

PROJECT RESULTS

CONTINUED SUPPORT TO THE CRIMINAL JUSTICE REFORM IN UKRAINE

2015-2019

The Project is implemented by
the Council of Europe and funded by
the Danish Government

MINISTRY OF FOREIGN
AFFAIRS OF DENMARK



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

COUNCIL OF EUROPE PROJECT

CONTINUED SUPPORT TO THE CRIMINAL JUSTICE REFORM IN UKRAINE 2015-2019

Kyiv, 2019



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Ever since Ukraine joined the Organisation back in 1995, the reform of the criminal justice sector has been a focal area for reform cooperation between Ukraine and the Council of Europe.

The public prosecution service and free legal aid system of Ukraine has been at the forefront of this reform process due to the institutions' key roles with regard to effectiveness of criminal investigations and prosecution, as well as access to legal aid, as guaranteed by the European Convention on Human Rights.

The Project “Continued support to the criminal justice reform in Ukraine” is a good example of the fruitful cooperation between the Ukrainian authorities, civil society and our long-standing partnership with the Danish Government, which funded this project.

Two beneficiary institutions, namely the Public Prosecution Service and Free Legal Aid system, have come a long way within the reform processes.

By the end of 2018, the Ukrainian free legal aid system had developed into a modern network of more than 23 regional centers and 550 bureaus providing around one million clients the state-granted legal assistance.

The Public Prosecution Service is today an institution with clearly-defined functions in line with Council of Europe recommendations. The newly established self-governance bodies aim to ensure prosecutorial independence, conduct merit-based recruitment and promotion of staff, as well as to bring those guilty of professional misconduct to disciplinary liability.

I am proud to emphasise the role played by the Council of Europe in all of these positive developments. We have worked intensively with the authorities through the provision of expert advice and recommendations with a view to develop and adapt the legal framework and support its implementation. Capacity building assistance has also been rendered to enhance the knowledge and skills of legal professionals in applying the new rules in practice.

The current Project is coming to an end but the Organisation stands ready, in accordance with the priorities of the Council of Europe Action Plan for Ukraine 2018-2021, to provide further support to the Ukrainian government in this area.

Mr Mårten Ehnberg,

Head of the Council
of Europe Office in Ukraine

Introduction



Continued support to the criminal justice reform in Ukraine

Duration: September 2015 – June 2019 (46 months)

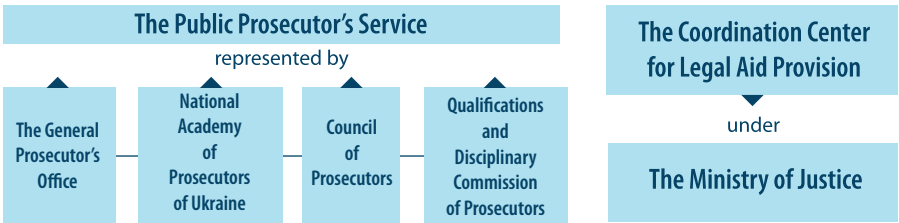
Budget: 2.9 mln EUR

Donor: Government of Denmark

This Project was designed to aid the Ukrainian authorities in ensuring the effective functioning of the criminal justice system in Ukraine in line with European human rights standards. It was part of the continuous endeavour by the Council of Europe to support Ukraine in fulfilling its obligations as a member state of the Organisation. The Project action built on the achievements of the previous CoE cooperation actions for Ukraine in supporting the criminal justice reforms in the country.

