

Scope of Work/Program Description Judicial System Strengthening Activity

Background and Context

The Republic of Uzbekistan inherited its judiciary from an authoritarian state—the Soviet Union—where all branches of government were subordinated to political influence and control. In this system, judicial independence and the rule of law were entirely absent. Courts often served as a cosmetic element of a vast punitive system that operated on instructions of the Communist Party and on behalf of an insulated elite. After Uzbekistan gained independence, many Soviet features of the judiciary were aggravated by additional, including a decline in the quality of legal education and thus in the professionalism of judges and attorneys, corruption in the judiciary and society, and a lack of resources as well as familiarity with international standards and good practices in judicial system reform.

Post-Soviet efforts at judicial reform over the ensuing decades of rule by President Islom Karimov introduced moderate improvements and efficiencies. However, the judiciary still remained firmly under political control and lacked public legitimacy through the conclusion of the Karimov era. Since then, however, more meaningful judicial reforms have been introduced.

Shortly after assuming power in late 2016, President Shavkat Mirziyoyev initiated a comprehensive reformist agenda with emphasis on legal and judicial reforms to strengthen the rule of law, protect fundamental rights and freedoms, combat corruption, improve economic growth, and facilitate foreign investment and trade. This effort to overhaul the legal and judicial systems began with an October 2016¹ decree that called for a review of more than 700 legal acts in areas of criminal and civil law along with measures to support judicial independence and integrity. It was followed in January 2017 by a package of judicial reforms to further strengthen the institutional independence and that of individual judges and to improve communication of the judiciary with the public.

Reform of the judiciary received a further boost with the January 2017 announcement of the *National Action Strategy on Development 2017-2021*.² Ensuring the rule of law and further reforming of the judiciary was identified as one of the Strategy's five priority areas. Furthermore, the Strategy calls for measures to strengthen judicial independence, increase the authority of the courts, improve administrative, criminal, civil, and commercial law, combat corruption and crime, guarantee rights, and improve legal aid and legal services.

Pursuant to the Strategy, strengthening judicial reform and rule of law as a national development priority has been advanced through several noteworthy laws and decrees. Specifically these

¹ See, Presidential Decree, “*Measures on further reforming the judicial system and strengthening the guarantees of reliable protection of the rights and freedoms of citizens.*” October 2016.

² See, *National Action Strategy on Five Priorities for Development 2017-2021* at https://strategy.uz/index.php?static=prioritetnye_napravleniya

include the *Law on the Supreme Judicial Council*, *Decree on Measures to Improve the Structure and Increase the Efficiency of the Activities of the Judicial System*, the *Decree on Increasing Public Trust in the Judiciary*. These instruments have strengthened the normative framework for judicial reform and the rule of law and have contributed to a number of positive changes. Most notably, a 21 member Supreme Judicial Council was established in 2017 with a broad mandate to strengthen judicial independence, including the process for judicial selection. Also, a Higher School of Judges responsible for the training and professional development of judges and court personnel was established in 2019 under the new Supreme Judicial Council. In addition, many competencies related to the administration of justice have been transferred to a newly established Supreme Court Department for Supporting Court Activities. Greater transparency measures, including press outreach, making court decisions publicly available, and implementation of the E-Sud information management system, have also been introduced.³

Other noteworthy reforms have merged the Supreme and Higher Economic Courts and expanded the mandate of the Supreme Court to consolidate the country's four specialized courts (i.e. civil, administrative, economic and criminal) into one single system with the Supreme Court as the governing body. This includes vesting the Supreme Court with the responsibility to establish new administrative courts in all provinces, regions and districts of Uzbekistan. These new courts have jurisdiction disputes between local and foreign companies and individuals with government authorities, including disputes over decisions by government authorities such as tax, customs, anti-monopoly and other government authority decisions.

