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USAID HUMAN RIGHTS IN ACTION PROGRAM UPDATES

HUMAN RIGHTS MONITORING, ANALYTICAL ACTIVITY AND ADVOCACY

Parliamentary Committee hearings on Ukraine's sanctions policy against human rights violators

The Law of Ukraine No 1644-VII "On sanctions" of 2014 (link in Ukrainian) provides for 24 different types of specific sanctions¹, which can be imposed by the National Security and Defense Council upon submission of the Parliament, Cabinet of Ministers, President, National Bank, or Security Service and can be lifted by these bodies or in court. However, the algorithm for introducing sanctions is still unclear and there is no control over sanctions implementation and responsibility for non-compliance. Thus, systematic approach in this sphere is to be applied by Ukraine.

To galvanize political will and advance progress towards improving the state policy on sanctions against persons responsible for unlawful politically motivated persecution of Ukrainian citizens in the country's occupied territories and in the Russian Federation, on 21 November, USAID Human Rights in Action Program² in concert with the Parliamentary Human Rights Committee convened committee hearings. This high-profile event welcomed all key domestic state actors engaged into shaping Ukraine's sanctions policy, foreign embassies, international organizations and human rights groups. Core discussion points referred to the necessity to amend and synchronize domestic sanctions legislation, to appoint national coordinator to foster coordination of actions between public bodies and civil society groups, to ensure ongoing monitoring of sanctions (already imposed by Ukraine and ally states) and to establish mechanism to allocate responsibility after noncompliance has occurred.

Amid the event, Program's delegation was representing the civil society's position on the matter concerned. Namely, our experts told why this policy is in need of improvement to serve for preventing systematic and gross human rights violations in the occupied territory, as well as dwelled on domestic policy dimension, specifically existing shortcomings and changes to be introduced for making it effective. Also, human rights defenders proposed to Ukraine and ally countries to create



a sanction list of those Russian nationals guilty of violating the rights of the political prisoners (the Ukrainian analogue of the Sergei Magnitsky Rule of Law Accountability Act of 2012). *Event's takeaways can be found* here and here, as well as from the event's video-footage (all in Ukrainian).

Draft recommendations of the committee hearings will be finalized and sent to the relevant state agencies that will be lately invited by the Parliamentary Human Rights Committee for reporting on their fulfillment:

¹ As well as sub-clause 25 "Other sanctions that meet the principles of their application established by this Law".

² The U.S. Agency for International Development (USAID) Human Rights in Action Program is being implemented by the Ukrainian Helsinki Human Rights Union since 2014





WHAT CHANGES SHOULD BE MADE TO UKRAINE'S SANCTIONS POLICY

REGARDING THOSE RESPONSIBLE FOR HUMAN RIGHTS VIOLATIONS IN THE CASES OF "KREMLIN'S PRISONERS"?

GOALS:

TO BRING

Ukraine's sanctions policy in line with world standards

TO PREVENT

possible attempts by those put on the sanctions lists to remove the sanctions in court

TO SIMPLIFY

the process for imposing additional sanctions against those on Ukraine's lists at the international level

TO INTRODUCE

the possibility for Ukraine to impose sanctions on those involved in cases of "Kremlin's prisoners"

THE VERKHOVNA RADA SHOULD

FORM A WORKING GROUP INVOLVING EXPERTS AND CIVIL SOCIETY ORGANIZATIONS TO DEVELOP AMENDMENTS TO THE LAW OF UKRAINE "ON SANCTIONS" BY:

- TO DETERMINE clear criteria for introducing/extending/lifting/revoking personal sanctions, including against those responsible for human rights abuse
- TO DETERMINE the necessary amount of personal information to be included in the sanctions lists
- TO EXPAND the circle of bodies authorized with proposing persons to be put on the sanctions lists (such as the Prosecutor General's Office or Ministry of Temporarily Occupied Territories and IDPs)
- TO PROVIDE for the possibility of appeals against sanctions in court
- TO ESTABLISH a coordination body (within the executive branch of government) that will be tasked with implementing the sanctions policy toward those responsible for human rights violations
- TO ESTABLISH monitoring of imposed personal sanctions and their observance by Ukraine as well as other countries
- ▼ TO PROVIDE for administrative and criminal liability for violation of sanction regime
- TO INTRODUCE a mechanism for synchronizing Ukraine-imposed sanctions with those introduced by the Western countries and international organizations

