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**DIGEST No 5 (37) BY UKRAINIAN HELSINKI HUMAN RIGHTS UNION,  
USAID HUMAN RIGHTS IN ACTION PROGRAM**

February 2018

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## USAID HUMAN RIGHTS IN ACTION PROGRAM UPDATES

### HUMAN RIGHTS MONITORING, ANALYTICAL ACTIVITY AND ADVOCACY

#### National Human Rights Index

The National Human Rights Index initiative<sup>1</sup> ([www.hro.org.ua](http://www.hro.org.ua)) covers the monitoring of the National Human Rights Strategy's execution by the central executive authorities as well as implementation of the Local Human Rights Index (LHRI), which is designed to take into account the priority of human rights in course of the decentralization reform. The U.S. Agency for International Development (USAID) Human Rights in Action Program supports the aforementioned work in part of ensuring the rights of internally displaced persons and conflict-affected population.

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#### Transitional justice model for Ukraine

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[an international conference](#) has been hosted (*conference proceedings can be found [here](#)*).

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The following events have taken place in February:

- New in our blog on transitional justice: [The first one](#) (*link is in Ukrainian*) concerns Northern Ireland's expertise and its usefulness to Ukraine, [the other](#) touches on the risk of possible speculation on Ukraine's peaceful future.
- Program engaged well-known international specialists to contribute into transitional justice model: [Pierre Hazan](#), Centre for Humanitarian Dialogue (Switzerland), gladly agreed to provide his expert assessment of the risks related to implementation of the named model is held by UNHAS-located USAID-sponsored legal aid centers under supervision and with participation of UHHRU Central Office representatives to guarantee better performance of the results.

<sup>1</sup> Being implemented by the Ukrainian Helsinki Human Rights Union (UHHRU) in cooperation with the Secretariat of the Ukrainian Parliament Commissioner for Human Rights and in collaboration with civil society organizations

<sup>2</sup> The work group under the Ombudsperson's Secretariat engages experts of UHHRU, NGOs, as well as MPs and representatives of respective ministries.



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during a meeting with members of working group. All in all, he gave a very positive feedback about what was being done to lay the groundwork for post-conflict resolving in Ukraine.

## Program's work to help Crimeans fully enjoy their rights

Program experts united their forces with representatives of ally CSOs, media outlets and public officials 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 Administrative Services Center meant to serve the interests of peninsula's residents. This was made possible in course of a [media tour](#) to Chaplynka and Kalanchak checkpoints and the city of Kherson as well, hosted by the Ministry on Affairs of Occupied Territories and IDPs, on February 21. Disturbing issues revealed by monitoring group accompanied with corresponding USAID-supported recommendations (see *below*) were spoken out during media events in Kherson and [Kyiv](#).

**РЕКОМЕНДАЦІЇ УРЯДУ УКРАЇНИ**



**1. СТВОРИТИ Центр надання адміністративних послуг для забезпечення доступу мешканців Криму до державних адміністративних та інших послуг на території КППВ з Кримом** (або у максимальній близькості до КППВ).

В тому числі, забезпечити роботу відповідних структур та можливість отримання різного роду послуг на базі такого Центру для кримчан, а саме:

- **присутність** посадових осіб органів РАЦС в спеціалізованому ЦНАП (видача свідоцтв про народження, смерть, шлюб, зміну ПІБ, інше).
- **можливість** подачі заяв на отримання та оформлення гарантованих державою соціальних виплат та послуг.
- **роботу** державних нотаріусів для надання необхідних нотаріальних послуг мешканцям Криму, що дозволить доступно та в оперативний спосіб оформляти довіреності та інші нотаріальні документи (агода батьків на виїзд дитини за кордон, оформлення заповіту, нотаріальні звернення до банківських установ тощо).
- **функціонування** відділень банківських установ та терміналів для обслуговування мешканців тимчасово окупованої території (відкриття рахунків для отримання соціальних виплат, оплата судового збору, переказ коштів тощо).
- **наявність** відділень поштового зв'язку (дозволить кримчанам оперативно вести листування з органами державної влади, місцевого самоврядування, а також органами правосуддя без здійснення додаткових витрат та часу).
- **приміщень** для очікування та зберігання особистих речей осіб, що прибули для отримання послуг.



**2. ОПТИМІЗУВАТИ та удосконалити існуючу систему паспортизації жителів тимчасово окупованої території Криму шляхом:**

- a) **збільшення** кількості працівників ДМС та посадових осіб в Центрах надання адміністративних послуг, розташованих поблизу окупованої території.
- b) **розроблення** механізму видачі документів, що посвідчують особу, через консульства України в РФ для осіб – громадян України з Криму, які загубили, пошкодили свій паспорт громадянина України на окупованій території, та лібералізації законодавства щодо притягнення до відповідальності за незаконний перетин кордону особами в таких випадках.
- v) **скасування** норм щодо відповідальності за несвочасне отримання паспортів громадянина України мешканцями Криму на час окупації.
- г) **запровадження** спрощеної судової процедури встановлення особи для мешканців окупованих територій, у випадку відсутності достатніх доказів, які підтверджують особу (доступної в будь-якому суді загальної юрисдикції без сплати судового збору).



