating to commercial cases	Canadian and Ukrainian legal expert team report/PM monitoring technical exchange reports and list of training equipment provided to the courts	Review and analysis of reports  Review PM monitoring technical exchange report and relevant records of purchase	Annual	NJI Project Manager (FJA Program Manager for implementation and reporting to NJI)
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<p><b>330</b> Recommendations drafted for system-wide integration of judicial pre-trial settlement mechanisms into court processes relating to commercial cases</p>	<p># and type of procedures adaptable to Ukrainian realities outlined in the recommendations</p>	<p>No judicial pre-trial settlement mechanisms have been applied or tested in Ukraine in commercial dispute resolution processes</p>	<p>Active participation and substantive feedback during judicial pre-trial settlement by all key stakeholders (f/m)</p>	<p>Canadian and Ukrainian legal expert team report/PM monitoring technical exchange reports /Canadian and Ukrainian legal expert team recommendations</p>	<p>Review and analysis of reports and recommendations/Review PM monitoring technical exchange report</p>	<p>End of 2<sup>nd</sup>/3<sup>rd</sup> yr</p>	<p>NJI Project Manager (FJA Program Manager for implementation and reporting to NJI)</p>
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