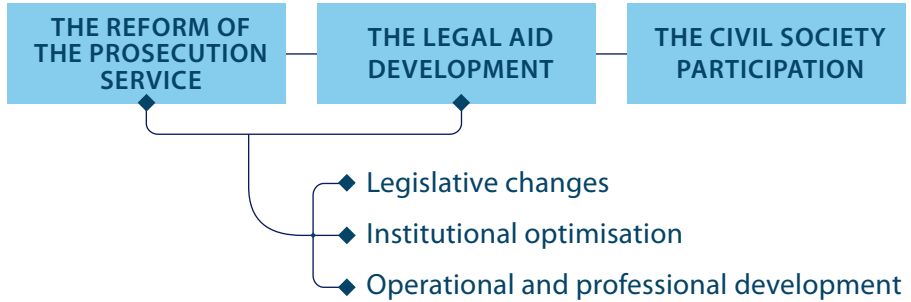
In 2013-2015, the CoE successfully supported Ukraine in passing major policy, constitutional and key legal and institutional reforms in the criminal justice area. Namely, the new Criminal Procedure Code is in force and legal aid system has been institutionalised since 2013, the new Laws on the Public Prosecution Service, on the National Police and on the State Bureau of Investigations were adopted in 2014-2015, and respective institutional reforms started. Framework policy documents, such as the Justice Sector Reform Strategy 2015-2020 and the Constitutional amendments regarding justice are in place since 2016.

Primary Beneficiaries



Other partners: other key institutions of the Ukrainian criminal justice system, Parliament and civil society organisations.

The *focus areas of the Project were*



Summary of key results in the areas of the Project intervention¹

- ◆ Legal and internal regulatory framework of the beneficiary institutions were more aligned with the Council of Europe standards
- ◆ Capacity of both the prosecution service and the legal aid system to implement institutional and operational reforms was strengthened
- ◆ Capacity of the legal aid system to provide accessible and quality legal assistance was enhanced
- ◆ Prosecutorial self-governance and qualification/disciplinary bodies were established, are operational and independence safeguards to ensure their effective functioning were improved
- ◆ New modalities and approaches for dealing with the prosecutorial career were advanced
- ◆ Knowledge management systems and mechanisms in both the prosecution and legal aid services further evolved
- ◆ Skills and knowledge to ensure better human rights protection in prosecutorial and legal aid practices advanced

¹ See the complete list of achievements on the p. 17



- ◆ Transparency of key partner institutions was further advanced and public confidence in these institutions increased
- ◆ Reform monitoring and cooperation mechanisms between the authorities and the civil society were further enhanced.

