

External Assessment of
SDC's Project
“Support to Justice Reform” in Ukraine, Phase IV, 2010 – 2012
&
Financial and Institutional Sustainability
of the Local Partners – Former Implementing Agencies
of the Interventions within the Justice Domain
Supported in Ukraine by SDC

Final Report

Stéphane Jeannet, Human Solutions Consulting – Geneva

Julia Sedyk, Kyiv, Ukraine

Table of Contents

List of Acronyms.....	4
Executive summary.....	5
Introduction	8
Narrative of the Assessment	8
Methodological approach	9
PART 1 – Assessment of the Project Support to Justice Reform in Ukraine.....	11
1.1 Background and objectives of the Project	11
1.2 Identity and perception of the Project	11
1.3 Project Results – and their potential for sustainability	12
1.4 Best practices	14
1.5 Transversal themes – Good Governance and Gender Equality	15
1.5.1 Good Governance	15
1.5.2 Gender Equality	16
1.6 CJS’ institutional sustainability.....	16
1.6.1 Status and reputation: a positive aspect.....	16
1.6.2 Financial viability: a source of concern.....	17
1.6.3 The perspective of other donors.....	18
1.7 Recommendations to the Centre for Judicial Studies	19
PART 2 - Sustainability of SDC's former Implementing Partners.....	20
2.1. Ukrainian Centre For Common Ground.....	20
2.1.1 <i>Executive Summary</i>	20
2.1.2 <i>Sustainability of Results</i>	20
2.1.2.1 Findings	20
2.1.2.2 Overall Assessment	21
2.1.2.3 Conclusions	21
2.1.2.4 Recommendations	22
2.1.3 Institutional Sustainability.....	22
2.1.3.1 Findings	22
2.1.3.2 Overall Assessment	23
2.1.3.3 Conclusions	23
2.1.3.4 Recommendations	23
2.2 All-Ukrainian Centre for Legal Assistance “Public Advocate”	24
2.2.1 <i>Executive Summary</i>	24
2.2.2 <i>Sustainability of Results</i>	25
2.2.2.1 Findings	25
2.2.2.2 Overall Assessment	25
2.2.2.3 Conclusions	26
2.2.2.4 Recommendations	26
2.2.3 <i>Institutional Sustainability</i>	26
2.2.3.1 Findings	26
2.2.3.2 Overall Assessment	28
2.2.3.3 Conclusions	28
2.2.3.4 Recommendations	29

2.3 Women’s Information Consultative Centre	29
2.3.1 <i>Executive Summary</i>	29
2.3.2 <i>Sustainability of Results</i>	30
2.3.2.1 Findings	30
2.3.2.2 Overall Assessment	31
2.3.2.3 Conclusions	31
2.3.2.4 Recommendations	32
2.3.3 Institutional Sustainability	32
2.3.3.1 Findings	32
2.3.3.2 Overall Assessment	33
2.3.3.3 Conclusions	33
2.3.3.4 Recommendations	34
<u>PART 3 - General conclusions on funding trends in the justice sector</u>	34
<u>Annexes</u>	35
Annex 1: List of persons interviewed	35
Annex 2: Bibliography	37
Annex 3: Terms of Reference	39

LIST OF ACRONYMS

AJU	All-Ukrainian Association of Judges (old name)
AJU	Association of Judges of Ukraine (current/new name)
CIDA	Canadian Agency for International Development
CJS	International Charity Foundation Centre for Judicial Studies
CoE	Council of Europe
CoJ	Council of Judges of Ukraine
CPC	Criminal Procedural Code of Ukraine
CSO	Civil Society Organization
EC	European Commission
ECHR	European Court on Human Rights
EU	European Union
FAIR	USAID-funded Fair, Accountable, Indep. and Responsible Judiciary Program
HCCCM	High Specialized Court of Ukraine on Civil and Criminal Matters
IRF	International Renaissance Foundation
JCPM	Juvenile Crime Prevention Model
MoJ	Ministry of Justice of Ukraine
NGO	Non-governmental organization
NSJ	National School of Judges of Ukraine
PA	The All-Ukrainian Centre for Legal Assistance Public Advocate
PACT, Inc.	Plan of Action for Challenging Times, Incorporated
PRI	Penal Reform International
SCO	Swiss Cooperation Office
SCU	Supreme Court of Ukraine
SDC	Swiss Agency for Development and Cooperation
SIDA	Swedish International Development and Cooperation Agency
SIZO	Pre-trial detention centre
SPS	State Penitentiary Service of Ukraine
UCAN	USAID-funded Ukrainian Citizen Action Network Project
UCCG	Ukrainian Centre for Common Ground
UNICEF	The United Nations Children's Fund
UNITER	USAID-funded Ukraine National Initiatives to Enhance Reforms Project
USAID	United State Agency for International Development
WICC	Women's Information Consultative Centre

Part 1: Assessment of the Project *Support to Justice Reform in Ukraine*

Since its establishment, the implementing partner, the Centre for Judicial Studies (CJS), has provided research and training on the issues of judicial independence, application of the European Convention on Human Rights and Fundamental Freedoms, judicial self-governance, and communications strategies for the judiciary.

The CJS has served as a leader on many of these issues, not only by bringing them to the attention of the judiciary, but also by providing a platform for dialogue and communication within the judiciary; additionally, CJS was the first training institution for the judiciary even before the establishment of the Academy of Judges of Ukraine. The CJS continues to play an important part in training in cooperation with the successor to that institution.

Within the area of judicial reform, the results of CJS activities, such as: 1) the annual monitoring of judicial independence since 2007, 2) the first monitoring of citizen trust and confidence in courts in 2012, 3) numerous training programs, and 4) the first communication strategy for the judiciary, significantly contributed to changes in policies and procedures.

As one of the implementing partner in a different SDC-funded project, *Support to Penitentiary Reform in Ukraine Project* (2009–2012), CJS also worked with judges, police and prosecutors. During this Project, the Centre provided mostly research and training on the issue of pre-trial detention.

The Centre has over the years developed and maintained a status and reputation as a neutral, independent, solely judiciary-oriented expert NGO. The positive perception and acceptability of the Project was not only linked to the work carried out by the CJS. Indeed, it was also attributable to the (up to recently) strong and consistent support by Switzerland, a country not member of the EU and not perceived to be a close political ally of the US, and Swiss judges. This association with the Swiss traditional principles of neutrality, independence and impartiality had, according to the vast majority of respondents, been a facilitating factor in terms of acceptability by all concerned stakeholders, both Ukrainians and international. This also helped to explain why Switzerland, despite its relatively modest budget, had thus far been considered a major player/partner in the justice sector.

The Project has achieved to a satisfactory degree (and in some cases exceeded) the objectives set forth in both Projects *Support to Penitentiary Reform in Ukraine* and *Support to Justice Reform in Ukraine*. Most of these results have been appropriated by the targeted stakeholders and therefore enjoy a large degree of sustainability through ownership.

The Centre meets almost all criteria to be evaluated as a well-established organization with a high potential for future activities: privileged access to and strong relationships with decision-makers within the Judiciary and the relevant line ministries, a sufficient organizational structure at the moment of the assessment, new office space to move in, a well-developed and popular web-site, a wide range of products in demand, a very good reputation among both beneficiaries and donors.

However, since the Swiss Development and Cooperation Agency (SDC) took the decision to phase out of the justice reform domain, CJS has not made a significant effort to find new funding. The perception of some donor organizations is that CJS, having been funded by SDC for many years, had insufficient motivation to look for new, outside funding sources. CJS' sustainability therefore still remains an issue due to the lack of current funding and lack of prospects for finding such funding soon enough to avoid the possibility of closure.

Part 2: Assessment of the sustainability of former implementing partners

All the Ukrainian partners previously involved in the implementation of Swiss supported projects in the justice reform domain have, for the most part, utilized the knowledge, experience, and reputation gained during their cooperation with Swiss Cooperation Office (SCO). The results achieved during implementation of their projects are largely sustainable, feasible and capitalized on, thereby contributing to strengthen the projects' impact and the image of the organizations. This strong sustainability of results constitutes a solid basis on which these NGOs can build their future activities.

On the other hand, the institutional sustainability of the organizations is rather weak, despite the presence of strong leadership, the availability of experienced and well-known experts, and a generally positive perception among stakeholders. Much of this can be explained by the general situation of the non-governmental/non-profit sector in Ukraine, where organizations have to exist (if not survive) in an ever-changing environment characterised mainly by: a rather strict legal framework, an absence of state support and mostly sporadic opportunities for funding from international donors. This last issue is compounded by the fact that most international grants only cover program-related costs – and do not provide institutional support. The institutional sustainability of these organisations is further weakened by their over-reliance on one person or a small group; to a large extent, they therefore depend on the role, availability, interests, capacity and, even, the energy or motivation of that individual.

The report contains recommendation to the former implementing partners on the sustainability of the results they have achieved so far, as well as on their institutional sustainability.

Part 3: General conclusions on funding trends in the justice sector

The weak institutional stability/sustainability of NGOs noted in the present report is partly attributable to gradual relative loss of interest and fatigue of international stakeholders in the justice sector over the past few years. At the same time, SDC was among the few donors that remained consistent in their support; this, along with its image (see above) explains why Switzerland was perceived as having a special role and reputation in the sector. However, a number of high-profile politically-driven court cases recently given much visibility in international media outlets, strongly worded decisions against Ukraine by the European Court of Human Rights, as well as the fact that the independence of judges has become a major point in political dialogue with the Ukrainian Government (both multilateral, such as the EU's, and bilateral), have caused the situation to change. Many international stakeholders are therefore increasingly paying attention to the justice sector and allocating more funds for projects in this area – e.g. recent and new projects funded by USAID, CIDA, SIDA, CoE, and EU. This new situation

will present in the near future more funding opportunities, most likely at project level, for the four former SCO implementing partners.

INTRODUCTION

The objectives of the external assessment mandate are:

- Objective 1** To verify the achievement of results of the Project *Support to Justice Reform in Ukraine* with a view to sustainability and further dissemination among key stakeholders. The main (but not sole) focus lies on the achievements of the current and last Project Phase, as an assessment of the achievements of previous Project phases is available.
- Objective 2** To assess the financial and institutional sustainability of the Ukrainian implementing partners previously involved in the implementation of the Swiss supported projects in the justice reform domain, provide conclusions as well as practical recommendations on how to improve their “sustainability plans” elaborated at the request of SCO and suggest further steps aimed at strengthening their financial and institutional sustainability.

NARRATIVE OF THE ASSESSMENT

From January 21 to February 1, 2013 the assessment team met with representatives of each organization as well as with other stakeholders who provided useful feedback and insight on the current status and future potential of each NGO. The Local Consultant conducted two additional interviews on February 7 and 22.

The assessment interviewed a total of 37 persons (the list is included in annex 1), representing a balanced representation (including national/regional/local levels) of stakeholders:

	Stakeholders	Description
2	SCO Ukraine	NB: the NPO who had directly managed the projects had been laid off further to SDC's exit from the sector; he was nevertheless interviewed under the category “legal expert” – see below
6	Representatives of SDC's former local partners/implementers	Centre for Judicial Studies (CJS), Ukrainian Centre for Common Ground (UCCG), Public Advocate and Women Information Consultative Centre (WICC)
8	Representatives of international donors and implementers active in the Justice sector	CIDA, SIDA, USAID FAIR Judiciary Program, EC, CoE and IRF
11	Members of the Judiciary	Judges from first and appellate instances, as well as from high specialized courts and the Supreme Court; these included representatives of the Council of Judges of Ukraine, of the Council of Judges of General Courts and of the Association of Judges of Ukraine
2	Court staff	In regional courts
4	Governmental administration	Representatives of the National School of Judges of Ukraine, the State Judicial Administration of Ukraine, and

	Stakeholders	Description
	representatives	the State Penitentiary Service
4	Legal or communications experts	Including Prof. S. Gass, the Swiss back-stopper who played a historic role in the project
37	Total	

On the last day of the mission, the evaluator presented initial findings, conclusions and recommendations to the SCO. The latter subsequently communicated extensive consolidated comments on the draft report, which are incorporated in the present document.

