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| UKRAINE RULE OF LAW PROJECT

QUALITY OF COURT PERFORMANCE: EXTERNAL EVALUATION

**Pilot Program for Court Performance Quality Evaluation:
Citizen Report Card Survey among Court Visitors (Round III)**

Analytical Report based on Pilot Survey Results

JUNE 2011

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I. INTRODUCTION

As a part of its strategy promoting judicial standards and enhancing accountability of the judicial system through court performance evaluation, the USAID Ukraine: Rule of Law Project gets partner civil society organizations involved in introducing Citizen Report Card (CRC) surveys among court visitors.

CRC surveys have proved to be an efficient tool to measure the level of citizens' satisfaction with the quality of municipal services in many countries worldwide. The Project was the first in the world who adopted this methodology not only to assess citizens' satisfaction with court services but to serve the overall objective – to get feedback from the civil society to improve court performance, citizen access to justice and to create well-grounded basis for development of court performance standards in Ukraine. The CRC survey is an extremely valuable tool as it gives an actual input from court users and involves courts, court staff and civil society organizations in all stages of the process.

By using CRCs, partner civil society organizations assess perception of court performance by court users through several measures such as: 1) territorial accessibility of courts; 2) level of comfort in a courthouse; 3) accessibility of court information; 4) payments affordability; 5) timeliness in considering cases; 6) court staff performance; and 7) the quality of judge performance. Based on these measures, civil society organizations have developed a questionnaire with a set of questions giving a total score ranging from 0 (the lowest score) to 1 (the highest score) for each of 7 measures.

Instead of focusing on the quality of court decisions or correct application of law, CRCs demonstrate court performance in a wider sense including duration of proceedings, competence and professionalism of judges and court staff, and, inter alia, attitude towards the parties. With CRCs, Ukrainian courts could identify weaknesses in servicing and methods of external court performance evaluation to enhance court accountability before the public and find a tool to follow up improvements of court service quality over the time. CRC project partners make a platform for development of court performance standards in Ukraine. These standards can assess to what extent courts succeed (or fail) in abiding by the fundamental principles such as fairness, timeliness, and integrity.

With the Project's support, CSO volunteers interviewed more than 2,300 court visitors at every of three rounds of the CRC Survey launched in 2008. Up to date, over 7,500 citizens provided their feedback on court performance to develop recommendations to improve court performance. Following the recommendations based on the first round of the survey completed in 2008 – 2009, two courts made court premises more comfortable for visitors, while four courts made court information more accessible. As a result, visitors of those courts valued court staff performance more highly during the second round of the CRC survey. For example, 61% of court visitors founded court staff diligent, knowledgeable, and competent during the first round against 70% during the second round. Furthermore, three courts have improved timeliness of servicing between the first and the second rounds. Six of seven courts participating in both rounds improved their overall performance score: about 57% during the first round vs. 71% during the second one.

Upon the second round of the CRC Survey, 15 courts received more than 200 recommendations based on citizens input.

This report summarizes the results of the third round of the CRC survey of court visitors' satisfaction with court performance.

The survey has been carried out by five Ukrainian civil society organizations in October 2010 - May 2011. The report is intended for CSOs, court presidents, judges, court administrations, and other court staff members and stakeholders interested in promoting a dialogue between courts and the civil society to improve access to justice, enhance efficiency, transparency, and accountability of the judicial system, and to enhance public trust in courts. The report mainly focuses on the analysis of Index of Court Performance Perception by the Public and its quality measures.

II. ORGANIZATION OF SURVEY

Pilot courts and non-governmental organizations (NGOs) able to interview respondents using the proposed methodology were selected at the initial stage. Five Ukrainian civil society organizations were selected on a competitive basis. The courts selected for the second round of the CRC survey (2009-2010) were those which participated in the first round to assess performance over the time. Therefore, the third round of the CRC survey involved visitors of 15 courts (Table 1).