**3. ПРОВЕСТИ належне технічне та санітарно-гігієнічне облаштування та оснащення КППВ з тимчасово окупованою територією Криму** задля забезпечення належних та гідних умов роботи на пунктах пропуску та їх проходження, шляхом:

- **організації** критичних приміщень для очікування та відпочинку осіб, що перетинають КППВ, а також приміщень для проведення зустрічей та спільної роботи з представниками органів державної влади, делегацій міжнародних урядових та неурядових організацій.
- **облаштування** пунктів шлодобового надання медичної допомоги з відповідним персоналом та ліками.
- **створення** належних санітарно-гігієнічних умов (мають бути безоплатними для працівників на КППВ та всіх осіб, які переміщуються через пункти пропуску).
- **забезпечення** присутності посадових осіб, уповноважених здійснювати ветеринарний та фітосанітарний контроль (з метою дотримання прав осіб, що переміщуються з окупованої території, в т.ч. з домашніми тваринами).



**4. ЗАБЕЗПЕЧИТИ належне регулярне транспортне сполучення КППВ з найближчими населеними пунктами Херсонської області.**

- **організувати** легальне транспортне сполучення між КППВ та найближчими населеними пунктами Херсонської області, забезпечивши регулярні маршрути громадського транспорту (в т.ч. до пунктів транспортного сполучення з іншими містами України).
- **облаштувати** місця очікування та зупинок громадського транспорту, де пасажирів зможуть безпечно очікувати прибуття транспортних засобів.



## Supplemental to recently released USAID-contributed reports

- Over one million of IDPs from Crimea and Donbas are still deprived the right to vote in Ukraine. Human rights defenders believe that by returning their voting right it will be made possible to enable their full-fledged re-integration into country's life – this is one of the takeaways from a media event ([link in Ukrainian](#)), held on February 13, to discuss findings of the USAID-sponsored report “A lost vote. Is this a lifetime silence?”.



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Besides, UHHRU Executive Director [delivered](#) a follow-up brief interview on protecting voting rights of conflict-affected people. Also, Hromadske Radio [interviewed](#) (*link in Ukrainian*) our analyst about the current situation with IDPs' voting rights.

- In addition to the [analytical report](#) "Prisoners of war: international practice as to release of POWs, civilian detainees and political prisoners. Conclusions for Ukraine" in Ukrainian, you can also see its executive summary in [English](#). As a reminder, the report contains analysis of factors that, according to authors, were decisive in the release of the prisoners detained in other conflicts such as Chechnya, Georgia and Nagorno-Karabakh and how these factors could be applied to the situation in Ukraine.

### Other related activities by UHHRU in brief

- **Just signed reintegration and de-occupation landmark law unveils new way for Ukrainians on how to consider armed conflict henceforward**

UHHRU lawyer analyzes in her [blog](#) (*link is in Ukrainian*) the freshly [signed](#) Law on "Peculiarities of state policy ensuring state sovereignty in temporarily occupied territories of Donetsk and Luhansk regions" and how it relates to the draft law "On state security and defense", the text of which has recently been revealed in the media and new Order by Cabinet of Ministers that allows use of weapons by the armed forces during peace time, coupled with the latest reports by the OSCE Special Monitoring Mission about concentration of the military equipment in non-government-controlled areas (NGCA) from the Russian side of the border.

- **Talking about specifics of reintegration efforts**

UHHRU experts participated in the UKRLIFE.TV telethon titled "Crimea. De-occupation and reintegration" to talk about [administrative issues that residents of occupied Crimea face in everyday life in mainland Ukraine](#) and [amnesty/lustration/collaboration associated to residents of NGCA](#) (interviews by non-UHHRU experts can be also found from [the link](#), all in Ukrainian/Russian).

## **STRATEGIC LITIGATIONS**

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Within this direction the USAID Human Rights in Action Project supports strategic legal cases domestically and internationally to protect public interests<sup>3</sup>, 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 Project equals 195.

### **Program-supported lawyer explains judgment of European Court of Human Rights in *Khlebik v. Ukraine* case and what it means in context of armed conflict in Ukraine**

On 25 July 2017, the Grand Chamber of the ECtHR delivered a judgment in USAID-supported "[Khlebik v. Ukraine](#)" case and said that Ukraine has taken all the measures available to it to organize its judicial system in a way that would guarantee the applicant's right to the court and to

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<sup>3</sup> 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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appeal in criminal cases in the specific situation of the ongoing armed conflict. The Court concluded that despite of all the efforts, the hostilities precluded Ukraine from resolving the applicant's situation. UHHRU lawyers disagreed with the aforementioned judgment and appealed against it to the Grand Chamber of the Court. However, the appeal was rejected on 12 December 2017. [In this blog](#), an SLC lawyer explains the impact that a decision could have had and why this was a missed opportunity for the Court.