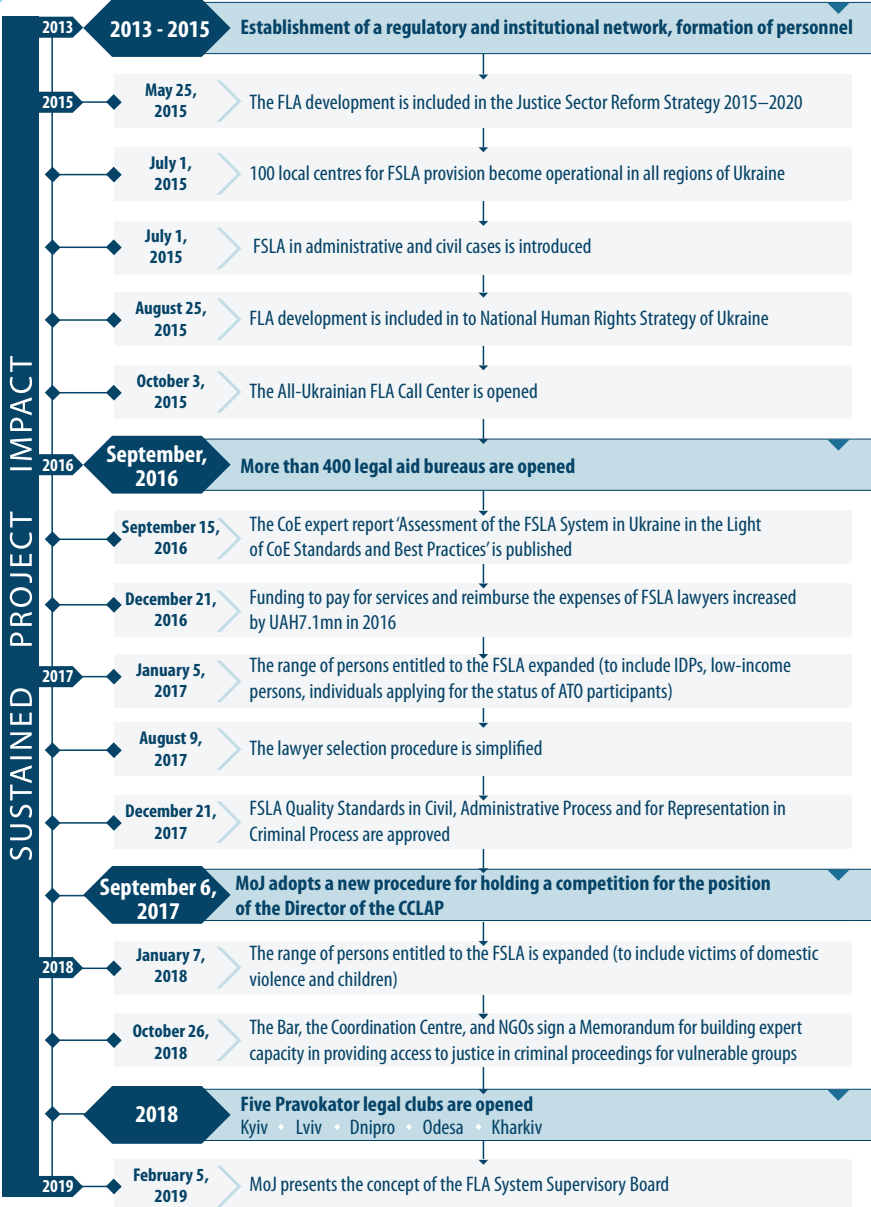
Attainment of the Project Objective

The Ukrainian Public Prosecution Service and Free Legal Aid System increased their capacities to implement criminal justice reforms, ensuring compliance with the relevant Council of Europe standards.

