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USAID HUMAN RIGHTS IN ACTION PROGRAM UPDATES

HUMAN RIGHTS MONITORING, ANALYTICAL ACTIVITY AND ADVOCACY

Discussing analytical report “Rehabilitation of the victims of the conflict” (*links are in Ukrainian*)

On January 10, USAID Human Rights in Action Program, which is being implemented by the Ukrainian Helsinki Human Rights Union (UHHRU), [hosted](#) a roundtable to present findings of the named report. It examines whether the system of rehabilitation services addresses challenges caused by the armed conflict and satisfy needs of its victims. What holds specific interest about the event is that its attendees drafted a resolution providing recommendations to those who are in a better position to influence the situation (i.e. representatives of respectful central-level public agencies and the Ukrainian Parliament). USAID Program plans to further monitor measures to be taken by these authorized central-level public bodies, to hold report’s discussions in the frontline localities of Donbas for shaping recommendations for the region-level public agencies.

Besides, Bogdan Moysa, Program/UHHRU leading analytical expert on PWDs’ issues, delivered a [comprehensive subject-matter interview](#). He talked about the overall situation in Ukraine when the system of rehabilitation services poorly tackles the armed conflict challenges and hardly satisfies needs of its victims. In addition, it is characterized by the absence of efficient reforms relating to delivery of rehabilitation services for conflict victims and weak coordination between the main state players on this field.



Legal analysis of bill on harmonization of Ukraine’s criminal law with provisions of international law in cases concerning armed conflict and occupation (*links are in Ukrainian*)

Program prepared a comprehensive legal analysis of the bill № 9438, which is available [here](#). To cut the long short, civil society actors, including UHHRU, call for the Ukrainian Parliament to give the green light to the given piece of legislation as soon as possible, because it aims at fighting impunity amid the ongoing armed conflict in Ukraine and overcoming its affects.

In respect to the above said, being a part of the Human Rights Agenda coalition, UHHRU also joined [an open petition](#) to the Parliament’s Chairperson Andriy Parubiy.

Other related activities by UHHRU in brief:

- **Report on situation with observance of lawyers’ rights in Ukraine’s occupied territories is now available for downloading**

The analytical report “Advocates under occupation: situation with observing the advocates’ rights in the context of the armed conflict in Ukraine” is now available for [downloading](#) (*link is in Ukrainian*). Reminding that it was prepared by UHHRU in partnership with the Regional Center of Human Rights, advocates from the occupied territories and internally displaced advocates, and [presented](#) in December 2018.



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- **Participating in PACE winter sessions in Strasbourg, France**

On January 22-24, UHHRU co-hosted side-event “Putin’s hostages: Ukrainian political prisoners of the Kremlin” and took part in a number of meetings high-level officials amid the PACE session. The aim was to spread awareness about human rights violations and war crimes committed by the RF in the occupied territories of Ukraine as well as to strengthen protection of victims in that respect. In particular, our delegate informed about at least 97 Ukrainians held captive by Kremlin (including Ukrainian sailors detained in November 2018) and necessity to impose personal sanctions against their persecutors. *Some more details are given [here](#) (link is in Ukrainian).*

It is important that the PACE resolution 2259 on the escalation of tensions around the Sea of Azov and capture of Ukrainian sailors was adopted on January 24. Thanks to advocacy efforts of Ukraine’s representatives (including UHHRU and ally Media Initiative for Human Rights), specific language that invokes to apply the Geneva Conventions¹ towards Kremlin detainees was included into the text of resolution. *More details are given [here](#).*

- **A couple of fresh interviews for consideration (links are in Ukrainian)**

- ✓ *Interview to explain how hybrid warfare creates preconditions for lasting human rights violations:* UHHRU Executive Director Oleksandr Pavlichenko [explained](#) why the armed conflict is a groundwork for systematic human rights violations in Ukraine. He also touched upon what the main types of assistance that conflict-affected people require the most, as well as noticed the main reasons why reforms are mostly stuck in Ukraine and how it affects overcoming the conflict’s aftermath.
- ✓ *Interview with our lawyer to talk about war crimes in Crimea:* UHHRU continues revealing various war crimes committed by the occupation authorities (including usage of the so-called “human shields”) and makes appropriate submissions to International Criminal Court to seek for redress for injustice. Some of the mentioned crimes were [spoken](#) by our Crimea-focused lawyer in his interview to the Center of Journalistic Investigations news outlet.