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WHAT SHOULD

UKRAINE'S CABINET OF MINISTERS

- PREPARE a report on Ukraine's sanctions policy toward those involved in the cases of "Kremlin's prisoners", its consequences and effects
- ✓ ADOPT A PROCEDURE for the monitoring of Western sanctions and their observance
- ENSURE SYSTEMATIC informing about Ukraine's sanctions policy
- ESTABLISH BODIES
 responsible for implementing
 the sanctions policy within
 the executive government
 structure
- ✓ DEVELOP AND ADOPT the format of interaction between public authorities and NGOs in the monitoring and introduction of sanctions against those involved in the cases of "Kremlin's prisoners"

THE MINISTRY OF TEMPORARILY OCCUPIED TERRITORIES AND IDPS

- ✓ PLAY THE ROLE of coordinator in the introduction of sanctions against those involved in the cases of "Kremlin's prisoners"
- MAINTAIN AND UPDATE the lists of those responsible for human rights violations in the cases of "Kremlin's prisoners", both Ukrainian as and Russian nationals

THE MINISTRY OF FOREIGN AFFAIRS

DEVELOP AND INTRODUCE a system for monitoring the observance of sanctions against those involved in the cases of

sanctions against those involved in the cases of "Kremlin's prisoners" in effect in foreign countries and for recording violations of sanction regime

✓ COORDINATE THE
INTERACTION between
public authorities and

THE NATIONAL INSTITUTE FOR STRATEGIC STUDIES

✓ ANALYZE THE EFFECT
of previous sanctions

imposed by Ukraine and develop recommendations for improving their effectiveness







In addition:

Proceeding with the sanctions theme, we would like to pay your attention to an <u>interview</u> (link in Ukrainian) delivered by the USAID Program's Director Taras Tsymbrivskyy to UA:Pershyi media





outlet. He touched upon the steps that should be taken by Ukraine to synchronize its efforts with foreign ally governments, key problems which stuck implementation of the centralized and systematic sanctions policy and some other related issues.

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 drafted 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 November includes:

<u>Documentation Center addresses youngsters amid its tour across major conflict-affected cities</u> in Donbas

From November 26 to December 1, Program-supported Human Rights Abuse Documentation Center was holding a series of public events to present its "Story of a city" brief analytical reports (namely, in Mariupol, Pokrovsk, Maryinka, Toretsk, Kramatorsk and Slovyansk of Donetsk oblast). Our main target audience are the schoolchildren (accompanied by educators) who received an opportunity to study, in an unusual format, the history of the frontline cities of their home oblasts in the context of Kremlin's hybrid war against Ukraine. Through such activities (which include not just working with the youth, but hosting opening and summarizing media events as well), the Centre is aiming to preserve the history for future generations together with those who make it now – the student youth. A glimpse of what the presentations looked like can be seen here, in Ukrainian.

From our point of view, recording of the current historical events will allow to avoid political speculations in the future. Pursuing this purpose, one year ago the Documentation Center launched a series of brief reports with historical background, which objectively to the extent possible piece together a picture around occupation and liberation of various frontline cities/town – so far the series comprises of 5 reports-chronicles (for example, here is one, in Ukrainian, while the rest can be found on our website).

• Our experts speak about transitional justice in Berlin

On November 14, UHHRU delegation took part in an annual conference "Autumn Meetings. Law and Justice in Post-Conflict Societies: European Experience" to speak about measures Ukraine undertook for implementation of the concept of the transitional justice, and looking for other methods of surmounting international armed conflict. The participants shared their views on the experience of the European countries in implementation of post-conflict recovery

³ 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.





measures. More details are available from the <u>link</u>. To echo the given link, here is an <u>additional</u> <u>one</u>, in Russian, that covers the occasion from the standpoint of CivilM+ civil society platform.

