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**UKRAINIAN
HELSINKI
HUMAN RIGHTS
UNION**

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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 December includes:

- [Memorial Map website is updated](#)

As known, truth-telling and accurate, unbiased record of the conflict-related events are inseparable elements of transitional justice. With this in mind, the Program continues updating its interactive [Memorial Map](#) online resource that so far displays information about 11,568 persons from both belligerent sides killed in result of the hybrid war in Ukraine. *More can be found [here](#).*



- [Report “Story of a city: struck-off-the-list cleansings in Peremozhne” is released:](#)

This analytical report ([link in Ukrainian](#)) pieces together a picture around Peremozhne, a village in Luhansk Oblast, whose residents witnessed war crimes committed, among other, during the

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.



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defense of the Luhansk airport in August 2014 and later suffered intimidations, persecutions, tortures and even killings for their pro-Ukrainian views.

- Noteworthy interviews (links are in Russian/Ukrainian): (1) Program's Director [went on the air](#) to discuss the seizure of Ukrainian ships in the Azov Sea by the Russia, as well as other aspects of the hybrid armed conflict; see one more theme-related interview [here](#); (2) our expert was a guest interviewee at the Russian branch of the Ukrainian Radio to [explain](#) transitional justice fundamentals and its relevance in Ukraine's realities.

Marking the Human Rights Day

On December 7, jointly with the Parliamentary Human Rights Committee, Ukrainian Ombudsperson, domestic NGOs and international organizations, the Program/UHHRU was co-hosting a Human Rights Day at the Ukrainian Parliament, dedicated to the 70th Anniversary of the Universal Declaration of Human Rights. As the overall event was mostly devoted to demonstrating the progress made with the implementation of the Ukraine's National Human Rights Strategy, the Program decided to put an emphasis of those parts of this keystone document that directly relate to overcoming the conflict-raised consequences.

Program's advocacy event was titled "(Not)New Challenges", opening remarks to which were delivered by Fiona Fraser, Head of the UN Human Rights Monitoring Mission in Ukraine. Proceeding further, events section included discussions on such high-concern topics as compensation for the destroyed property amid the armed conflict, youngsters that flee out of Ukraine's educational system (i.e. problem of certification of school-completion certificates issued in the occupied territories), as well as discrimination against Crimean residents. Also, an exhibit "Kremlin's prisoners. Victims of an undeclared war" was exposed².

Here is the [link](#), in Ukrainian, to echo what was happening at the Verkhovna Rada's premises. On the eve, a subject-related media event was also held under participation of UHHRU Executive Director – the [link](#), also in Ukrainian.

Results of monitoring of human rights situation in conflict-affected regions

On December 17, UHHRU together with the Legal Development Network [conducted](#) public discussion "Local Human Rights Index: innovative tool for strengthening community's legal capacity". During 2018 partners conducted over 30 monitoring missions to examine adherence to human rights standards in different regions of Ukraine (under support of the USAID New Justice Program and the USAID Human Rights in Action Program). In particular, our Program piloted Local Human Rights Index (LHRI) in 7 conflict-torn localities in government controlled areas of Donetsk and neighboring oblasts with engagement of the local USAID-funded legal aid centers, while the New Justice Program supported implementation of LHRI in western oblasts of the country.

Program-sponsored human rights monitoring was aimed at measuring the municipal authorities' performance and progress and identification of the loopholes in order to safeguard the interests of local conflict-affected communities in general and the rights of vulnerable groups in particular (such as IDPs, children, and people with disabilities), to assist conflict-affected population with reintegration into society and respond to their immediate needs (such as accommodation, health and social care, employment, etc.). Monitoring results indicate that LHRI instrument can be effectively used in all settlements, and in particular in those, which are located close to the armed conflict zone. The LHRI facilitates better exercising of the human rights in all types of the

² Designed by UHHRU jointly with "Media Initiative for Human Rights" NGO and dedicated to flagrant human rights violations in cases of unlawful prosecution of Ukrainian nationals, Kremlin's detainees, in the armed conflict context.

communities, fosters cooperation between the authorities and the public. Monitoring results are available on a specialized website hro.org.ua.

Program keeps on advocating the issue of legal status and guarantees for Kremlin’s detainees

On December 19, the Parliamentary Committee on Human Rights [held a seating](#) (*link in Ukrainian*), where, among other issues, the draft law No 8205 “On the legal status of and social guarantees for persons unlawfully deprived of their liberty, held as hostages, or convicted in the temporarily occupied territories of Ukraine and beyond” was discussed. The Committee recommended the Verkhovna Rada to adopt in the first reading and as a basis this draft law and to establish a working group on its basis aiming to finalize the said draft law ahead of the second reading, taking into consideration any comments voiced. Program advocacy expert was present at event as, in our opinion, this draft legislation has some critical shortcomings, not in line with norms of international humanitarian law (IHL) and therefore must be adjusted. Thus, the Program plans to take part in the said working group.