Table 1: Pilot courts covered by the survey

	<i>CRC survey implementers</i>	<i>Pilot courts</i>
1	Kharkiv City Civil Society Organization <i>Institute of Applied Humanitarian Research</i>	Kharkiv Administrative Court of Appeals Kharkiv Regional Administrative Court Donetsk Oblast Court of Appeals Petrovsky District Court, city of Donetsk
2	Charity Foundation <i>Counterpart Creative Center</i>	Ivano-Frankivsk Oblast Court of Appeals Ivano-Frankivsk City Court Kolomiya City and District Court Chornobay District Court, Cherkasy oblast
3	Civil Society Organization <i>Podillia Human Rights Foundation</i>	Yarmolyntsi District Court, Khmelnytsky oblast Krasyliv District Court, Khmelnytsky oblast
4	Association for Youth Rights Protection in Volyn	Volyn Oblast Court of Appeals Lutsk City and District Court
5	Civil Society Organization <i>Partner Public Consulting Group</i>	Lokachi District Court, Volyn oblast Novovolynsk District Court, Volyn oblast Stara Vyzhivka District Court, Volyn oblast

An additional point to emphasize is that the Project arranged and conducted a training session in CRC surveys of court services for representatives of the selected NGOs, including trainings for interviewers (volunteers) and data input operators.

At the initial stage of the CRC survey, the Project established partnerships with representatives of pilot courts, including chief officials of territorial departments of the State Judicial Administration of Ukraine in pilot regions and presidents of courts.

Numerous focus group meetings were held to discuss and improve survey instruments. Such meetings brought together both representatives of pilot courts and citizens who directly applied to courts. Such approach allowed us to agree upon a system of court performance measures and

their respective indicators, on the one hand, and to probe a standardized questionnaire, on the other.

Court visitors were interviewed directly at courthouses in face-to-face interviews using the standardized questionnaire. Approximately 210 visitors were interviewed at each court, 3,088 visitors in total.

Several focus group discussions were held based on the survey results to discuss the main findings of the survey and to develop practical suggestions on how to improve the quality of court performance.

The Project has developed CSPro-based data input software application for processing of questionnaires. A statistical analysis was carried out with SPSS software.

At the final stage of the CRC survey, the survey findings were notified to stakeholders and measures to implement CRC-based recommendations were initiated including court performance monitoring.

III. SURVEY METHODOLOGY

Although CRC methodology is based on survey tools which are traditional for social researches, its objectives and arrangements differ. In fact, it is a form of civil society control over the quality of different services offered to the public.

The key objectives of such surveys of court services include providing judicial information to courts and the society in a timely manner; identifying efficient ways to overcome existing challenges, and monitoring changes in problematic areas of the judicial system. At the same time, such surveys serve as a source of reliable information and are effectively provided the following conditions are met:

- a) the survey methodology takes current international court performance standards and domestic judicial practice into consideration;
- b) there is an efficient and effective communication based on mutual trust between courts and the public, in particular, NGOs and mass media;
- c) all stakeholders have unbiased attitude towards the survey results; and
- d) joint efforts are being taken by experts, lawyers, sociologists and the public during the process of survey organization.

Although identification of principles, methods, and technical tools to assess court performance quality is a high priority for Ukraine, these tasks have not been reduced to practice posing the main challenge at the stage of methodology development. As a burden of Soviet legacy, the judicial system has still been using approaches which assess court performance against the number of revoked/changed judgments, claims, disciplinary proceedings, and other quantitative measures. Therefore, the underlying approach is innovative and combines Ukrainian context and the best world practice.

Quality measures – the key elements of the survey – are used to comprehensively assess the quality of court performance. The quality measures are court performance quality standards which embody expectations of the public from court performance in the democratic society.

Each quality measure is explained through the system of court performance indicators which make the standard more specific and allow to measure it in quantitative way.

Although there are several approaches to assess court performance in international practice, mechanical transfer of the available tools would hardly be efficient since such approaches fail to take into account the context of the Ukrainian judicial system.

Therefore, the Project offered the system of 7 quality measures which, in turn, are assessed through 25 indicators which have been used to make questions for the questionnaire (Table 2).

