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CONTENTS

USAID Human Rights in Action Program Updates	2
Human Rights Monitoring, Analytical Activity and Advocacy	2
Strategic Litigations	4
Free Legal Aid	5
Human Rights Education and Awareness Raising	6
Main Events in Human Rights Area	8



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USAID HUMAN RIGHTS IN ACTION PROGRAM UPDATES

HUMAN RIGHTS MONITORING, ANALYTICAL ACTIVITY AND ADVOCACY

Transitional justice model for Ukraine

The Ukrainian Helsinki Human Rights Union (UHHRU) in frames of the USAID Human Rights in Action Program continues elaborating and promoting the transitional justice model tailored to the Ukrainian context in order to facilitate conflict resolution and post-conflict recovery. The process was launched back in 2016 and since then a corresponding baseline study (*abstract review is available [here](#)*) was conducted and [an international conference](#) was hosted (*conference proceedings can be found [here](#)*). Currently, the Program concentrates efforts on shaping national policy on transitional justice as well as on holding an awareness raising campaign meant to explain the principles of transitional justice and their relevance during the transition from authoritarian past to democratic present and from the armed conflict to post-conflict settings. For this, there was drafted¹ a framework document – the bill “Fundamentals of the state policy for protection of human rights to overcome the consequences of armed conflict” ([link in Ukrainian](#)): publicly presented in spring 2018, it supposes to become a basis for elaborating further conflict-related legislation.

News feed for September includes:

- On September 25, the Program in concert with the Parliament’s Human Rights Committee co-hosted a roundtable discussion “Transitional justice as a way for overcoming consequences of conflict and armed aggression” to deliberate on a number of topical issues pertaining to post-conflict justice and reconciliation in Ukraine. Event welcomed more than 80 participants, including MPs, representatives of international organizations, bodies of public authority and civil society groups. A due regard was given to stirring up discussions on securing justice for war victims, restoring their rights, and re-establishing legal ties with residents of occupied territories that is fully covered by Program-promoted tailored national transitional justice model and, in particular, clearly stipulated in the draft law on the fundamentals of the state policy.



In course of the event Hrygoryi Nemyria, Committee’s Chairperson, underscored that transitional justice model is of strategic importance when tackling human rights violations and eradicating impunity amid armed conflict. MP Iryna Suslova talked about obstacles that impede introduction of transitional justice in Ukraine, such as inconsistency of domestic legal terminology with the international one², complicated financial-economic and scientific expertise of legislation. President of the European Committee for the Prevention of Torture and expert in international law Mykola Hnatovsky said that Ukraine’s law enforcement agencies should be properly prepared for conducting thorough investigations into war crimes. *More takeaways are given [here](#) along with the video footage of the event, in Ukrainian*. Program team was also at the forefront of the polemic advocating for consolidation of efforts of all stakeholders, specifically

¹ By a working group under the Ukraine’s Ombudsperson (in office from 2012 till March 2018), which engaged experts of UHHRU and other NGOs, representatives of international organizations, as well as MPs and representatives of the Ministry of IDPs and occupied territories.

² For instance, “conflict victims”, “truth commission”, “restoration of historical truth”, “war crimes documenting”, etc.



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by virtue of elaboration of a transitional justice roadmap and ensuring conformity with the universal human rights standards, with the focus on conflict victims.

Among further steps is to finalize the roundtable' recommendations in conjunction with concerned government agencies; to analyze foreign experience and conduct practically-oriented assessment of domestic situation in Ukraine (legislation, practices, risks); to introduce into the Parliament the said draft law and to complete the action plan for its implementation.

Related links: a [publication](#) by the Parliament's Human Rights Committee, [notice](#) by the Ombudsperson's Secretariat and a [video footage](#) from Rada TV channel, all in Ukrainian.