- **Statement against persecution of lawyers and human rights activists in Russia-occupied Crimea**

- ✓ The RF as an occupying power keeps on persecuting Crimean human rights lawyer Emil Kurbedinov, who defends the Ukrainian nationals held captive by the Kremlin. This time it goes about the RF’s Ministry of Justice intention to expel Kurbedinov from de facto Crimean Central Bar Association before March 2019. Such action may be linked to his professional activity as well as civic position. This may further lead to his disbarment which, in its turn, will deprive Emil of the possibility to practice law and Emil’s clients persecuted for political reasons of the right to effective legal remedy. *A corresponding public statement issued by UHHRU and partners is placed [here](#).*
- ✓ Ukrainian human rights NGOs, including UHHRU, are deeply concerned about the situation with Mr. Edem Bekirov, a Crimean Tatar activist and a Ukrainian national. He was detained at the administrative border with Crimea, and then subject to detention on remand. According to the information of relatives and the lawyer, due to his severe health problems the activist should not be absolutely kept in custody.

A corresponding public statement issued by UHHRU and partners is placed [here](#).

More subject-matter information is given in the Main Events section [below](#).

¹ Of 12 August 1949, which establish the standards of international law for humanitarian treatment in war and, in particular, protect prisoners of war.



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STRATEGIC LITIGATIONS

Within this direction the USAID Human Rights in Action Program supports strategic legal cases domestically and internationally to protect public interests², 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.

A couple of Program-supported landmark judgments in support of conflict-affected people in Ukraine:

- **A person must be compensated for damage caused by military warehouse blast**

On January 23, the Kharkiv Court of Appeals reaffirmed decision of the lower instance court, said that a defendant must be reimbursed over 172,000 UAH since his property has been damaged/destroyed and he suffered moral damage as a consequence of explosions at the ammo depots in Balakleya of Kharkov Oblast (in 2017). The case was initiated and supported by the Chuhuyiv Human Rights Group (UHHRU member organization), UHHRU SLC and "Legal Development Network" NGO. *A media release which also includes lawyer's comments is available from the this [link in Ukrainian](#).*

- **Abolishing compulsory verification for IDP pensioners**

The Supreme Court of Ukraine reaffirmed earlier judgments of the administrative court of appeal and first instance court that IDPs should no longer be experiencing mandatory checks in the place of their registration. Just reminding that this requirement was mandated by certain provisions in the Cabinet of Minister's Resolutions No. 365 and No. 637, which introduced verification procedure for pensioners and other IDPs willing to receive social payments. Should affected individuals fail to present themselves, their IDP certificate could be annulled and social benefits and pension payments suspended, which used to happen on a regular basis. This has resulted in a massive movement of people, mostly pensioners, across the "contact line" in Donbas, long queues and overcrowding at the bank branches and at checkpoints; as well as prevented IDPs from travelling freely within Ukraine and/or abroad. *To find more details about the case itself please proceed [here](#).*

- **Reaffirming that right to privacy should be respected**

On January 16, Lviv District Administrative Court ruled to withdraw unconstitutional decision of the Lviv Regional State Administration on the prohibition of Russian-language cultural product until the moment Kremlin stops its military aggression against Ukraine. The case was initiated by the Chuhuyiv Human Rights Group (UHHRU member organization), and supported by our SLC lawyers which believed that such a prohibition was a discrimination by nature and violation of the right to privacy incongruously justified by the armed conflict in Ukraine (i.e. in its decision the Lviv Regional State Administration did not clearly explained its motives as well as decision's proportionality to the goal pursued). *The [main link](#) and some [additional clarifications](#) of an external expert (both links are in Ukrainian).*

² 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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Applications to the European Court of Human Rights (ECtHR)

An application was submitted on behalf of a person, whose apartment had been damaged in result of artillery shelling and who was denied of the right to compensation of pecuniary and non-pecuniary damages by the state.