Analytical report “Rehabilitation of the victims of the conflict” released

This Program-supported analytical account – the [link](#), in Ukrainian – examines whether the system of rehabilitation services addresses challenges caused by the armed conflict and satisfy needs of its victims. In particular, it touches upon issues of medical, physical, psychological rehabilitation of both civilians and demobilized military staff affected by the conflict. It also provides analysis of the complete process of services provision, e.g. from the time a person experienced health problems and received relevant services for the very first time, to assessment of needs and delivery of necessary rehabilitation services at community level. As the situation is characterized by absence of efficient reforms as regard rehabilitation services for conflict victims, weak coordination between the main state actors, a set of recommendations were given to the Government of Ukraine.



The report was spoken during a media event, video footage of which is available from the [link](#), in Ukrainian.

Program’s input into the OHCHR 24th report on human rights situation in Ukraine

In its [Report on the human rights situation in Ukraine](#) (from 16 August to 15 November 2018), Office of the UN High Commissioner for Human Rights “notes a persistent pattern of continuous violations of property rights of current and former Crimean residents by the state-owned bank PrivatBank” (§107). Evidence collected by the Program constituted foundations upon which the present OHCHR’s concern sits, and it is a new one ever in its reports.

Participation in meeting of interdepartmental commission on application of IHL standards

Program expert took part in the work of an [interdepartmental commission](#) (*link in Ukrainian*) on the application and exercising of IHL standards in Ukraine. In particular, commission members were advised to adopt a law that would regulate a register of human and material losses, which occurred during the armed conflict in Donbas.



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Other related activities by UHHRU in brief:

- **Just-in report on observance of advocates' rights in Ukraine's occupied territories**

This analytical account titled "Advocates under occupation: situation with observing the advocates' rights in the context of the armed conflict in Ukraine" is authored by UHHRU in partnership with the "Regional Center of Human Rights" NGO, as well as with the advocates from the occupied territories and internally displaced advocates. While the report itself will be publicly released in early 2019, [here](#) is its summary findings voiced at media event.

- **Advocacy trip to the Netherlands to talk about Kremlin-committed war crimes**

UHHRU lawyers [attended](#) the annual 17th session of the Assembly of States Parties to the Rome Statute of the International Criminal Court (ICC). To summarize, this gave us a sound chance to bring the human rights issue to the high-level agenda and to present submission on Kremlin's war crimes in Crimea prepared by UHHRU jointly with the Regional Center of Human Rights. Furthermore, it was made possible to co-organize a [side-event](#) "Ratification of the Rome Statute as a Necessary Step for Combatting Impunity for Grave Crimes in Ukraine" on war crimes³ and humanitarian situation in Ukraine⁴.

- **Condemning a new wave of politically motivated persecution of human rights lawyers in occupied Crimea**

On 6 December, Crimean lawyer Emil Kurbedinov, who defends many of Kremlin hostages, has been [detained](#) by officials of the Center for Combating Extremism in Crimea. [UHHRU considers](#) such illegal actions as continuous pressure on advocates and human rights defenders, suppression and obstruction of lawyers' professional work and human rights activities.⁵

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

Applications to the European Court of Human Rights

- Two requests for interim measures under Rule 39 have been submitted to the European Court of Human Rights (ECtHR) on behalf of civilians illegally detained in the so-called "DPR". The court decided to apply interim measures.

³ Specifically, war crime described in Article 8 of the Rome Statute, i.e. the usage of "human shields".

⁴ Jointly with ally organizations – the Regional Centre of Human Rights, Coalition "Justice for Peace in Donbas", International Partnership for Human Rights and International Renaissance Foundation, Ukrainian Legal Advisory Group, East-Ukrainian Center of Civil Initiatives.

⁵ Here is also interview of UHHRU's Executive Director as regard arrests of the Crimean Tatar activists, politically motivated ground for such actions, and what are the possible ways to influence this worsening trend – [the link](#), in Ukrainian.

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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- An application was submitted to the ECtHR regarding violations of the right to liberty and prohibition of torture. Thus, in the summer of 2018, in the town of Bakhmut, Donetsk Oblast, Ukraine's Security Service officers detained a citizen of Ukraine using force and intimidation. The arrest was not sanctioned by the court and was completely unjustified. The detainee had been kept in custody for four days without any court order.
- An application was submitted to the ECtHR regarding an illegal arrest of Ukrainian national by the officers of Ukraine's Border Guard Service.

