



Viktoriia Melnyk

# How to upgrade EU benchmarking in Fundamentals

the case of judicial reform in Ukraine

# Fundamentals: specific features and challenges

1



The cluster includes the most complex reforms – **judicial, anti-corruption, law enforcement, and public administration reforms**



The specific feature of the reforms – **mostly regulated through state discretion and based on international standards**



The current enlargement methodology is well-structured, but its practical application to the Western Balkans **demonstrated the need for improvement in order to increase efficiency for both sides**



## How to improve approach for fundamentals?

2



### **Objectives of the study**

– to find a solution to make benchmarks less general and more measurable indicators



### **The goal of this study**

is not only to provide a legal and empirical picture of the situation of Ukrainian judiciary, but also formed benchmarks in light of the country's EU accession



**The study proposes** a new approach to combine the EU's flexibility in formulation with the need for clarity of requirements specific to the national context of Ukraine



# Methodology

3



Comprehensive set of **judicial independence, accountability, efficiency and effectiveness** 'benchmarks'



The **normative and empirical analysis** aimed at analysing the state of the judicial system reform – identifying gaps in legal regulation and law enforcement that need to be addressed



Development of recommendations on how to address gaps and problems in order to reform the judicial system and fulfil Ukraine's obligations in the context of EU integration and divide them into three categories/different stages of the negotiation process: **opening, interim, and closing**



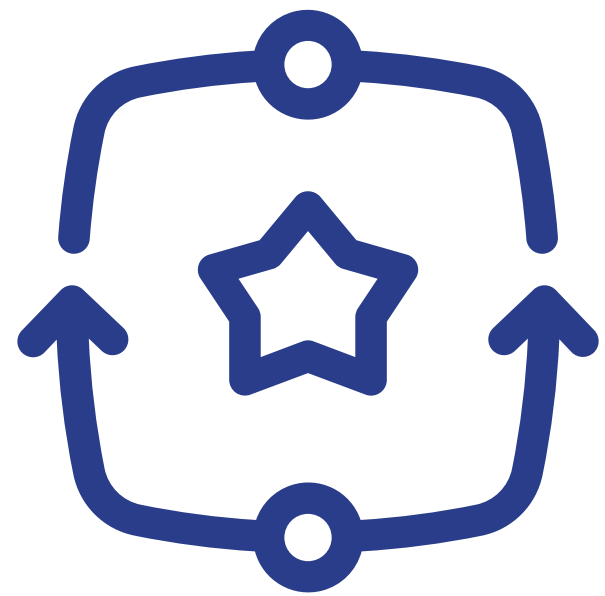
The state of implementation of judicial reform –

→ **still need to be reformed**



Methodology – peculiarities of institutional reforms, legal systems and historical preconditions play an important role in the approximation process –

→ **the approach needs to be improved**



The development of the policy recommendations should be based on a problem-oriented approach –

→ **each recommendation should be aimed at solving a specific problem and be clearly formulated**



# Policy recommendations

– the case of judicial reform in Ukraine





## POLICY RECOMMENDATIONS

5.1

- Clearly division of policy recommendation possible only at the first two – **opening and interim**. **Closing** can be formulated as **goals** that Ukraine should achieve at the end of the accession negotiation process.
- Further, the **closing policy recommendations**
- can be clarified as subtasks in the process of analysing the state of implementation of the opening and interim recommendations.



## POLICY RECOMMENDATIONS

5.2

- The clarity of policy recommendations is a necessary tool for achieving the effectiveness of reform measures,
- while flexibility is a tool aimed at responding to new challenges during accession. This allow for prompt adjustment of tasks in case the assessment of the implementation demonstrates its inefficiency or partial effectiveness.

\* *All policy recommendations are proposed to be considered in the matrix – Annex I “Logic Matrix – Judicial Reform in Ukraine in the Context of Ukraine's Negotiated Accession to the EU”*

# EXAMPLE



## PROBLEM:

The Ukrainian judicial system is experiencing an acute shortage of both financial and human resources, which impairs access to justice.

## INDICATORS:

### OPENING:

1. Introducing an objective method of scoring by the members of the HQCJ within the framework of the selection and evaluation procedures of judges, making it possible to establish the correlation between the scores given to the candidates and the evaluation criteria;
2. Starting the selection of new judges to local courts under the updated procedure;
3. To audit the activities of the State Judicial Administration and enterprises under its management, based on the results of which to develop recommendations to ensure fairness in the distribution of budget funds allocated to the justice system and the efficiency of their spending.

### INTERIM:

1. Filling vacant positions in the judiciary (at least 2 thousand judges), with further analysis of sufficiency of the existing number of judges to ensure effective access to justice for citizens;
2. Introduce regulations for transparent planning and allocation of budget resources in the judicial system.

### CLOSING:

1. The judicial system is provided with the necessary amount of resources and a mechanism for monitoring the effectiveness of their use.



## How is it useful for all parties involved?

6



### The European Commission

will be able to organise the process of monitoring Ukraine's implementation of its commitments more effectively;



### Member States

will be able to monitor the progress of reforms in Ukraine and will be more convinced that the process is transparent;



### The Government of Ukraine

will have a clear understanding of the steps it needs to take to achieve the desired outcome;



### Ukrainian civil society

will be able to monitor reforms more effectively, respond to challenges and provide expert support to the government in the areas most relevant to European integration at different stages.

# Thank You for attention!