#### *What's next?*

UHHRU/Program considers that there remains a problem of the state's inactivity in resolving the issues of persons whose case files are stuck in the occupied territories. No legal remedies are available for these persons, and the lack of control does not excuse the state from the obligation to guarantee their rights. Despite the ECtHR judgment, our lawyers see the situation as a challenge that still exists and has to be dealt with. UHHRU will continue to provide help to persons whose case files are lost, destroyed, or just stuck within the occupied territories, and the valuable experience obtained when working on the "Khlebiak case" will be used in further practice.

### **Previous USAID-contributed landmark decision served as groundwork for UHHRU's presents victories in Supreme Court's Grand Chamber of Ukraine**

The Court's Grand Chamber [remanded](#) 4 cases for re-examination following a decision of the European Court of Human Rights. The cases dealt with the issue of timely notification of plaintiffs regarding the examination of their cases by an appellate court (i.e. the principle of equality of arms was not respected by the state). The mentioned ECtHR decision was made possible thanks to USAID-supported lawyers, who back in June 2017 won [Lazarenko and others v. Ukraine case](#), obliging the GOU to pay compensations to senior people for unfair manipulations with their pensions.

#### **Other related activities by UHHRU in brief**

- **Working to release Ukrainian POWs, political prisoners and civilian detainees**
  - ✓ UHHRU lawyer was invited to deliver remarks in course of a public discussion ([footage in Russian](#)) devoted to searching ways to liberate Kremlin-held prisoners and how it is possible to apply international experience in that respect in Ukrainian context. Further to this, she delivered an interview on the radio touching upon the release of prisoners of war and political prisoners held captive by Russia and its proxies ([also in Russian](#)).
  - ✓ New in our expert blog – why to talk about POWs' official status ([link in Ukrainian](#)).
- **Violation of access to justice and property rights with regard to social benefits and pension payments**

UHHRU's lawyer explains the recent ECtHR judgement on pensions for residents of NGCA in "Tsezar and others v Ukraine" case. Thus, the Court (1) considers that the State has taken all available measures to organize its judicial system in a way that would render the guaranteed rights; (2) did not consider substance of the claims related to access to pensions as claimants did not exhaust national remedies – [link in Ukrainian](#).
- **On occasion of the fourth anniversary of events happened on 26 February in Crimea**

UHHRU [reminds](#) of the report on the "February 26 criminal case" (Part 1) prepared by the international expert group. The paper presents reconstruction and legal analysis of the events following street clashes between pro-Ukrainian and pro-Russian supporters that took place



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during two peaceful assemblies (one of which was in support of Ukraine's territorial integrity) outside the building of the Supreme Council of the Autonomous Republic of Crimea in Simferopol, and their consequences.

## FREE LEGAL AID

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[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.

The 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 [Specialized LAC in Kyiv and Kherson](#) delivering legal assistance to IDPs from of Crimea and city of Sevastopol in the frames of the Human Rights in Action Program.

### **Program advances in resolving problems with IDPs' illegally suspended pensions**

Standing up for the right to pension for IDPs, legal aid centers operating in eastern Ukraine under USAID umbrella continuously help individuals who have been discriminated in that respect. Since the Program's launch in 2014, lawyers delivered consultations to more than 500 people in need, supported around 70 legal cases, while having reached success in 49 of them.

One of the most [illustrative examples](#) (*link is in Ukrainian*) is the case of senior lady, an IDP from occupied Luhansk, who was deprived her pension, her only income, and thus faced eviction from a geriatric boarding house for labor and war veterans. LAC in Sumy managed to help her through getting positive court rulings (both in first instance court and court of appeal), which obliged the Pension Fund of Ukraine not only to renew the payments, but also to repay a half-year debt accumulated in this regard.

According to human rights defenders such situation trends to become viral as involved public authorities use every single chance "to save" budget money – for instance, by annulling an IDP certificate (which is a must-have document allowing full enjoyment of social entitlements) in case of absence of the person at his/her place of residence for 60+ days.

### **LAC in Dnipro helps in renewing social payments to IDPs (*links are in Ukrainian*)**

The matter is that an IDP is allowed to receive state-guaranteed social payments if a place of his/her previous residence is in the list of non-government-controlled localities. Such a list must pass a slow bureaucratic procedure prior to its adoption by the Government – it means that if status quo in conflict-affected region is changed, people will be left for a long time waiting for payments, and this is exactly what happened with hundreds of IDPs in Dnipropetrovsk oblast. UHHRU member organization "SICH" that operates USAID-supported LAC took their side and addressed corresponding public bodies to immediately remedy the situation. In result, the Cabinet of Ministers [amended](#) the list of occupied localities in Donbas, which appeared to be nearly 3-years-old (here is also related [news release](#) by local media).