FREE LEGAL AID

[UHHRU 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. 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*)

- In connection with upcoming presidential elections in Ukraine, the Kramatorsk-based LAC is ready to provide consultations on voting rights of IDPs. In particular, we would like to present a recent [post](#) that deals with this issue.

Also, LACs often receive questions about the Dostupni Leeky [Available Medications] program. Our lawyers have prepared a brief subject-matter [post](#). For more detailed explanations regarding medical services for IDPs we suggest to contact the LAC directly.

Finally, another [post](#) from the same LAC explains the new procedure for providing social benefits and services to IDPs.

- Dozens of IDPs turn to our Dnipro-based LAC every month asking the same question: is it possible to get compensated for destroyed houses or receive any financial assistance from the government to purchase a new one, since their own homes in the occupied territory of Ukraine, have been destroyed, or looted by marauders. There are several such programs in Ukraine today, but each of them has some pitfalls – see *details at this [link](#)*.
- How Ukrainians understand human rights; how observance of human rights is affected by the armed conflict; what effect the conflict has on perception, tolerance and human values; why it is important to defend one's rights and have an active civic stance – these are the things that the students and teachers in Sumy Oblast [have learned](#) recently.
- Program Kherson-based lawyer kept on delivering legal advices to IDPs and people residing in Crimea. Namely, in his interview he [talked](#) about such a document as a certificate on the absence/ existence of arrear in payment of alimony since it may be required when crossing the administrative border with the occupied peninsula.



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

- Every IDP, possessing the status of a combatant, has the right to compensation for the loss of their houses/ apartments. Ms. Natalia Kirkitadze is the first woman in Dnipro, who managed to gather all the documents and pass the established procedure. See [here](#) details on how human rights defenders from the Dnipro-based LAC helped this internally displaced woman, who fought for Ukraine, to get compensation for her apartment.
- The Mariupol-based LAC was contacted by an IDP whose property had been confiscated by representatives of illegal armed forces of the so-called “DPR”; furthermore, for two months he had been subjected to torture, psychological pressure, etc. The person was afraid to report this crime committed back in November 2017 to the law enforcement, so our lawyers set out to help him. As a result, the crime has already been entered into the Uniform Register of Pretrial Investigations, and law enforcement officers have taken steps towards finding and seizing the vehicles belonging to the victim.

Now, LAC is working to get compensation for his property lost in connection with military actions in line with Article 2 of the Law of Ukraine “On Combating Terrorism”. In particular, complaint will be prepared based on the reply of Ukraine’s Cabinet of Ministers, which had already received an inquiry regarding the possibility (procedure) to get compensation for entrepreneurs for their business and property seized (lost) in connection with military operations.

- Back in September 2018, our lawyers from Sumy [assisted](#) an IDP-woman with disability to retrieve targeted monetary assistance previously suspended by a local department of social protection of the population, however, the named department predictably filed an appeal. LAC’s lawyers did not give up with the woman’s protecting until the court of appeals reaffirmed the judgment of the first instance court.

Besides, our experts warn that subject-matter domestic legislation still contains drawbacks, unclear language which leads to its misinterpretation and most likely will result in more and more litigations in future. The situation is described in details [here](#), in Ukrainian.

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.

Trainings on IHL fundamentals for educators and Donetsk and Luhansk Oblasts

On December 8-9 and 11-12, the Program held two pilot trainings on international humanitarian law for educators in the GOU-controlled territory of Luhansk and Donetsk Oblasts. It helped the

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.



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attendees to enrich their knowledge in IHL as a keystone instrument to protect people who suffered war or similar circumstances, as well as improved their skills in analysis of IHL-related legislation and other sources of information, upgraded their critical thinking skills that, in essence, should be based on fact-checking and non-biased analysis of the actual situation in Ukraine.

Since those were educators, amid the discussion our trainers pushed them to seek for the ways on how to incorporate the newly-obtained knowledge in the teaching process of institution they work at. To wrap up the events, it was stressed that in general it is crucial for everyone, despite their occupation, to take part in any kind of social-life-activities at their home communities that aim to promote or protect humanitarian-based approach and harmonious relations.

MAIN EVENTS IN HUMAN RIGHTS AREA

Unlawful persecution of Crimean Tatars in occupied Crimea

- Emil Kurbedinov, a Crimean Tatar lawyer who defends political prisoners in Kremlin-controlled courts in occupied Crimea, was [detained](#) by the officers of the RF Anti-terrorist Center. He was accused of promoting extremism and arrested for 5 days ([link in Russian](#)).

Noteworthy, that Mr. Kurbedinov provides legal assistance to dozens of Crimean Tatar activists and Ukrainians imprisoned by the Kremlin on sham charges since it invaded and started occupation of Crimea in 2014. Just reminding that at least 97 Ukrainian nationals are currently imprisoned in Crimea and Russia for political reasons.