• New in out thematic blog (links are in Ukrainian): (1) "Ukraine as a platform for transitional justice: the perspective of international experts", (2) "What Ukraine does for future peace?".

Program consistently works to help Crimean residents to fully enjoy their rights

Our lawyer jointly with representatives of ally NGOs and Presidential representative of Ukraine in Crimea Borys Babin took the floor amid <u>a media event</u> to spread our shared concerns around slow progress of equipping checkpoints at the administrative border with occupied Crimea. In particular, we reaffirmed our stance that still there are obstacles that prevent Crimeans from fully enjoying their rights, and a sooner creation of an Administrative Services Center in immediate proximity to the border will help greatly to protect the interests of peninsula's residents.

Just reminding that back in February 2018 Program representatives participated in a <u>media tour</u> to Chaplynka and Kalanchak checkpoints and the city of Kherson, hosted by the Ministry on Affairs of Occupied Territories and IDPs, to monitor the state of affairs on implementation of customs/border control at the administrative border with temporarily occupied Crimea, to inspect whether the human rights of border-crossing people are properly respected thereof, as well as to study topical issues related to the creation and operation of the said Center. Later that month we distributed recommendations to the GOU on the issues concerned.

The given media event is a reminding to the GOU that the situation has an NGOs' close eye on it.

Human rights activists speak about violations in the work of the Commission that provides assistance to Kremlin's prisoners

Advocacy expert enhanced Program's voice amid a press briefing aimed at spotlighting shortcomings demonstrated in activity of the recently created Commission under the Ministry on Occupied Territories and IDPs, which is authorized to decide on payments for Kremlin's detainees and their families – <u>link in Ukrainian</u>. In particular, principles of commission's work remain foggy, hearings are held behind the closed doors with restricted access even for its immediate beneficiaries. In this respect, we continue advocating towards adopting a Program-contributed draft law on the status of 'protected person' that is meant to improve the situation.

Female human rights defenders who change Ukraine

We would like to bring to your attention a new publication in blog authored by UHHRU/Program gender advisor and devoted to introducing the Ukrainian female human rights activists who make efforts to benefit future of the country – <u>link in Ukrainian</u>. As the Program supports "16 Days of Activism Against Gender-Based Violence" international campaign to challenge violence against women and girls, this time our special interviewee is Kateryna Levchenko, Government Commissioner for Gender Equality Policy and famous expert in fighting gender-based violence and advocating for equal rights for men and women.

Other related activities by UHHRU in brief:

Consolidating efforts to tackle the problem of imprisonment of Ukrainian citizens

"Media Initiative for Human Rights" NGO (MIHR), that has a history of fruitful cooperation with UHHRU, handed over to a member of the Foreign Affairs Committee of the British Parliament a





long list of Russians involved with the torture and illegal imprisonment of Ukrainian and Crimean citizens amid armed conflict in Ukraine and occupation of Crimea – <u>link in Ukrainian</u>. Making such a list was made possible due to efforts of various human rights organizations including UHHRU. Maria Tomak, representative of MIHR, advocated before the British MP-level partners the issue of fighting impunity at the international level and bringing perpetrators to justice in a spirit of cooperation.

• Regarding murder of human civil society activist Kateryna Handziuk

Here is a <u>statement</u> of the Coalition for the Protection of Civil Society regarding the murder of Kateryna Handziuk. Furthermore, UHHRU encourages joining a <u>petition</u> of the Human Rights Agenda to set up a temporary commission for investigating attacks on civil society activists, journalists and political figures.

• Pubic address on capture of of Ukrainian servicemen by Russia

UHHRU released a public address condemning Kremlin's actions to detain Ukrainian sailors and seize the ships in the Azov Sea – link in <u>Ukrainian</u> and in <u>English</u>. Similarly, here is another subject-matter address made by a group of NGOs – link in <u>Ukrainian</u>.

