SUPPORT TO CRIMINAL JUSTICE REFORM IN UKRAINE

WORK PLAN

for implementation of the Project

Support to the criminal justice reform in Ukraine

(1 January – 31 December 2013)

The present Work Plan for the first year of implementation of the "Project Support to Criminal Justice Reform in Ukraine" (hereinafter "the Project") is based on and reflects the findings of the fact-finding mission to Kyiv, Ukraine carried out by a team of consultants and members of the CoE Secretariat in the period of 18-21 February 2013.

The Work Plan is expected to evolve in the course of its implementation, depending on the actual circumstances or shifting priorities, but will stay focused on the Project's objectives and preserve the agreed methodology (incl. partners, target groups, types of activities etc.). The need for a serious alternation of the Work Plan will entail convocation of the Steering Committee meeting and a preliminary consent of the Donor. The Work Plan for the second and third years will be submitted with the interim reports on Project's implementation.

Related to the very incipient phase of implementation of the Criminal Procedure Code (CPC), some activities are described broadly, while the concrete topics will be further defined in cooperation with the Project's partners, depending on the objective needs and capacity of the CoE and concerned partners.

The risks and challenges unveiled during the fact-finding mission are taken into account and adverse circumstances should be neutralised to the extent possible by means of carefully tailored strategy and adjustment of the Project. For example, the CoE experts identified a set of difficulties, shortcomings or deviations that undermine the norms and principles of the CPC, which some of the domestic stakeholders failed to comprehend due to a lack of necessary knowledge of the ECHR and of experience of their implementation in practice. With due respect to the considerations of domestic ownership, these points are to be addressed through a more proactive approach. This means that, in addition to responding to meaningful and sound requests and needs identified by the relevant stakeholders, the Work Plan includes a set of CoE-driven activities that would channel the implementation of the CPC in line with its objectives, i.e. European standards and best practices.

The fact-finding mission has also revealed that the current socio-political situation in the country has generated a somewhat unfair public opinion with regard to the CPC. Accordingly, one of the adjustments of the Work Plan involves an increased importance being attached and emphasis put on overall awareness raising aspects, publicity of Project's activities and its particular results. At the same time, in coordination with other development partners, the Project will pay attention to the monitoring of the CPC's application through periodic reviews of prosecutorial and judicial practice.

The failure to meet in the inception phase the representatives of the Bar of Ukraine - which is attributable to the fact that the unified Bar is in the process of setting up - was particularly unfortunate given the critical role which the CPC now gives to defence lawyers in the criminal process. Having this in mind, there is a need for further efforts to assess the capability and preparedness of defence lawyers to play their part in the implementation of the CPC. The results will allow to fine-tune the focus of activities to be pursued under the Project.

It was very helpful to hear, as part of the fact-finding mission, from the international organisations/donors working in the field of criminal justice. These consultations saw an agreement to convene informal donor coordination meetings on criminal justice reforms every two months, to exchange ideas and keep abreast with the developments. Ensuring that this agreement is implemented will undoubtedly contribute not only to making the best use is made of limited resources, avoiding overlapping but also to supporting implementation in a more systematic fashion. The Project team will pay particular attention to ensuring a permanent coordination with the Delegation of the European Union to Ukraine.

The Project will inform and consult on implementation of its objectives and concrete activities with the CoE Department for the Execution of the ECtHR Judgments, the ECtHR, the Venice Commission, the CPT, the Consultative Council of European Prosecutors (CCPE) etc. Coordination will be ensured with other projects implemented in the framework of the CoE Action Plan for Ukraine 2011-2014, in particular:

- the JP "Coordination of justice sector reforms in Ukraine, stakeholders and donor alignment and sector performance monitoring";
- the JP "Reinforcing the fight against ill-treatment and impunity – South Caucasus, Ukraine and Moldova";
- the JP "Enhancing judicial reform in the Eastern Partnership countries;
- the JP "Strengthening the lawyers' capacity for domestic application of the ECHR and of the Revised European Social Charter",
- the project "Increasing the independence and professionalism of the Ukrainian justice system", financed by the Kingdom of Sweden;
- the HELP Programme - "Strengthening professional training on the ECHR – European Programme for Human Rights Education for Legal Professionals" etc.