Problem Statement

Despite these advancements, judicial independence and the rule of law in Uzbekistan continue to face complex challenges: an out of date legal framework; lack of checks and balances between the executive, legislative, and judicial branches; public disillusionment with courts due to continued political influence over the judiciary; power struggles and lack of coordination within the justice sector itself (e.g. Ministry of Justice (MOJ), Supreme Court, and the Office of the General Prosecutor); inadequately trained personnel; and corruption. Historically, endemic corruption and opaque processes have limited private sector and foreign investor confidence in Uzbekistan's judicial system, which in turn stymied any potential for real economic growth.

Moreover, the rapid pace of reform risks leaving citizens and businesses behind as the judiciary fails to properly inform the public of its reforms, and citizens struggle to grasp the real impact on the protection of their rights and how they can access the justice system and use it to resolve disputes as needed.

As Uzbekistan deepens judicial reforms aimed at strengthening judicial independence, accountability, and efficiency, it must strengthen the capacity of judicial administration bodies, i.e. Supreme Court, Supreme Judicial Council, and Higher School of Judges, to play a leading role in managing the internal affairs of the judiciary, coordinating competencies and activities, and improving the performance of individual judges and the courts in delivering justice services to

³ For a review of recent positive changes in the judiciary, see United Nations Special Rapporteur on the Independence of Judges and Lawyers, *Preliminary Observations on the official visit to Uzbekistan (19-25 September 2019)* available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25043&LangID=E>

citizens. At present, these judicial administration bodies lack familiarity with international standards and best practices as well as requisite expertise in planning, adopting, implementing, and measuring holistic, system-wide reforms.

Another reform challenge is the consolidation of the four specialized courts under the administration of the Supreme Courts. In this regard, particular attention should be given to standing up the new administrative courts along with deepening integration of the economic court. These courts lack capacities to effectively empower the judiciary, safeguard the business environment, and resolve disputes over decisions by government in areas of tax, customs, anti-monopoly, and other areas of executive regulation and decision-making. This will require putting in place the necessary policies and standard operating procedures to ensure uniformity across all courts, introducing the tools as well as processes, and building the capacities of judges and court personnel to deliver impartial and quality justice services, and make them accessible for all.

Lastly, the rapid pace of reforms risks leaving citizens and businesses behind as the judiciary fails to properly inform the public of its reforms, and citizens struggle to grasp the real impact on the protection of rights.

Theory of Change

If independent judicial administration bodies play a leading role in integrating the specialized courts (i.e. civil, administrative, economic, and commercial) into a more uniform and effective system for the administration of justice, and judges and court personnel are more qualified and better equipped to deliver justice services and engage the public, then justice for all and the rule of law will be strengthened.

Activity Goal and Objectives

The overall goal of this activity is to strengthen an independent judiciary capable of providing justice for all and guaranteeing the rule of law in Uzbekistan.

The three objectives that will support the Activity's goal are:

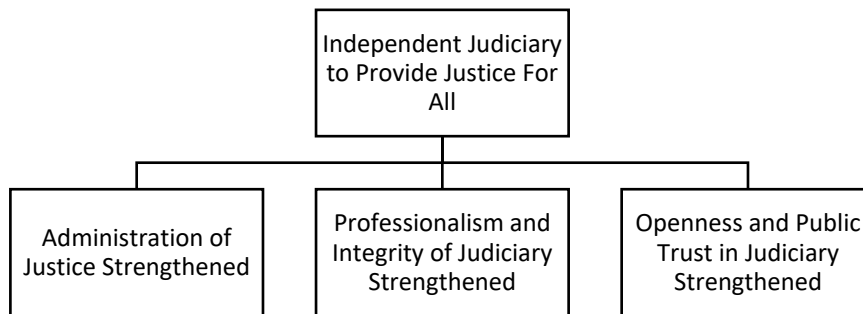
- Objective 1: Administration of Justice Strengthened
- Objective 2: Professionalism and Integrity of the Judiciary Improved
- Objective 3: Openness and Public Trust in the Judiciary Strengthened

The Activity will work in close partnership with the core judicial administration bodies that are mandated to guarantee judicial independence, efficiency, and accountability. This includes, more specifically, the Supreme Court, Supreme Judicial Council, and the Higher School of Judges. In addition, the Activity will work directly with individual courts that fall under the Supreme Court as well as individual judges and court administrative personnel.