Table 2: Main Measures for Assessment of Court Performance Quality

<i>Measures</i>	<i>Indicators</i>
1. Territorial accessibility of court	<ul style="list-style-type: none"> • Easiness to find a courthouse for the first time • Easiness to get a courthouse using public transportation
2. Convenience and comfortableness of stay at courthouse	<ul style="list-style-type: none"> • Comfortableness while being in court • Enough of space for waiting, preparation of documents, review of case files, and preparation for court hearings • Cleanness and neatness of court premises • Accessibility of court premises and usability of court services for/by people with special needs • Convenience of secretariat business hours
3. Completeness, accessibility and clarity of information	<ul style="list-style-type: none"> • Convenience of information stands location • Availability of necessary information in court premises about location of rooms, courtrooms, and other premises; rules of entry to and stay in courthouse; pending cases; general information about the court; template documents; procedure for payment of court fees and stamp duties; bank details and amounts of payments • Availability of necessary information on court web-site
4. Payments affordability	<ul style="list-style-type: none"> • Affordability of court fee • Access to lawyer services where necessary
5. Timeliness in considering cases	<ul style="list-style-type: none"> • Timeliness of court hearing start • Consideration of wishes when assigning time and date for hearing • Timeliness of receiving summons and notifications of hearings • Justification of delays/rescheduling of court hearings • Timeliness of getting acquainted with case files
6. Perception of court staff performance	<ul style="list-style-type: none"> • Court staff diligence • Court staff demonstration of respect, politeness, willingness to help, equal treatment to any visitor irrespective of his/her social status or any other factor, diligence, discipline, respect for promises, patience, tolerance, professionalism and expertise.
7. Perception of judge performance	<ul style="list-style-type: none"> • Perception of judge attitude to court case participants as correct and polite • Perception of judge readiness to review case • Perception of judge' compliance with case review procedures • Opportunity to comment the allegation of opposite side

<i>Measures</i>	<i>Indicators</i>
	<ul style="list-style-type: none"> • Opportunity to justify own position during case hearing • Perception of judicial independence and impartiality • Timeliness of receiving court decision • Intelligibility and understandability of the text of court decision • Perception of reasoning of court decision

An efficient way to analyze the system of quality measures in a comprehensive manner is to use approaches allowing to synthesize a total score. For the purposes of this survey, *Index of Court Performance Perception by the Public* (the Index) was used as such total score.

Index of Court Performance Perception by the Public is a total score derived as a mean of values (scores) for each of seven quality measures (individual indices). The Index is calculated based on the system of statistical weights, i.e. weight coefficients which characterize the input of each measure to the total score. The system of statistical weights is prioritized by importance for court visitors. The total score is defined as the sum of weight coefficients by all quality measures.

Standardized values of weight coefficients for each quality measure based on court visitors' assessments are presented on Figure 1 below.