The Donor (represented by the Embassy of the Kingdom of Denmark to Ukraine) will be regularly updated on the developments and invited to the most important activities. Other forms of consultations and coordination will be made use of.

1 January – 31 December 2013													
	Semester 1						Semester 2						
Activity	1	2	3	4	5	6	7	8	9	10	11	12	Partners
Project Management													

Recruitment of project team (Strasbourg)													CoE
Recruitment of project team (Kyiv)													CoE
Fact-finding mission and consultation with the stakeholders in order to define the work plan and methodology of the project													CoE and partners
Kick-off Conference and Steering Committee Meeting													CoE and partners
Informal donor coordination meetings for the criminal justice sector													CoE and development partners
Awareness raising on criminal justice reforms and the Project													CoE and partners
Second Steering Committee Meeting (Progress Report and the Work Plan for 2014)													CoE and partners
Specific objective 1: To contribute to the actual application of the new CPC and development of the new institutional role and operational capacity of the public prosecution													
Thematic studies on the progress and challenges in implementation of the CPC[1]													CoE and partners
Expert assessment and meetings on legislative and normative acts, instructions and recommendations issued in view of implementation of the CPC or closely connected to it.													CoE and partners
Assistance in developing further regulatory and/or methodological tools for implementation of the CPC[2]													CoE and partners

[1] The first assessment will tackle the challenges of carrying out pre-trial investigation under the new CPC and the second will refer to specifics of judicial control over the pre-trial investigation under the new CPC.

[2] The following areas and/or issues suggested by different stakeholders (specified by abbreviations in brackets) will be considered:

- procedure and practical aspects of the work of investigative judges, enhancement of their role and optimisation of functional pattern and staffing (GPO, HSC, NSJ);
- advancement of the concept of the procedural leadership of prosecutors in pre-trail investigation and role of investigators (GPO, NAP);
- enhancement of the legal framework on intrusive, including covert, investigative actions (all the stakeholders);
- police detention procedures, including the functions (introduction) of a detaining officer at the internal affairs bodies (HSC);
- application of preventive (security) measures, bail and other alternatives, including house arrest/electronic monitoring (HSC, NSJ);
- observance of the rights of suspects, including the practice of notification of suspicion (NSJ);
- plea-bargaining / procedural agreements (all the stakeholders);
- reconciliation procedures (GPO, HSC);
- use of videoconferencing in investigations and criminal procedures in general (NAP);
- drafting a law on misdemeanours (GPO, MIA).

Working group meetings on uniform interpretation and application of the CPC in the judicial practice, in line with the ECHR and ECtHR case law													CoE and partners
Working group for monitoring and feedback from the practice of the CPC implementation													CoE and partners
Round tables and expert meetings on realisation of the adversarial system of criminal justice and other important aspects of implementation of the CPC[3]													CoE and partners
First anniversary conference on the progress and main challenges in implementation of the CPC													CoE and partners
Awareness raising on the CPC and the results of its implementation													CoE and partners
Translation, publication and distribution of publications referring to European standards relevant to the operation of the criminal justice system, expert opinions etc.													CoE and partners
Needs assessment as regards the equipment necessary to fulfil new tasks assigned under the CPC													CoE and partners
Purchase and installation of the equipment necessary to fulfil new tasks assigned under the CPC													CoE and partners
Specific objective 2: To provide legal advice and facilitate the drafting of the Law on the Office of the Public Prosecutor in line with the new CPC, as well as of any other relevant legislation and sub-legislation and internal regulatory instruments of the public prosecution, and to facilitate their actual application													

[3] The following elements and issues transpired from the comments of stakeholders, national experts, representatives of the NGOs and donor community or have been identified by the CoE experts:

- realisation of the principle of equality of arms in practice (including specific rights attributed to the defence, as the right to review the case files etc.);
- evidential/exclusionary rules, use of hearsay evidence;
- ensuring observation of the reasonable time standards;
- case/court management in line with the new CPC;
- witness protection and anonymous witness;
- handling of complex investigations in cases of organised crime.

