



Date: _____

EXTRABUDGETARY PROPOSAL (VOLUNTARY CONTRIBUTIONS)

PART I

Title of the action	<i>Support to the implementation of the judicial reform in Ukraine</i>
Reference	
Total budget	Euro 2 000 000
Requested financial contribution	Euro 2 000 000
Other funding sources	NA
Duration (months)	<i>36 months, subject to availability of funds the project can start on 1 December 2015, 1 January 2016 or 1 February 2016</i>
Implemented by:	<i>Justice Sector Reform Unit I, Division on Legal Cooperation, Justice and Legal Cooperation Department, Directorate of Human Rights, DGI, Council of Europe</i>
Contact details	
Programme manager	<i>Lilit Daneghian, Head of the Justice Sector Reform Unit I, Division for Legal Cooperation, Justice and Legal Cooperation Department, DGI</i> Lilit.DANEGHIAN-BOSSLER@coe.int
Postal address	
Telephone number	+333 88 41 26 38
Fax number	

Office of the Directorate General of Programmes

Contact person in Europe Division/Neighbourhood Programming Division	<i>(Country Advisor's name/title/e-mail)</i>
--	--

FOR INTERNAL APPROVAL

Approved and submitted by MAE: <i>(Head of department level, implementing MAE)</i>	<i>(name, date, signature)</i>
Approved by ODGPROG: <i>(Europe Division/Neighbourhood Programming Division)</i>	<i>(name, date, signature)</i>
Reviewed by Field Office: <i>(if applicable)</i>	<i>(name, date, signature)</i>

SUMMARY OF THE ACTION¹

Title of the action	Support to the implementation of the judicial reform in Ukraine
Location(s)	<i>Ukraine</i>
Objectives of the action	<p><i>Overall objective:</i> To ensure independence, fairness and effectiveness of the judiciary by supporting Ukraine in the implementation of its justice sector reform in accordance with CoE standards and recommendations</p> <p><i>Specific objectives:</i></p> <p><i>Specific objective 1</i> To support the drafting and adoption of constitutional and other legislative amendments related to the judicial reform in Ukraine and improve the regulatory framework for the institutional and procedural set-up of the judiciary</p> <p><i>Specific objective 2</i> To support the Ukrainian judiciary in installing an effective system of judicial accountability based on European standards and recommendations</p> <p><i>Specific objective 3</i> To support Ukraine in developing the system of alternative dispute resolution (ADR) by the introduction of mediation mechanisms and improvement of an arbitration system</p> <p><i>Specific objective 4</i> To support Ukraine in the strengthening of the institutional capacity and the review of responsibilities of the highest judicial instances allowing for a more efficient review of cases following ECtHR judgments against Ukraine</p>
National partner(s)	Verkhovna Rada (Parliament) of Ukraine Administration of the President of Ukraine Supreme Court of Ukraine High Council of Justice High Qualification Commission of Judges of Ukraine Ukraine's Government Agent before the ECtHR
Other partner(s)	Ministry of Justice of Ukraine High Specialised and Appeal Courts National School of Judges of Ukraine Constitutional Court of Ukraine Council of Judges of Ukraine

¹ When developing the proposal, please make reference to **PROJECT DESIGN CRITERIA CHECKLIST** available at: <http://intranet.coe.int/jahia/webdav/site/IntranetDGAL/shared/ODGPROG/VCJP/VC-forms/Project%20Design%20Criteria%20Checklist.pdf>

Target group(s) ²	Judges, members of Parliament, representatives of judicial bodies
Final beneficiaries ³	Judges, persons seeking protection of their rights in courts, the general public
Expected results	<p>1. CoE standards and the recommendations of its monitoring and standard-setting bodies (such as the Venice Commission, CCJE, CDCJ) are reflected in the amendments to the constitutional and general legislation related to the functioning of the Ukrainian judiciary.</p> <p>2. The system of disciplinary accountability of judges in Ukraine and the functioning of the two disciplinary bodies for the judiciary, the HCJ and the HQCJ, meet the requirements of the standards and recommendations of the Council of Europe.</p> <p>3. The concept of the ADR system for Ukraine is defined and respective mechanisms are introduced, including:</p> <ul style="list-style-type: none"> - the existing arbitration system is assessed and reviewed for full compliance with relevant European practices e; - mediation mechanisms are piloted for civil (and/or administrative) and criminal proceedings; - non-litigious cases are excluded from the judicial proceedings and are dealt with by non-judicial bodies. <p>4. National mechanisms of execution of ECtHR judgments in Ukraine function in a coordinated manner, allowing for a more efficient national-level enforcement of ECtHR judgments against Ukraine.</p>
Main activities (per expected result)	<p><i>(list the main activities to be implemented, their sequence and duration)</i></p> <p><i>Main activities per expected result 1</i></p> <ul style="list-style-type: none"> - Input by international and national consultants – up to 6 months; - Discussion and dissemination of results of consultants’ work – up to 2 months; - Assessment of compliance of new provisions of Ukrainian legal acts with CoE standards – on request; - Support to legislative drafting following the consultants’ recommendations – up to 6 months; - Cooperation with Verkhovna Rada’s profile committees on adoption of the developed legislation – up to 6 months; - Setting up of a resource webpage on CoE support to judicial reform in Ukraine – 1 month, then on-going support; - A wrap-up publication – 3 months. <p><i>Main activities per expected result 2</i></p>

² “Target groups” are the groups/entities who will be directly positively affected by the project.