- UHHRU signed a memorandum with the Ombudsperson – [link in Ukrainian](#). The document sets a broad framework for collaboration, however, some specific steps have already followed – two of our experts entered a Coordination council on Drafting Legislation to Facilitate Establishment of Transitional Justice Model in Ukraine (created by the Ombudsperson's Secretariat on September 18, [link in Ukrainian](#)).
- Just-in [analytical report](#) (*in Ukrainian*), which pieces together a picture around Stanytsya Luhanska, a frontline town appeared in the epicenter of the conflict. This is the fifth in a series of chronicles of hybrid armed conflict in Donbas that are produced and presented by the Program. In addition to restoring historical truth as part of transitional justice processes, these reports are aimed at encouraging conflict-affected individuals to report their stories to the Human Rights Abuse Documentation Center of UHHRU (which maintains a database of human rights violations and war crimes), as well as are used in legal and international advocacy efforts.
- On 11 September, in cooperation with the CivilM+ international platform the Program held side-event “The way to the truth. The life of Ukrainian frontline cities in the context of transitional justice” during the Human Dimension Implementation Meeting³ of the OSCE participating States. Since it is of paramount importance for Ukraine to keep the international community informed about the ongoing gross violations of human rights that are happening because of the conflict⁴, the Program presented our developments both in the field of holding strategic litigations, and of documenting factual evidence by UHHRU's Documentation Center. *Event's major takeaways are available [here in Ukrainian](#); a subject-matter interview with the lawyer [here](#). This [section](#) contains details as regard other side-events under UHHRU's participation.*
- Some other noteworthy events: (1) the Program delivered a [press conference](#) (*link in Ukrainian/Russian*) devoted to transitional justice approaches and practices; (2) Program's Chief of Party Taras Tsymbrivskyy [went](#) on the air at UATV Channel to articulate the significance of the transitional justice model for Ukraine.
- New in our thematic blog: (1) [What reconciliation means for Ukraine](#); (2) [Politicians are fighting for truth](#). Are they ready for the truth about the war though? (*links are in Ukrainian*)

Environmental consequences stemming from armed conflict and occupation

Whilst overall protection of the environment amid the armed conflict must be addressed until the damaging situation has gone too far⁵, particular attention has also to be paid to people who in this or that way suffered from worsening ecological situation and man-made incidents. To this end,

³ HDIM is a Europe's largest annual human rights and democracy conference, held in Warsaw, Poland.

⁴ It is needless to say that violations of the Ukrainian citizens' rights are widespread and systematic. Here is just a glimpse of the UN statistics cited by our experts during the said event: over 4 years of the conflict more than 2,540 civilians were killed and 9 thousand were wounded; 4.4 million people appear in a difficult humanitarian situation. As for the military, about 3,500 persons were killed and 8,500 were wounded.

⁵ A subject-related [link](#), in Ukrainian



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Program's lawyer joined a [press conference](#) to talk about consequences of the recent collapse at the "Crimea Titan" plant in Armyansk, occupied Crimea, where emission of harmful chemicals occurred. The points of concern were initiating criminal proceedings on atmospheric pollution, protecting ecological rights and compensating damage done along with bringing Kremlin as the occupation authority to responsibility in line with the international humanitarian law. [Here](#) is also a memo, in Russian, prepared with ally organizations, giving tips to victims of human rights abuse.

Fighting for Program-supported piece of legislation on protected persons status

This month, our delegates took part in the Human Rights Parliamentary Committee's sitting to advocate towards a draft law on the status of detainees as "protected persons" and social guarantees for them, developed by UHHRU/Program in concert with the Media Initiative for Human Rights. As result, it was decided to recommend to the Parliament to take our document as a model (with the amendments according to the recommendations of the Verkhovna Rada's Institute of Legislation) and to register a new draft law, which would be more relevant to the demands of civil society and families of the victims.

Other related activities by UHHRU in brief:

- **A number of HDIM-based side events were held**

UHHRU [co-organized](#) a side-event on combating torture in Ukraine. Despite the fact that after 2014 the country has started reforming its criminal justice sector, incidents of torture are still poorly investigated (no more than 3% of such cases make it to courts each year).

Another event under our participation [concerned](#) rising threats to human rights activists in Ukraine. Our expert considers that the European trend of imposing restrictive legislation on the civil society sector is becoming a real threat to democratic countries.

- **Calling to ensure unhindered access of independent monitoring missions to Crimea**

The UN General Assembly in its resolutions called the RF to allow access of international monitors for evaluating human rights situation in Crimea. Now it is a high time to practically implement these recommendations, – this was a key point by UHHRU's lawyer who spoke at [media event](#) devoted to presenting results of a multination human rights monitoring mission (*link in Ukrainian*). Organized by Human Rights Information Center under support of the Human Rights Houses Foundation (Norway) and "People in Need" NGO, this mission can be hardly overestimated since a first-hand information is very important for understanding the real situation in the Kremlin-controlled peninsula.

STRATEGIC LITIGATIONS

Within this direction the USAID Human Rights in Action Program supports strategic legal cases domestically and internationally to protect public interests⁶, as well as assures their broad media

⁶ Strategic litigations are one of the most powerful tools of human rights protection; conducted in the interests of a citizen or a group of citizens to achieve systemic changes in the legal field for the benefit of society and used for the purpose of creating the case-law (precedents).



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coverage among the professional community and the public. Total number of UHHRU Strategic Litigation Centre's (SLC) cases within the Program equals 231.