More detailed information on the matter concerned is given in the Main events section below.

• Compilation of recent media appearances worthy of attention (all links are in Ukrainian)

Within UHHRU's consistent efforts to advocate against Kremlin-committed war crimes in occupied Crimea, here is a just-in exhaustive interview of our lawyer, delivered jointly with a legal expert from the ally Regional Center for Human Rights NGO – the link.

Further to this, here is another one that speaks to the issue of bringing the Russian Federation to responsibility for wrongdoings in the occupied Crimea; in this particular case the matter concerned is Kremlin's actions to coerce residents of the peninsula to serve in its army, which happens in breach of international humanitarian law – the <u>link</u>. And a similar one media appearance – the <u>link</u>.

Another interview touches upon militarization of Crimea, which entails changing its demographic structure and making it sort of a peninsula-size military base – the <u>link</u>.

To top it all, UHHRU lawyer speaks on TV about protection that human rights advocates and activists require nowadays in conflict-affected Ukraine as well as in occupied Crimea – the <u>link</u>.

STRATEGIC LITIGATIONS

Within this direction the USAID Human Rights in Action Program supports strategic legal cases domestically and internationally to protect public interests⁴, as well as assures their broad media coverage among the professional community and the public. Total number of UHHRU Strategic Litigation Centre's (SLC) cases within the Program equals 231.

⁴ 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).





How to realize right of internally displaced persons to pension

On November 15, Program's delegation attended USAID-supported international conference "Payment of pensions to IDPs in Ukraine: how to realize the constitutional right to a pension". It was a sound opportunity to remind about a recent success of the USAID Human Rights in Action Program, which is very speaking to the conference's topic (it goes about a revolutionary court ruling, <u>delivered in July</u> and abolishing compulsory verification for IDP pensioners). Our lawyer's remarks can be found in this video, in Ukrainian.

As a reminder, our legal aid centers handle cases that concern pensions for those affected by the conflict in Donbas or occupation of Crimea. If you require legal assistance or need a legal advice, do not hesitate to contact one of our LACs (their contact information is provided below).

FREE LEGAL AID

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

Raising awareness of citizens regarding protection of their rights

- The Mariupol-based legal aid center published a sort of a <u>memo</u> (*link in Ukrainian*) on how to get a passport for a child, who resides in temporarily non-government-controlled area of Ukraine with the whereabouts of one of the parents unknown.
- Sumy-based LAC lawyer shared on Hromadske Radio how to appeal in court against the decision of Ukraine's Pension Fund to suspend pensions, particularly for IDPs – <u>link in Russian</u>.
- IDPs in Dnipro are fighting for their right to live in dormitories that were renovated specifically for them. In 2015, in Dnipropetrovsk Oblast, seven dormitories were renovated for IDP families, with 750 people having been accommodated there. But what if a temporary accommodation is the only place to live that you have, the improvement of living conditions promised by the government remains just a promise, and there is no way to keep your dormitory room? Dniprobased lawyers are working (link is in Ukrainian) on this issue together with experts from the First Dnipro Center for Free Legal Aid and the adviser to the head of Dnipropetrovsk Oblast State Administration on the rights of IDPs.

Recent successes of legal aid centers in the sphere of human rights protection amid conflict and occupation

 A situation when IDPs are denied pensions or other payments on various grounds is typical in Ukraine's realities, unfortunately. UHHRU/Program work hard to assure a degree of protection to such people, and have already achieved justice in lots of cases. Here is another success





reported by our Sumy-based LAC – <u>link in Ukrainian</u>. To cut long short, an elderly low-income woman, IDP from Donetsk Oblast, was seeking for help because her pension was suspended without clear Pension Fund's explanation. Our lawyers quickly jumped into the case, helped the woman with all necessary procedural documents, and at long last scored a victory in court. At present, the court decision is under execution (to retrieve suspended pension and to return accumulated back payments).