³ “Final beneficiaries” are those who will benefit from the project in the long term at the level of the society or sector at large.

- Analysis of the distribution of work and balance of powers between HCJ and HQCJ of Ukraine – 3 months;
- Analysis of the compliance of the system of judicial accountability in Ukraine with CoE standards and recommendations – 3 months;
- Public discussions of recommendations of the two above-mentioned analytical documents and development of relevant legislative proposals – 3 months;
- Activities to support establishment of links and networks of between the Ukrainian and European councils for the judiciary – throughout the project.

Main activities per expected result 3

- Assessment of the current status of ADR and design of the concept of ADR for Ukraine – up to 6 months;
- Analysis of the caseload in courts in Ukraine and drawing recommendations as to the optimisation of the case-flow, with the account of upcoming introduction of the ADR mechanisms – up to 6 months;
- A package of legislative amendments based on introduction and development of the ADR concept is discussed and submitted to the Verkhovna Rada – up to 12 months;
- Piloting of the ADR mechanisms, including arbitration and mediation in civil (and/or administrative) and criminal cases – up to 12 months;
- Follow-up to the piloting, including fine-tuning of relevant legal provisions – up to 6 months;
- A wrap-up publication – 3 months.

Main activities per expected result 4

- Analysis of the judicial practice in Ukraine on the review of cases in the process of execution of ECtHR judgments – 3 months;
- Series of round tables with the Supreme and High Courts on the cassation procedures in Ukraine and on the judgments of the ECtHR against Ukraine – during 6 months;
- Coordination meetings between the Ukraine's Government Agent before ECtHR and the Supreme Court of Ukraine on the issues of execution of ECtHR judgments against Ukraine – during 3 months;
- Public discussions on the efficiency of national institutions responsible for execution of ECtHR judgments and the current set-up of national mechanisms of execution of ECtHR judgments – 3 months;
- Design of recommendations, including legislative amendments, on improvement of national mechanisms for execution of ECtHR judgements – 6 months.

PART II

1. BACKGROUND

- **Origin of the action/Sources of justification**

The Ukrainian authorities and the judiciary have been particularly active in the field of judicial reform in 2014-2015, following the entry into force of the *Law on Ensuring the Right to Fair Trial* (2015), the *Law on Restoring Trust in the Judiciary in Ukraine* (2014) and the *Law on Cleansing the Bodies of Power* (2014). This legislation was adopted in accordance with the recommendations of the Council of Europe. Through its co-operation activities, the Council of Europe has assisted the Government of Ukraine with judicial reforms aimed at strengthening public trust in Ukrainian institutions. Among other actions, the Council of Europe has provided expertise on the design, assessment and implementation of the *Law on Restoring Trust in the Judiciary in Ukraine*, the *Law on Cleansing the Bodies of Power*, the *Law on the Judicial System and the Status of Judges* and amendments to the *Law on the High Council of Justice*. The Council of Europe's European Commission for the Efficiency of Justice (CEPEJ) contributed to assessing the efficiency of the judicial system and the national courts. The Special Advisor of the Secretary General of the Council of Europe represents the Council of Europe in the Constitutional Commission and in the Judicial Reform Council that prepared the consolidated *Strategy of Judicial Reforms* and its *Action Plan* in March 2015. Earlier in 2015 the Council of Europe had provided comments to the national concept paper on the key strategic areas of judicial reform as had been requested by the Judicial Reform Council of Ukraine. In May 2015 the President of Ukraine issued a decree which adopted the mentioned strategy as a policy document for Ukraine.

The Council of Europe bodies have regularly provided comments and recommendations on the judicial reform in Ukraine, in particular:

- 1) The Preliminary Opinion of the Venice Commission no. 803 (CDL-PI (2015)06) issued on 24 July 2015 *On the Proposed Constitutional Amendments Regarding the Judiciary of Ukraine* evaluates positively amendments on removal of the 5-year probationary period for judges, removal of the power of the Verkhovna Rada to appoint judges, and the abolition of the 'breach of oath' as a ground for dismissal of judges. The Preliminary Opinion also highlights some concerns with regard to the functioning of the judiciary in Ukraine: for example, the role of the President in appointing, transfer and dismissal of judges and the lack of participation of the Verkhovna Rada in the election/appointment of members of the High Council of Justice. It is expected that these amendments will be submitted to the Verkhovna Rada for discussion and adoption.
- 2) The Venice Commission and the Directorate of Human Rights of the CoE in their recent Joint Opinion no. 801 (CDL-AD 007, 2015) issued on 23 March 2015 with regard to the *Law on the Judicial System and the Status of Judges* and amendments to the *Law on the High Council of Justice* referred to a number of challenges and shortcomings to be addressed, in particular: removal of probation period for judges, reduction of the tiers of courts within the Ukrainian justice system (from four-tiers system to three-tiers system), strengthening the powers of the Supreme Court of Ukraine, and changing the composition, powers and responsibilities of the High Council of Justice and the High Qualification Commission of Ukraine.
- 3) The 2013 judgment of the European Court of Human Rights in the case of *Olexandr Volkov v. Ukraine* identifies a number of serious deficiencies related to judicial independence in Ukraine in general and to the functioning of the system of judicial accountability in particular. The general measures within this judgment include: reform of the High Council of Justice and removal of a political influence from this institution, review of the system of complaints within the disciplinary proceeding against a judge, and strengthening of powers of courts that review such complaints.