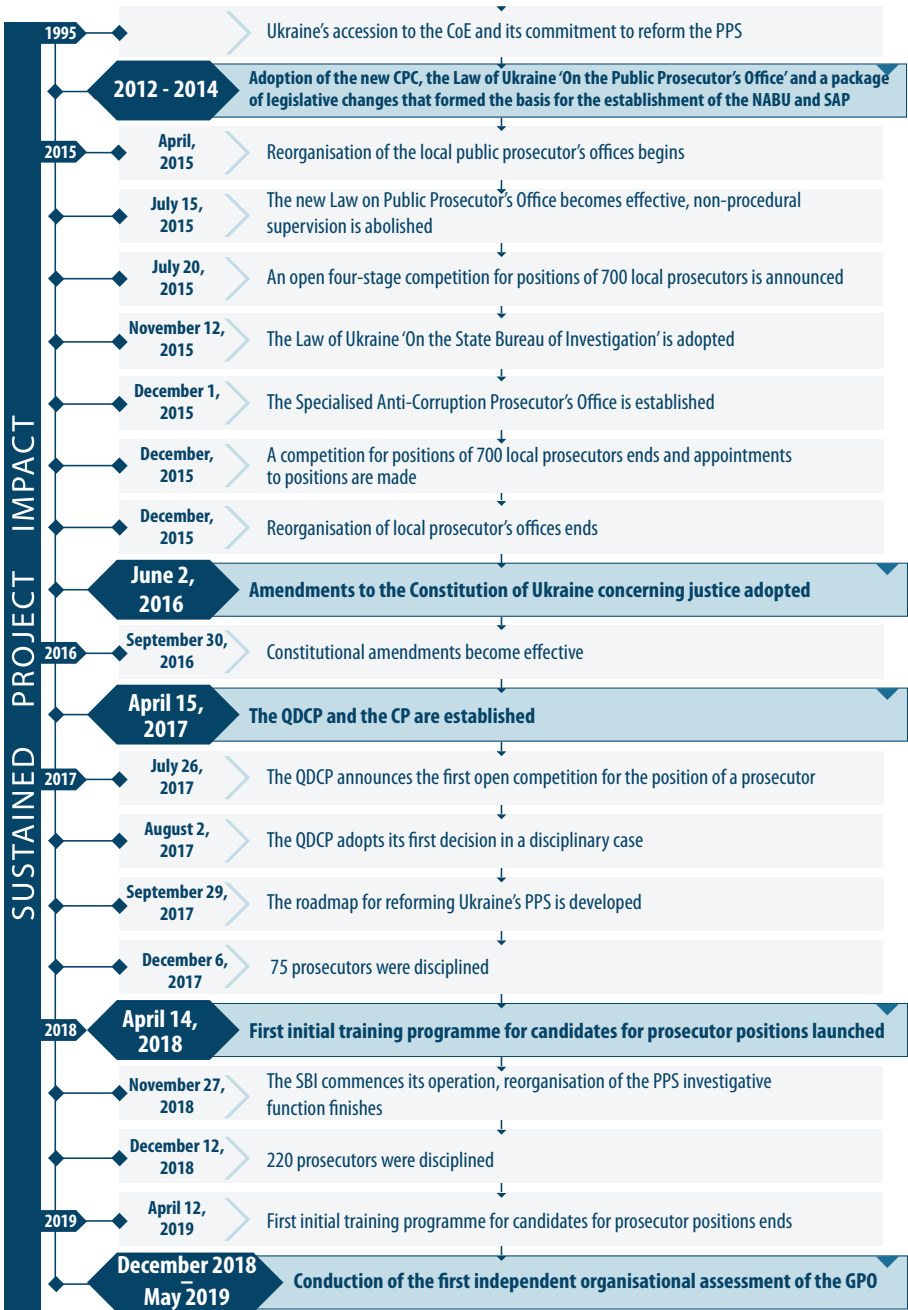
The sustainable effect of the Project action shall contribute to strengthening democratic processes in Ukraine through a criminal justice system which is:

- ◆ fair, efficient and respectful of human rights and fundamental freedoms
- ◆ effective in the fight against criminality
- ◆ free of corruption and accountable at both institutional and individual levels
- ◆ trusted by the society.

Reform Timeline: FLA system



Reform Timeline: PPS system



Project action in photos



Mr Vitalii Kasko

ToT for the FLA
Bukovel, 2018



**GPO and prosecutorial
self-governance**

High-level visit to Strasbourg
France, 2018



**Mr Yurii Lutsenko
and Mr Mårten Ehnberg**

Press-conference on launching
the GPO organisational assessment
Kyiv, 2018



Ukrainian GPO

Study Visit to Paris and Bordeaux
France, 2017



**Mr Mykhailo Misiura
and Ms Larysa Denysenko**

Conference on marking the one year
of operation of prosecutorial self-governance
Kyiv, 2018



Ms Oleksandra Yanovska, Mr Andriy Kulykov and Mr Andrii Vyshnevskiy

Launching of the CJR Project
Kyiv, 2015

Mr Oleksandr Banchuk and Professor Alan Paterson

Launching of the CJR Project
Kyiv, 2015



Ms Ketevan Tskhomelidze and Mr Oleksii Boniuk

Training for the FLA system
Kyiv, 2018



“Legal matrix” discussion club

PRAVOKATOR Kharkiv, 2019



Seminar for prosecutors on International Cooperation in Criminal Matters

Kyiv, 2017





**Mr Mårten Ehnberg
and Mr Vitalii Hrushkovskiy**

Signing of the Agreement of
the video-equipment transfer to the QDCP
Kyiv, 2019



Ms Valeriia Lutkovska

Training for the PRAVOKATOR
legal clubs on human rights
Kyiv, 2019



**Training for prosecutors on the ECHR
standards and MLA**

Kyiv, 2018



**Mr Viktor Shemchuk
and Mr Mykola Palamarchuk**

Conference on marking the one year of
operation of prosecutorial self-governance
Kyiv, 2018