The team leader also conducted a debriefing at SDC HQ.

METHODOLOGICAL APPROACH

The evaluation was made based on the analysis of documents, both provided by SCO Ukraine and received during the field work, as well as on information received during interviews with the concerned NGOs and with other stakeholders/observers – see above for summary and annexes for the full list.

The assessment relates to two aspects of sustainability: a) sustainability of results, and b) institutional sustainability of organizations. The assessment team developed a set of criteria for each aspect to be evaluated.

The ***sustainability of results*** was assessed using a set of criteria established by the consultants. These are meant merely to guide and facilitate the latter's analysis; consequently, they are not necessarily systematically used or specifically referred to in the findings presented in the report.

- a) Relevance to the current situation in the justice domain (to what extent the achieved results addressed the actual needs of the system; also, to what extent the results contributed to good governance and gender equality aspects of intervention);
- b) Relevance to the project's aims (achieved results vs. project goals);
- c) "Marketability" of results (how the results, for instance pilots/models, have been or can be utilized by the beneficiaries and to what extent they can be "sold" to other donors with a prospective of continuation of similar activities);
- d) Level of dissemination of results (whether the organization made sufficient efforts to widely disseminate and advertise the results);
- e) Potential application in current and/or future activities (whether the results have been utilized by the organization or are already planned to be used as a basis for future projects); and
- f) Degree of ownership and appropriation of results by the concerned judicial/government stakeholders; in particular, readiness, political will and capacity to up-scale models and to improve standards.

Similarly, **institutional sustainability** was assessed using another set of criteria:

- a) Quality and follow-up on sustainability plans formulated with SCO Ukraine support;
- b) Current financial status (diversity and continuation of funding; current needs vs. available funding);

- c) Organizational structure (core staff members; availability of office/staff; developed project documents defining vision, mission, and strategic planning, as well as principles of work and procedures);
- d) Web-resource (online presence of organization through well-developed web-site and/or active placement of information about the organization on other web-pages; use of new social media, etc.);
- e) Perception (what knowledge and perception do other donors and stakeholders have on each organization);
- f) Social/professional networking resources (how active are the members of organizations in their relations to other stakeholders – both donors and state institutions – through participation in events, dissemination of information about the organization, providing expertise for other projects, or membership in councils or other bodies); and
- g) Potentials for future funding opportunities.

Assessment of institutional sustainability among the organisations differed in light of: their size, the level of engagement in Swiss-funded projects, the share funding received within the Swiss Cooperation Programme in Ukraine in their overall activity, and the amount of information available for evaluation purposes – e.g., some organizations had already developed their sustainability plans, while others did not consider such an exercise as a priority.

Given that the assessment of CJS's sustainability is completely linked with the more global assessment of the project Support to Justice Reform, the consultants have chosen to include it in Part 1 of the present report.

PART 1 – ASSESSMENT OF THE PROJECT SUPPORT TO JUSTICE REFORM IN UKRAINE

The objectives of this part of the assessment report are:

To verify the achievement of results of the Project Support to Justice Reform in Ukraine with a view to sustainability and further dissemination among key stakeholders. The main (but not sole) focus lies on the achievements of the current and last Project Phase, as an assessment of the achievements of previous Project phases is available.

While the review focuses on the *Project Support to Justice Reform in Ukraine*, some findings in this chapter refer to activities implemented by CJS within the framework of the *Project Support to Penitentiary Reform in Ukraine*, as CJS was also part of the implementing team of the latter. Indeed, the consultants chose to take a holistic view of its assessment of the CJS, in particular in order to build a comprehensive picture of the organisation's sustainability.

1.1 BACKGROUND AND OBJECTIVES OF THE PROJECT

The International Charity Foundation *Centre for Judicial Studies* (CJS) is an independent, non-profit, charitable organization founded by Ukrainian and Swiss judges in 2001 to promote judicial reform in Ukraine.

The overall goal of the project has been defined as follows: *To activate and mobilise the work of the judicial voluntary associations in Ukraine so as to strengthen the independent status of judges and to provide for a fair and impartial, people-rights oriented justice system.*

For this last phase the main goal reads as follows: *To institutionalise a set of national and regional instruments which contribute to the judicial independence in Ukraine.* To reach the stated goal, the project has planned two components and defined the following objectives:

Component 1. *Institutionalisation of the Regional Model and Communication Strategies*

Objective: The oblast-level experience of work with the communication strategies and the regional response model are rolled out nationwide so as to improve the public image of the judiciary.

Component 2. *Capitalisation of Previous Phases' Best Experience*

Objective: The best-practice experiences from the previous phases of the project is disseminated and anchored within the judicial system.

1.2 IDENTITY AND PERCEPTION OF THE PROJECT

Since its creation, the CJS has taken a unique place among both Ukrainian NGOs and international organizations – donors and implementers in the rule of law area:

- As a Ukrainian NGO it was perceived as an organization created by judges and for judges, responsive to challenges and demands of the judiciary;

- As an internationally sponsored organization, it gained respect as an authority and displayed the necessary amount of neutrality to remain outside power games; it became an undisputed and influential player in the justice domain with a proven professional/expertise background.

Interviews with key stakeholders showed that the results of CJS's engagement in the justice reform domain are the most praised, the most utilized, and the most accepted by state institutions (as compared to any other international projects); they are considered to be still relevant to the current situation in both the judicial system and penitentiary reform.

Along the same line, the perception of CJS was that of a "Ukrainian NGO that was able to work with international organizations at the same high level", "excellent model for Ukrainian NGOs working in the justice domain", and the "responsible and long-term partner of the judiciary". The CJS is highly praised by the Ukrainian judiciary: e.g., the Chair of the Council of Judges of Ukraine both in private interview and during the public events such as the Conference of Judges of General Courts on January 18, 2013 and at the Congress of Judges on February 22, 2013 highly evaluated the results and emphasized the importance of the annual monitoring of judicial independence, the monitoring of citizen satisfaction in August 2012, and the developed CoJ Communications Strategy.

The positive perception and acceptability of the Project is not only linked to the work carried out by the CJS. Indeed, it is also attributable to the (up to recently) strong and consistent support by Switzerland, a country not member of the EU and not perceived to be a close political ally of the US, and Swiss judges. This association with the Swiss traditional principles of neutrality, independence and impartiality has, according to the vast majority of respondents, been a facilitating factor in terms of acceptability by all concerned stakeholders, both Ukrainians and international. This also helps to explain why Switzerland, despite its relatively modest budget, had thus far been considered a major player/partner in the justice sector.

1.3 PROJECT RESULTS – AND THEIR POTENTIAL FOR SUSTAINABILITY

The Centre for Judicial Studies was working in the justice domain focusing primarily on issues of judicial reform and, to a lesser extent of penitentiary reform – the second being part of a separate project; see explanation above. In order to achieve its goals, the organization designed and implemented a number of programs in the following areas:

- Judicial independence: starting in 2007, it designed and conducted the annual monitoring of judicial independence; developed a publication on international standards of judicial independence; and designed and implemented a relevant training program for judges as well as supported establishing in 2001 (by the participants of the first workshops within the project) and development of the Association of Judges of Ukraine, which thanks to the support of the Project, CJS and Swiss experts became in 2011 a member of the International Association of Judges;
- In the area of application of the European Convention on Human Rights and Fundamental Freedoms: the CJS provided Ukrainian judges with the first translations of the decisions of

the European Court of Human Rights (ECHR); prepared a number of publications on these issues; and designed and implemented a relevant training program;

- Communications strategy for the judiciary: the CJS designed the first such strategy and organized public discussions and seminars throughout Ukraine to complete the draft; additionally, CJS developed and published the manual on Communications Strategies for the Judicial Branch; its series of seminars on communications for the judiciary inspired four pilot courts (Courts of Appeal of Ivano-Frankivk, Donetsk, and Zaporizhzhia Oblast, and the Court of Appeals of City of Kyiv) to initiate their own communications strategies, e.g., the Ivano-Frankivsk Oblast Court of Appeals adopted its own Communications Strategy on June 8, 2011 and established, with the assistance from CJS, its own press centre); and finally, the CJS is maintaining a website and issuing its own regular bulletin on media monitoring that is the most popular digest of judiciary and justice reform domain related news;
- In the framework of the project “Support to Penitentiary Reform in Ukraine”, support to pre-trial detention reform and improving pre-trial conditions and procedures, with a focus on juveniles and women: the CJS conducted relevant research, developed a number of legislative recommendations, including draft provisions to the previous Criminal Procedural Code (CPC) that also impacted the newly adopted CPC; and prepared a relevant training program for judges, prosecutors, and police. These activities and achievements contributed to increasing the authority of the CJS in other niches of the criminal justice domain.

SCO’s comments on the draft assessment report emphasise some of the project’s results:

“The results achieved by CJS shall be described more in detail. Important parts are missing, e.g.

- 1) *Jointly with the National School of Judges of Ukraine the Project prepared also the teaching guide on “Constitutional and legal safeguards of judicial independence” and the publication “Communications of the judiciary. A Guidebook”. Training courses with similar titles developed by the Project were included into the curriculum of the National School of Judges.*
- 2) *Even if this was achieved in previous project phases, it would be worthwhile mentioning that the project helped to enhance the role of judicial self-government bodies and assisted the Association of Judges of Ukraine to become member of the International Association of Judges. The Association of Judges of Ukraine constantly grows and consists already of more than 1500 members.*

In addition to point 1) in the text: The bodies of judicial self-government have mastered to monitor independently the status of judicial independence and taken over the corresponding tool developed within the project. In 2012, this monitoring covered the entire territory of Ukraine and was largely conducted with the own resources of the Council of Judges of Ukraine and the State Court Administration. This ensures that the Project’s activities will be continued even after Project’s completion. Moreover, jointly with the High Judicial Qualification Commission of Ukraine, the Project began to monitor in 2012 the process of selection of candidates for the position of judges through an anonymous testing procedure. It is worthwhile mentioning that, after publication of the last monitoring results on the status of judicial independence, the President of Ukraine issued an order which requires appropriate conditions for courts. As a result, the State Budget for 2013 substantially increases the funding for local and appellate courts. The need for this budget increase was repeatedly underlined by project experts.”

To ensure the sustainability of results, CJS took an efficient approach:

1. It facilitated a consensus of the judicial leadership as well as, in the project “Support to Penitentiary Reform in Ukraine”, penitentiary system institutions, on each issue;
2. It coordinated all its activities with all key players and relevant institutions – the Council of Judges of Ukraine (CoJ), the Supreme Court of Ukraine (SCU), the High Specialized Court of Ukraine on Civil and Criminal Matters (HSCCCM), the High Qualifications Commission of Judges of Ukraine (HQC), the National School of Judges (NSJ), etc.
3. CJS' leadership takes an active part within bodies and institutions where they can influence policies and procedures: e.g., Natalia Vereshchinska, the Director of the CJS, was a member of the National Commission on the Strengthening the Democracy and the Rule of Law; currently, she is a member of the Working Group on Innovations at the State Judicial Administration of Ukraine (SJA) and is actively contributing to the work of the sub-group on the creation of uniform communication and information policies for the Ukrainian judiciary, etc.
4. The organization developed its own website (www.judges.org.ua) that is universally praised. For example, the head of the department of international cooperation and media relations of the SJA admitted that the CJS's web-site provides them with information on the results of constant media monitoring that SJA cannot afford to undertake independently; the importance of such work is tremendous. The website also contains the research reports, the results of the annual monitoring of judicial independence, and other organization's products. The website has English content.

All interviewed representatives of the judiciary and donor organizations praised the results of CJS work in the justice domain. It was for instance pointed out that:

- a) CJS results and products are widely disseminated and practiced;
- b) The training programs has become part of the NSJ curricula;
- c) The Communications Strategy for the CoJ was adopted by this body in November 2012 and approved by the Congress of Judges of Ukraine in February 2013;
- d) The (global) Communications Strategy for the Judiciary is under consideration and is likely to be adopted in 2013.