Recent decisions and notes of the Committee of Ministers of the CoE on the execution of the judgment in the case of *Olexandr Volkov v. Ukraine* underline that Ukraine has not executed the judgment, especially with regard to the general measures.

- 4) The 2015 judgement of the Grand Chamber of the European Court of Human Rights in the case of *Bochan v. Ukraine (no.2)* stated that the Supreme Court of Ukraine grossly misrepresented the findings of the European Court of Human Rights within its judgment of 3 May 2007. It is observed that the Supreme Court of Ukraine's reasoning had been 'grossly arbitrary' and entailed a 'denial of justice' in the sense that the distorted presentation of the 2007 judgment in the first *Bochan* case had had the effect of defeating the applicant's attempt to have her property claim examined in the light of the European Court's judgment. This case highlighted the deficiency in the system of review of national judgments following those of the ECtHR.
- 5) The CEPEJ in its biennial report *European judicial systems and quality of justice* (CEPEJ Studies No. 20, 2014) notes that Ukraine is one of the few CoE member states that do not have mediation and conciliation ADR mechanisms as and, consequently, no Ukrainian authority is in charge of these procedures.
- 6) The *CoE Action Plan for Ukraine 2015-2017* defines the reform of the judiciary in Ukraine as a priority and underlines that the reform needs to address primarily the issues of judicial independence, implementation of the relevant new legislation, problems related to judicial accountability, and establishing the system of alternative dispute resolution.
- 7) The project will actively support implementation of the Chapter on justice reform of the *National Human Rights Strategy*.

- **Brief description and justification of the action**

The Ukrainian authorities have defined judicial reform as one of its priorities in a number of recently issued documents and statements. In January – June 2015 the Constitutional Commission, set up by the President of Ukraine, discussed a series of amendments to the Constitution of Ukraine related to the judiciary. The representatives of the Venice Commission and the Special Advisor of the Secretary General of the Council of Europe participated at these discussions. The draft text of the constitutional amendments addresses the largest part but not all recommendations of the Council of Europe bodies. The most important changes concern elimination of the five-year probation period for judges, removal of the Verkhovna Rada from the process of appointment and dismissal of judges, reformatting of the membership of the High Council of Justice and changes in the role and functions of the prosecution. Meanwhile, the system of the judiciary in Ukraine, under the suggested constitutional amendments, remains over-complicated both in terms of the number of instances and jurisdictions and in terms of the structure of the non-judicial bodies of the judiciary, including the existence of two councils for the judiciary and a number of institutions of judicial self-governance. It is expected that the suggested constitutional amendments will become a part of the constitutional process in the near future and that the amendments could be introduced already by the end of this year.

In April 2014 the Supreme Court of Ukraine adopted at its plenary session a set of proposals to the Verkhovna Rada of Ukraine concerning constitutional amendments on justice and the judiciary. The proposals are based on the standards and recommendations of CoE bodies related to justice. The Supreme Court of Ukraine defines as a priority the following issues: elimination of political influence during the appointment and dismissal of judges, as well as during disciplinary proceedings against judges, review of the system and number of courts in Ukraine, strengthening of powers of the Supreme Court of Ukraine.

During this complex process of the judicial reform, Ukrainian legislators, the judiciary and other target groups requested the CoE on numerous occasions to contribute with its expertise at all stages of the

reform – development of the legislation, its assessment with regard to the compliance with European standards, and implementation and monitoring of the adopted provisions of the Ukrainian legislation. The participation of the CoE representatives in the national advisory bodies that are involved in the judicial reform is welcomed by the national partners. The assessment by the CoE bodies of the drafted and adopted texts of amendments is very important for establishing a fully European model and practice of the justice system in Ukraine.

Discussions and contact over the last months also confirm that the implementation of new provisions in such areas as disciplinary accountability of judges, setting up and functioning of alternative dispute resolution mechanisms will require further support. A particular attention should be devoted to the implementation of new legislation with regard to the capacities and powers of the Supreme Court of Ukraine. Enlarged powers of the Supreme Court of Ukraine as regards the review of judicial cases should provide uniformity of judicial practice. The review of cases following ECtHR judgments as part of the proceedings fully within the Supreme Court of Ukraine was introduced by the *Law on Ensuring the Right to Fair Trial*. For effective functioning of these new provisions and in order to reduce the risk of future findings of violations by the ECtHR in respect of this role, the Supreme Court of Ukraine needs a support of the CoE expertise.