Other related activities by UHHRU in brief

- **UHHRU continues its work on protecting victims of the Russia's aggression through the European Court of Human Rights** (*links are in Ukrainian*)

- ✓ 65-year-old Crimean Tatar activist Asan Chapukh went on a hunger strike at the Simferopol pre-trial detention facility, demanding proper medical treatment (an independent medical expert believes the detainee may have suffered a stroke). UHHRU lawyers called on the European Court of Human Rights (ECtHR) to apply urgent measures under Rule 39. On September 24, the ECtHR sent an [inquiry](#) to the Russia regarding the detainee's health, and on the same day the activist was taken to the city hospital.

UHHRU's public address, which was made earlier, can be found from the [link](#).

- ✓ Four more applications were submitted to the ECtHR to apply Rule 39 on behalf of civilians that have been held captive in the occupied territory of Ukraine for over a year. The court ordered the governments of Ukraine and Russia to take urgent measures to locate the captives and arrange their release, as well as to report on the measures taken.
- ✓ Another complaint was filed against occupational authorities for committing human rights violations in Crimea, where administrative and criminal prosecution for religious and pro-Ukrainian posts on social networks is getting more frequent. Such interference with the right to freedom of expression seems to be disproportionate, which entails a violation of the European Convention on Human Rights

- **Victory in protecting the rights of people with mental disorders**

UHHRU defended in the Supreme Court the [legal stance](#) (*link in Ukrainian*) that the caregiver of a disabled person has no right to ignore the complaints filed with the court by such person. On September 20, our client appeared in a court personally for the first time in his entire life after UHHRU lawyers explained to the director of a boarding facility that he had no right to restrict the freedom of movement of the people in his care, unless there is a medical reason for that.

- **Accountability for torture and ill-treatment committed by law enforcement agencies**

A [submission](#) was sent to the Committee of Ministers of the Council of Europe providing analysis on implementation by Ukraine of general measures as regard enforcement of the ECtHR judgments in cases on torture committed by the law enforcement officers, as well as the efficiency of investigations of such cases. UHHRU prepared a number of recommendations for the Government of Ukraine, including on necessity to ensure efficient work of the National Preventive Mechanism in the Ombudsperson+ format, to speed up the opening of the State Investigations Bureau, and to guarantee proper regulation of criminal liability for instances of torture and ill-treatment.

FREE LEGAL AID

[UHHRU's network](#) of legal aid centers (LACs) keeps on delivering free legal aid (including outreach legal consultations in the remote areas), holding information and awareness raising events in the sphere of human rights as well as documenting war crimes and conflict-related human rights abuse.



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USAID supports activities of the UHHRU's legal aid centers in Sloviansk, [Toretsk](#), [Mariupol](#), Kramatorsk, [Pokrovsk](#), [Sumy](#) and Dnipro providing legal aid to conflict-affected population, as well as [Kyiv-based Specialized LAC](#) targeting both Crimean and Donbas residents and IDPs and Crimea-oriented LAC in Kherson.

Raising awareness of citizens regarding protection of their rights (*links are in Ukrainian/Russian*)

- *Dnipro-based lawyers deliver recommendation on how to get official status of person “affected by armed operations”*: An [article](#) was prepared with a special emphasis on children since there are enough ones who suffered from the armed conflict in eastern Ukraine.
- Lawyers of Mariupol LAC [talk](#) about human rights protection of those pensioners re-registered in the government-controlled territory of Ukraine.
- Sloviansk legal aid center provides [explanations](#) as regard deprivation of parental rights when a husband or wife remains in the self-proclaimed republics of “L/DPR”.
- Sumy-based lawyer [talks](#) on TV about human rights of the residents of non-government-controlled territories of Ukraine and IDPs (namely, which rights are observed in Sumy oblast and which are violated, whether there is a need for legislative changes, and what awaits Ukraine after the conflict ends).

Recent successes of legal aid centers in defense of human rights amid conflict and occupation (*links are in Ukrainian*)

- Citizen M., residing in the occupied Donetsk, applied for the legal assistance in connection with her mother's death occurred in the occupied Horlivka. The woman had a death certificate issued by the so-called “DPR” authorities, which is not valid in Ukraine. In other words, with this document it is impossible to get the state-guaranteed financial assistance to cover funeral expenses. The Kramatorsk-based LAC can [be of help](#) in a situation like this.

Also in September, this LAC [helped](#) an IDP to receive monthly targeted aid, managing to resolve the issue by applying to the government bodies without going to court.