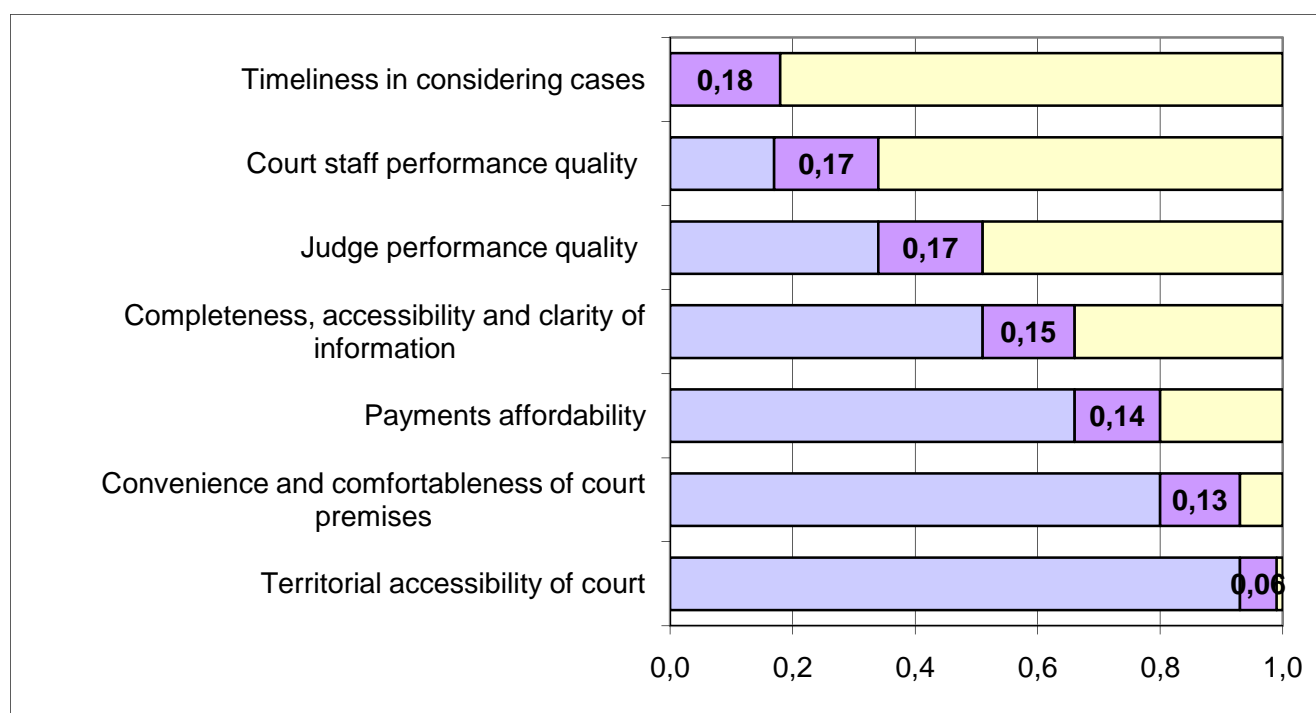


Figure 1: Statistical weights of quality measures used in Index of Court Performance Perception by the Public

This system of statistical weights shows that the input of elements to the total score of the Index varies. According to court visitors, timeliness in considering cases (index score: 0.18) is the most important court performance indicator, while territorial accessibility of court (index score: 0.06) appears to be the least important priority for improvement of court performance.

Comparison of index elements with those of an ideal court is an important methodological issue for analysis of the Index of Court Performance Perception by the Public. In other words, if every

quality measure got its highest score, the total index score would be 1.00 and such court would be considered an ideal one in terms of performance. However, it is almost impossible to achieve the ideal quality in practice. Therefore, the analysis of court performance should be measured against the actual maximum scores of quality measures for all participating courts and the court getting the highest (maximum) score should be considered as *an ideal court*.

The comprehensive study of court performance should be hierarchical and cover analyses such as:

- Index of Court Performance Perception by the Public
- Assessment of quality measures as Index elements
- Court performance indicators within certain quality measures

Such approach offers a number of analytical opportunities:

- to get an overview of performance of every participating court and define its rating against other participating courts;
- to define measures to be taken to improve court performance to achieve the maximum quality score within the possible index score range;
- to identify the most crucial elements of quality measures which affect the total score of court performance quality;
- to quantitatively assess input of each quality measure to the total deviation of the actual index score vs. the possible maximum index score;
- to identify priority areas for improvement of court performance based on the actual scores and their weights within the total index score;
- to develop steps to improve the scores of quality measures based on their respective indicators.

IV. OVERALL ASSESSMENTS OF COURT PERFORMANCE QUALITY

For the purposes of comprehensive assessment of court performance quality, two quality assessment criteria have been used to measure court performance:

- 1) Integral Court Performance Perception Index score;
- 2) Answers to the direct question of the questionnaire: How do you assess the overall court performance?

Based on the methodology described above, each court got its Court Performance Perception Index score. The analysis of current scores against those of past years demonstrated an overall positive trend (Table 3).