The *primary orientation* of Activity interventions to achieve the aforementioned goal and objectives will be towards institutional development and capacity building, tailoring good practices, introducing innovative processes and tools, and providing other forms of technical

assistance. This will enhance the performance and effectiveness of judicial administration bodies and the courts, in exercising their competencies in support of the rule of law and performing their mandates to provide quality justice services for all in a manner consistent with international standards of judicial independence. This includes the consolidation and unification of civil, administrative, economic, and criminal courts, with particular emphasis on the administrative and economic courts. Notably, the Activity will contribute to the strengthening of additional legislative, regulatory, and policy frameworks only to the extent doing so is appropriate to achieving the aforementioned goal and objectives. Similarly, the Activity will limit investments in analytical studies and related events unless they are directly tied to the same.

Results Framework



Goal and Objectives

Objective 1: Administration of Justice Strengthened

The efficient administration of justice is a fundamental responsibility of an independent judiciary and an essential means to promote justice for all. International standards on judicial independence stipulate that judicial administration bodies should play the leading role vis-à-vis the executive branch and legislature in managing judicial matters. This requires ensuring clarity in the division of competencies in judicial policymaking and coordination among judicial administration bodies at the systems level as well as strengthening capacities. At the same time, it also requires introducing standard operating procedures, employing effective processes and tools, and allocating resources required for the delivery of fair trials and other justice services at the court level. How courts are structured and managed can affect the experience of justice seekers almost as directly as the judge’s final disposition of their case.

Strengthening the administration of justice is a priority for Uzbekistan as it moves forward in reforming the judiciary and ensuring its institutional independence as well as the independence of individual judges. Efforts to do so proceed on the basis of recent normative acts that established the Supreme Judicial Council, unified four of the country’s specialized courts under the Supreme Court, and created a new Supreme Court Department for Supporting Court Activities. Similarly, the National Development Strategy prioritizes measures to improve the

judicial system and court performance with attention given the quality of justice dispensed by the judiciary. However, these reforms are still nascent. Whereas a commitment for reform exists, the capacity of judicial administration bodies and the courts themselves to implement effective reforms on the basis of international standards and comparative best practices is limited.

Through Objective 1, this Activity will support efforts to further strengthen the administration of justice in Uzbekistan in the context of far reaching judicial reforms that emphasize the importance of an independent judiciary and independent judges. Support will include assistance to clarify the division of competencies with regards to judicial policy making, enhance the capacity of judicial administration bodies, and ensure coherence in administration of justice throughout the newly unified judicial system comprised of civil, economic, administrative, and criminal courts. In addition to working with judicial administration bodies, including the Supreme Court, including the Department on Court Activities, and the Supreme Judicial Council and Higher School of Judges, the Activity will work with individual courts to improve the working methods, processes, and resources related to court administration, case management, and the delivery of justice services.

Expected Results/Outputs:

- Judicial administration bodies function in a more coherent and coordinated fashion based on a clear division of competencies.
- Judiciary exercises independence with regards to the administration of justice and other judicial competencies.
- Women and national minorities are appropriately represented and play leadership roles in judicial administration bodies and courts.
- Strategic planning and resource allocation decision-making of judiciary and courts are more data-driven and tailored to effectively meet priorities and needs.
- Specialized courts consolidated under the Supreme Court on the basis of uniform policies, procedures, and tools for the administration of justice and case management.
- Courts equipped with and use IT (E-Sud) and E-justice systems to improve efficiency in workflow, case assignment and management, and accessibility to quality justice services.
- Quality of justice is improved through greater expertise of judges in managing and deciding cases in a timely and impartial manner.

Illustrative Activities:

- Facilitate mechanisms to improve coordination of judicial policy development and implementation by judicial administration bodies.
- Strengthen capacities and processes for development of judicial policies and standard operating procedures that reflect international standards and good practice.
- Improve data collection, literacy, and analysis for use in judicial policymaking and public reporting.
- Support regular implementation of court user surveys and justice needs surveys.
- Build strategic planning capacities of judicial administration bodies and expertise in budgeting and resource allocation.
- Facilitate expansion of E-Sud use among courts throughout the country.