High-level consultations and expert meetings on the principles and main elements of the reform of the Public Prosecution Service													CoE and partners
Working group meetings and expert consultations for drawing up the new Law on the Public Prosecution Service													CoE and partners
Conference of the reform of the Public Prosecution Service													CoE and partners
Study visit on organisation and functioning of the public prosecution service (to a EU members state to be further defined)													CoE and partners
Visit of a delegation representing the Danish public prosecutors and other relevant institutions to Ukraine for transfer of knowledge and good practices in the field of criminal justice													CoE and partners
High-level consultations on the principles and main elements of the Law on the State Bureau of Investigations of Ukraine													CoE and partners
Working group meetings and expert consultations for drawing up the Law on the State Bureau of Investigations of Ukraine													CoE and partners
Recommendations and expert meetings on the normative framework and internal regulatory instruments for effective implementation of the new laws on the Office of the Public Prosecutor and on the State Bureau of Investigations of Ukraine													CoE and partners
Translation, publication and distribution European standards setting documents related to the public prosecution and criminal investigation, of relevant recommendations, expert opinions etc.													CoE and partners
Specific objective 3: To develop the capacity of prosecutors and other key groups of legal professionals to apply European standards in their daily work on the basis of the new CPC, and to monitor such application through periodic reviews of prosecutorial practices													

Detailed training needs assessment in regard to implementation of the new CPC by prosecutors, judges, lawyers, criminal investigators and other law enforcement officials													CoE and partners
Revision of the curriculums on criminal procedure of the NAP and NSJ & provision of assistance in updating them in line with the European standards and the HELP Programme's resources													CoE and partners
Open lectures in the NAP on the interpretation of the CPC vis-à-vis the ECtHR case law for master students of the Academy													CoE and partners
Lectures in the NAP on the interpretation of the relevant provisions of the CPC vis-à-vis the ECtHR case law within the courses of continues training of prosecutors of the Academy													CoE and partners
In-depth training course for national prosecutors' trainers (ToT) on the application of European standards in the criminal procedure													CoE and partners
Study visit for a group of national ECHR trainers to the CoE, including the ECtHR													CoE and partners
Cascade seminars for prosecutors on the application of European standards in the course of criminal procedure													CoE and partners
Follow-up ToT for judges on the challenges of implementation of the CPC													CoE and partners
Thematic seminars for investigating judges on their role as guarantors of fundamental rights in the criminal proceedings													CoE and partners
Thematic seminars for trial judges on effective use of principle of adversariality, in line with the ECtHR case law													CoE and partners
Thematic seminars for free legal aid lawyers on application of the new CPC, rights and procedural safeguards under the ECHR													CoE and partners

Conference on challenges of the preliminary investigation by police investigators under the new CPC: problems of theory and practice													CoE and partners
Thematic seminars for law enforcement officials on the implementation of the new CPC vis-à-vis the ECHR[4]													CoE and partners
Mixed group seminars/round tables for judges, prosecutors, investigators and lawyers related to the application of the principle of adversariality, rules of evidence; challenges during the pre-trial investigation stage													CoE and partners
Open lectures for students of the main Law Schools in Ukraine (*Kyiv, Kharkiv, Lviv, Odessa*)													CoE and partners
Thematic seminars for legal staff of the Ombudsman institution/OPCAT body together with human rights NGOs on the implementation of the new CPC and monitoring the observance of the rights of detainees and accused persons during criminal proceedings													CoE and partners
International conference on application of European standards in the course of criminal procedure													CoE and partners
Translation into Ukrainian, publication and distribution of publications containing sets of selected relevant ECtHR judgments, handbooks, training modules and materials etc.													CoE and partners
Working group to monitor the process of training and follow-up application by the trainees of the knowledge and skills which they received during the training													CoE and partners

[4] Possibly referring to: 1) covert investigations; 5) effective use of alternative measures to the remand in custody; 3)procedural safeguards under the CPC; 2)obligations towards lawyers; 4) interaction with investigating judges and prosecutors; 3) effective use of agreements etc.