**Mr Christos Giakoumopoulos,
Mr Dmytro Kuleba and Mr Régis Brillat**

High-level visit of the Ukrainian GPO
and prosecutorial self-governance bodies
Strasbourg, 2018



**Ms Svitlana Malinovska
and Mr Mykola Sioma**

Training for lawyers,
Kyiv, 2018

**Mr Ivan Lishchyna, Mr Tigran
Karapetyan and Ms Olha Varchenko**

Expert round table on the execution
of judgments on Article 2 and 3 of ECHR
Kyiv, 2018



Mr Mykhailo Loshytskyi

Meeting on IT-equipment transfer to the NAPU
Kyiv, 2018

**FLA, Bar and civil society
Study Visit to London**

United Kingdom, 2019



**Mr Jeremy McBride
and Mr Oleksandr Dvornichenko**

Training for the prosecutors
on ECtHR case law
Kyiv, 2018

Project action in figures



Total number of project activities:
more than 100

trainings — conferences — roundtable discussions



Number of legal opinions: **15**

More than 60% recommendations incorporated



Number of assessments, reviews,
comparative studies and publications: **15**



Number of participants trained:
around 4500

60% men — 40% women



Number of NGO grants:
4 for the total amount ~ 112 000 EUR



Technical equipment and software
for key beneficiaries

GPO/QDCP/NAPU

- ◆ 6 laptops and scanners
- ◆ 4 servers and video recording/transmission equipment

FLA

- ◆ website



A. Policy, Legislative and Institutional Reforms

Public Prosecution System

- ◆ PPS among priorities of the CoE-UA Action Plans 2015-2017 and 2018-2021
- ◆ PPS among priorities of the National Justice Sector Strategy and National Human Rights strategy
- ◆ First reform implementation roadmap for PPS developed
- ◆ Full-fledged enactment of new Constitutional and legal framework on PPS, generally in line with CoE standards
- ◆ Prosecutorial self-governance and qualification/ disciplinary bodies – Council of Public Prosecutors and Qualification and Disciplinary Commission – in place and operational
- ◆ New recruitment and career development mechanisms for prosecutors in action
- ◆ First external independent organisational assessment of the GPO carried out/ recommendations put forward

Free Legal Aid

- ◆ FLA among priorities of the CoE-UA Action Plans 2015-2017 and 2018-2021
- ◆ FLA among priorities of the Cabinet of Ministers and the National Human Rights Strategy
- ◆ Institutional enhancement of the FLA system: 23 regional centres, 550 bureaus
- ◆ Enlargement of the scope of the FLA services and categories entitled to legal aid:
 - from criminal area and secondary legal aid provision only at the start – to civil and administrative matters remit and primary legal aid provision
 - IDPs, low-income persons, victims of domestic violence, children, persons that applied for the status of ATO participants
- ◆ Institutional independence enhancement of the FLA system: Supervisory board governance model concept presented by the MoJ

B. Professional Capacity Development, Operational Efficiency and Transparency

Skills and knowledge to ensure better human rights protection in prosecutorial and legal aid practices advanced and sustained

Public Prosecution System

- ◆ ECHR Research Unit in NAPU established
- ◆ First impact assessment of the prosecutorial training carried out and NAPU equipped with relevant methodology and tools
- ◆ CoE ECHR HELP course integrated into the NAPU curricula for initial training
- ◆ GPO and GA cooperation on execution of ECtHR judgments facilitated

Free Legal Aid

- ◆ FLA knowledge management system institutionalised: 5 legal resource inter-regional platforms “Pravokator” in action
- ◆ Standardized human rights curricula for FLA lawyers in criminal matters in place
- ◆ Professional capacities of the network of FLA lawyers-trainers further strengthened