- Introduce E-justice and other forms of court automation, e.g. kiosks, to improve public access to information and services.
- Improve case flow management expertise and tools to enhance case clearance and disposition rates.

Objective 2: Professionalism and Integrity of Judiciary Strengthened

Ensuring judges and court personnel meet high standards of professionalism and integrity in undertaking their work is fundamental to establishing and exercising genuine judicial independence. Professionalism and integrity safeguard the judiciary in adjudicating cases free from undue or improper influences while also enhancing its ability to deliver justice services to the public, protect fundamental rights and freedoms of all members of society, and ultimately guarantee the rule of law. Strengthening professionalism and integrity, as a function of an independent judiciary, is a multifaceted endeavor. It involves numerous issues and activities *inter alia* judicial selection and appointment, training and professional development, performance standards and processes, and ethical norms and mechanisms for their enforcement.

Improving the competence and performance of members of the judiciary in their daily work, with an emphasis on professionalism and integrity, is foundational to Uzbekistan's ongoing efforts to reform the judiciary in accordance with international standards. It is also linked to ensuring the rule of law as a basis for the country's ongoing development and integration into global frameworks and processes. In this regard, initial judicial reform measures have recognized the need to strengthen how members of the judiciary are selected, trained, and perform their official duties and have undertaken positive steps towards addressing this need. The establishment of the Supreme Judicial Council and the Higher School of Judges, for example, vests the judiciary with greater ability to raise the professional qualifications of judges and ensure their integrity and discipline as well as base judicial selection on objective criteria and merit. Nevertheless, additional steps to strengthen their institutional capacities along and improving working methods, tools, and specialized expertise is warranted.

Through Objective 2, this Activity will assist the judiciary play the leading role in strengthening its professionalism and integrity as a standard function of its institutional independence. In doing so, it will also emphasize promoting the independence of the individual judge so they are able to understand then act impartially and competently when applying the law. In addition, it will also support efforts to ensure that court personnel demonstrate requisite expertise and skills to perform their duties effectively and efficiently. Activities undertaken through Objective 2 will be focused primarily on strengthening the institutional competencies, capacity and effectiveness of the Supreme Judicial Council and Higher School of Judges. As necessary and otherwise appropriate, Objective 2 activities will also engage the Supreme Court and other stakeholders.

Expected Results/Outputs:

- Higher School of Judges core curriculum, instructional methodologies, and trainers strengthened on the basis of international standards and good practice in judicial education.
- Judges and judicial assistants are trained in leadership, management, and ethics as well as

core substantive and procedural law, including human rights, commercial dispute resolution, and other specialized topics.

- Court personnel demonstrate expertise in administrative management and operational support.
- Performance evaluation of judges and court personnel that reflected international standards are introduced.
- Safeguards for judicial independence, professionalism, and integrity, including norms and processes for appointment and promotion, comply with international standards.
- Judicial ethics and disciplinary mechanisms function in a transparent and impartial manner.
- Human Resources policies and practices utilized to recruit and retain quality judges and court personnel and facilitate their professional development and career advancement.

Illustrative Activities

- Perform needs assessment of judiciary and court personnel training needs.
- Strengthen judicial education instructional methodologies and training capacities for initial and inservice continuing judicial education.
- Improve judicial examination process for selection of judge candidates.
- Facilitate in service and continuing education of judges and judicial assistants in substantive and procedural law, specialized legal topics, ethics, and case management skills.
- Build capacity of court personnel to perform court management and operational support duties.
- Introduce best practices and processes for evaluating the performance of judges and court personnel.
- Strengthen criteria and processes for appointment and promotion of judges.
- Strengthen expertise and processes for development and implementation of human resource policies for judges and court personnel and their professional development.