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**Kherson-based lawyer cares of IDP woman from annexed Crimea who has been rejected to receive social payments for her minor child**

According to human rights defenders, this trends to become a worrying systematic problem, when public bodies of social protection refuse IDPs in state-guaranteed payments. Usually, their main argument is that first they need to get an official confirmation from occupying authorities in Crimea that a person has not been previously enjoying similar payments in the peninsula. Such an argument is discriminatory and absurd in many ways and, what is more important, breaches Ukrainian legislation (meant to resolve situations with social entitlements for IDP, and touching upon personal data protection).

An [illustrative case](#) ([link in Ukrainian](#)) is now under USAD-supported lawyer's guidance and control.

**Other noteworthy Program-attributed activities aimed at eliminating discrimination against conflict-affected individuals**

- Program's lawyer delivered an interview ([link in Ukrainian](#)) to once again emphasize actions to be taken by the Ukrainian authorities towards respecting rights of Crimean residents (see *below*), as well as other conflict-suffered groups.



- Lawyers from legal aid center in Mariupol [discussed](#) preferences for employers hiring IDPs, ways of their professional re-training etc. during a roundtable event on February 12. In its turn, LAC will make efforts to raise awareness of target group representatives on employment-related issues ([link in Ukrainian](#)).





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- Program’s lawyers appeared among panelists of the [roundtable](#) “Ways of eliminating discrimination in registration of births and deaths of persons in occupied territories of Ukraine” and presented their own version of the draft law “On introducing amendments to certain laws of Ukraine regarding the implementation of administrative procedure for civil registration of episodes occurring in temporarily occupied territories of Ukraine”.

## HUMAN RIGHTS EDUCATION AND AWARENESS RAISING

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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)<sup>4</sup>, which is being the only informal educational system that has the material basis for its activities – Educational Human Rights House-Chernihiv (EHRH-Chernihiv).

### Human rights education for lawyers

#### **USAID-supported training course for judges and lawyers proceeds** (*links are in Ukrainian*)

On February 23-24, in frames of the USAID-supported innovative training course “[Human rights standards in legal practice of lawyers and judges](#)” (*link is in Ukrainian*) the second promotional seminar for judges took place in Odesa. Thus, 25 judges of the Odessa Regional Administrative Court and the Odessa Administrative Court of Appeal had an opportunity to expand their knowledge and receive practical advice on application of principles and mechanisms of human rights protection laid down in the European Convention on Human Rights, in particular Article 6 (right to a fair trial) and Article 11 (freedom of assembly and association) including human rights abuses during an armed conflict. The event is organized upon request of the Association for the Development of Judicial Self-Government of Ukraine and in cooperation with the National School of Judges with the aim of the wide-scale course promotion among the judicial community and raising their awareness of international human rights law applicable in the armed conflict situation.

Furthermore, we would like to inform that UHHRU [signed](#) memorandum of cooperation with the Association, which enhances cooperation between organizations in the field of education. As a part of this cooperation, we plan to organize the “Human Rights Watchdog” training course for judges on application of European Convention on Human Rights’ standards and the European Court’s case-law in their work. The program will be based on UHHRU/Program’s methodology.

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<sup>4</sup> 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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## MAIN EVENTS IN HUMAN RIGHTS AREA

### Draft law No. 7163 is signed

The President [signed](#) the Law “On peculiarities of the state policy on ensuring the state sovereignty of Ukraine in the temporarily occupied territories in Donetsk and Luhansk oblasts”. He also addressed the MPs, officials of the National Security and Defense Council considering that this Law is only a framework and requires further legislative support of the actions of the Armed Forces of Ukraine and other law-enforcement agencies, to prepare the necessary regulatory and legislative acts aimed at improvement of the legal mechanisms for the restoration of the state’s territorial integrity.

Let us remind that UHHRU’s position on the law, which has a number of serious shortcomings, is available on our website: public appeal and infographic are given [here](#), detailed analysis is provided [here](#) (both are in Ukrainian).

### Verkhovna Rada encroaches on human rights and liberties in Ukraine

On February 28, the Human Rights Agenda Platform (informal coalition of human rights organizations, including UHHRU, that monitors, analyzes and develops legislation based on the main principles of human rights and fundamental freedoms) released a [petition](#) calling the Parliament to put an end to the attacks on the freedom of speech, association and peaceful assembly, which are the fundamental principles of democracy, and not to adopt the draft laws No. 6674 and 6675 dd. 10 July 2017.

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