Other related activities by UHHRU in brief (*links are in Ukrainian*)

- **Work with the Constitutional Court of Ukraine**

UHHRU [sent](#) to the Constitutional Court a legal position (amicus curiae) on whether the mechanism of early release complies with the Ukraine's Constitution. Guided by international human rights standards, the experts have concluded that Ukraine lacks a proper early release mechanism for persons who serve life sentences, which is seen as inhuman treatment by the ECtHR. UHHRU's legal position contains a detailed analysis of the ECtHR judgments as well as the relevant standards of the Council of Europe and the UN, and an analysis of the compliance of Ukraine's pardon mechanism with these standards.

- **UHHRU co-drafted legal position substantiating interstate complaint of Ukraine against Russia over Crimea**

The Government of Ukraine submitted a legal position to the ECtHR in the interstate application touching upon issues of Crimea's occupation by the RF and human rights violations committed by the occupational authorities in the territory of peninsula. It was UHHRU along with a famous British lawyer, who provided legal expertise on the matter concerned. Ukraine claims to have lost control on the night of 26 to 27 February 2014, and not after the so-called referendum on the status of Crimea held on 16 March 2014. *More details, in Ukrainian, are given [here](#) and [here](#).*

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.

Ukraine's recently developed mechanism for obtaining the status of a PWD for civilians in result of the war – what to know (*links are in Ukrainian*)

After almost 5 years of the military operation's launch in Donbas, Ukraine eventually made appropriate changes to the legislation and thus enabling civilians, who received injuries during military operation, to be granted with an official PWD status as a results of the war. UHHRU's strategic litigation lawyer [prepared](#) an exhaustive material that clarifies this issue and contains instructions on the procedure of how to apply for the status.



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Our LACs also jumped in to clarify this subject at the local level – see the [video](#) of a press conference, in which the coordinator of Dnipro-based LAC took part. In particular, it was said that from now on, civilians that have received injuries in the east after 2014 will qualify for the PWD status as a result of war and will be entitled to pensions and benefits, same as members of the military (specifically to fully compensated utilities, medical care and rehabilitation). One-time monetary compensation, however, is not on this list.

In addition, this LAC [held](#) a working meeting with specialists of the Social Protection Department of Dnipropetrovsk Oblast and the Regional Department of the State Service of Ukraine for War Veterans and ATO Participants. The meeting was held because of the fact that the PWDs, who are unable to prove the link between their disability and the armed conflict, are still forced to get the disabled status as people with “general illness”, which is unacceptable. All the more, there are many volunteers among those who obtained disabilities and who were the first to assist the Ukrainian military and thus were also risking their lives in the combat zone.

The Program encourages people to seek for our LACs’ legal help if someone’s application for obtaining the PWD status has been unreasonably rejected.

Other events to raise awareness of citizens regarding protection of their rights (links are in Ukrainian)

- In connection with the upcoming presidential elections in Ukraine, UHHRU LACs launched an outreach campaign on voting rights for IDPs. The Program would like to share some recent subject-matter postings with step-by-step instructions: *from the [Sumy](#), [Kramatorsk](#) and [Slovyansk](#) LACs.*
- The IDPs that apply to our Sumy-based LAC for help say that when they try to get certain types of administrative services (such as sticking a photo on a document, renewing their domestic passports, obtaining an international passport or an ID card, etc.), they are forced to undergo so-called “additional identity verification”. [Here](#)³ you can see the advice our lawyers share in this regard.
- The Sumy LAC hosted a seminar “The role of civil society human rights organizations in protecting human rights. The rights of IDP students”. In particular, the emphasis was on the rights of students that have relocated from the temporarily occupied territory, since the applications received by the LAC include those sent by IDP students who should be aware of the social guarantees and benefits owed them by the state. *If you wish to know more about this, do not hesitate to contact the LAC or leave your comments [here](#).*
- The Mariupol-based LAC [lists](#) benefits for employers that hire IDPs.