Objective 3: Openness and Public Trust in Judiciary Strengthened

Making judiciaries transparent and accountable to the general public as well as to their users, is considered an essential aspect of the rule of law and good governance. Recent years have seen a growing commitment of states to principles of “open justice” complemented by new international standards and good practice. Strengthening access to legal information as well as to justice data, leveraging technology and innovation, and improving civic engagement and participation comprise part of this trend. Open justice activities provide the judiciary an opportunity to enhance internal processes by engaging external expertise and to improve service delivery based on a better understanding of the legal problems of justice seekers and the public. In similar fashion, improvements in public understanding of how judiciaries function, along with how to engage them as users and as citizens alike, can also lead to greater public trust and legitimacy.

Uzbekistan’s new vision for judicial reform emphasizes measures to improve user satisfaction and public trust in the judiciary. This includes enhancing transparency of the judiciary,

facilitating an open dialogue with the public, and expanding engagement of the media in reporting on the work of the judiciary. In addition, intended reforms envision improving legal literacy of citizens, their access to information, and the connection of courts to the users and communities they are mandated to serve. Noteworthy measures have been undertaken in this regard, such as the introduction of the E-Sud information management system in the civil courts, video streaming of some court proceedings, and the publication of individual cases along with basic information on the websites of the Supreme Court and other judicial administration bodies.

Through Objective 3, this Activity will build upon existing initiatives and achievements to further strengthen openness and public trust in the judiciary. Particular attention will be given to ensuring the judiciary and courts are more effectively equipped to communicate with and engage with the public. At the same time, the Activity will work to foster cooperation and partnerships between the courts and communities to improve service delivery. In order to achieve an open judiciary, Objective 3 will engage the Supreme Court and Supreme Judicial Council as the primary judicial administrative bodies responsible for judicial matters. It will also work with the Judges Association of Uzbekistan and individual courts to improve their openness and public engagement. In addition, the Activity will engage and facilitate cooperation between the media, representative civil society organizations, and the Judges Association to strengthen public trust in the judiciary.

Expected Results/Outputs:

- Judiciary adopts and utilizes communication strategies that improve transparency in policy-making and the work of the courts.
- Judicial administration bodies and courts introduce public information officers to effectively communicate with the public and the media.
- Courts and trial proceedings are open and accessible for all citizens, including the disabled.
- Public has greater access to legislation and information about the judiciary, including periodic reports and data, judicial decisions, case information, and court services.
- Public is more effectively engaged in dialogue and feedback mechanisms with judiciary and courts to improve services and find solutions to community justice issues.
- Media is adequately equipped to effectively report on judicial reforms, high profile cases, and other rule of law issues.
- Civic education and “street law” activities improve legal literacy and empowerment of citizens, including women, youth, and other key populations.

Illustrative Activities:

- Introduce protocols for more transparent work of judicial administration bodies including attendance of civil society and/or media at meetings.
- Facilitate processes for systematic publication of court decisions of all courts on the Supreme Court website.
- Support development of communications strategies for judicial administration bodies and courts.
- Introduce Public Information Officers in courts throughout the country.
- Convene court-media meetings and media capacity building to improve reporting on judicial matters.

- Strengthen public presentation and speaking skills of court presidents and managers.
- Facilitate open court and civic engagement activities to improve public awareness and understanding of the work of courts.

Strategic Context

This Activity will support RDCS DO #3, “more effective and inclusive government institutions that serve the public good” including IR 3.1, “more constructive engagement between representative civil society and governments” and sub-IR 3.2.1, “increased capacity of key state bodies to govern well.” In addition, this Activity supports the Central Asia Strategy Objective 6: “Promote rule of law reform and respect for human rights: Line of Effort 2: Strengthen the region’s rule of law and security capabilities.”

Host Government Priorities

The Government of Uzbekistan has identified ensuring the rule of law and further reforming the judicial system as priorities for national development. Within this framework, particular emphasis is given to strengthening the institutional independence of the judiciary, insulating judicial selection and performance from undue political and other influences, improving the efficiency and quality of justice as a function of an independent judiciary, and enhancing transparency in the work of the courts and their connection to the public. These priorities are also reflected and are being given effect on the basis of a normative framework that increasingly reflects international standards and good practice.