- A certain success was achieved in a case of a foreign national who was prohibited from entry to Ukraine for violation of the procedure for crossing the administrative border with Crimea – after our lawyers have lodged a lawsuit, the Ukraine's State Border Guard Service voluntarily decided to reduce a length of entry ban for the claimant. It is important that as of today, our client is not restricted to enter Ukraine. Thus, if you or someone you know finds yourself in a similar situation, please [apply](#) to Crimea-oriented lawyers to get help.
- [Thanks](#) to Sumy-based lawyers, an IDP with disabilities received all due social payments through the court. One more success story of this LAC also concerns defense of the PWD' rights: it goes about resumption of pension suspended for unknown reasons. Just reminding that our lawyers, specifically from the Sumy legal aid center, are ready to provide those needed with the quality legal advice and assistance.
- Lawyers from Pokrovsk-based LAC [proved](#) in court that the decision of the Social Protection Department of the Myrnohrad City Council (Donetsk oblast) to deny state benefits for the birth of a child was unlawful.



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HUMAN RIGHTS EDUCATION AND AWARENESS RAISING

UHHRU keeps on organizing human rights training events as well as formulating a comprehensive national human rights education policy. This activity is implemented under Ukraine-wide Educational Program “[We Understand Human Rights](#)” (WUHR)⁷, which is being the only informal educational system that has the material basis for its activities – Educational Human Rights House-Chernihiv.

Informal human rights education

Taking part in two “Mistechko USAID”⁸ events held in September

In Mykolaiv (on September 8) and in Kramatorsk (on September 22), the Program [organized](#) the “Human Rights in Action” platform where people were supplied with information on our activities and those of USAID-funded legal aid centers. In course of events, our team delivered dozens of consultations to visitors on various human rights related issues; also our documentation expert polled local residents to find out if they somehow suffered from the conflict and what type of assistance they require in that respect. Around 200 children and teenagers were engaged in various interactive games. Program also managed to organize a kind of human rights library in each of the cities, where everyone interested could get special literature and handouts devoted to human rights observance amid the armed conflict.



Attending “Festival of Opinions” event in Severodonetsk, Luhansk oblast



Co-hosted by “Vostok SOS” NGO, the event’s aim was to span a wide range of issues that people in this conflict-torn region are concerned about – from reforms and lawmaking to sports and arts. Thus, on 8 September, 25 discussions on important social topics were held with involvement of more than 70 speakers from Ukraine and the EU. Among them [were](#) UHHRU/ Program experts in order to reiterate our stance towards overcoming consequences of the armed conflict (in particular as regard compensation for the damaged property, documenting evidence of human rights abuse and reconciliation efforts at the regional level) and explain to people what are the foundations upon which transitional justice model rests.

⁷ Launched since 2007, WUHR Program envisages development of informal human rights education, contributing to cultivating a human rights culture, strengthening respect for the rule of law in Ukraine, promoting intercultural understanding and principles of peaceful resolution of conflicts. The Program currently counts more than 3,500 alumni from all regions of Ukraine.

⁸ A traditional event organized by the U.S. Agency for International Development to inform residents of various cities about different USAID projects and non-governmental organizations, which are being USAID implementing partners in Ukraine.



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MAIN EVENTS IN HUMAN RIGHTS AREA

Continuous politically motivated persecutions against Ukrainian nationals in Crimea

- Pro-Ukrainian civic activist Marlen Mustafayev and family members of earlier persecuted activist Geray Kulametov (father Zekkiy, mother Zarema and sister Riana) were illegally accused and sentenced to administrative fines (women) and administrative arrests (men).

UHHRU strongly [condemns](#) such actions, urges the aggressor state to stop politically motivated persecutions and calls the Ukraine's Government to conduct a thorough investigation into the cases and take all possible measures to protect persecuted persons.

- On September 18, representatives of Russia-controlled law enforcement agencies conducted a search in the house of Crimean activists – brothers Aider and Arsen Bekirov. No one was arrested, nothing was seized, and the reason for the search is yet unknown.

UHHRU [considers](#) such actions as disproportionate interference with and violation of the right to liberty and security of person ([link in Ukrainian](#)).

Supreme Court declared unlawful suspension of payments for IDPs

On September 4, the Supreme Court adopted a landmark decision in the model case on restoration of pension payments, which was litigated by the “Right to Protection” Charitable Foundation. The [court reaffirmed](#) ([link in Ukrainian](#)) that the practice of suspending pensions based on inspections, which was introduced by the Cabinet of Ministers’ Resolution No. 365 of 2016, is against the law. Now administrative courts in Ukraine must be guided by this court’s decision in all similar cases. [Here](#) is a subject-matter publication on UHHRU’s website.

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