New modalities and tools in place to ensure quality of provided services and efficient operation

Public Prosecution System

- ◆ General/analytical skills testing piloted for the first time within the new recruitment process of prosecutors in Ukraine
- ◆ Competency models for categories of local prosecutors positions developed

Free Legal Aid

- ◆ Concept for introduction of quality assurance mechanism in legal aid adopted
- ◆ Inter-agency Commission on Expert Analysis (peer review) established by FLA, Bar and civil Society. Pilot project is under way

Public Prosecution System

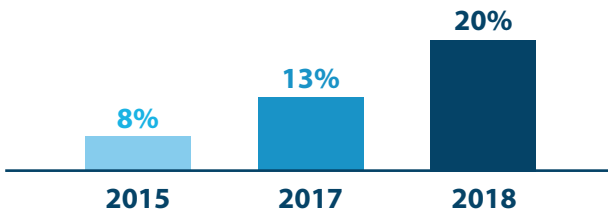
- ◆ IT capacities of GPO, QDCP, NAPU supported. Procured:
 - ◆ equipment for piloting e-document workflow in GPO
 - ◆ video recording/transmission equipment for QDCP
 - ◆ servers for NAPU

Free Legal Aid

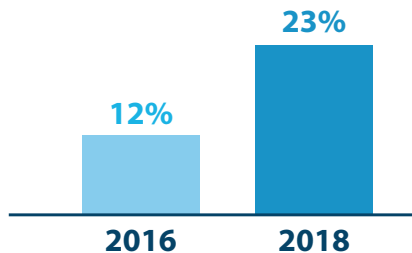
- ◆ Capacity of the FLA system to assess needs/awareness on legal aid and perform client satisfaction surveys developed
- ◆ FLA new web-site developed

Transparency of project beneficiary institutions advanced

Public confidence in Public Prosecution System



Public awareness about the FLA services



Evidence of change

Progress in fulfilling accession commitments to the Council of Europe and its monitoring bodies recommendations as to the PPS reform

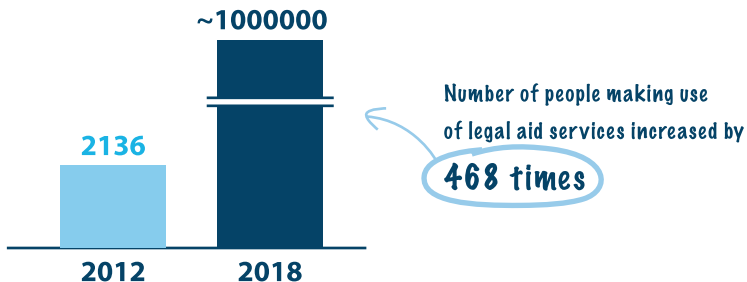
...37. In a welcome development, the constitutional amendments have removed the general oversight function from the Prosecutor General. This general oversight function was contrary to European standards and norms. Ukraine has thus honoured one of its remaining accession commitments to the Council of Europe...

the PACE Resolution No.2145 of 25 January 2017

...The GRECO Evaluation Team welcomes the fact that recent reforms have included several important amendments, above all the abolishment of the general supervisory function of the prosecution service which was contrary to European standards... Moreover, the reforms introduced provisions to secure the independence of prosecutors, more specific criteria and processes for the appointment of prosecutors and for disciplinary action against them, and arrangements to secure self-governance within the prosecution service...