Judicial reform has been prioritized as part of a larger reform agenda to improve the country’s standing in several key international indices. First, ensuring judicial independence and increasing efficiency of the courts has been linked to improving the business and foreign investment and trade environment as reflected in the World Bank’s *Doing Business* index, specifically the measure on “Enforcing Contracts” which includes indicators on time, cost, and the quality of judicial processes.⁴ In 2019, Uzbekistan ranked 22nd out of 190 countries in the world for this measure. In addition, Uzbekistan’s commitment to judicial reform is linked to raising its ranking by the World Justice Project’s *Rule of Law Index*, which for 2019 was 94th place out of 126 countries worldwide.⁵

Uzbekistan has also prioritized judicial reform to improve compliance with the Sustainable Development Goals (SDGs), specifically SDG 16.3 on promoting the rule of law and strengthening equal access to justice for all. Moreover, the government has signalled its

⁴ See, World Bank Group, *Doing Business 2020 Uzbekistan Country Report*, available at: <https://www.doingbusiness.org/content/dam/doingBusiness/country/u/uzbekistan/UZB-LITE.pdf>
Overall, across all indicators, Uzbekistan ranked 69th globally with a score of 69.9 out of 100 this year, having moved up from 76th place in 2018

⁵ Uzbekistan also ranked 12th out of 13 countries in its regional grouping. See World Justice Project, *2019 Rule of Law Index Uzbekistan Country Report*, available at <https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2019>

commitment to judicial independence and the rule of law by facilitating a visit of the United Nations Special Rapporteur on the Independence of Judges and Lawyers in September 2019. It has also expressed willingness to deepen reforms based on the Special Rapporteurs final recommendations.

Sustainability and Self-Reliance

Sustainability is fundamental to USAID’s assistance and is at the core of the Journey to Self Reliance (J2SR) agenda, the aim of which is to ultimately eliminate the need for foreign assistance by supporting leaders and countries as they make difficult development choices and undertake sustainable economic, social, and political reforms. As stated in the USAID J2SR policy framework, including *Ending the Need for Foreign Assistance*, “facilitating equitable access to security and justice, building social and economic ties among communities, and strengthening mediation and alternative dispute-resolution mechanisms, ” an independent and well-functioning judiciary, a fundamental pillar of the rule of law, is fundamental to achieving these results.

In line with the J2SR framework, the Activity will strengthen the institutions, actors, and processes that comprise the judiciary of Uzbekistan as a foundational basis for creating a more prosperous, just, and inclusive society. By enhancing a more independent, accountable, and efficient judiciary, the Activity will also guarantee the fundamental rights and freedoms of all members of Uzbek society, empower them to know, use, and ultimately shape law and justice, and make them more self-reliant in addressing legal problems and justice needs they confront in their everyday lives.

Successful Applicants will elaborate how they will engage local stakeholders, including all relevant justice institutions and actors and other government authorities, to seek solutions to the justice system development challenges associated with the Activity’s stated objectives and outcomes. This includes planning, setting priorities, implementing, and financing these solutions. In addition, Applicants should identify how results will be sustained beyond the life of the Activity.

Gender and Social Inclusion

This Activity will strengthen gender and social inclusion in Uzbek society and ensure that the justice system is both reflective of and responsive to women as well as the poor, marginalized populations, and disabled, and other key population groups. This emphasis reflects USAID’s recognition of the importance of equality and empowerment in development and their inextricable linkages to rule of law promotion and justice system strengthening. The Applicant should identify potential gender issues that might be encountered during implementation and describe how they will be addressed. This includes reference to the justice needs specific to Uzbek women and also empowering women as rights holders, justice seekers, and leaders within the judiciary and other justice institutions.

Other Programmatic Connections and Collaboration

This Activity will align with USAID and U.S. Government policies and strategies that guide bilateral relations and partnership between the United States and Uzbekistan. It will both complement and coordinate with other USAID and U.S. Government funded rule of law and judicial system strengthening activities and inform a whole of government approach to strengthening the rule of law in Uzbekistan and its journey to self-reliance. This Activity will also demonstrate leadership among international donors and programs active in the justice sector.