

SUMMARY

of the monitoring report on the process of institutional and organizational development of the High Anticorruption Court

(Kyiv, 2020, authors: V.I. Valko, M.I. Khavroniuk)

During September 2019 – February 2020, the Centre of Policy and Legal Reform conducted public monitoring and contributed to the High Anticorruption Court's (hereinafter – the HACC) development and activities in order to collect and analyze relevant information and to develop objective conclusions and recommendations aimed at ensuring the HACC's adequate functional capacity to administer justice.

The monitoring was conducted by independent experts based on the methodology developed by the Centre of Policy and Legal Reform, taking into account the provisions of the legislation as of October 1, 2019.

The Report reflects an analysis of: measures to create the HACC; information on conducted trainings and regular evaluations of judges; work and structure of the HACC's administration; issues with providing the HACC with work premises; financial, logistical, and personnel support; activities of the Court Registry and court bailiffs unit; measures taken to prevent and detect corruption in the HACC; activities of the Court Security Service relating to ensuring safety of judges and their families; security state of the Court's premises; disciplinary practices of the High Council of Justice against judges of the HACC and cases of interference in the administration of justice.

The monitoring provided important information on the social and psychological climate within the team, the relationship between the court support personnel among each other, as well as with the leadership and judges of the HACC, the workloads of judges and court support personnel, high-priority topics for judges' future trainings, as well as measures that could increase the efficiency of the administration of the HACC.

Main conclusion: The initial stage of the HACC establishment as an independent institution within the judicial system of Ukraine is completed. Judges and court support personnel, and other public authorities have taken measures to make the HACC capable to fulfill its tasks. Judges are provided with proper conditions and guarantees necessary to fulfill their functions. The head of the Court's administration and court support personnel are open to communication, show initiative, and are motivated.

Since the HACC's registration as a legal entity, the following were accomplished: nine meetings of judges of the HACC were held; a 3-week orientation training program for judges, several international trainings, internships abroad (in Singapore, Czech Republic, and Ireland), and many other trainings were conducted; competitions for most of the vacant positions in the Administration of the HACC were organized, with 85% of staff hired;

three buildings (where the Court temporary resides) of the Court were renovated; organizational, logistical, and legal framework for operation were prepared; 147 orders on the main organizational and administrative activity were approved; adequate security level for judges, trial participants, and other visitors of the HACC were introduced; etc.

Currently, the following problem areas of more efficient operation of the HACC remain:

- lack of permanent premises of the HACC and funds for construction of new or reconstruction of existing premises;
- inability of the HACC to be act as manager of state property objects;
- existing ban on co-location of the Court of Appeal and the first instance court in the same building;
- inadequate Court funding: for the second fiscal year in a row, the amount of approved budget of the HACC is 13-15% less than requested budget;
- lack of approved strategy of the HACC activity for the next 3-5 years;
- inconsistency between the Regulation on the automated system of case management and the CPC provisions that set forth for composition of the court;
- lack of electronic case management and tracking system for criminal proceedings (e-Case management system);
- insufficient number of court bailiffs: only 6 for 15 courtrooms in the first instance of the HACC;
- lack of methodology and procedure for evaluation and self-evaluation of judges through questionnaires;
- de facto failure to fulfill the guarantees of ensuring the security of judges and members of their family;
- failure to equip the personal and official housing of the HACC judges with security systems and alarm buttons.

KEY RECOMMENDATIONS:

to the Parliament of Ukraine:

- 1) amend the Law of Ukraine "On State Property Management" and include the HACC in the list of entities authorized manage state property objects;
- 2) allocate additional funds for the construction of new or reconstruction of existing premises for the HACC;
- 3) amend the Law of Ukraine "On the High Anticorruption Court" to remove provisions prohibiting co-location of the Appeal Chamber of the HACC

and the first-instance court chambers of the HACC in the same building;

- 4) eliminate conflicts in the legislation on ensuring 24-hour security to the judges of the HACC.

to the Government of Ukraine:

- 1) provide the HACC with permanent premises and eliminate the risk of potential external influence on the work of the HACC by means of rejecting decisions on ensuring of temporary premises;
- 2) take measures to approve, in subsequent periods, the budget of the HACC in the amount needed for proper development, in accordance with budget requests.

to the Ministry of Finance of Ukraine:

develop financial mechanisms to facilitate the transfer of the premises located at 41 Peremohy Ave. from the Antonov State Enterprise to the HACC.

to the Council of Judges of Ukraine:

- 1) amend the Regulations on the automated system of case management to prevent formation of the composition of the HACC that does not meet requirements of the CPC;
- 2) approve new sample uniforms and insignia for court bailiff service's staff, if these are developed by the SCA.

to the State Court Administration:

- 1) approve new sample uniforms and insignia for court bailiff service's staff;
- 2) purchase security systems and alarm buttons to ensure adequate Court Security Service's performance of its duties to protect judges of the HACC, members of their families, and their residence security.

to the Court Security Service:

- 1) conduct training for staff on the procedure of access to the HACC's buildings (premises) and the grounds for conducting an inspection of personal belongings of defense counsels;
- 2) equip residences of judges of the HACC with security systems and alarm buttons (following their purchase by the State Court Administration);
- 3) ensure personal security for the HACC's judges and their families in accordance with provisions of the Law of Ukraine "On the High Anticorruption Court";
- 4) organize training for staff to improve practical communication skills with media representatives

and law enforcement agencies; 5) conduct training for staff on the basics of psychological interaction during individual work with persons in emotional distress or showing signs of uncontrolled behavior, including exercising methods of preventing and addressing conflict situations.

to the National School of Judges:

- 1) organize mandatory continuing professional trainings for judges regarding administration of justice in the area of corruption prevention;
- 2) conduct regular evaluations of judges of the HACC in order to identify their individual professional development needs and encourage judges to maintain appropriate qualification and professional development level.

to the High Anticorruption Court:

- 1) take into account the results of the court staff and the HACC judges' survey regarding identification of trainings topic, professional development activities, levels of workload, functioning of the automated system of case management workflow and the Court Registry, etc.;
- 2) approve the development strategy of the HACC for the next three-five years;
- 3) conduct audit of the Court's administration activity and publish its results;
- 4) increase the number of staff positions of court bailiffs;
- 5) approve the Regulations on the disciplinary commission within the HACC administration;
- 6) increase interaction and communication level between judges and court support personnel of the HACC, who work on different premises of the Court;
- 7) conduct training for clerks and court bailiffs on the rules of handling material evidence and documents (data carriers);
- 8) increase the level of communication with citizens to respond to socially important comments by visitors on social network pages.

to the civil society organizations and representatives of international technical assistance projects:

continue to conduct the monitoring and/or support the monitoring of the process of institutional and organizational development of the HACC.



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