IVth Evaluation Round Report, adopted by GRECO at its 76th plenary meeting, Strasbourg, 19-23 June 2017

Increased access to legal aid





Professional capacity enhancement

Ukrainian FLA delegation was well represented at the 3rd International Conference on Access to Legal Aid in Criminal Justice Systems, in Tbilisi in 2018. The Project appreciated to receive the following message from one of the leading world-wide known experts in legal aid, Peter Van Den Biggelaar, who by chance observed the participation of the Ukrainian delegation at the Conference:

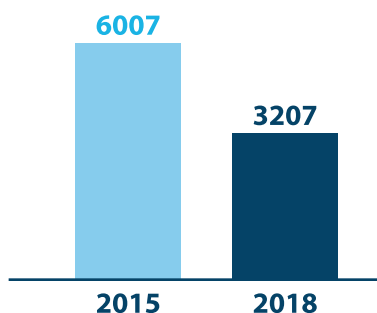
I would like to share with you that I was witness of a great performance by the delegates from Ukraine. They were active in several sessions and you could feel how well they are doing and how their system of legal aid develops further and further. So wonderful to experience this movement.

Empowerment of the agents of change

As a result of the open competition to the newly created Supreme Court in Ukraine in 2017: out of 37 appointed judges of the Criminal Cassation Court, the 7 judges are Council of Europe Project local experts, including those, who were members of the *national trainers' network on the implementation of the CPC in the light of the ECHR*, created with the Council of Europe support in cooperation with the National School of Judges of Ukraine and other international partners back upon the entry into force of the CPC 2012.

Ukraine and the European Court of Human Rights Judgments

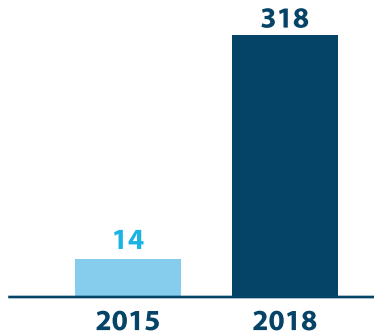
Applications concerning Ukraine received by the ECtHR²



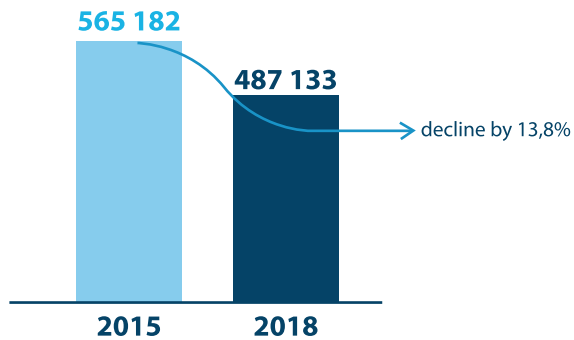
² not counting those rejected in accordance with the Rule 37



Number of the ECtHR judgments executed by the Ukrainian authorities

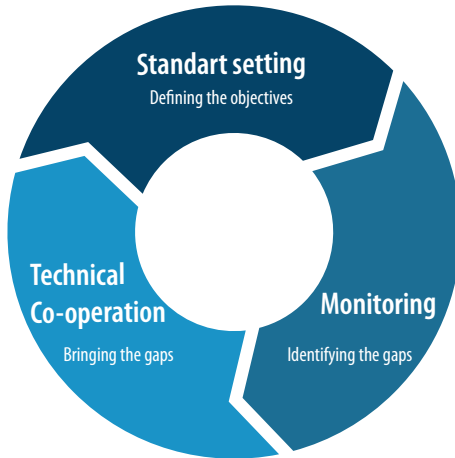


Number of criminal cases registered in the Unified Register of Pre-trial Investigations



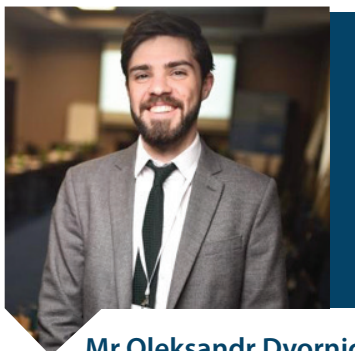


Council of Europe intervention logic



- ◆ CoE core and soft standards and in-house expertise and coordination
- ◆ CoE legal advice and comparative analysis based on 47 member states practices
 - ◆ *best practices experience-sharing*
 - ◆ *technical expertise – operational frameworks*
 - ◆ *IT/software support*
- ◆ Institutional and operational development:
 - ◆ *methodologies and curricula development*
 - ◆ *ECHR approach training: blended learning – face-to-face and on-line HELP*
 - ◆ *network of trainers*
- ◆ Professional capacities building:
 - ◆ *methodologies and curricula development*
 - ◆ *ECHR approach training: blended learning – face-to-face and on-line HELP*
 - ◆ *network of trainers*
- ◆ Awareness raising and communication campaigns
- ◆ Ownership by beneficiaries
- ◆ Advocacy and political dialogue
- ◆ Internal and external communication, liaison and coordination with other partners