• The Dnipro-based LAC helps an IDP who is unable to accompany her 10-year-old son on a trip abroad meant to improve his health because the state migration service is refusing to issue a biometric passport to her. The woman has been going from one public official to another with her Ukrainian internal passport, identification code and IDP certificate and hearing the same strange excuse: "prove that it is really you and that your documents are not forgeries." If you have encountered a similar problem, go ahead and contact our lawyers to get free legal aid.

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)⁵, which is being the only informal educational system that has the material basis for its activities – Educational Human Rights House-Chernihiv.

Human rights education for lawyers

Second cycle of innovative training course for lawyers and judges has started

The first on-site workshop of the course "Human rights standards in the legal practice of lawyers and judges" (link is in Ukrainian) took place from 15 to 18 November, bringing together 48 attendees from every corner of Ukraine. The idea was to held face-to-face meeting of listeners and to apply knowledge gained earlier during online learning. Participants were able to broaden their knowledge regarding the rights guaranteed by the European Convention on Human Rights and their interpretation by the European Court of Human Rights. Special attention was given to the cases related to the conflict affected and occupied territories of Ukraine.

It should be mentioned that the training course is implemented by the UHHRU/Program to promote the observance and protection of human rights and freedoms in Ukraine, as well as implementation of international human rights standards in the national legal system through the strengthening of the professional capacity of judges and lawyers. The course lasts for more than a year, consists of online and onsite training sessions and international internships, and is taught by the recognized Ukrainian and foreign human rights experts. This is the second cycle of the course, with 50 participants selected on a competitive basis. Based on the results of the first module, only up to 35 lawyers and judges will be selected to further attend the full course.

⁵ 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.









The results of the previous course' cycle can be found here (link is in Ukrainian).

MAIN EVENTS IN HUMAN RIGHTS AREA

Ukrainian Parliament votes to impose martial law

On November 26, Ukraine's Parliament voted to introduce a martial law in the wake of Russia seizing Ukrainian vessels and detaining 24 sailors. Ukrainian President Petro Poroshenko made a personal appeal to lawmakers to back his plan for martial law, warning of "a highly serious threat of a ground operation against Ukraine" by Moscow. One day earlier, Russia opened fire on two Ukrainian artillery vessels and a tugboat off the coast of Crimea, which the Russia's FSB security service claimed had illegally entered its territorial waters. Russian authorities then seized the three naval ships and blocked the Kerch Strait. The approved legislation foresees martial law being introduced for 30 days in 10 of Ukraine's 24 regions, which border Russia, the breakaway Transnistria region and the Black and Azov seas. Some further details are available on President's website. One more link (in Ukrainian) that speaks to the current moment.

UHHRU lawyer's brief legal analysis on the matter of imposing martial law in Ukraine can be found from the <u>link</u>, in Ukrainian.

UN General Assembly Committee adopted new draft resolution on Crimea issues

The Third Committee of the UNGA has just adopted the updated <u>draft resolution</u> "Situation with human rights in the Autonomous Republic of Crimea and Sevastopol, Ukraine", condemning blatant human rights violations perpetrated by Russia, the occupying power, in the Ukrainian Crimea (it was supported by 67 delegations, 26 countries voted against, 87 countries abstained). Among other issues, the document confirms that the forceful seizure of the Crimea is illegal, and is a violation of international law, and the occupied territories must be returned. Also, it condemns politically motivated prosecutions, arbitrary detentions and arrests by the Russian Federation of Ukrainian citizens (including Oleg Sentsov, Volodymyr Balukh and Emir-Usein Kuku) and calls to immediately release them and allow the return to Ukraine. Another demand to Russia is to fully





and immediately comply with the provisional measures order of the International Court of Justice against the RF (dd. 19 April 2017) as well as to bring an immediate end to all violations against Crimeans, in particular reported discriminatory measures and practices.

Draft resolution will be sent to UNGA, the vote for the resolution may take place in mid-December.

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