Furthermore, the CJS coordinated its activities with other donor organizations: for instance, it worked closely with the USAID-funded Fair, Accountable, Independent, and Responsible (FAIR) Judiciary Program on the communications strategy; FAIR's forthcoming two publications on communications issues for the judiciary are designed to be in logical connection with CJS's manual produced earlier.

1.4 BEST PRACTICES

The results of the Centre for Judicial Studies' implementation of the *Support to Judicial Reform in Ukraine* Project – and also of a component of the *Support to Penitentiary Reform in Ukraine* Project – significantly contributed to substantive progress within the domain. Sustainability of results can be deemed as promising in light of a number of factors:

1. The results and products were designed in response to the expressed demand from the judiciary and the penitentiary system;
2. These were achieved in close cooperation and coordination with leading judicial and penitentiary system institutions;
3. The assessment established the buy-in and ownership of both major decision-makers and stakeholders within the system, namely the Council of Judges of Ukraine (CoJ) and the National School of Judges of Ukraine (NSJ) regarding the results of the *Support to Justice Reform in Ukraine* Project, as well as the State Penitentiary Service of Ukraine – with regard to the results within the *Support to Penitentiary Reform in Ukraine* Project;
4. The organization's leadership was personally engaged in policy-making processes by their participation in different councils, working groups, commissions, etc.
5. Finally, the very popular CJS's website (www.judges.org.ua) and the bulletin are significantly contributing to the wide dissemination of the results while raising awareness on judiciary-related issues and promoting policy change.

These results were not only fully utilized by the beneficiaries in the past but also remain highly relevant today; CoJ is going to continue the annual monitoring of judicial independence and citizen perception of courts; the NSJ is utilizing the training programs developed by CJS and is cooperating with the Centre on it; and other donor organizations are utilizing and building upon CJS results in their activities.

1.5 TRANSVERSAL THEMES – GOOD GOVERNANCE AND GENDER EQUALITY

The consultants are asked to analyse to what extent the project managed to mainstream the two transversal topics of good governance and gender equality.

1.5.1 GOOD GOVERNANCE

According to SDC (as presented in the assessment's ToR), the objective of Good Governance is to create an environment that strengthens rule of law and human rights, gender equality, appropriate distribution of power and macro-economic stability. Governance in Swiss programmes and projects is seen from the perspective of five principles: accountability, transparency, non-discrimination, participation and efficiency.

According to the SCO, governance (as a transversal theme/topic) had until recently been a secondary priority, even though it had been in Swiss Cooperation Strategy for Ukraine since 2007. With regard to the CJS, it had been considered that, given that the project was, in and by itself, already dealing with justice/rule of law and improving the transparency and efficiency of the state institutions, so far no specific (i.e. additional) focus on good governance was necessary.

The CJS followed this logic, including in the last (phasing out) period of the project. If there had been a future phase of SDC support, it would have been interesting to look into the possibility of

involving CJS expertise, support or involvement in the other sectors currently part of the SCO's portfolio, including in the framework of the HRBA – e.g. access to justice by citizens/beneficiaries or the rule of law implications of decentralisation and health, etc.

1.5.2 GENDER EQUALITY

The CJS appears to have been associated to all relevant gender-related processes and activities (e.g. training) offered by the SCO. For instance, the organisation underwent a gender audit in the framework of the Project *Support to Penitentiary Reform in Ukraine*. The CJS seems to take the topic seriously and to draw attention to it in all meetings/events it organises/holds with stakeholders.

After the first gender audit conducted in 2007-2008, the organisation undertook certain steps to integrate gender approaches into the project: e.g. provided for equal access and balanced participation in the project of both genders; in terms of the monitoring part of the Project (independence of judges), the organisation has ensured that gender was included not only in the methodological approach (i.e. how the monitoring was done) but also that gender was a substantive indicator in the survey itself.

Activities Report January–June 2012, section on gender:

“Participants of the Project’s seminars are invited with account of gender parity aspects. Selection of participants was done with regard to gender: 40% of the participants were women, 60% - men. The participants of seminars discussed such gender-related aspects of communication as gender identity of communicators and target groups, the gender dimension of communication processes, gender stereotypes in communication (inclusive of “masculinization” of power), gender tolerance in personnel policies and so on.

This approach has been applied from the very beginning of the Project and, importantly, with full consent of its participants, which creates opportunities for fuller and more effective inclusion of gender-related aspects into practical communication activities of the Project’s target groups.”

It should also be noted that, whereas a woman leads the organisation, its gender focal point is the Deputy Director, a man.

1.6 CJS’ INSTITUTIONAL SUSTAINABILITY

1.6.1 STATUS AND REPUTATION: A POSITIVE ASPECT

Since its creation in 2000, CJS developed into a strong Ukrainian NGO – a leading organization in the justice reform domain, with an excellent reputation and a number of projects that have made a significant impact.

The assessment team can therefore agree with the opinions it collected that pointed out to the legacy that Swiss Cooperation left in this area, in particular:

- Over the years, CJS developed a good infrastructure, office, and highly professional staff, as well as gained a good reputation and acknowledgment within the judicial community and donors;
- It designed and maintained a very informative, user-friendly, and very popular web-site and within communication activity regularly produced other products that are on demand (bulletins, overviews, etc.);
- Its leadership is very effective in networking and in coordination with beneficiaries and partners;
- The area of judicial reform is still (and increasingly) in the focus of many international organizations, including donors that could increase opportunities for future funding.
- The organization is highly praised by judicial leadership and other donors; in general, the CJS holds a unique position among the Ukrainian judiciary, having helped to achieve consensus on many issues.

1.6.2 FINANCIAL VIABILITY: A SOURCE OF CONCERN

The CJS was created with assistance from Swiss judges and with financial support from SDC. Over the entire course of CJS's existence, SDC was its main source of funding. Other funding was received from the Embassy of Netherlands (Matra Programme), the Council of Europe (CoE), the Embassy of France and the International Renaissance Foundation. Nevertheless, SDC funding constituted 80% of CJS's budget in 2011-2012.

Despite the organization's highly acknowledged reputation and the fact that its products are of a high relevance and in demand, there is a concern as to what extent the CJS is capable of maintaining its operational capabilities after the end of SDC funding. Indeed, after the end of Swiss projects in April 2012 and February 2013, the Centre for Judicial Studies has currently no further funding.

The Centre's leadership has nevertheless taken *some* steps to find new resources:

1. Meeting with representatives of a new EU/CoE program on criminal justice reform;
2. Communication with the Matra Programme of the Embassy of Netherlands;
3. Despite negotiations with the USAID FAIR Justice Project, CJS did not obtain any direct funding from them; it was said by FAIR that the Centre had "missed the train" – alluding to the fact that CJS had not previously applied for any funding.

Although there has been a decrease in the organization's staff due to the limited financial resources, the structure is still sufficient to maintain its activities in "survival mode" and keep the organization viable. The Centre will have to leave its current office; however, according to its leader Natalia Vereschinska, the CJS will be hosted (and this seems to be a long-term option) by an NGO located in an office near the National Opera Theatre.

The perception of some donor organizations was that CJS, being funded by SDC for many years, had no motivation to look for new, outside funding sources. So, CJS sustainability still remains an issue due to the lack of current funding and lack of prospects for finding such funding soon enough to avoid the possibility of closure. Another concern is whether CJS will be capable of holding its status and reputation as a neutral, independent, solely judiciary-oriented NGO if it will be not identified as an international project with all of its capacities and status.

The representatives of CJS themselves express a wish “to take a break” in their activities since the amount and intensity of work were quite high recently. Some observers met by the Assessment Team believed that this organization is viable only thanks to its leader – Natalia Vereshchinska – who reached the top of her career by completing the Swiss Project and will unlikely be running for smaller projects. Furthermore, it appears unlikely that the Centre will be able to find a sponsor such as Swiss Cooperation Office to cover institutional expenses along with program activities.

1.6.3 THE PERSPECTIVE OF OTHER DONORS

The consultants have met with the main relevant international stakeholders present in Kiev in order to discuss both CJS' results and its future. All recognised the organisation's work and reputation and were somewhat puzzled by 1) SDC's decision to withdraw from the domain given Switzerland long track-record and excellent reputation in it; and 2) the CJS' relative apathy in seeking to benefit from many international stakeholder's (renewed) strategic interest in judicial reform. They therefore declared their openness to receive proposals from, or discuss with the CJS potential future cooperation – e.g. EU, CoE, CIDA, SIDA, and USAID FAIR Judiciary Program.

1.7 RECOMMENDATIONS TO THE CENTRE FOR JUDICIAL STUDIES

The following recommendations were discussed with CJS' Director in the pre-debriefing and the debriefing.

As noted above, the CJS has been both efficient and creative in ensuring the sustainability of the results it achieved in the framework of the Swiss-funded projects. **On this solid basis, it should without further delay seek to build the institutional sustainability of the organization – and thereby ensure the continuation of benefits and effects generated by the project so far.** There is indeed here a certain level of urgency, as the Centre, despite its current excellent reputation, is likely to gradually be forgotten as an institution.

The consultants understand the Centre's reluctance to risk jeopardising its track-record and reputation, as well as the integrity of its mandate, by seeking funding from less attractive donors than SDC, or by applying for small grants – which can be expensive to manage and divert the organisation from its niche. **They nevertheless encourage the Centre to accept these risks as part of the price to pay for its survival.**

Therefore, the CJS has to be much more active in finding a new niche for its expertise as well as new funding sources. Indeed, it has a tremendous opportunity to further develop into *the* primary non-judicial institution providing independent research and training in Ukraine.

The Ukrainian Association of Judges seems to remain to some extent dependent on CJS' continued support and cooperation. Given the fact that many observers consider the AJU to be, at least potentially, an important (but currently fragile and vulnerable) player in supporting independence of judges, **the CJS should clarify its relationship with the Association in order, if possible, to adopt common, or at least reinforcing, strategies.**

On a more practical level, it is recommended to make all possible efforts, even in the absence of ne funding, to maintain the organization's website as an important tool, not only for visibility purposes, but also for communicating the results and ensuring their long-term and efficient use.

PART 2 - SUSTAINABILITY OF SDC'S FORMER IMPLEMENTING PARTNERS

The objectives of this part of the assessment report are:

To assess the financial and institutional sustainability of the Ukrainian implementing partners previously involved in the implementation of the Swiss supported projects in the justice reform domain, provide conclusions as well as practical recommendations on how to improve their “sustainability plans” elaborated on the request of SCO and suggest further steps aimed at strengthening their financial and institutional sustainability.

2.1. UKRAINIAN CENTRE FOR COMMON GROUND

2.1.1 EXECUTIVE SUMMARY

The Ukrainian Centre for Common Ground (UCCG) is a non-profit, non-governmental, not-partisan organization primarily focused on mediation, restorative justice and juvenile justice. It has a strong reputation as an organization both because of its members and leadership – its Director Roman Koval is a well-known expert in this field. It was registered in March 2002 as a charity organization, but started its activities much earlier, in 1994. At that time, UCCG acted as a local representative of the international organization Search for Common Ground; since then the UCCG has worked with USAID-funded projects – e.g. as an advocacy implementing partner of the Ukraine Citizen Action Network, UCAN, in 2003-2005, as a recipient of the Canadian Agency for International Development (CIDA) and the World Bank, etc.

Since its beginning, UCCG gained a reputation for being a highly responsible, responsive and committed organization. The UCCG's leader is praised as an able, reputable professional carefully building the organization's strategy and brand name. UCCG began its cooperation with SDC as an implementing partner within the *Strategy for Juvenile Crime Prevention in Ukraine* Project that started in 2006. During the Project's third phase (2010 – 2012), the share of SDC funding in the UCCG budget was approximately 70%, with other funding provided by the Open Society Institute and PACT Inc.

Using the assistance provided by SDC, the UCCG developed its sustainability plan for 2011 – 2012, with defined methods and ways to ensure the sustainability of results and enhance its organizational capacity. This plan was, for the most part, implemented. State institutions and donor organizations are utilizing the results; UCCG has created a brand name that is widely known; the overall perception of the organization is very positive. The leadership is active in building relationships and looking for new funding. The primary recommendation for UCCG is to continue its development in the manner it has been performing.