The Ukrainian legislation does not regulate the issue of alternative dispute resolution (ADR) in a consolidated manner. The legislation on mediation, in criminal, civil and administrative cases, is not available, mediation as a judicial procedure does not exist. Mediation procedures in criminal cases have been provided through the conciliation procedure. Introduction of mediation in criminal cases where juveniles are involved was provided by international projects (a CIDA-funded project) but with no success in terms of legislative development. Commercial mediation was intended to be introduced in Ukraine by an IFC project but finally was not developed. The Ukrainian authorities, therefore, require support in drafting a separate law on mediation with corresponding amendments to relevant procedural codes. An awareness-raising campaign for the general public concerning mediation procedures and the establishment of the ADR is also needed. The lawyers' community in Ukraine does not have a common vision about the model of mediation.

Arbitration in Ukraine with regard to civil and commercial cases is addressed by the Civil Procedure Code, the Commercial Procedure Code and the law on arbitration tribunals (третейский суд)⁴. However, the Ukrainian arbitration system needs to be assessed against relevant European practices and an awareness-raising campaign is needed to effectively redirect the flow of cases from the formal litigation in courts to arbitration tribunals.

- **CoE cooperation**

The Council of Europe has worked closely with the Ukrainian authorities through its Sida-funded project on "Strengthening the independence, efficiency and professionalism of the judiciary in Ukraine" (2013-2014) and through its HRTF-funded project on "Strengthening the system of judicial accountability in Ukraine" (2015) on the current set-up of the disciplinary and appointment bodies within the judicial system in Ukraine. The need for significant improvement in this area was outlined in the judgement of the ECtHR in the case of *Oleksandr Volkov v. Ukraine, Salov v. Ukraine*, and in the Venice Commission Opinions.

⁴ An assessment of the institute of Alternative Dispute Resolution, best practices and main challenges are described in the Publication on mediation entitled "Court-bounded and Commercial Mediation—a Pilot Project in Ukraine: a story of success", Coe/EU Project "Transparency, independence and efficiency of the judicial system and increased access to justice for all citizens in Ukraine – TEJSU"(2011). An assessment of the current status and problems of the existing labour dispute resolution system in Ukraine and recommendations provided in Report "The New Model of Labour Dispute Resolution for Ukraine", the Swedish-Ukrainian Labour Dispute Resolution Project funded by SIDA (2013).

The CoE monitors implementation of the general and individual measures within the judgment of the case of *Oleksandr Volkov v. Ukraine* in the framework of the project on "Strengthening the system of judicial accountability in Ukraine". In cooperation with the CoE Department for the Execution of Judgments of the ECtHR and international experts, the project continues to provide expert advice and support to the Secretariat of the Government Agent of Ukraine at the ECtHR, to the implementation of general measures related to the issue of judicial accountability in Ukraine.

- **Co-ordination with other relevant actors (including international organisations/donors)**

In Ukraine a number of international organisations and donors support the judicial reform. The EU, USAID, OSCE, CIDA and other organisations finance and/or implement various projects related to the justice sector reform. The current agenda of the judicial reform in Ukraine is defined by willingness of Ukraine to comply with European standards and best practices in this area and, in this context, with the Council of Europe standards and recommendations. International donors offer support to Ukraine in this framework but with different methodologies. CIDA, OSCE and some of USAID initiatives focus on various capacity-building efforts for Ukrainian stakeholders. The EU offers a support in strategy formulation and strategy design in the area of justice. Some of the activities of the USAID and EU also support legislative drafting concerning various aspects of the judiciary.

To avoid duplications with other international donors, Council of Europe participates in donor information exchange meetings in Kyiv and coordinates its activities with relevant Ukrainian authorities and with other Council of Europe bodies and services working with Ukraine. When the areas of intervention are similar or linked, the Council of Europe is organising joint events with other donors and/or other CoE bodies to reinforce the overall impact of its activities.

Involvement of civil society organisations in the implementation of the cooperation projects with Ukraine is an increasing demand from the donors, and the CoE is working actively for implementation of its cooperation projects with a number of Ukrainian civil society organisations specialised on legal and human rights issues.

- **Added value and comparative advantage of the action**

The comparative advantage of the Council of Europe is linked to its standard-setting and monitoring mechanisms concerning human rights, democracy and the rule of law in its member states. This expertise is unique and closely connected to monitoring of commitments and obligations of the member states before the Council of Europe. When entering the Council of Europe, Ukraine undertook the obligation to reform its judicial system in line with the Council of Europe standards and this process is ongoing. To a large extent, the scope of judicial reforms in Ukraine has been defined by the CoE standards and recommendations.

The CoE has also an advantage of having its headquarters with relevant directorates and services in Strasbourg and its Offices in the member-states. Through its Office in Ukraine the Council of Europe has a well-established, legitimate presence based on partnerships with state authorities and civil society organisations. The CoE various standard-setting and monitoring bodies in Strasbourg such as the ECtHR, Venice Commission, CCJE, CDCJ, CEPEJ, and others establish common standards and put together best practices of 47 member states.

- **Methodology**

The project implementation will be based on a combination of specific tailor-made and demand-driven activities, including advice and expertise on the legislation, reviews and substantive methodological

recommendations, monitoring of implementation in order to respond to the needs of the Ukrainian stakeholders. The methods of implementation make up a methodology designed to bring the CoE experts' skills and experience directly to the targeted beneficiaries in order to ensure the needed relevant input in terms of domestic laws and practices. The following working methods will be applied in the framework of the follow-up project:

- Support to drafting and amending the legislation, including public discussions of the drafts and necessary support during the adoption of the legislation;
- Support and monitoring of implementation of the adopted legislation on the judicial system of Ukraine through a series of round tables/expert working groups, analysis of practice; - Design of conceptual and analytical documents concerning either new areas of project intervention, such as ADR, or proposals and recommendations on the existing procedures and institutions;
- Visibility and public discussion actions, especially with regard to the instalment of ADR mechanisms.
- Developing by-laws and rules of procedures for certain institutions to support the implementation of the adopted legislation.