Table 3: Pilot courts by Court Performance Perception Index score

<i>Court</i>	<i>Round II 2009-2010</i>	<i>Round III 2010-2011</i>	<i>Index score change</i>
Ivano-Frankivsk Oblast Court of Appeals	0.84	0.83	↓
Ivano-Frankivsk City Court	0.76	0.77	↑
Kolomiya City and District Court	0.71	0.71	=
Donetsk Oblast Court of Appeals	0.81	0.84	↑
Petrovsky District Court, city of Donetsk	0.81	0.77	↓
Yarmolyntsi District Court, Khmelnytskyi oblast	0.87	0.88	↑
Krasyliv District Court, Khmelnytskyi oblast	0.84	0.85	↑
Volyn Oblast Court of Appeals	0.84	0.88	↑
Lutsk City and District Court	0.77	0.71	↓
Lokachi District Court, Volyn oblast	0.89	0.96	↑
Novovolynsk District Court, Volyn oblast	0.90	0.87	↓
Stara Vyzhivka District Court, Volyn oblast	0.79	0.86	↑
Kharkiv Administrative Court of Appeals	0.73	0.72	↓
Kharkiv Regional Administrative Court	0.74	0.77	↑
Chornobay District Court, Cherkasy oblast	0.82	0.92	↑

As shown above, 9 of 15 pilot courts improved their quality index score, while 4 courts got a somewhat lower score over the last year. Notably, such deviations are minor for all courts over two rounds, and such results should be considered as a trend and any quantitative characteristics should therefore be avoided.

The analysis of respondents' answers to the direct question supports the conclusion on the overall positive trend (Table 4).

**Table 4: Pilot courts by answers to the question:
How do you assess the overall court performance?**

<i>Court</i>	<i>Round II 2009-2010</i>	<i>Round III 2010-2011</i>	<i>Index score change</i>
Ivano-Frankivsk Oblast Court of Appeals	0.78	0.78	=
Ivano-Frankivsk City Court	0.65	0.72	↑
Kolomiya City and District Court	0.69	0.71	↑
Donetsk Oblast Court of Appeals	0.77	0.88	↑
Petrovsky District Court, city of Donetsk	0.77	0.73	↓
Yarmolyntsi District Court, Khmelnytsky oblast	0.82	0.86	↑
Krasyliv District Court, Khmelnytsky oblast	0.79	0.82	↑
Volyn Oblast Court of Appeals	0.82	0.87	↑
Lutsk City and District Court	0.78	0.71	↓
Lokachi District Court, Volyn oblast	0.92	0.97	↑
Novovolynsk District Court, Volyn oblast	0.84	0.83	↓
Stara Vyzhivka District Court, Volyn oblast	0.83	0.84	↑
Kharkiv Administrative Court of Appeals	0.66	0.71	↑
Kharkiv Regional Administrative Court	0.71	0.76	↑
Chornobay District Court, Cherkasy oblast	0.81	0.93	↑

Furthermore, there are positive changes in the levels of two scores which became almost equal in 2011 (vs. 2010; Figure 1) as the court performance quality score (defined as an answer to the direct question: How do you assess the overall court quality?) became somewhat higher over the two rounds of the CRC survey.