2.1.2 SUSTAINABILITY OF RESULTS

2.1.2.1 FINDINGS

UCCG defined its main Project products as follows: a) the community-based juvenile crime prevention model (the proactive and restorative, community-based JCPM that envisages cooperation of key community actors involved in prevention work to create safe environment and prevent juvenile crime; b) development of the package of related legislative documents (penal mediation referral mechanism, internal instructions, inter-agencies protocols, etc., related to JCPM), and c) design and implementation of training courses on JCPM for the police (within the network of higher educational institutions of the Ministry of Interior Affairs), prosecutors (with the National Academy of Prosecutors of Ukraine), and for mediators (in cooperation with National University Kyiv Mohyla Academy).

The sustainability of these products was achieved through the Coordination Board's meetings, meetings of the Project's Steering Committee, and training events. The future use of the results has been taken into consideration during the UCCG strategic planning sessions. For example, UCCG planned to undertake a number of activities aimed at transferring the ownership of the products to the State Institutions (the Ministry of Interiors of Ukraine, the General Prosecutor's Office), educational institutions (the National University "Kyiv-Mohyla Academy" or National Academy of Prosecutors of Ukraine) and communities.

2.1.2.2 OVERALL ASSESSMENT

Sustainability that was defined as *continuation of benefits and effects generated by a programme or a project after its termination* was mostly achieved in relation to the results of UCCG's implementation of the *Strategies for Juvenile Crime Prevention in Ukraine* Project. The Project's products (community-based juvenile crime prevention model (JCPM), related legislative drafts, and the training program on the application of juvenile crime prevention model) were taken into consideration during the UCCG strategic planning process; they were communicated to the target state institutions; and, finally, they were promoted at events and in participation with other coordinating bodies. The Project results significantly contributed to the overall goal of the Project (to provide support to Ukraine in reforming the criminal justice system to be more humane and closer to the European norms and standards, as well as in fulfilling its human rights commitments) are still relevant. Therefore, UCCG, as well as other organizations (donors and implementers), can use them in future activities.

2.1.2.3 CONCLUSIONS

The results of the Ukrainian Centre for Common Ground's implementation of the *Strategies for Juvenile Crime Prevention in Ukraine* Project significantly contributed to the achievement of the latter's goals. The organisation may still be relevant to cover the current needs of the criminal justice system especially in preventing juvenile crime and introducing the human rights-based approach. In promoting the sustainability of the results, the UCCG took the participatory approach of coordinating with SCO Ukraine, with state criminal justice institutions, and with other donor organizations and implementers. Their organizational capacities discussed below also contributed to the likelihood of future chances of potential use and implementation of the results.

2.1.2.4 RECOMMENDATIONS

In order to enhance and ensure the sustainability of the *Strategies for Juvenile Crime Prevention in Ukraine* Project, the Ukrainian Centre for Common Ground should continue its cooperation with the main donor organizations active in this area, i.e. primarily CIDA.

In order to increase its chances of being in a position to implement the above recommendation, however, the organisation ought to first enhance its organizational capacity – see recommendations below on institutional sustainability.

2.1.3 INSTITUTIONAL SUSTAINABILITY

2.1.3.1 FINDINGS

Currently, UCCG is considering the opportunity to transform into the Institute for Common Ground and is trying to attract more funding. At the present time, its consultants are cooperating with the CIDA-funded Juvenile Justice Reform Project, while the organization's leader, Roman Koval, is also working as a consultant for the World Bank.

The organization is actively working with other state and donor organizations: during the final stage of implementation of the *Strategies for Juvenile Crime Prevention in Ukraine* Project, UCCG was actively cooperating with the CIDA-funded Juvenile Justice Project (in the drafting of legislation, e.g., in the design of the Concept Paper for Criminal Justice Reform for Juveniles, and also cooperating within the National Juvenile Justice Working Group); UCCG experts were also involved in smaller UNICEF projects focused on juveniles – the work on Consultative Council on Juvenile Affairs within the Institute of Legislation of the Verkhovna Rada (the Parliament) of Ukraine, etc. Additionally, UCCG coordinated its work with the Juvenile Justice Reform Working Group of the Child Rights Ombudsman of Ukraine.

Before the end of its SDC-funded project, UCCG utilized the assistance and formulated a sustainability plan that provided a roadmap for ensuring both the sustainability of results and the organizational development of UCCG; the plan was mostly implemented during the transition period.

Also, UCCG recently raised funds from UNITER to develop its own strategic plan. The organization has its own website (<http://www.uccg.org.ua/>), which is currently not in use (the last update was made in February 2012) and is in Ukrainian only. Since December 2010, UCCG is maintaining a page on Facebook (<https://www.facebook.com/porozuminnia>) that is currently the primary communications resource for the organization, and a registered membership on YouTube that contains about 37 videos of different events and recorded comments from members and participants.

The UCCG leader speaks English and is very active in networking. Other donor organizations (CIDA, SIDA, CoE, USAID-funded projects) are aware of UCCG's activities and reputation and are willing to cooperate; at the same time, they also employ UCCG's experts as independent consultants.

2.1.3.2 OVERALL ASSESSMENT

In 2015, the UCCG will reach 20 years of providing technical assistance in the Ukrainian market where it has become a leading expert organization in restorative justice, mediation, and juvenile crime prevention. Its leadership and its experts are well-known in Ukraine among state institutions and among donors; the perception of the organization is very positive; the organizational capacity is probably the best among all four SDC former implementing partners; the UCCG is very good at self-promotion and promotion of its work; it has developed sufficient communication tools including a web-site and wide use of new social media.

Despite these achievements, however, UCCG is in the same situation as many other Ukrainian NGOs, having to fill the gap between funding by independent work of its members as consultants for other projects. The recommendation could be made to build upon UCCG's successes by keeping the same brand name rather than transitioning into a new institution, creating a realistic, detailed strategic plan that would include an action plan, and widen the scope of their cooperation with state institutions in an effort to attract more state bodies (such as the National School of Judges, etc.) funding.

2.1.3.3 CONCLUSIONS

UCCG is seen as a good, knowledgeable, reputable, and reliable partner for many donor organizations and state institutions but is currently undergoing a period of transition. The organization's leader is very energetic, is an able networker, and pursues a strategic view on the organization's development.

The UCCG's current financial status is rather weak due to limited funding after the end of the Swiss-supported Project. As with many other Ukrainian NGOs, the UCCG has to fill the gaps in funding between projects mostly through the independent work of its members. But unlike other organizations, UCCG leadership is focusing on keeping the organization alive by maintaining the team, promoting its activities through social media, and undertaking small, even individual assignments, not only for funding purposes, but also to enhance its social impact and a role in policy change.

The web-resource is quite limited due to the absence of an informative, representative website that could be used to promote the organization both in Ukraine and abroad. However, the organization is attempting to overcome this weakness by being active in its use of new social media. UCCG is seen by others as a policy-making organization, a potential partner, and therefore has good chances for future funding to ensure its sustainability and development.

2.1.3.4 RECOMMENDATIONS

In order to enhance its sustainability, UCCG should complete its strategic planning work using the UNITER funding it has secured; this should in time provide it with better chances in reaching out to more potential donor organizations

In order to increase its institutional visibility (and not merely that of its Director, which is already well established), the organisation should re-vamp and step-up its communications strategy, for instance by re-developing and maintaining its website.

More generally, UCCG could use its unique position, network and reputation to move beyond temporary projects and become a more stable coordinator for larger and longer internationally-funded projects, for instance in the domain of criminal justice, primarily in restorative justice, mediation and juvenile crime prevention. A more specific idea worth exploring could be to become the first organization in Ukraine to design, in cooperation with the Judicial Branch and the police, a concept and a pilot model for a first “community court” in Ukraine.

2.2 ALL-UKRAINIAN CENTRE FOR LEGAL ASSISTANCE “PUBLIC ADVOCATE”

2.2.1 EXECUTIVE SUMMARY

The All-Ukrainian Centre for Legal Assistance “Public Advocate” (hereinafter – Public Advocate, or PA) was founded in 1999 as a unit within the civic organization “Fund for Regional Initiatives” to provide legal aid and rehabilitation for disabled people, detainees and people released from prisons, as well as for the employees of the State Penitentiary Service of Ukraine. Public Advocate has been an independent organization since 2005, and has worked throughout Ukraine since 2009.

Cooperation with SDC started in 2008 when Public Advocate was engaged in the implementation of the *Support to Penitentiary Reform in Ukraine* Project primarily implemented by the international NGO Penal Reform International. First, the organization was engaged through the Project Manager Alla Mukshimenko and other staff members who provided administrative support to Project activities and maintained the daily operations of the Kyiv office for the Project. Later, Public Advocate undertook more subject-matter assignments focusing on research and training of SIZO personnel and raising public awareness (including work with the media) of penitentiary reform issues.

In 2009 – 2012, the Swiss-funded Project was the main resource for Public Advocate: funds received from SDC constituted almost 80% of the Public Advocate’s budget. Other funds were received during the implementation of activities under the CoE Violence Prevention Project. Towards the end of the Project, SDC carried out a brief assessment of PA’s institutional sustainability, provided necessary training for its staff on how to develop a sustainability plan, and assisted in its design. The recommendations were made to: a) clarify PA’s strategic vision with regard to its mission and future work; and b) make quick steps to obtain funding from other sources.

The external assessment of sustainability of results and the institutional sustainability of Public Advocate led to the conclusion that, while the results were of high quality and significantly contributed to the successful implementation of the Project, were mostly utilized and have potential to be used in future projects, the institutional capacity is rather weak, despite the existence of a very energetic, creative leadership.

The organization suffers from problems common to other Ukrainian NGOs: lack of strategic vision, inability to fill the gaps between periods of funding from different donor organizations; limited possibility to maintain staff and provide opportunities for professional development. The recommendations relate to strategic planning, networking, promotion of organization and further diversification of funding.

2.2.2 SUSTAINABILITY OF RESULTS

2.2.2.1 FINDINGS

Public Advocate contributed to all five areas of the Project as was defined during the process of capitalization of its experience: a) Improvement of the Legal Framework; b) Strengthening of Institutional Capacity and Professional Development; c) Better protection of Human Rights and Improved Detention Conditions; d) Increasing Public Trust and Confidence through Public Awareness, Knowledge of Reform Processes and Media Relations; and e) Gender Equality.

Currently, the penitentiary system is still a focus for many international organizations; there is an increasing need for training of penitentiary system personnel; the donor community was informed about the results during the donor roundtable on April 25, 2012 and through the dissemination of a Capitalization Report. At the time of the assessment mission, Public Advocate was planning to build upon the results of the Project, e.g. to continue training for journalists, not only on penitentiary reform issues, but also on issues related, for instance, with dealing with tax authorities. PA was also planning to establish, with the Kyiv City Administration, the Open Window Program, to provide social services for persons newly released from prisons. Furthermore, it was applying to CIDA for funding to work on improvement of conditions for deaf and blind women in prison.

However, the project team did apparently not manage to provide a sustainable access to the project's products to its target audiences. A considerable amount of innovative and quite unique information and knowledge related to reforming penitentiary systems in Ukraine and worldwide previously available on the Project's website is currently lost for a wider access. One of the most useful tools for a broad dissemination of the experiences and knowledge – the website is not functioning. Only a part of the produced information can be passed on and disseminated due to the limited number of printed products – e.g. books, brochures and CDs. In addition, the organisation was also not sufficiently active in using such products that could promote its positive image based on the successful performance of the Project Support to Penitentiary Reform in Ukraine. Taken into account the rather critical financial situation of the PA, such an approach, i.e. not fully using all available and useful tools and resources is clearly sub-optimal.