The methods of the action's implementation are related to the needs of the target groups of the action.

2. OVERALL OBJECTIVE

Describe a broad development impact to which the action strives to contribute – at a national or sectorial level.

The project aims to ensure independence, fairness and effectiveness of the judiciary by supporting Ukraine in the implementation of the reform of its judicial system in accordance with the Council of Europe standards and recommendations.

3. SPECIFIC OBJECTIVES, EXPECTED RESULTS AND ACTIVITIES

Specific objective 1:

To support the drafting and adoption of constitutional and other legislative amendments related to judicial reform in Ukraine and improve the regulatory framework for the institutional and procedural set-up of the judiciary.

Expected results

The expected **outcome** of project activities with regard to this specific objective is that CoE standards and recommendations are reflected in the amendments to the constitutional and general legislation related to the functioning of the Ukrainian judiciary.

The expected **outputs** in this regard are the texts of legal amendments and changes to regulations produced with the support of the project and a share of this texts adopted by corresponding institutions. Also, a number of analytical documents either summarising the progress of the judicial reform in Ukraine or providing comparisons of European practice on a specific topic will also be produced to support the legislative work.

Main activities

- 1.1 Expert support and consultations with involvement of both international and national consultants in drafting an analytical document covering the issues not addressed by the judicial reform from the point of view of CoE standards;
- 1.2 Discussion and dissemination of results of consultants' work;
- 1.3 Assessments of compliance of new provisions of Ukrainian legal acts with CoE standards;

- 1.4 Support to legislative drafting following the consultants' recommendations;
- 1.5 Joint work with Verkhovna Rada's profile committees on adoption of the developed legislation;
- 1.6 Setting up a resource webpage on CoE support to judicial reform in Ukraine;
- 1.7 A wrap-up publication.

Specific objective 2:

To provide Ukraine with support in installing of an effective system of judicial accountability based on European standards and recommendations

Expected results

The expected **outcome** of activities under this specific objective is that the system of disciplinary accountability of judges in Ukraine and the functioning of the two councils for the judiciary meet the requirements of the standards and recommendations of the Council of Europe.

The expected **outputs** include: analytical documents and recommendations of CoE experts concerning the functioning of two councils for the judiciary and of the compliance of the Ukrainian system of judicial accountability with CoE standards and recommendations; a package of legislative proposals with a specific focus on improvement of the system of judicial accountability.

Main activities

- 2.1 Analysis of the distribution of work and balance of powers between two councils for the judiciary in Ukraine;
- 2.2 Analysis of the compliance of the system of judicial accountability in Ukraine with CoE standards and recommendations;
- 2.3 Public discussions of recommendations of the two analytical papers and development of relevant legislative proposals;
- 2.4 Activities to support establishment of links and networks between the Ukrainian and European councils for the judiciary.

Specific objective 3:

To support Ukraine in developing the system of alternative dispute resolution by the introduction of mediation mechanisms and improvement of an arbitration system

Expected results

The expected **outcome** of this specific objective is that a concept of ADR system for Ukraine is defined and piloted, based on European standards, recommendations and practices.

The expected **outputs** are as follows: delivered assessments of compliance of the current arbitration system and mediation mechanisms in Ukraine with relevant European standards and practices; prepared concept and a package of legislative proposals to introduce a full-fledged ADR system; adopted legislation and/or by-laws with regard to ADR.

Main activities

- 3.1. Assessment of the current status of ADR and design of the concept of ADR for Ukraine;
- 3.2. Analysis of the caseload in courts in Ukraine and drawing recommendations on optimisation of the case-flow, with the account of upcoming introduction of the ADR mechanisms;
- 3.3. A package of legislative amendments to introduce the ADR concept is developed, discussed and offered to the Verkhovna Rada;
- 3.4. Piloting of the ADR mechanisms, including arbitration and mediation in civil and criminal cases;
- 3.5. Follow-up to the piloting, including fine-tuning of relevant legal provisions;
- 3.6. A wrap-up publication.

Specific objective 4:

To support Ukraine in the strengthening of the institutional capacity and the review of responsibilities of the highest judicial instances allowing for a more efficient review of cases following ECtHR judgments against Ukraine

Expected results

The expected **outcome** for this specific objective is that the national mechanisms of execution of ECtHR judgments in Ukraine function in a coordinated manner, allowing for a more efficient national-level enforcement of ECtHR judgments against Ukraine.

The expected **outputs** include: analytical papers and proposals for legislative change concerning improvement of the review cases following the ECtHR judgments; a series of delivered ad hoc events on review of ECtHR judgments in Ukraine; assessment and recommendations as to the overall system of national execution of ECtHR judgments.