Project team



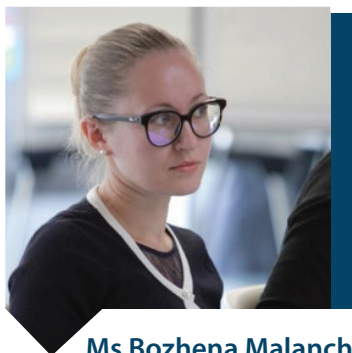
Mr Oleksandr Dvornichenko
Legal Adviser



Ms Oksana Tsymbrivska
Legal Adviser



Ms Ketevan Tskhomelidze
Project Manager



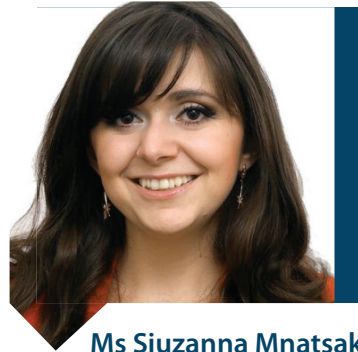
Ms Bozhena Malanchuk
Project Coordinator



Ms Olga Dubinska
Legal Adviser



Ms Tetiana Shamrai
Legal Adviser



Ms Siuzanna Mnatsakanian
Project Officer



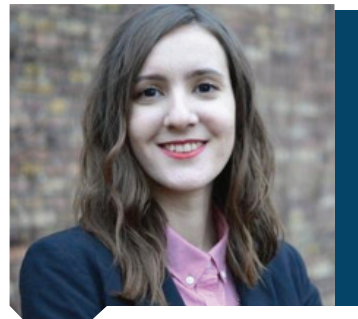
Ms Yuliia Skabovska
Project Assistant



Ms Olga Golovakina
Project Support Assistant



Ms Viktoriia Chechet
Project Assistant



Ms Simona Ion Badulescu
Project Assistant



List of Abbreviations and Acronyms

ATO – Anti-Terrorist Operation in Ukraine

CCLAP – Coordination Center for Legal Aid Provision

CJR – Criminal Justice Reform

CoE/Organisation – The Council of Europe

CP – The Council of Prosecutors

CPC – The Criminal Procedure Code of Ukraine

ECHR – European Convention on Human Rights

ECtHR – European Court of Human Rights

FLA – Free Legal Aid

FSLA – Free Secondary Legal Aid

GA – The Government Agent before the European Court of Human Rights

GPO – The General Prosecutor’s Office

GRECO – The Group of States against Corruption is the Council of Europe anti-corruption body

IDPs – Internally Displaced Persons

MLA – Mutual Legal Assistance

MoJ – Ministry of Justice of Ukraine

NABU – National Anti-Corruption Bureau of Ukraine

NAPU – The National Academy of Prosecutors of Ukraine

PACE – The Parliamentary Assembly of the Council of Europe

PPS – The Public Prosecutor’s Service

QDCP – The Qualifications and Disciplinary Commission of Prosecutors

SAP – Specialised Anti-Corruption Prosecutor's Office

SBI – State Bureau of Investigations

ToT – Training of Trainers

URPI – Unified Register of Pre-trial Investigations

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<http://www.coe.int/web/kyiv>

[coe.int/en/web/criminal-justice-reform](http://www.coe.int/en/web/criminal-justice-reform)

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