2.2.2.2 OVERALL ASSESSMENT

Sustainability that was defined as continuation of benefits and effects generated by a programme or a project after its termination was mostly achieved in relation to the results of Public Advocate's participation in the Support to Penitentiary Reform in Ukraine Project. Public Advocate was engaged in Project activities through its role in administering the Project but also

in Project Component 2: Support to Pre-trial detention reform and improving pre-trial conditions and procedures, Project Component 4: Protection of human rights and improvement of conditions of life-sentence and long-term prisoners, and Project Component 5: Raising awareness about the reform processes and good practices in the area of penitentiary reform.

The results of the PA's involvement were mostly utilized by stakeholders and state institutions; information on the results was widely disseminated among donors. The results and the level of cooperation with Public Advocate were highly praised by representatives of SPS; they are still relevant and can be used as a foundation for future activities and projects.

2.2.2.3 CONCLUSIONS

The results of the Public Advocate involvement in the *Support to Penitentiary Reform in Ukraine* Project significantly contributed to successful implementation of the Project in all areas. They are still relevant and cover the current needs of the penitentiary system in improvement of legislative framework, training for its personnel, social adaptation of released prisoners, training for journalists, etc. The donor community is aware of the both results and the organization that is now recognized as an expert in such issues, which increases the “marketability” and potential of the results to be utilized.

However, the organization should be more active in advertising the results of its activities: they mostly relied on the efforts made by SDC itself on capitalization of experience and dissemination of results. Nevertheless, it appears the organization's leadership is actively seeking opportunities for the application of the results, as well as utilizing its gained knowledge and experience in current and future activities.

2.2.2.4 RECOMMENDATIONS

In order to enhance and ensure its sustainability, Public Advocate should be more active in dissemination and advertisement of the results of its involvement in the *Support to Penitentiary Reform in Ukraine* Project. This can be achieved through dissemination of the Capitalization Report at its events and its use as a supporting document when applying for funding. Furthermore, the project-related information, researches, methodologies, experiences, best practices and other products could be put on the websites of the implementing partners, including PA, to be further used and disseminated by the interested players.

Public Advocate could seek to continually reinvigorate interest in the results and related current (and potential future) activities, for instance by developing a monthly bulletin to publicise monitoring of the penitentiary system and related areas. This would not be a very costly task and would contribute to promoting both the organization and its products.

2.2.3 INSTITUTIONAL SUSTAINABILITY

2.2.3.1 FINDINGS

Currently, the organization is not receiving any institutional funding besides some funds aimed at covering events and activities that are provided by the Joint EU/CoE Reinforcing the Fight Against Ill-Treatment and Impunity Programme or Penal Reform International (PRI). The existence and tactic of Public Advocate is currently reflecting two principles:

- a) Minimization of expenditures by maintaining a “virtual” rather than physical office and working with private entrepreneurs on specific assignments instead of employing people on a constant basis; and
- b) Diversification of funding sources (namely, trying to attract money from donor organizations such as CIDA and from state entities such as the Ministry of Justice of Ukraine, Kyiv City Administration, etc.) along with diversification of funding methods: through implementation of projects as a non-profit organization but also trying to be able to provide paid services.

At the present time, there are four people working at Public Advocate; since the organization is maintaining a virtual office they work from home. Nevertheless, the organization’s leader is continually seeking not only new funding, but also professional development opportunities for the staff. For example, Public Advocate recently won a voucher from UNITER to get training on improving capacity of the civic organization in the development of professional networks. Also, with the assistance from SDC, the organization has developed its sustainability plan which is being implemented. As a result of this cooperation with SDC, the activists of Public Advocate founded the *Information and Training Centre for Civic Initiatives* as a new organization focused on providing training in different spheres: training for journalists on penitentiary system and human rights protection issues, training for penitentiary system personnel (both would be a continuation of the training program started within the *Support to Penitentiary Reform in Ukraine* Project).

However, Public Advocate decided not to implement its plan to become an international organization due to changes in legislation that took effect on January 1, 2013. Instead, the organization’s leadership plans to find and develop relationships with prominent international organizations with similar principles and areas of intervention in order to become their regional representative and local implementing partner.

Public Advocate also plans to widen the topics for training journalists (e.g., by designing and providing training for journalists on issues related to tax authorities, to criminal justice in general, etc.).

There is also an idea (without further detail at this stage) for the creation of an educational centre for penitentiary system personnel under the Centre of Continuing Education at the Ministry of Justice of Ukraine (MOJ).

Another spin-off from the Public Advocate is the Professional Entrepreneurs Association. Public Advocate’s leader, Alla Mukshimenko, believes that the existence of, and collaboration with several organizations significantly increases chances for funding – the consultants believe, however, that this may not a strategy presenting optimal chances of success. All related

organizations are currently applying to as many donors as possible. Another idea is to create a for-profit entity to provide paid training or event services.

The perception of PA is in general very positive; even being a one-person driven organization (which, from an institutional point of view, is not a best practice, even though this set-up appears to be common among the organisations assessed), they managed to create an image of young, strong, very energetic, and multi-functional organization active primarily in the area of human rights protection in the penitentiary system. The organization also displays strength in its networking abilities; Alla Mukshimenko is actively participating in donor-funded events, and is also promoting the organization in relations with state entities (e.g., through her membership in the Public Council at the State Penitentiary Service and membership in the Supervisory Council at the Kyiv City State Administration where she is a secretary).

The organization has its own web-site (<http://www.public-advocate.org>) which is well-organized and user-friendly, but is not yet developed with regard to its content; additionally, the web-site's materials are only in Ukrainian, which limits its audience to Ukrainian-speakers only.

There are several donor organizations active in relevant sectors, including the Canadian Agency for International Development (CIDA) and the Swedish International Development and Cooperation Agency (SIDA); there are also possibility for future cooperation with the Council of Europe, although, direct grants were at the time not available.

2.2.3.2 OVERALL ASSESSMENT

Since the end of the *Support to Penitentiary Reform in Ukraine* Project, the organization's capacity has declined: currently, the organization cannot afford maintaining a physical office and has transitioned to a "virtual" office; the number of personnel also decreased. However, the organization's potential remains quite significant due to the knowledge and experience increased through implementation of the Project, the established professional network of experts and representatives of state institutions and donor community, and the methodological assistance received from SDC.

The organization's leadership appeared to be energetic and creative; it was pursuing a strategy to diversify its sources of income, both by reaching out to more donors and by creating additional, diverse (in terms of focus and the profit/non-profit orientation) organizations that are spin-offs from the initial NGO (which has its pros and cons that will be discussed further). In general, the Swiss funding played a significant role in the development of the organization by providing not only funding to implement the programs, but also providing the opportunity to build its reputation, increase knowledge within the justice sector and establish working contacts with state institutions and other key actors/stakeholders in the domain.

2.2.3.3 CONCLUSIONS

Public Advocate has benefited from the *Support to Penitentiary Reform in Ukraine* Project in terms of strengthening the organization's capacity and positioning on the technical assistance "market" area. The successful implementation of the Project assisted the Public Advocate to build its image as an active player in the domain of criminal justice.

For the most part, PA is implementing its sustainability plan but suffers from similar problems as other Ukrainian NGOs. Although the organization is in a “hibernation” mode between projects, the organization’s leadership is active in seeking new grants and opportunities for funding. The website, which is only in Ukrainian may decrease the organization’s chances of attracting more donors and/or becoming a local partner for international organizations.

PA has the potential to grow into a strong NGO – provider of research and training services. In addition, utilizing the organization’s leadership’s very good entrepreneurial skills and business-centric thinking, it seems destined to create a for-profit “wing” in its operations.

2.2.3.4 RECOMMENDATIONS

Public Advocate should develop a clear strategic vision with regard to its future development, as opposed to the multiplication of ideas and plans communicated to the consultants. Creating a for-profit entity to help the NGO survive between funding is one such idea that should be explored; the points to be taken into consideration should include the following: 1) is there a sufficient market for the envisaged services? and 2) would that be detrimental to the status and perception of the organisation by different stakeholders? For instance, potential donors may hesitate to provide funding to an NGO having for-profit activities “on-the-side.”

Public Advocate should also continue diversifying its portfolio. For instance, it could take steps towards becoming a specific “event manager” in a non-profit sector – e.g. organization of conferences, roundtables, public discussion and training events.

Public Advocate should also develop its communication strategy, defining its target groups and improving its communication tools; for instance, it should ensure the presence of English language content on its website, especially if planning to find international partners. In order to further improve its visibility, it should consider an increased presence in social media such as Facebook and Twitter.

Public Advocate could utilise its reputation as a technical expert in its field, as well as the relationships it has built so far (most notably with the SPS), and consider creating a niche for itself as the organizer of monthly coordination meetings in the area of penitentiary system issues for donors and state institutions. Donors (for instance CIDA) may be interested in funding such an endeavour.

2.3 WOMEN’S INFORMATION CONSULTATIVE CENTRE

2.3.1 EXECUTIVE SUMMARY

The Women’s Information Consultative Centre (WICC) is a non-profit, non-governmental, and non-partisan organization primarily focused on gender issues, women’s social, political, and other rights, and women’s development in general. The organization was created on July 13, 1995 and since then, provides research and training on gender issues, disseminating information about women’s organizations in Ukraine and abroad, and promotes discussion on gender issues

in society to achieve a better balance through legislative, political, and social changes. Since its beginning, the organization was funded by different donors including the International Renaissance Foundation, the Embassy of the Netherlands and SDC; it cooperated with Parliamentary Development Project II (PDP II) and other donors and implementers.

The cooperation with SDC started first in 2000 with the involvement of the organization's leading expert and Head of the organisation's Board, Olena Suslova, who provided expertise on gender issues within the organic food sector. As an organization, WICC started its cooperation with SDC in 2004 when it was engaged in the implementation of the penitentiary reform project and in 2009 – in the *Support to Penitentiary Reform in Ukraine* Project primarily implemented by the international NGO Penal Reform International along with other long-term SDC's implementing partners – the Centre for Judicial Studies, the Centre for Competence at the Bila Tserkva Professional Training School for Prison Personnel and, later, with Public Advocate. The organization's task was the introduction of new approaches in the penitentiary system's work with women and mothers with children in prison.

In 2009 – 2012, the Swiss-funded Project was one of the main sources of funding for WICC. However, in terms of sustainability, WICC chose to rely on its previously established approaches, fund raising capacities, and long-term reputation in gender-related issues and strategic planning.

The external assessment of the sustainability of results and institutional sustainability of WICC leads to the conclusion that, while the results of its activities in collaboration with SDC are still relevant, were mostly utilized by the Project and can be applied in future work, WICC's institutional sustainability is still in question. There is no doubt that the organization's leadership is reputable and in a high demand by other projects for its services in training and research on gender issues; however, the organization itself is not very strong and still needs a clear strategic vision, focusing on new approaches to capacity-building, and improved communications strategy.

Recommendations can be made with regard to improving strategic planning, developing a more specific communications strategy and to consider the creation of a sustainability fund. Another recommendation can also be made for the experts to create a for-profit entity that could perform some organizational branding and utilize WICC's well-regarded reputation in the area of technical assistance rather than trying to survive individually.

2.3.2 SUSTAINABILITY OF RESULTS

2.3.2.1 FINDINGS

The Women's Information Consultative Centre contributed to all five areas of the Project as was defined during the process of capitalization of its experience¹: a) Improvement of the Legal

¹Support to Penitentiary Reform in Ukraine: Working Together to Foster Change. Swiss Ukrainian Project: Conclusions and Recommendations (January 2009 – April 2012). Written by Julia Sedyk (with the contribution of Viktoria Sergeyeva for the chapter "Lessons Learnt"). – Kyiv, 2012. – p.8.

Framework; b) Strengthening of Institutional Capacity and Professional Development; c) Better Protection of Human Rights and Improved Detention Conditions; d) Increasing Public Trust and Confidence through Public Awareness, Knowledge of Reform Processes, and Media Relations; and (probably, being the main contributor to) e) Gender Equality. WICC provided gender audit to current legislation and drafts, as well as to existing labour policy not only in targeted state institutions, but also in partner NGOs; assisted in drafting a Sample Regulation on House of Child at the Correctional Colony; conducted research and training on health and gender issues for personnel and detainees in eleven correctional facilities for women; contributed to the establishment of a pilot Mother and Child Unit at Chernihiv Correctional Colony #44 for Women; and prepared and published numerous publications raising awareness of gender issues among various target groups. Additionally, as an indirect result of WICC's activity, there was a new NGO established by a woman who was in prison with the goals of the NGO being protection of rights of women in prisons and post-release.