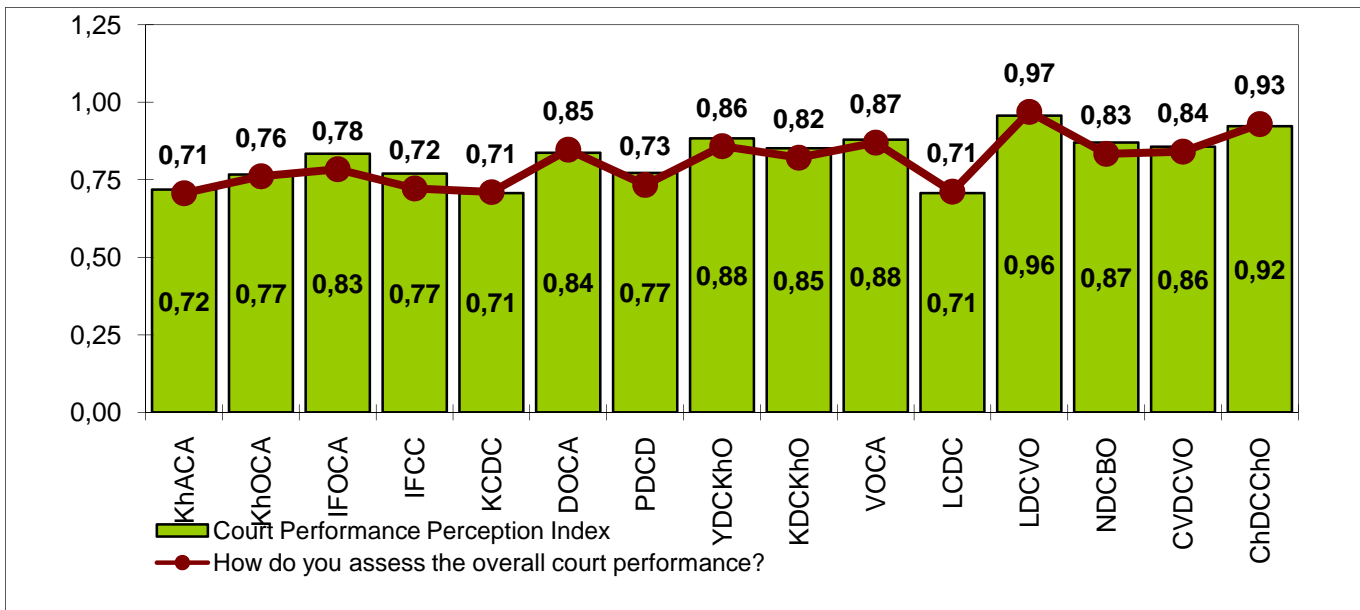


Figure 1: Pilot courts by court performance quality, 2010

Such positive trends in the quality assessment may demonstrate that court visitors are getting on to the fact that court performance quality is a comprehensive issue which cannot be reduced to judge/claimant (or other party) relations only.

The itemized analysis of the General Index shows that courts are differentiated by individual quality measures to the certain extent as shown by the range of scores of all courts (Figure 2). At the same time, court visitors' requirements to the level of quality or any other quality measure vary depending on the type of court and group of respondents.

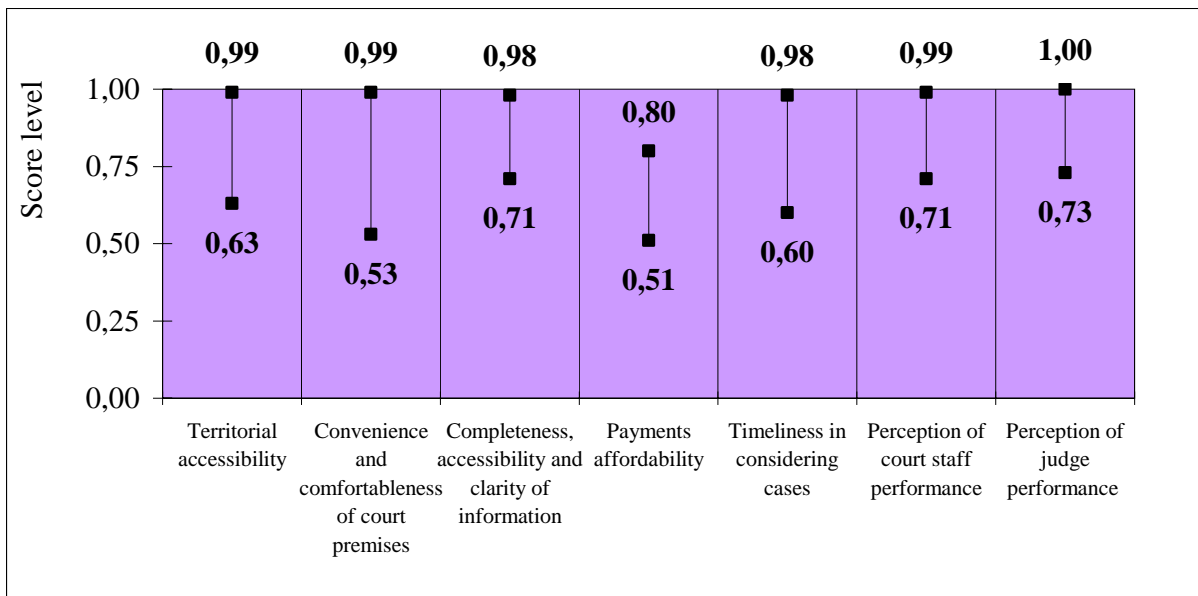


Figure 2: Quality measures by range of variation (survey round III, 2010-2011)