- Crimean Tatar activist Edem Bekirov was taken at the entrance to the occupied Crimea. Later, so-called court ruled to arrest him for two months. A matter of grave concern is the fact that Mr. Bekirov has been disabled for more than 18 years and has a range of related health problems, which require taking medication on a daily basis.

Full text of Ukraine Foreign Ministry's address is available from the [link](#).

International Criminal Court released Report on Preliminary Examination Activities 2018

Among other things, the ICC's Office of the Prosecutor reaffirmed its stance that the situation within the territory of Crimea and Sevastopol would amount to an international armed conflict between Ukraine and the Russian Federation, and that the law of international armed conflict would continue to apply after 18 March 2014 to the extent that the situation within this territory factually amounts to an ongoing state of occupation⁸. On the other hand, ICC also reaffirmed its position as regard the existence of an international armed conflict in eastern Ukraine from 14 July 2014 at the latest, in parallel to the non-international armed conflict.

⁸ UHHRU jointly with partners made a significant contribution, touching upon multiple Kremlin-committed war crimes in occupied Crimea, that enabled several submissions to the ICC and as a result reinforced ICC's view that the Kremlin acts as aggressor against Ukraine in terms of Crimean events (here is a relevant news [release](#), in Ukrainian).



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The Office has recorded more than 1,200 incidents involving war crimes allegedly committed since 20 February 2014 in the context of events in eastern Ukraine. Although the highest numbers of incidents occurred in 2014 and 2015, during the most intense phase of hostilities, all forms of alleged conduct continued to be reported up to the present time. Specifically, this year the Office mentioned sexual and gender-based crimes as well as use of child soldiers in Donbas. Also, for the first time appeared information on alleged treacherous killing and wounding during the battle of Ilovaisk in August 2014 that is being one of the deadliest periods of the armed conflict. It is alleged that many Ukrainian troops were killed as they attempted to retreat from the area, when they came under fire from armed anti-government entity/Armed Forces of the Russian Federation troops, some of whom were disguised as Ukrainian troops.

The Office expects to finalize its analysis of subject matter jurisdiction in the near future. In this regard, the Office will continue to gather available information on relevant national proceedings and to engage with the Ukrainian authorities, civil society and other relevant stakeholders.

The report itself is placed [here](#) in English and [here](#) in Russian.

Ukraine establishes commission to prepare submissions to international courts against Kremlin as prescribed by the Law № 2268-VIII

The Cabinet of Ministers established interagency commission on generalization of the legal position regarding the preparation of systematized claims of Ukraine against Russia for its armed aggression to further seek for justice in various international courts – [link in Ukrainian](#). The commission aims to analyze submissions that have already been filed, to analyze to which international body of judicial authority it is better to apply in this of that case, to unify and systematize evidence base making future submissions more grounded and compelling.

UN General Assembly passed two resolutions on Crimean issues

- UN General Assembly [adopted](#) a resolution, initiated by Ukraine and presented on behalf of a group of States, urging Russia to withdraw its military forces from the occupied Crimea and condemning the increasing Russia's military presence in parts of the Black Sea and the Sea of Azov. Among other things, it calls on Russia to release the 24 Navy sailors it imprisoned after seizing Ukrainian vessels in the Azov Sea on November 25. Ukraine's Envoy to the UN Volodymyr Yelchenko said the main purpose of the resolution was to urge the RF to withdraw its military forces from Crimea and cease the illegal occupation of Ukraine's territory.

Foreign Ministry's statement on the matter concerned is placed [here](#), in Ukrainian.

- The Third Committee of the UN General Assembly [adopted](#) a resolution "Situation with human rights in the Autonomous Republic of Crimea and Sevastopol, Ukraine". Among other issues, the document confirms that the forceful seizure of 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 RF 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 order of the International Court of Justice on provisional measures dd. 19 April 2017 as well as to bring an immediate end to all violations against Crimean residents, in particular reported discriminatory measures and practices.



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ECtHR has adopted plan for its future processing of applications from individuals who have raised complaints against Ukraine or Russia in relation to conflict in eastern Ukraine

To save as much time as possible, the European Court of Human Rights has decided that any related individual applications which are not declared inadmissible or struck out at the outset will be communicated to the appropriate respondent Government or Governments for observations in parallel with the inter-State case. After receiving the Governments' and applicants' observations in reply, the Court intends to record an adjournment for each case, pending a judgment in the inter-State case, with a view to having the files complete and ready for decision or judgment as soon as possible thereafter.

Full text of the press release by the European Court of Human Rights is available from the [link](#).

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