Main activities

- 4.1 Analysis of the judicial practice in Ukraine on the review of cases following ECtHR judgments;
- 4.2 Series of round tables with the Supreme and High Courts on the cassation procedures in Ukraine and on the nature of judgments of the ECtHR against Ukraine;
- 4.3 Coordination meetings between the Ukraine's Government Agent before ECtHR and the Supreme Court of Ukraine on the issues of execution of ECtHR judgments against Ukraine;
- 4.4 Public discussions on the theme of the efficiency of Ukraine with regard to execution of ECtHR judgments and the current status of Ukrainian national mechanisms of execution of ECtHR judgments;
- 4.5 Design of recommendations, including legislative amendments, concerning improvement of Ukrainian mechanisms for execution of ECtHR judgements.

4. TARGET GROUPS AND STAKEHOLDERS

The judges, the members of the HCJ and HJC and the members of the Parliament are target groups of the proposed action. These groups are the direct beneficiaries of the action. The legislators are involved because the process of solving most of the problematic issues described in the project components as well as developing of amendments is linked to amendments of the Constitution of Ukraine and other relevant legislation. The members of the two institutions and their secretariats or disciplinary inspectors are directly affected by the problems related to the judicial accountability and disciplinary liability of judges. The judiciary is involved in the whole process of the reform by developing new and adaptable concepts, applying the amended legislation and acquiring more knowledge on the execution of judgements of the ECtHR. The final beneficiaries of the action are judges and the society in general as the final effect of the action is foreseen to improve the quality of judicial work on the protection of the rights of citizens.

The needs of the target groups of the action are as follows:

- familiarisation with the CoE standards and recommendations on issues dealt by all four components of the project;
- drafting and adoption of the laws necessary to implement the recommendations of the CoE bodies;
- proficient skills and knowledge about the Ukrainian legislation and judicial proceedings; implementation of the adopted legislation through institutional reorganisation and adoption of the necessary by-laws and regulatory acts.

5. CROSS-CUTTING ISSUES

The project offers two cross-cutting themes that will be reflected in all its activities: 'legislative amendments' and 'work with the civil society'. The reform of the legislation will be a part of the concept and implementation of all project-related activities and will involve not only a support to the drafting and adoption of the relevant legislation, but also to its implementation and evaluation of its functioning.

The work with the civil society will involve CSOs in all levels of project action – as expert providers, event co-organisers, drafters of legislative texts, and evaluators of the implementation of legislation.

6. MANAGEMENT AND ORGANISATION

- **Project management team [including location]** (*specify members/titles/short terms of reference*)
- **National experts and international consultancy** (*if applicable*)
- **Project Steering Committee**

The project will be implemented by the Justice Sector Reform Unit I, Division for Legal Cooperation, Justice and Legal Co-operation Department of the Directorate General I on Human Rights and Rule of Law of the CoE. The project team will be composed of international and national staff members, with extensive relevant professional experience. It will be constituted as follows:

Project coordinator (50%, Strasbourg) S/he is recruited based on her/his knowledge on both the subject matter (content) and project design/management/reporting. The Project Manager will follow developments in relevant CoE monitoring mechanisms and inter-governmental bodies and draw the necessary conclusions for the Project. S/he will also be responsible for overseeing administrative and financial matters, and for ensuring the fulfilment of contractual and reporting commitments. S/he will act as a liaison between the team in Ukraine and the CoE Headquarters, responsible for monitoring project progress, in particular as regards the timely and due implementation of the proposed activities, co-ordinating overall implementation of the project and managing experts' engagement. The Project coordinator is a liaison person for key CoE bodies that are involved in project implementation, as well as for the international project consultants. In particular, he/she ensures that the findings and recommendations of the monitoring mechanisms and other relevant CoE bodies are integrated into the project outputs, in a suitable form and in a way that can lead to concrete changes. The mechanisms concerned are notably the ECtHR, the intergovernmental committees, such as CCJE and CDCJ, the Department for the Execution of ECtHR judgments, and the Venice Commission. The Project manager will be supported by the Project assistant based at the CoE headquarters in Strasbourg.

Project manager (100%, Kyiv) S/he is responsible for the coordination and implementation of the project activities. The project manager in Kyiv is expected to work closely with national consultants, with the counterparts within the beneficiary institutions, in order to ensure a successful achievement of the project expected results, and with other stakeholders to avoid overlap. S/he will be in charge of the daily management of the project and will ensure the proper functioning of the Steering Committee together with the MoJ, the national co-ordinator of the project. S/he will be responsible for organising the implementation of the activities under the project including the Steering Committee meetings, assigning missions to short-term national experts, representing the project in relation with national stakeholders, as well as third parties, in co-operation with the CoE headquarters. S/he will also provide input for the preparation of narrative reports to be submitted to the donor.

Project Officer (100% Kyiv). Taking into account the large scope of project components and numerous parallel activities under different project components, the project officer will be responsible for implementation of number of sub-components of the project and will report to the Project Manager in Kyiv.

Assistant (100%, Kyiv) will provide logistical and secretarial assistance as regards the planning, organisation and budgetary follow-up of the project activities, handle administration, correspondence and financial arrangements concerning the project activities, and provide secretarial and logistical assistance. S/he will assist the project manager, in particular as regards participation of experts, correspondence with the local partners and ensuring the visibility in connection with the national events.