Another [publication](#) from the same LAC deals with the issue of compensation for housing for IDPs who “defended Ukraine’s independence, sovereignty and territorial integrity.”

- Podcast “This is your right”. Specifics of moving personal belongings through administrative border with Crimea: Program’s Kherson-based lawyer went on the air (the Radio Kuresh) to deliver advices to IDPs and people residing in the temporarily occupied peninsula ([link in Ukrainian](#)).
- Implementation of the recommendations of the roundtable “Passage through internal checkpoints in the Joint Forces Operation’s zone in Donetsk Oblast” in order to ensure the observance of human rights: having analyzed 3 months’ worth of data, the Toretsk-based LAC has concluded that, unfortunately, the authorities ignored all requests made by human rights

³ Local media published articles on this issue (links are in Russian and Ukrainian): [one](#), [two](#) and [three](#).



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defenders. The LAC continues advocating to address the problems existing in this sphere – see details [here](#).

Other related activities by UHHRU in brief:

- **UHHRU signs memorandum of cooperation with the justice system of Kyiv Oblast**

The document envisages strengthening collaboration ties, among other things, in the field of delivering free legal aid to the population and increasing peoples' legal literacy and knowledge of how to navigate the legal system of Ukraine – [link in Ukrainian](#).

MAIN EVENTS IN HUMAN RIGHTS AREA

Unlawful persecution of Crimean Tatars in occupied Crimea

- On 2 January, Crimean Tatar activist Risa Asanov was viciously [attacked](#) and told this is his “last warning”. Asanov is known for support of Kremlin’s prisoners and their families since his return to Crimea from Poland in 2017, and he is certain that the attack was linked with his strong civil stand against violations of human rights in occupied Crimea.
- Wife of the disabled Crimean Tatar activist Edem Bekirov in her public appeal asks the Ukrainian government and international community to help liberating her husband, whose life is in danger. Bekirov, who has an open wound after amputation of his leg, 4 cardiac shunts and diabetes, was detained at the entrance to the occupied Crimea on 12 December, arrested for two months. [More details in Ukrainian](#).

Parliament’s Committee on Legal Policy and Justice recommends adopting draft law No 6240 aimed to enfranchise IDPs in elections (*links are in Ukrainian*)

On January 17, after almost two years of wandering the lawmaking cabinets, the [draft law](#) “On amendments to certain laws of Ukraine related to electoral rights of IDPs and other “mobile” groups of Ukrainian citizens” was eventually considered by the named responsible Committee. The Rada is recommended to decide on it through voting in the session hall ([more details](#)).

If the draft is adopted into law and becomes effective before the 2019 parliamentary elections, IDPs and economic migrants will be able to vote in parliamentary elections not only for the party list (which they are entitled to under the current law), but also for candidates running in single-mandate districts under the majoritarian (first-past-the-post) component of the parallel electoral system. IDPs and mobile groups will further be entitled to vote in the 2020 local elections at their current place of residence.

The absence of a possibility to register a temporary voting address effectively barred all IDPs from taking part in the 2015 local elections. This was widely criticized, including internationally by the OSCE/ODIHR and the Council of Europe.



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Parliamentary Assembly of the Council of Europe adopted resolution on Azov crisis

On January 24, the PACE passed the [Resolution 2259](#) “The escalation of tensions around the Sea of Azov and the Kerch Strait and threats to European security”: 103 members said yes to the resolution, 3 voted against, and 16 abstained. Despite the fact that the Russia’s aggression is not mentioned in the name, the project generally is balanced and contains the claimants and demands to the country-aggressor. Among other things it urges Kremlin to immediately release the Ukrainian seamen and ensure they are granted the necessary medical, legal and/or consular assistance in accordance with relevant provisions of international humanitarian law such as the Geneva Conventions, as well as to ensure freedom of passage in the Sea of Azov and the Kerch Strait.

Subject-matter media releases can be found [here](#) and [here](#) in English, and [here](#) in Russian.

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