

## JUSTICE SECTOR REFORMS NEWSLETTER



4 March 2021



Dear friends,

For your attention, please see the newsletter about our support to the justice sector reform.

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### JUSTICE SECTOR POLICY AND COORDINATION

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The Project plays an important role among other international donors by supporting the [vetting \(“attestation”\) of prosecutors](#) in all regions of Ukraine. The vetting included integrity and background checks, initial and additional adaptive ability tests, of almost 3,000 prosecutors and candidates in the Ukrainian regions and the Office of the Prosecutor General in Kyiv. “We also helped secure significant civil society and legal community representation in the prosecution vetting Commissions, notably by using the Project-

incubated Regional Justice Reform Councils (RJRCs) and their members in various regions of the country”, - says International Expert from Georgia Eric Svanidze.



*Donbas RJRC member, Judge of Commercial Court of Donetsk Region Olena Skovorodina, Head of the Working Group on Reintegration of the Temporarily Occupied Territories, Legal Reform Commission Anton Korynevych, Deputy Chair of the Legal Reform Commission Mykhailo Buromensky, EU Project Pravo-Justice Key International Expert on Policy Development and Coordination Eric Svanidze, Donbas RJRC, Deputy Chairman of the NGO "Donbass Gate", political scientist Alvydas Medalinskas (L to R).*

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More than 200 legal professionals, civil society and academia representatives participated in an annual [congress of 6 Regional Justice Reform Councils](#) in Chernivtsi, Dnipro, Donbas, Kharkiv, Lviv and Odessa. The work of the Councils this year was not impeded by the Covid-19 crisis, as new policy initiatives were developed with the regional involvement, including the Mediation Bill. Many justice innovations were also attempted by RJRC members, as the first ever full court hearing online was conducted earlier this year. "The EU promotes the rule of law to ensure sustainable social and economic development, confidence of citizens and foreign investors in Ukraine. The regional

dimension is essential to achieve these objectives", - said Ambassador Matti Maasikas, Head of the EU Delegation to Ukraine.



*Deputy Minister of Justice Oleksandr Banchuk, Deputy Chair of the Legal Reform Commission Mykhailo Buromenskyy, Team Leader of the EU Project Pravo-Justice Dovydas Vitkauskas (L to R).*

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The work of the Project experts from the Netherlands and Ukraine on [mediation and the use of other simplified approaches to resolution of disputes](#) resulted in concrete policy, the Mediation Bill, which is currently pending at Parliament. “Mediation simplifies life for everybody, including parties and lawyers, while saving expense and allowing the judiciary to reprioritise its efforts on more important and difficult cases”, - says the Project International Expert Prof. Dr. Remco van Rhee of Maastricht University.

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The Ukrainian policy makers accepted the [Project experts' recommendations](#) to help the people and businesses settle their disputes with the State in a more simple, effective and inexpensive way by friendly settlement. The Project-supported Bill on Administrative Procedures is currently pending in Parliament. “We place great hopes on this policy, which will help making the Ukrainian State more accountable to the people, while doing it through the dispute party cooperation and voluntary path,” - says National Expert Luiza Romanadze.

## REFORM OF THE JUDICIARY



*Odesa Regional Branch of the National School of Judges Director Valery Levenets, EU Project Pravo-Justice International Key Expert on Judiciary Anna Adamska-Gallant, Kremenets District Court of Ternopil Region Head Halyna Bilosevych, Odesa Regional Center of Free Legal Aid Director Viktoria Gubko (L to R).*

Project experts from Armenia, Finland, France, Lithuania, the Netherlands, Poland, Sweden and U.K. have together developed the Model Courts Handbook, in order to help the Ukrainian courts to make the court construction rules, management approaches, reception and [security facilities](#) more user-friendly. “The solutions in Handbook were accepted by our [Ukrainian counterparts](#), and are already being implemented in 6 selected courts of the country. Together we add a bottom-up people-oriented dimension to the justice sector reform,” - says Anna Adamska-Gallant, International Key Expert on Judiciary.

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The expert team from Finland, Lithuania and Sweden produced a set of recommendations on how to remap Ukrainian courts to guarantee access to justice and effectiveness of the system. The Project developed an [interactive map of courts](#), aligned with the new administrative-territorial division of the country and with the access to the statistics data. “It will allow us to better understand the needs of the system, also taking into account the workload and productivity,” says Anna Adamska-Gallant, International Key Expert on Judiciary.

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## EXECUTION OF COURT JUDGEMENTS

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The [Joint Enforcement Bill \(№3726-3729\)](#), currently pending at Rada, is a systemic tool for solution of chronic non-enforcement of court decisions in Ukraine. It capitalises on the already proven higher effectiveness of private enforcement officers (PEOs), in order to create a more equal competition environment between PEOs and the state enforcement service, while enabling the enforcement system to automate bank account blocking and write-off and other processes. "The evidence allows us to expect 10 times higher

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enforcement rates simply by giving PEOs equality of treatment and removing arbitrary controls by the State", said the coordinator of the Odesa Regional Justice Reform Council, member of the Ethics Committee of the PEO Association, Valeriy Prutyliak.