Project assistant (50%, Strasbourg) will verify drafted commitment requests and ensure their circulation and approval in Strasbourg, provide logistical and administrative support needed in implementing project activities, verify receipts and financial reports before payments, prepare and follow up missions of the Secretariat and international experts.

International and national experts will advise the stakeholders on the implementation of needs assessment and preparation of the road map and on substantive issues related to the implementation of the project activities, throughout the project life time. Under the supervision of the Head of Unit, project coordinator and project manager, they will liaise and cooperate closely with the beneficiaries and stakeholders in executing the work plan, draft relevant assessment and evaluation reports and recommendations.

Project Steering Committee Meetings

A Steering Committee will be set up during the inception phase of the project and will be composed of representatives of the CoE with the participation of the donor, the main national stakeholders (Ministry of Justice of Ukraine, Verkhovna Rada, HCJ, HQCJ, Supreme Court, Council of Judges of Ukraine and CSOs) and facilitated by the CoE representative.

The mission of the Steering Committee is to guide the project implementation by advising on decisions about the requirements for the project, supervising the overall implementation, ensuring the project proceeds according to its work plan, and ensuring that the deliverables meet the requirements set for the project.

- First Steering Committee meeting (one day): to have a clear vision about what the current situation is, to share with the main stakeholders the concerns about implementation and timelines of all project components, organisation of its activities, and to agree on the modalities and timetable as set out in the work plan. The presence of all stakeholders in this first meeting of the Steering Committee should be ensured.
- Steering Committee meetings (one day each): to be held every six months aiming at evaluating the project implementation and progress made in light of the project logframe, assessing the results achieved and reviewing and adjusting the work plan as needed.
- Wrap-up Steering Committee meeting (one day): to be held before the end of the project in order to assess the results achieved and discuss possible follow-up needs and measures to ensure the sustainability of the results achieved.

The CoE shall ensure that experts are adequately supported and equipped when in the field. In particular, the CoE shall ensure sufficient provision of administrative, secretarial and interpretation to enable experts to concentrate on their core tasks.

7. KEY ASSUMPTIONS, RISKS AND SUSTAINABILITY

• Key assumptions

In the short term, there is a certain degree of uncertainty regarding the acceptance of the results of the judicial reform following the work of the consultative bodies established by the President of Ukraine. The implementation of the suggested reform will depend on the consensus of the legal professionals and of the public in general concerning the suggested areas of change. The assumptions here are: (i) that the suggested reform follows the CoE standards as declared by the authorities; (ii) that the suggested reform will be accepted as sufficient by various civil society groups that request such reform steps.

The lack of any other viable source of the reform initiative may as well delay the whole reform of the judiciary if the proposals developed by the Presidential Administration do not find sufficient support. In this regard, the assumption is (iii) that the speed of reforms remains steady with regard to the existing proposals.

Another dimension of the constitutional and legislative change is linked to the ability and skills of the implementation of the newly-adopted legal provisions, including a development of all necessary regulatory documentation and the account of the available assessments and recommendations of European partners. That is why, it is important (iv) that the project counterparts should be fully able to carry out their tasks related to the implementation activities and to incorporate the changes identified and recommended in the CoE assessments, analysis and recommendations.

A further assumption is that (v) the CoE's significant experience in this context, and the required level of expertise and staff to implement the project should allow for sufficient and effective risk management except in the case of a regional crisis.

An important presumption in regard to all actions in Ukraine is that (vi) in the current political situation the external factors and the military operation in the East of Ukraine will allow allocating a sufficient amount of resources to undertake the reform in Ukraine, including the judicial reform.

• Risks

Major risks for implementation of the project are summarised in the table below:

Risks to Overall Objective	Possibility	Impact and Mitigating Factors
The acceptance of the reforms initiated by the Presidential Administration is low, which leads to the slowdown of the reform efforts	Medium	Medium Mitigated by: <ul style="list-style-type: none"> - a certain degree of flexibility in terms of implementation of project activities; - involvement of project partners wider than the Presidential Administration; - close links to the civil society and inclusion of CSOs in project activities; - development of alternative routes/visions of the judicial reform in Ukraine based on CoE standards, recommendations and European practices
Key beneficiaries have different views on both expected results (what	Medium	Medium Mitigated by:

needs to be achieved') and specific activities ('how') of the judiciary reform.		<ul style="list-style-type: none"> - the scope of this assignment concentrating on activities with preliminary stakeholder consensus, thereby increasing the likelihood of agreement on both 'what' needs to be achieved (i.e. greater budgetary capacity etc.) and 'how' (i.e. through programme-based budgeting etc.
Fragmented nature of the stakeholders relations in the system of the Ukrainian judiciary and the 'organic resistance to change' of bureaucracies, which may obstruct achievement of more significant institutional change, especially in the short time-frame of the project lifetime.	Medium	Medium Mitigated by: <ul style="list-style-type: none"> - taking account of local context and resources; - promotion of change that is both 'gradual and locally-understood'; - short, medium and long-term steps in reforming the current institutional set-up to be proposed.
Relative inexperience of Ukraine in the development of institutional policy.	High	Medium Mitigated by: <ul style="list-style-type: none"> - proactive support and special focus of the project on provision of assistance to key project partners
Perceived high level of corruption of the judiciary in Ukraine prevents achievement of the Project objectives	High	Medium Mitigated by: <ul style="list-style-type: none"> - the project focus more on judicial ethics and discipline rather than possible wider anti-corruption interventions;
Risks to Specific Objectives	Possibility	Impact
General lack of capacity of all stakeholders, including skills, competencies, managerial, leadership and training capabilities.	High	Medium Mitigated by: <ul style="list-style-type: none"> - capacity building activities of the project; - promotion of sustainability and coordination, building upon achievements of other CoE and other stakeholder projects; - focus on medium and long-term results (strategic planning).
Lack of coordination among key beneficiaries	Medium	Medium Mitigated by: <ul style="list-style-type: none"> - increased power of persuasion of the CoE among Ukrainian stakeholders as a standard-setter and a co-operation partner in the reform of judicial accountability.
Overlap of project interventions with other donors.	High	Medium Mitigated by <ul style="list-style-type: none"> - a clear focus on the CoE mandate, which should be used as the project's comparative advantage to other donor initiatives - the project monitors activities of other

		international donors in this area; - a careful needs assessment by the project which should take into account the sector donor map and activities
--	--	--

- **Sustainability of results**

The project will help develop the legal framework addressing issues of the judicial reform and capacities of national judicial institutions. Sustainability will be ensured by having the adopted legislation to be in line with European standards and by providing support to Ukraine in implementation of the adopted legislation.

The key national partners involved in the project will be the state institutions playing a decisive role in the implementation of the judicial reform in Ukraine. This reform is a priority for the CoE and Ukraine, and is a part of the new CoE Action Plan for Ukraine, thus enhancing the continuity and sustainability of the outcomes.

The aim of the project is to have the process “owned” by the national partners, and their involvement and support will be crucial and will add to the sustainability of the project results by putting them in the framework of functioning of the project partner institutions.

8. MONITORING⁵

An updated work plan and logframe will be submitted after completion of the inception period by the CoE team during which CoE experts and the representatives of the beneficiary institutions will agree on any change that could have occurred between the finalisation of this document and the start of the project, and which have implications on the project design.

The Project will be evaluated regularly by the CoE through interim and final reports, internal mission reports, feedback and reports from consultants and from the Armenian authorities. It will be evaluated by the CoE to monitor the delivery of outcomes and results and will be assessed by its Directorate of Internal Oversight.

The CoE will prepare the following formal reports:

1. Inception report – after 3 months of project start-up the project team will prepare an inception report.
2. Interim progress reports – 12 and 24 months after the start of the project implementation. This report will assess the progress towards achievement of project objectives with an emphasis on the achievement of results. Interim progress reports will be accompanied by financial reports.
3. A final report – will be submitted, together with the final financial report after three months of completion of the implementation of the project. The draft final report will be presented at least one month before the end of the period of execution of the contract. The final report should include an in-depth assessment of the project implementation, results and level of achievement of the objectives.

⁵ Continuous assessment of the action with regard to the planned objectives, results, activities as well as financial and human resources utilised

Narrative (interim and final) reports of the proposed project will be prepared and submitted to the donor by the project team and the Office of the Directorate General of Programmes (ODGP). Financial (interim and final) report will be submitted to the donor by the ODGP of the CoE.

9. COMMUNICATION AND VISIBILITY

The communication with national counterparts and stakeholders will be ensured in the day-to-day work by the project team. The donor will also be systematically informed of upcoming activities and the status of implementation of the relevant activities. Specific budget heads for "Publications" and "Visibility actions" are included in the project budget. The implementation of the visibility plan relies on the use of the following tools:

- **Justice and Legal Co-operation Department website** - The web page of the Justice and Legal Co-operation Department (www.coe.int/t/dghl/cooperation/capacitybuilding), which includes a regularly updated news section will provide detailed information on the project's activities.
- **Press releases/Press conferences/press points** - Press releases will be used for ensuring visibility of selected events, such as conferences, and seminars open to the press. Press conferences can only be organised for a particularly newsworthy theme or participant(s). The donor will be systematically invited to be associated with the organisation of such events in Ukraine.
- **Interviews** - Interviews with CoE representatives, as well as representatives of the beneficiaries contribute to raising awareness of the respective activities.
- **Reports/statistics/publications** - Reports and statistics related to the project will further raise awareness of the achievements. With the agreement of national partners, such documents will be made available online.
- **Logo of the project** - The relevant logo will be displayed in all documents related to the activities (agendas, lists of participants, assessments, reports, recommendations).
- **Promotional items** - Folders, "post-it" and notepads will be produced and used at project's events.

Please attach the following:

Appendix 1: Logical Framework (VC logframe)

<http://www.dsp.coe.int/PMM/interface/default.asp?ticket=ST-18251-PkjohfN6e6wbBRoAZDHg-cas>

Appendix 2: Project Budget

<http://intranet.coe.int/jahia/Jahia/lang/en/Accueil/ODG-PROG/VC-JP/VC-forms>

Appendix 3: Project workplan (Preliminary timeline)

<http://intranet.coe.int/jahia/Jahia/lang/en/Accueil/ODG-PROG/VC-JP/VC-forms>