The results helped improve the situation within the penitentiary system with regard to gender issues (including awareness and policy change); the penitentiary system still needs improvement and is still a focus for many international organizations; there is an increasing need for training of penitentiary system personnel. The results were disseminated during the donor roundtable on April 25, 2012 and through the dissemination of the Capitalization Report.

2.3.2.2 OVERALL ASSESSMENT

Sustainability that was defined as *continuation of benefits and effects generated by a programme or a project after its termination* was mostly achieved in relation to the results of WICC's participation in the *Support to Penitentiary Reform in Ukraine* Project. Although WICC was engaged in the Project activities primarily through its leading role in implementation of the Project Component 3: Introduction of new approaches in penitentiary work with women and mothers with children in prisons, the WICC contributed to all five areas of the Project, and played a significant role in raising awareness on gender issues in state institutions and among NGOs, providing gender auditing and research, ensuring inclusion of this vital transversal topic within the Swiss Cooperation Strategy 2011–2014 in Ukraine.

The results of WICC's engagement were very tangible; they led to important legislative initiatives and important social change through creation of pilot units of Mother and Child in a correctional colony. They aimed at change in perception and mentality, which, inevitably, takes more time, but has had a long-lasting impact. WICC's results were utilized by other stakeholders – both by state institutions (e.g. MoJ introduced the gender expertise of the current legislation and legislative drafts, and BTTS implemented a number of training events related to gender issues within the penitentiary system) and by NGOs. The information on the results was widely disseminated among donors. The results are still relevant and can be used for future activities and projects.

2.3.2.3 CONCLUSIONS

The results of the Women's Information Consultative Centre's involvement in the *Support to Penitentiary Reform in Ukraine* Project significantly contributed to successful implementation of the project in all areas. They are still relevant to cover the current needs of the penitentiary system in the improvement of its legislative framework, training for its personnel and detainees on health and gender issues that would also help social adaptation of women and mothers with children who are newly released from prison, etc.

The donor community is aware of both the results and the organization which is now recognized as an expert in gender issues with regard to the penitentiary system; that increases "marketability" and the potential for the results to be utilized; however, the organization could be more active in advertising its results: they mostly relied on the efforts made by SDC itself on the capitalization of experience and the dissemination of the results. Additionally, the organization's leadership is quite sure of their organization's position and the value of the results, and doesn't seem to be looking towards their future application. However, since WICC continues being an expert in gender issues, it is very likely that it will somehow utilize the results of its work within the *Support to Penitentiary Reform in Ukraine* Project in future projects, although how it does so remains to be seen at the present time.

2.3.2.4 RECOMMENDATIONS

In order to enhance its potential for sustainability, the Women's Information Consultative Centre should be more active in the dissemination and advertisement of the results it achieved in the implementation of the Project *Support to Penitentiary Reform in Ukraine*. This could involve, for instance, distributing the Capitalization Report at its events and using it as a supporting document when applying for funding.

2.3.3 INSTITUTIONAL SUSTAINABILITY

2.3.3.1 FINDINGS

Currently, the Women's Information and Consultative Centre is implementing a new project that started in September 2012 (ending in September 2013) funded by Matra Programme (Embassy of Netherlands) focusing on women's rights and the elimination of discrimination based on gender in rural areas. WICC is not maintaining a physical office; its members (the three main experts being Olena Suslova, Natalia Kostiuk, and Oksana Grygorenko) and an accountant are working for the organization remotely, which allows them to work as independent professionals/private entrepreneurs/ experts for other projects. WICC is a member of the International Gender Strategic Network; it is also a founder of the Rural Women's Network. The organization's website (<http://empedu.org.ua/>) is quite informative containing information on projects starting in 2007 but doesn't provide public information on funding, etc. The website is in Ukrainian only. There is a page on Facebook (<https://www.facebook.com/pages/Womens-Information-Consultative-Center/149483431800496>) that contains frequently updated information and provides a forum for discussion and comments from its partners, members, beneficiaries, and the general public. The WICC's leader speaks English and is active in networking as well.

Other donor organizations are aware of WICC's activities and reputation and are willing to cooperate; at the same time, they see WICC's members as independent entrepreneurs that can be engaged separately. In April 2013, WICC hopes to receive a funding from the Open Society Institute.

2.3.3.2 OVERALL ASSESSMENT

Since WICC was not a main implementer of the *Support to Penitentiary Reform in Ukraine* Project and is used to existing with a number of small projects, the organization's capacity after the end of the Project has not changed significantly. However, it seems that the organization's sustainability is based rather on the individual strategies of its members rather than on strategic planning or building the capacity of the organization itself. WICC leadership stated that strategic planning was used for the organization on an annual basis; however, no strategic plans were available for the review.

WICC as organization, as well as its members individually, are active in networking and are members in different international gender-oriented organizations and are well known and in demand by other projects. The market for their services is not large, but they are definitely considered to be the best in this specific area. WICC experts also try to provide paid services as trainers and coaches in gender issues and strategic planning for business. Nevertheless, WICC lacks a clear vision on its future as an organization; current plans go not further than April 2013, when they hope to receive new funding, and September 2013 when their current project (see above) ends.

WICC's website is quite informative but is in Ukrainian only. However, the organization is actively presenting itself on Facebook. Therefore, the way the organization is developing is not much different from other Ukrainian NGOs.

2.3.3.3 CONCLUSIONS

Despite its good reputation and that of its leadership/members/experts, the Women's Information Consultative Centre is not organizationally strong and fills the gaps between projects primarily with the independent work performed by its members. The fact that the organization cannot afford a physical office and maintains a virtual one is not unique but similar to other organizations; however, this situation does not contribute to its sustainability. The Ukrainian website only limits its audience to Ukrainian-speaking readers which is a minus for an organization that positions itself as being active in cooperation with international organizations.

WICC has the potential to grow into a strong, sustainable NGO – provider of research and training – only if the leadership increases its focus on organizational development rather than focusing solely on trying to reduce the cost of functioning and relying on the independent survival of its members.

The branding issue remains a question since the members build upon their own names in order to attract more clients. WICC, as an organization, seems to be used by its members mostly as a tool for fundraising.

2.3.3.4 RECOMMENDATIONS

The Women's Information Consultative Centre should develop a clear strategic vision with regard to its future development. It should also consider the possibility of creating a sustainability fund through donations or membership fees to help the organization survive between projects.

WICC could consider the creation of a separate, for-profit entity that could provide paid training, research and coaching service.

WICC should develop a communication strategy in order to ensure that it is in a position to reach out to all potential donors and cover all potential audiences. One of the aspects of such a communications strategy should be a website that also contains information in English.

WICC could also utilise its reputation as a leading Ukrainian gender expert in order to become more active in international cooperation. Indeed, it could thereby tap into additional sources of funding by conducting international events on gender issues in Ukraine, specifically covering East-European and former Soviet Union countries.

The organisation could also propose its services internationally, either within the region or globally, by responding to the numerous tenders available on the market in this field of expertise, and thereby collect funding to ensure its institutional sustainability in Ukraine.

PART 3 – GENERAL CONCLUSIONS ON FUNDING TRENDS IN THE JUSTICE SECTOR

The weak institutional stability/sustainability of NGOs noted in the present report is partly attributable to gradual relative loss of interest and fatigue of international stakeholders in the justice sector over the past few years. At the same time, SDC was among the few donors that remained consistent in their support; this, along with its image (see above) explains why Switzerland was perceived as having a special role and reputation in the sector.

However, a number of high-profile politically-driven court cases recently given much visibility in international media outlets, strongly worded decisions against Ukraine by the European Court of Human Rights, as well as the fact that the independence of judges has become a major point in political dialogue with the Ukrainian Government (both multilateral, such as the EU's, and bilateral), have caused the situation to change.

Many international stakeholders are therefore increasingly paying attention to the justice sector and allocating more funds for projects in this area – e.g. recent and new projects funded by USAID, CIDA, SIDA, CoE, and EU. This new situation will present in the near future more funding opportunities, most likely at project level, for the four former SCO implementing partners.

ANNEX 1: LIST OF PERSONS INTERVIEWED

Swiss Cooperation Office in Ukraine

- **Guido Beltrani**, Country Director
- **Ludmyla Nestrylay**, Communications Officer

SDC Local Partners

- **Natalia Vereshchinska**, the International Charity Foundation Centre for Judicial Studies
- **Andriy Alekseev**, the International Charity Foundation Centre for Judicial Studies
- **Nelia Piskun**, the International Charity Foundation Centre for Judicial Studies/ All-Ukrainian Association of Judges of Ukraine
- **Olena Suslova**, Women's Information Consultative Centre
- **Alla Mukshimenko**, the All-Ukrainian Centre for Legal Assistance "Public Advocate"
- **Roman Koval**, Ukrainian Center for Common Ground

ROL Donors and Implementers

- **David Vaughn**, USAID Fair, Accountable, Independent, and Responsible (FAIR) Judiciary Program
- **Natalia Petrova**, USAID Fair, Accountable, Independent, and Responsible (FAIR) Judiciary Program
- **Dmytro Filipenko**, USAID Fair, Accountable, Independent, and Responsible (FAIR) Judiciary Program
- **Mirja Petersen**, Swedish Agency for Development and Cooperation
- **Valeriy Oliynyk**, Canadian Agency for International Development
- **Andriy Spivak**, European Commission
- **Bozhena Malanchuk**, EU/CoE Joint Programme Reinforcing the Fight Against Ill-Treatment and Impunity
- **Roman Romanov**, International Renaissance Foundation

Judges

- First Deputy Chief Justice **Yaroslav Romaniuk**, Chair of the Council of Judges of Ukraine
- Judge **Pavlo Gvozdyk**, Deputy Chief Judge of the High Specialized Court of Ukraine on Civil and Criminal Matters, former Chair of the Council of Judges of General Courts of Ukraine
- Chief Judge **Anton Chernushenko**, Kyiv City Court of Appeals

- Chief Judge **Nadia Stefaniv**, Ivano-Frankivsk Oblast Court of Appeals
- Chief Judge **Viktor Gorodovenko**, Zaporizhzhia Oblast Court of Appeals
- Chief Judge **Valentyna Lisova**, Donetsk Oblast Court of Appeals
- Deputy Chief Judge **Andriy Maleev**, Ivano-Frankivsk Oblast Court of Appeals
- Judge **Oleg Prysiazhniuk**, Kyiv City Court of Appeals, Head of the Board, All-Ukrainian Association of Judges of Ukraine
- Deputy Chief Judge **Maria Pryndiuk**, Kyiv City Court of Appeals
- Judge **Tetiana Kozyr**, High Commercial Court of Ukraine, Secretary of the Council of Judges of Ukraine
- Deputy Chief Judge **Anatoliy Martynkevych**, Khmelnytsky Oblast Court of Appeals, Secretary of the High Qualifications Commission of Judges of Ukraine

Court Staff

- **Oksana Maksymovych**, Court Administrator, Ivano-Frankivsk Oblast Court of Appeals
- **Ludmyla Bezusova-Popovych**, Communications and Public Relations Specialist, Ivano-Frankivsk Oblast Court of Appeals

Other State Institutions

- **Tetiana Pustovoytova**, National School of Judges of Ukraine
- **Oksana Kuchynska**, National School of Judges of Ukraine
- **Olena Ignatchenko**, State Judicial Administration of Ukraine
- **Vladyslav Klysha**, State Penitentiary Service of Ukraine

