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Judicial Training: A Key to Successful Transformation of the Judiciary

Session # Here

Addressing the Educational Needs of a New Court

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Session Objectives

- Understand educational needs of the new Supreme Court (SC)
- Understand Ukraine's specific context
- Develop education to ensure uniform and publicly accessible decisions



INTERNATIONAL ORGANIZATION
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Enhancing Judicial Excellence

9TH INTERNATIONAL ORGANIZATION FOR JUDICIAL TRAINING CONFERENCE

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Ukrainian Context

- Overall reform of justice system including these issues specific to the SC:
 - Leadership role of the SC in the court system and in articulating democratic change
 - Uniformity of practice – Ukraine has faced issues created when different courts reach different decisions on similar cases.
 - Creation of coherent, understandable precedent-type decisions by the SC is key to address these issues.

Ukrainian Context (Cont'd)

- Creation of a bank of well-written SC decisions to guide courts, lawyers, investors, and the public will assist in making the law clear and predictable.
- The transparency that understandable, well-written, and reasoned judgments provides is critical for attracting trust of the public – a high priority in Ukraine today.
- A course on judgment writing (JW) is being developed in Ukraine with support of Canada's Support to Judicial Reform Project (SJRP). It addresses the needs of the new SC.

Course Development and Delivery

- The objective is to provide education and support as a model course for Ukraine. It is being developed and delivered by Ukrainian judges.
- Canadian experts are involved to train the judges who will deliver the course to their judicial colleagues. This is a train the trainer course.
- Sustainability is paramount – the program on JW at the SC will leave the SC with an excellent, tested, practical course on JW, a cadre of Ukrainian judge/trainers able to deliver the course and a plan for future sustainability.

The Essence of the Course

- The judges taking the course learn about what is called an “issue-based” structure and then do practical, hands-on work to improve written judgments based on real Ukrainian cases.
- Practical work, not just theory, is the essential core of this course. Judges have an opportunity to practice revising flawed judgments and writing in their own words.
- Sample judgments for them to work on are identified or developed – one each in administrative, civil, criminal and commercial.

Course Objectives and Methodology

- To ensure the written decisions of judges of the SC reflect a structure that:
 - Makes the reasons for the decision clear
 - Enables the judgments to be read and understood by citizens
 - Produces decisions that help to establish the precedent-setting role of the SC

Course Objectives and Methodology (Cont'd)

- Education methodology:
 - Learning by doing.
 - Judge/students receive information on constructing good judgments followed by small group workshops led by Ukrainian judges in which students judges practise what they learn, receive feedback, revise, etc.
 - Practical work to improve sample judgments.
 - An interactive methodology.

Course Design

- Participants in development and delivery: Eight Ukrainian SC judges as course developers/trainers. Three Canadian experts including retired judges and SJRP Kyiv staff.
- Timeline – 8 months to 1 year to develop and deliver the first course
- Participants as trainees for first course delivery – 20 to 24 judges of SC.
- Length of course: 3 days
- Course will be delivered multiple times in courses of 20 to 24 judges and offered to all judges of the SC
- After delivery to SC judges course will be available to Ukrainian judges of other courts

Canadian Method: Ukrainian Reality

- Civil Law/Common Law. Can the method that was developed for teaching Canadian judges – in a primarily common law context-work in Ukraine?
 - The course does not deal with substantive law but rather with how to structure and communicate a judgment in writing. It is skills-based not law-based, although some Ukrainian procedural law is necessary. Thus, it has been agreed that this approach is relevant and should work in the Ukrainian context.

Canadian Method (Cont'd)

- Canada through the NJI in partnership with another Canadian training institute developed and delivered a successful 3 ½ day course in JW for Canadian judges. It has been delivered for many years.
 - Intense course – judges work hands-on to improve actual judgments.
 - Course taught by experienced Canadian judges and language experts.
 - Practical, interactive methodology. Judge/students in the course receive information on JW then work in small groups to revise flawed sample decisions and practice actually writing, receive feedback, revise, etc.
 - Results are better judgments written by Canadian judges who take the course.

Canadian Method (Cont'd)

- The course focus on effective communication – not substantive law. For example: not about analysing a contract law problem.
 - Using an accessible structure and plain language writing so that the Canadian public, not just legal professionals, understand the decision and the reasons for it.
- Ukrainian Judge/Developers decided to use the method as a guide while making important changes to account for Ukrainian realities.

What Skills?

- What skills will be taught? After consideration we, Ukrainian judges/trainers, decided that these were the five areas that would be addressed in the course
- An introduction to the course
 - Skills development
 - Interactive methodology
 - Ukrainian legal and procedural requirements

What Skills? (Cont'd)

- The introduction to the judgment
 - A good introduction facilitates understanding of the judgment by readers
 - The first, most important part of a well-crafted written judgment
- The organizational structure – using tested methods to organize judgments. Especially, organizing the decision in a way that is issue-based opposite to chronological way of writing.

What Skills? (Cont'd)

- Writing for your readers to enhance understanding. How to write for different categories of readers? Who are your readers and what do they expect?
- Clarity – point first writing, contextual considerations, clear and simple language
 - Each section is a half-day long except organizational structure which is one day in length

Trainers

- First trainers will be 6-8 sitting judges of the SC from all chambers – Grand, Administrative, Criminal, Civil and Commercial. This is referred to as the Working Group (WG).
- These trainers develop course with support of Canadian project – from Canada and in Kyiv.
- These trainers deliver (teach) the first model course, with feedback from the Canadian experts
- These trainers develop other judges to be trainers

Trainers (Cont'd)

- All identified trainers develop their own adult, interactive education skills such as:
 - Small group management
 - Creation of short PowerPoint presentations
 - Use of interactive methods
- At first course delivery Canadian experts may be involved to a limited extent but the actual trainers will be Ukrainian judges.

Materials

- Materials for the course will be developed by Ukrainian SC judge/trainers and include:
 - Guides to help judges who attend to improve their judgments
 - Facilitator's notes to assist those judge/trainers working with small groups as they improve the sample judgments
 - PowerPoint presentations
 - Background materials will include papers, articles or books that discuss the skills being taught
 - Model judgments and tasks that are being discussed and solved during the course

Timelines

▪ **Fall 2018**

- 4 judges of the SC in Canada for workshop on JW
- The SC decides to proceed with development of workshop

▪ **May 2019**

- Canadian experts attend in Kyiv to demonstrate the Canadian approach with a number of judges and to begin course development with 8 judge/developers of the SC

▪ **Summer/Fall 2019**

- Ukrainian judge/developer WG meet periodically supported by SJRP staff in Kyiv to develop materials and identify or create sample judgments
- Support at distance by Canadian experts

Timelines (Cont'd)

- **November 2019**
 - Canadian experts return to Kyiv to provide feedback on the planned course design, to help the Ukrainian faculty practise essential teaching skills and to agree on what else needs to be done to finalize the course.
- **Fall 2019/Winter 2020**
 - Further work by Ukrainian Working Group (WG)
- **End of January 2020**
 - First delivery of course to 20 to 25 judges of the SC by judge/trainers supported by Canadian experts.

Timelines (Cont'd)

- **Later 2020**

- Second group of SC trainers are trained to deliver the course with original WG
- Course is delivered to further groups of SC judges
- Course is merged with existing judgment writing course delivered by the National School of Judges and made available to all judges of Ukraine.



THANK YOU