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*EU Project Pravo-Justice Expert Roman Chumak, National Association of Bankruptcy Trustees Head Oleksandr Bondarchuk, National Association of Bankruptcy Trustees Former Head Mykola Lukashuk, Member of Parliament Taras Tarasenko, Director of the Bankruptcy Department of the Ministry of Justice Vladyslav Filatov, National Association of Bankruptcy Trustees Executive Director Oleksandr Donchenko, Senior National Expert Iryna Zharonkina (L to R).*

The EU-Ukraine Micro-Financial Assistance (MFA) agreement makes the disbursement by EU of EUR 1.2 billion to the Ukrainian budget conditional inter alia on further steps in the enforcement reform. MFA requires the Ukrainian authorities to equalise the level playing field between State and private enforcement officers (PEOs), notably by opening the market for PEOs to collect court ordered amounts by structural debtors, such public bodies and State-owned companies. At the same time, PEOs would also be empowered to collect

administrative fines, thereby helping the State in its chronic inability to raise budget inflows and ensure compliance with the law by minor offenders. “The [Joint Enforcement Bill](#), developed by a variety of domestic and international partners, most notably Pravo-Justice, would allow to fully implement MFA conditions and help Ukraine towards a truly responsible society where the State, and not only private business, pays its debts”, - says MP Taras Tarasenko.

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*Member of Parliament from the Committee on Legal Policy Serhiy Demchenko and EU Project Pravo-Justice Team Leader Dovydas Vitkauskas (L to R).*

Ukrainian small and medium businesses (SMEs) face systematic non-enforcement of obligations, illegal raiding of real property and business ownership, tax collection difficulties and other daily legal problems. The evidence shows that the State does not only fail to provide adequate avenues of redress, it is also frequently complicit in those violations, according to an in-depth [SMEs Justice Needs Survey](#) conducted by the Project together with its partners. "33% of fraudulent registration of real property and business

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was considered to be conducted with the participation of law enforcement authorities. 47% of Ukrainian entrepreneurs consider it useless to even involve the justice services in the resolution of their companies' legal problems," - mentioned Ivan Piatak, of Centre for Law and Democracy (CEDEM), during the presentation of the Survey.

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72% of Ukrainian entrepreneurs working in SMEs suffer losses because of the non-enforcement of court and other final decisions. SMEs provide employment to almost 75% of the Ukrainian population. "We need to do better in helping SMEs in collecting their debt, and private enforcement officers are already doing that", - said Deputy Chairman of the Association of PEOs, Oleksandr Sivokozov, at the presentation of the SMEs Justice Needs Survey.

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The "Anti-Raider Office" was established by MOJ in late 2019 in order to respond to the challenges of the registration services. The Office includes an MOJ-run Complaint Panel and the Registration Task Force (RTF), supported by the Project, World Bank and others. The RTF has helped MOJ develop a number of systemic solutions, such as the new Notary Bill, currently prepared for submission to Parliament. "Anti-Raider Office has become an important addition to the mechanism of the protection of property rights of people and businesses", - says Deputy Minister of Justice Olga Onyshchuk.

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In order to increase the competence and accountability in the registration of real property and company ownership rights, the [Project helped MOJ](#) design and conduct a wide-ranging qualification test for local authority registrars, and an entry exam for notaries. "The evaluation and selection of registrars and notaries was truly independent, impartial and objective, preventing corruption and favouritism which was historically associated with similar exercises," - says Dmytro Kyrlyuk, Director of MOJ Notary and State Registration Department.

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The Project prepared full technical documentation for the sale of 1 unused detention facility, Irpin correctional center №132, assessing its approximate value at some 10 million USD. This extensive work opens up a possibility for the first time in the history of the country to receive major budget revenue from a [large scale reorganisation of the Ukrainian prison system](#), which currently includes some 120 establishments, many of which are being winded down. "Our goal is to completely rebuild the prison infrastructure within ten years, while at the same time creating no negative impact on the budget and the taxpayers" - said Minister of Justice Denis Maliuska.

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The Project helped MOJ develop a [Unified Convicts Register](#), which for the first time will allow the Ukrainian penitentiary and probation services to have full real-time data on convicts and their profiles. This will not only help tracking the offenders but also collecting evidence of their behaviour after the release, including following re-offending rates. In using the Register, hundreds of prison and probation staff will now be able to increase speed and reduce paperwork in their daily work. "The launch of the Unified Convicts Register increases the bar in managing offenders according to European standards, while allowing us to individualise the approach while dealing with each person and crime", says Oleh Yanchuk, Director of Probation Centre.

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## E-JUSTICE

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The Project-funded electronic document and data management system (EDDMS) is already operational at one interregional department of MOJ in Sumy region. The system is currently being rolled out to the whole MOJ, increasing communication and decision-making efficiency for almost 20,000 MOJ staff and hundreds of its locations across

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Ukraine. The system helps substitute old paper-based management and decision-making processes with electronic ones, while ensures smooth and efficient data exchange among the regions and the centre. “Following the Sumy pilot project, we are now moving to an entirely new and efficient way of workflows”, - says Olena Bogachova, MOJ State Secretary.

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On 23 December 2020 the Project signed a Memorandum of Understanding with the Notary Chamber, MOJ and NAIS to help develop a modern eNotary work-place, case management and register improvement system. “The development and use of the ambitious eNotary initiative will make an important contribution to the protection of property rights and the promotion of better business climate,” said Deputy Minister of Justice Olga Onyshchuk.

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This newsletter was produced with the financial support of the European Union. Its contents are the sole responsibility of the EU Project Pravo-Justice and do not necessarily reflect the views of the European Union.

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