Experts

- **Stephan Gass**, Judge at the Court of Appeal of Basel Landschaft and Senior Lecturer in Law, University of Basel
- **Andriy Kavakin**, former Program Officer at SDC, now Program Officer at CoE Project Improving the Independence, Efficiency and Professionalism of the Ukrainian Justice System
- **Maria Logunova**, Communications Expert, Centre for Judicial Studies, Lecturer at the President of Ukraine National Academy of Public Administration
- **Maria Lashkina**, Communications Expert, Centre for Judicial Studies and USAID FAIR Judiciary Program, Lecturer at the President of Ukraine National Academy of Public Administration

ANNEX 2: BIBLIOGRAPHY

- Partnering with Civil Society – 12 Lessons from DAC Peer Reviews, OECD, 2012.
- Project document “Support to Justice Reform in Ukraine” (Phase IV)
- Support to Justice Reform Project, Phase IV Logical framework
- SDC-Project „Support to Justice Reform in Ukraine, Phase III“ - Final External Review of the Project, Wolfgang Tiede - Legal Expert
- “Support to Judicial Reform in Ukraine. Phase IV” Activities Report #1 by CJS, reporting period: 1 January 2010 – 30 June 2010
- “Support to Judicial Reform in Ukraine. Phase IV” Activities Report #2 by CJS, reporting period: 1 July 2010 – 31 December 2010
- “Support to Judicial Reform in Ukraine. Phase IV” Activities Report #3 by CJS, reporting period: 1 January 2011 – 30 June 2011
- “Support to Judicial Reform in Ukraine. Phase IV” Activities Report #4 by CJS, reporting period: 1 July 2011 - 31 December 2011
- “Support to Judicial Reform in Ukraine. Phase IV” Activities Report #5 by CJS, reporting period: 1 January 2012 - 30 June 2012
- Sustainability Plan by CJS
- Sustainability Plan by Public Advocate
- Sustainability Plan by UCCG
- Note on SDC’s Phasing Out from Justice Domain
- Note Annex 1: Phase-Out: Action Plan 2012
- Note Annex 2: Brief Assessment of Institutional Sustainability of Centre for Judicial Studies
- Note Annex 3: Brief Assessment of Institutional Sustainability of the NGO Public Advocate
- The project “Support to Penitentiary Reform in Ukraine”, Operational end-of-phase report for the whole main phase period (01.08.2009 – 30.04.2012)
- The project "Strategies for Juvenile Crime Prevention in Ukraine" Phase III, by UCCG, reporting period: 1 November 2011 - 30 June 2012
- How to Finish a Revolution: Civil Society and Democracy in Georgia, Moldova, and Ukraine. - Briefing Paper. By Orysia Lutsevych, Chatham House, January 2013
- Communication Strategy of the Ivano-Frankivsk Oblast Court of Appeals, as adopted on June 8, 2011

- Communications Action Plan of the IF Oblast Court of Appeals for 2012
- Communications Action Plan of the IF Oblast Court of Appeals for 2013
- Communications Action Plan of the IF Oblast Court of Appeals for 2012
- Support to Penitentiary Reform in Ukraine: Working Together to Foster Change. Swiss Ukrainian Project: Conclusions and Recommendations (January 2009 - April 2012), by Julia Sedyk
- Communications of the Judiciary. Scientific and Practice Manual. - Centre for Judicial Studies, Kyiv, 2011
- Strategic Plan for Ukrainian Judiciary for 2013 - 2015, adopted by the Council of Judges of Ukraine on December 21, 2012
- Monitoring of the Independence of the Judiciary in Ukraine - 2012, by Centre for Judicial Studies, published in the Bulletin of the Centre for Judicial Studies -2012
- Swiss Cooperation Strategy for Ukraine 2011 - 2014
- Concept of the State Policy on the Reform of the State Criminal Executive Service of Ukraine for 2012 – 2017



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Federal Department of Foreign Affairs FDFA
Swiss Agency for Development and Cooperation SDC

Cooperation with Eastern Europe and the CIS

TERMS OF REFERENCE

for an External Assessment of the project

“Support to Justice Reform”
(Phase IV, 2010 – 2012)

and

an External Assessment of the Financial and Institutional Sustainability of the Local Partners – Former Implementing Agencies of the Swiss Supported Interventions within the Justice Domain

Background Information

Introduction

The project **“Support to Justice Reform, Phase IV”** comes to an end by December 2012. Moreover, two other projects receiving Swiss technical assistance, i.e. “Support to Penitentiary Reform in Ukraine” and “Strategies for Juvenile Crime Prevention in Ukraine, Phase III” were completed by the end of June 2012. Therefore, the Swiss support to the Justice Reform Domain will completely phase out as foreseen by the end of 2012.

Within the previous Cooperation Strategy Ukraine 2007-2010 when the justice reform was one of the priority themes within the key sector “Rule of Law and Democracy”, the goal of interventions in this domain was formulated as follows: *Ukraine is assisted in developing sustainable pro-European models and practices of criminal justice system & the judiciary based on the rule of law and aimed at systemic changes in justice provision.* The sub-areas in which the Swiss Agency for Development and Cooperation (SDC) supported project interventions in the Justice Domain are: reform of the judiciary, penitentiary reform, prevention of juvenile crime and introduction of restorative justice.

To provide for a smooth exit from the domain and to secure the sustainability of both the implementing organisations and of the obtained results, the Swiss Cooperation Office in Ukraine (SCO) elaborated in 2010 a Note on SDC’s Phasing Out from the Justice Domain which was correspondently updated in 2011 and 2012. According to this document, sustainability, defined by

SDC as continuation of benefits and effects generated by a programme or a project after its termination, was continuously in the focus during the phase-out period of the Justice Domain in 2010-2012. SCO continued also to be engaged in the *policy dialogue* with key state stakeholders and other donors in support of the projects with the purpose of incorporating key project products into the work of stakeholders. This aim was mainly but not exclusively pursued within the project steering committees that include representatives of key state stakeholders. Sustainability strategies within individual projects have been developed by all projects of the Justice Domain. The phase-out in these projects is focused on the incorporation of the main project products into governmental institutions and procedures, as well as on the capitalisation of experience and dissemination of results.

Project “Support to Justice Reform”

Previous Interventions

The Swiss contribution to the Ukrainian reform agenda of the judicial system has been ensured through several phases of the Support to Justice Reform Project, which have been implemented by the Centre for Judicial Studies. The Centre was set up in 2001 in the framework of an intergovernmental agreement between Switzerland and Ukraine so as to support the judicial reform in Ukraine. SDC's support refers to and is based on the key human right of a fair and impartial judgement as defined by Article 10 of the Universal Declaration of Human Rights, by Article 14 of the International Covenant on Political and Social Rights and by Article 6 of the European Convention on Human Rights. The focus of SDC work has been on the duty-bearers, i.e., judges who are seen as key providers of the observance of human rights.

The main result of Phase I (August 2001 – December 2003) of the Support to Justice Reform Project was a large awareness campaign among the Ukrainian judges on the knowledge and application of the European Convention on Human Rights. Phase II (January 2004 – September 2006) provided extensive training programmes within the area of humanisation of the criminal justice system and involved judges together with the representatives of the penitentiary departments and state bailiffs. Phase III (October 2006 – November 2009) concentrated on judicial independence in Ukraine, working with judges through the national and oblast Councils of Judges² and through the All-Ukrainian Judicial Association³. Phase III fostered a focused intervention at the regional level in Zaporizhye and Donetsk, which included piloting of response procedures to safeguard judicial independence, training programmes and monitoring activities.

The outcomes of the Swiss contribution of the Phases I-III can be summarised as follows:

² The Council of Judges is an institution established by the Ukrainian law and identified there as a judicial self-governing body. The system of councils of judges in Ukraine is organised on the territorial principle, with the national and oblast councils constituting the major organisational framework. All Ukrainian judges by definition belong to the Council of Judges.

³ The All-Ukrainian Judicial Association is an NGO set up by Ukrainian judges to protect the interests of its members. The Association is a member of the International and European Judicial Association, where only one Association per country can be represented. The current membership in the Association consists of around 1400 Ukrainian judges.

- the judiciary started to change its own perception from a set of state bureaucratic institutions towards a judicial branch of power whose work is based on internationally recognised principles; the judiciary on the whole strives to be independent from influence in the judicial process and, at the same time, to be responsible for the observance of human rights through court procedures;
- the NGO All-Ukrainian Judicial Association was established with the project's support; the Association has become a centre for promoting European approaches in the work of the judiciary; the Association established exchanges of Ukrainian judges with counterparts in similar international associations;
- European values of the work of courts are in the process of being introduced in Ukraine, inter alia, the procedural response mechanisms to react on cases of pressure on a judge.

An external review was undertaken in June 2009. It confirmed the success of the project and recommended strengthening awareness and communication with regard to judicial independence.

The Current Phase

The overall goal of the project has been defined as follows: ***To activate and mobilise the work of the judicial voluntary associations in Ukraine so as to strengthen the independent status of judges and to provide for a fair and impartial, people-rights oriented justice system.*** For this last phase the main goal reads as follows: ***To institutionalise a set of national and regional instruments which contribute to the judicial independence in Ukraine.***

To reach the stated goal, the project has planned two components and defined following objectives:

Component 1. Institutionalisation of the Regional Model and Communication Strategies

Objective: the oblast-level experience of work with the communication strategies and the regional response model are rolled out nationwide so as to improve the public image of the judiciary.

Component 2. Capitalisation of Previous Phases' Best Experience

Objective: The best-practice experiences from the previous phases of the project is disseminated and anchored within the judicial system.

An external assessment of project achievements towards the planned results is foreseen for this final project phase.

1.3 Organisational Development & Sustainability of Implementing Partners

Among the implementing organisations working on the Swiss supported projects within the Justice Domain during the last three years, Penal Reform International (as an international non-governmental organisation) has a portfolio of projects worldwide and a sufficient level of institutional back up for organisational development and financial sustainability. At the same time, the local implementing organisations of the Support to Penitentiary Reform Project – Public Advocate and Women Information Consultative Centre (WICC) – are in a weaker position concerning their organisational sustainability as until recently their major source of financing were the

Swiss funds from the Support to Penitentiary Reform Project. Although Public Advocate compiled a sustainability plan, part of which is devoted to the organisational sustainability, no tangible progress has been observed in this regard as per July 2012. For WICC no sustainability plan was elaborated as the issue of its financial and institutional sustainability hasn't been closely considered in the past.

The Centre for Judicial Studies (CJS), the implementer of the Support to Justice Reform Project, is also in a weak position. This organisation was established with SDC support as a part of the Swiss-Ukrainian project on judiciary reform in 1999. Although the CJS used to have funding from other international donors, currently their funding is limited to SDC projects (Support to Justice Reform Project; until June 2012 also a component of the Support to Penitentiary Reform Project). That is why the issue of institutional and financial sustainability of the CJS was specifically tackled in 2011 during the phase-out of the Justice Domain. Thus, in 2011 the CJS, with support of SCO, developed a strategic plan for organisational development for 2012-2014 with the key objective to strengthen the organisation's institutional sustainability. Also, the CJS was assisted in its networking with other donors in Ukraine through meetings organised by SCO with USAID Rule of Law Project as well as with representatives of CIDA.

The Ukrainian Centre for Common Ground (UCCG), the implementing partner of the Project "Strategies for Juvenile Crime Prevention in Ukraine" is a branch of a Europe-based organisation. However, the headquarter organisation cannot ensure a long-lasting support to its country offices. UCCG also elaborated a sustainability plan, started to diversify its sources of financing and received a grant from the Open Society Institute (New York) to continue a part of the work previously supported by SDC. However, other activities of UCCG still didn't find until now a secured financial support from other donors.

Brief assessments of the institutional sustainability of two local implementing organisations – Centre for Judicial Studies and Public Advocate – elaborated by SCO are provided in the annexes to these Terms of Reference.

1.4 Transversal Topics within the Swiss Cooperation Strategy 2011-2014 in Ukraine

The consultant should take into account that the SCO identified two themes – Gender Equality and Good Governance – to be transversal to all its programmes and projects.