Similar to the last year's results, court visitors consider payments affordability and convenience and comfortableness of stay at courthouse as the most problematic issues. Figure 2 however shows that service provision timeliness and judge performance are the most crucial court performance quality criteria which should be improved first.

Table 5 summarizes the levels of Index of Court Performance Perception elements by pilot courts.

**Table 5: Index of Court Performance Perception by the Public by quality measures and weight coefficients
(Survey Round III, 2010-2011)**

No.	Court	INDEX SCORE 2011	Territorial accessibility	Convenience and comfortableness of court premises	Completeness, accessibility and clarity of court information	Payments affordability	Service provision timeliness	Perception of court staff performance	Perception of judge performance
1	Kharkiv Administrative Court of Appeals	0.72	0.63	0.66	0.76	0.75	0.66	0.76	0.76
2	Kharkiv Regional Administrative Court	0.77	0.73	0.72	0.80	0.74	0.74	0.79	0.82
3	Ivano-Frankivsk Oblast Court of Appeals	0.83	0.94	0.78	0.89	0.51	0.87	0.90	0.95
4	Ivano-Frankivsk City Court	0.77	0.92	0.66	0.79	0.64	0.76	0.81	0.85
5	Kolomiya City and District Court	0.71	0.86	0.64	0.72	0.64	0.73	0.71	0.73
6	Donetsk Oblast Court of Appeals	0.84	0.99	0.97	0.97	0.71	0.60	0.87	0.89
7	Petrovsky District Court, city of Donetsk	0.77	0.88	0.75	0.84	0.70	0.71	0.76	0.82
8	Yarmolyntsi District Court, Khmelnytsky oblast	0.88	0.94	0.87	0.92	0.67	0.93	0.91	0.95
9	Krasyliv District Court, Khmelnytsky oblast	0.85	0.91	0.83	0.88	0.73	0.84	0.88	0.91
10	Volyn Oblast Court of Appeals	0.88	0.93	0.94	0.92	0.77	0.81	0.92	0.90
11	Lutsk City and District Court	0.71	0.81	0.53	0.71	0.55	0.70	0.80	0.84
12	Lokachi District Court, Volyn oblast	0.96	0.93	0.99	0.98	0.80	0.98	0.99	1.00
13	Novovolynsk District Court, Volyn oblast	0.87	0.89	0.91	0.93	0.69	0.82	0.92	0.93
14	Stara Vyzhivka District Court, Volyn oblast	0.86	0.84	0.77	0.90	0.73	0.86	0.91	0.93
15	Chornobay District Court, Cherkasy oblast	0.92	0.95	0.96	0.94	0.69	0.94	0.99	0.97

V. SUMMARY

In summary, performance of the judicial system in Ukraine requires comprehensive assessment based not only on statistical information about internal court performance but on external assessments such as public surveys among those who directly deals with courts. Such surveys are very important since even when a court operates efficiently (based on certain measures) and provides excellent services (in terms of compliance with standards) the quality of servicing may remain poor as long as a court visitor, as an external evaluator, is unsatisfied with such service and such service does not meet his/her specific needs (expectations).

The methodology offered by the Project is adapted in general to assessment of court performance quality at the local level based on the needs of specific pilot courts. The Index of Court Performance Perception by the Public is a powerful tool to assess court performance against different quality measures.

This methodology serves a very useful purpose – it allows using the survey findings for the judicial system administration and building a platform for courts to take public opinion into consideration in a more complete and adequate way as this will make a court more open to people even when financing is insufficient, the judiciary branch lacks clear administration, and laws have many discrepancies. This methodology may be applied by both civil society organizations and courts themselves when court administrations seek to improve court performance and have necessary resources, both human and financial.