Development interventions that provide equal opportunities for women and men to constructively engage in changing existing gender roles, unequal access to and control over resources as well as decision-making, are critical to achieving both Gender Equality and sustainable development. More detailed information about Gender Equality as transversal theme can be found at: <http://www.deza.admin.ch/en/Home/Themes/Gender>

The objective of Good Governance is to create an environment that strengthens rule of law and human rights, gender equality, appropriate distribution of power and macro-economic stability. Governance helps to improve social and economic framework conditions in view of sustainable development, the fight against poverty and human security. Governance in Swiss programmes and projects is seen from the perspective of five principles: accountability, transparency, non-discrimination, participation and efficiency. More detailed information about Good Governance as transversal theme can be found at: <http://www.deza.admin.ch/en/Home/Themes/Governance>

Objectives of the Mandate

SDC gives a mandate to a Consultants' team (1 International Consultant and 1 Local Consultant) to perform an external assessment. The objectives of the mandate are:

- Objective 1: To verify the achievement of results of the project "Support to Justice Reform in Ukraine" with a view to sustainability and further dissemination among key stakeholders. The main (but not sole) focus lies on the achievements of the current and last Project Phase, as an assessment of the achievements of previous Project phases is available.
- Objective 2: To assess the financial and institutional sustainability of the Ukrainian implementing partners previously involved in the implementation of the Swiss supported projects in the justice reform domain, provide conclusions as well as practical recommendations on how to improve their "sustainability plans" elaborated on the request of SCO and suggest further steps aimed at strengthening their financial and institutional sustainability.

Results and Activities

While executing the current mandate, the Consultants' team should focus on the following activities:

Objective 1: To verify the achievement of results of the project "Support to Justice Reform in Ukraine" with a view to sustainability and further dissemination among key stakeholders. The main (but not sole) focus lies on the achievements of the current and last Project Phase, as an assessment of the achievements of previous Project phases is available.

Activity 1.1: analyse the involvement of key project stakeholders from the central and local level into the project and assess their willingness and capacity to adopt the models and best practices promoted by the Project;

Activity 1.2: identify lessons learned from the implementation of the project's activities, identifying strengths and weaknesses in delivering the project outcomes;

Activity 1.3: analyze to what extent the project managed to mainstream two transversal topics – good governance and gender equality – during the current phase: assess how the project addressed the basic principles of good governance and collect and assess concrete information on how far the implementing partner ensured a systematic integration of gender equality into the project, including in its monitoring and reporting;

Activity 1.4: conduct an analysis of the available quantitative and qualitative achievements against the targeted objectives and compare them with the general developments and statistics within the justice domain in order to assess their relevance;

Activity 1.5: conclude on the chances of the models developed and piloted within the project to be up-scaled and to contribute to improved standards nation-wide;

Activity 1.6: assess the overall impact of the project on the reform process of the Ukrainian justice system.

The output of objective 1 is an **external assessment** of the project **Support to Justice Reform** with clear conclusions on its main strengths and weaknesses and on the delivery of the project outcomes.

Objective 2: to assess the financial and institutional sustainability of the Ukrainian implementing partners previously involved in the implementation of the Swiss supported projects in the justice domain – Centre for Judicial Studies (CJS), Ukrainian Centre for Common Ground (UCCG), Public Advocate and, to a minor extent, Women Information Consultative Centre (WICC)⁴; provide conclusions on their sustainability plans elaborated on the request of SCO and suggest further steps and practical recommendations aimed at strengthening their financial and institutional sustainability.

Activity 2.1: analyse the sustainability plans of CJS, UCCG and Public Advocate and assess the degree of achievements and the reasons of possible failures in achieving plans;

Activity 2.2: analyse the past involvement of key projects' stakeholders from the central and local levels into project steering; assess the potential for further cooperation between CJS, UCCG, Public Advocate and WICC and the key stakeholders as well as potential projects' funders within the Justice Domain;

Activity 2.3: identify strengths and weaknesses of the implementing partners with regard to management structures, financial management and fundraising capacities;

Activity 2.4: provide concrete recommendations on how to improve management structures, financial management and fundraising capacities;

Activity 2.5: assess the overall chances of CJS, UCCG, Public Advocate and WICC to acquire mandates and/or to attract funds in view of strengthening their own institutional and financial sustainability;

Activity 2.6: provide specific recommendations for possible future activities of these organisations in the area of justice reform (or others).

The output of objective 2 is an **external assessment** of the sustainability prospects of the former implementing agencies of the Swiss interventions in the justice domain with clear conclusions on their financial and institutional sustainability, main strengths and weaknesses as well as practical recommendations in view of their future role within the justice domain (or others).

Methodology

This mandate is formulated for a team of two consultants. The International Consultant (IC) has the lead of the team and develops and presents at the beginning of the assessment a detailed plan to be agreed with SCO and the relevant partners. The Local Consultant (LC) should coordinate with the IC on all issues related to assessment methodology and reporting.

The consultants should elaborate the methodology for conducting assessment on the basis of their previous experience and in accordance with SDC requirements. It can be anticipated that the main methodological tools will be the study of project related documents, the use of appropriate standard assessment tools (e.g. SWOT analysis, questionnaires, etc.) as well as interviews

⁴ Contrarily to the other implementing partners, WICC's area of specialisation is not only in the justice sector; as a NGO specialised on gender, it shall be in principle less affected by SDC's phasing out from the Justice Domain.

with stakeholders in Kyiv and in at least one of the target regions of the project “Support to Justice Reform in Ukraine”, i.e. Kyiv City and Oblast, Zaporizhzhia and Ivano-Frankivsk Oblasts At the beginning of the mandate, the consultants’ team shall clarify with CJS, UCCG, Public Advocate and WICC if they have an interest in a joint workshop, or in separate debriefings, at the end of the mission where the conclusions of the assessment shall be presented. Such debriefing shall be organized by the consultants within the working time volume foreseen for briefing and debriefing.

The Consultants’ team works in close cooperation with and maintains operational reporting to SCO. Key assessment’s instruments such as questionnaires shall be agreed upon with SCO previous to their use.

The mandate covers the time to be allocated for one mission of the IC to review the results of the Project “Support to Justice Reform”, to assess the organizational development and sustainability of the local implementing partners, and to present the findings at a debriefing session.

Assessment of the Project “Support to Justice Reform”

The IC and the LC will be briefed by SCO before the IC’s field mission about the Project “Support to Justice Reform”. The IC and the LC will visit CJS and communicate with stakeholders involved in the project, in Kiev and in at least one target region. The consultants’ team will conduct an analysis of the available quantitative and qualitative achievements of the project and provide findings on the main project’s outcomes as well as on the prospects of dissemination, transfer of ownership and sustainability of the main project’s achievements.

The consultants will contact and, if possible meet international/Swiss experts involved in the project to receive their feedback on issues of the project’s implementation and overall assessment of the project outcomes.

Sustainability of Ukrainian implementing partners

The IC and the LC will be briefed by SCO before the IC’s field mission about the former Ukrainian implementing partners CJS, Public Advocate, UCCG and WICC. Regarding the sustainability aspects the consultants’ team will interview CJS, Public Advocate, UCCG and WICC as well as selected state institutions and donors in order to assess the prospects of institutional and financial sustainability of the mentioned NGOs.

Timetable of the assessment

It is anticipated that the assessment process will start at the beginning of December 2012. The mandate will end up with the final Assessment Report by February 2013. The foreseen schedule of the assessment is presented below:

December 2012		January 2013		February 2013
Sign contract	Study documents, prepare methodology and questionnaires; prepare mission	Mission and elaboration of the draft Assessment Report	External assessment sub-mitted to SCO	Assessment Report approved by SCO

Reporting

The main outputs of the mandate shall be:
the Assessment of the project Support to Justice Reform in Ukraine;

the Assessment of the financial and institutional sustainability of the local NGOs – former implementing partners of the SCO's projects in the domain of justice reform.

The consultants should present to SCO both Assessments in an Assessment Report. The Report shall contain clearly separate chapters that can be shared separately with the assessed partners, i.e. at least the following chapters:

- Process and methodology of the external assessment;
- Relevant context in the justice sector;
- Assessment of the project Support to Justice Reform in Ukraine;
- Assessment of the financial and institutional sustainability of CJS;
- Assessment of the financial and institutional sustainability of UCCG;
- Assessment of the financial and institutional sustainability of Public Advocate;
- Assessment of the financial and institutional sustainability of WICC;
- Annexes as relevant.

The draft Assessment Report should be provided to SCO at latest by February 7, 2013, the final version of the Report by February 28, 2013.

SCO reserves the right to request justified changes in the Report and drafted documents or ask for additional information.

At the beginning and at the end of the mission, the Consultants' team should organise a briefing and debriefing. The modalities shall be agreed at the beginning of the mandate.

The financial reporting on the expenditures related to the Consultants' work in frame of this mandate and the final reporting will be provided by the IC to SCO within 30 days after the completion of the mandate.

Estimated Working Volume

The estimated working volume under the current mandate provides for 17 working days for the IC and 19 working days for the LC.

Items	Project Support to Justice Reform in Ukraine	Sustainability of implementing partners	Total
1. International Consultant			
A: External Assessment of the project Support to Justice Reform in Ukraine			
Mission to Ukraine	5 days		5 days
Preparation and Reporting	3 days		3 days
B: Assessment of financial and institutional sustainability			
Mission to Ukraine		3 days	3 days
Preparation and Reporting		3 days	3 days
C: Briefing and debriefing			1.5 days
D: Travelling to Ukraine			1.5 days
Sub-total 1			17 days
2. Local consultant			
A: External Assessment of the project Support to Justice Reform in Ukraine			
Logistical arrangements, participation in mission of IC	8.5 days		8.5 days
Preparation and Reporting	2 days		2 days
B: Assessment of financial and institutional sustainability			
Logistical arrangements, participation in mission of IC		5 days	5 days

Items	Project Support to Justice Reform in Ukraine	Sustainability of im- plementing partners	Total
Preparation and Reporting		2 days	2 days
<i>C: Briefing and debriefing</i>			1.5 days
Sub-total 2			19 days

Qualifications

The following experiences and competences are expected to be provided by the team as a whole:

- Extensive experience in the area of justice system reform, including in different developing/ transition countries;
- Knowledge of the Ukrainian context (policy and strategies, reform process, etc);
- Significant experience in evaluation of justice projects;
- Good knowledge of bilateral/multi-lateral donor funded programs;
- Methodological competences, technical writing expertise;
- Fluency in English and Ukrainian.

Selection Process

The consultants shall be invited to submit as a team a proposal in response to these Terms of Reference. On request, SCO can make available to the IC Curricula Vitae of suitable LCs.

Documents to be submitted:

- Technical proposal (max. 3 pages, no predefined format), including following parts:
 - Understanding of the context and challenges;
 - Suggested complements or deviation from these Terms of Reference (if any), in particular with regard to the proposed methodology and time schedule;
 - Process description and schedule for the external assessment.
- Curricula Vitae of the proposed experts, including relevant experience.
- Financial proposal (using the predefined format included in the Annexes). The financial proposal shall include all costs related to the mandate.

Selection criteria:

- Quality of technical proposal (weight: 25%);
- Experience of expert team (weight: 25%);
- Time availability (weight: 25%);
- Costs according to financial proposal (weight: 25%).

All correspondence related to the proposal shall be submitted to Ms. Ludmyla Nestrlyay (email: [mailto: ludmyla.nestrlyay@sdsc.net](mailto:ludmyla.nestrlyay@sdsc.net)).

Annexes

i) Form for Financial Proposal

ii) Documents for preparation of the technical proposal:

- Project Document “Support to Justice Reform in Ukraine” and available reports for the period of the project phase implementation.
- External review of Project “Support to Justice Reform in Ukraine”.
- Sustainability Plans developed by the implementing partners and submitted to the SCO Ukraine in 2011.
- Note on SDC’s Phasing Out from Justice Domain.
- Brief assessments of the institutional sustainability of two local implementing organisations – Centre for Judicial Studies and Public Advocate – performed by SCO.
- Final reports on the projects “Support to Penitentiary Reform in Ukraine” and “Juvenile Crime Prevention in Ukraine, Phase III”.