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**DIGEST No 5(47) BY UKRAINIAN HELSINKI HUMAN RIGHTS UNION,
USAID HUMAN RIGHTS IN ACTION PROGRAM**

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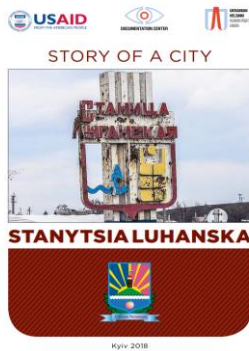
USAID HUMAN RIGHTS IN ACTION PROGRAM UPDATES

HUMAN RIGHTS MONITORING, ANALYTICAL ACTIVITY AND ADVOCACY

Program continues promoting the issue of rehabilitation for conflict victims

One more time reminding about Program-prepared [analytical account](#) “Rehabilitation of the victims of the conflict”. This time we would like to share our experts’ comments, delivered at Uklife TV, which contain a detailed subject-matter [breakdown](#) as well as advice on how to receive a compensation and the official status of a person who suffered from military operations.

“Story of a city. Stanytsia Luhanska” analytical report is published in English



Program proceeds releasing chronicles of hybrid armed conflict in Donbas to restore historical truth as a part of transitional justice process.

Stanytsia Luhanska, the fifth one in our series, can be now downloaded both in [Ukrainian](#) and in [English](#).



Advocacy of bills aimed at overcoming consequences of armed conflict and occupation in Ukraine (*links are in Ukrainian*)

- ✓ [Ukraine has to protect its citizens being detained by Kremlin](#)

The National Security Committee supported [bill No 8337](#) “On amending the Law of Ukraine “On combatting terrorism” (as regard foundations for social protection of hostages)”, which meant to assure a certain degree of social protection to hostages, but instead contains drawbacks and disconcerting provisions. Among them is absence of clear definition on the term of “hostages”, ungrounded issuance of unclear certificates on “hostage” status etc. Furthermore, this bill is not in line with other subject-matter pieces of legislation, including [draft law No 8205](#) earlier recommended for adoption by the Parliamentary Human Rights Committee. [Here](#) is a corresponding analytical release calling legislators to rethink document’s language.

- ✓ [Draft law No 9438 on the harmonization of Ukraine’s criminal law with international law in cases related to the armed conflict and occupation](#)

First, we would like to remind about Program-supported [legal analysis](#) of the said draft law¹. To proceed further, here is a fresh [interview](#) with Taras Tsymbrivskyy, USAID Program Chief

¹ In general, civil society actors, including UHHRU, [call](#) to give the green light to the given piece of legislation because it aims at fighting impunity amid the ongoing armed conflict in Ukraine.



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of Party, in which he explained the shortcomings of Ukraine's Criminal Code and why it has proven to be ineffective during the armed conflict.

Other related activities by UHHRU in brief:

- **Marking the 5th year of Ukraine's resistance to Russia's military aggression**
 - ✓ Publishing in concert with partnering human rights NGOs a [consolidated position](#) that calls for the Ukrainian government agencies to solve the problems faced by IDPs and residents of the occupied and non-controlled territories.

RECOMMENDATIONS OF HUMAN RIGHTS ORGANIZATIONS TO THE GOVERNMENT OF UKRAINE AS REGARD PROTECTION OF CONFLICT-AFFECTED POPULATION IN UKRAINE



- 1 To help people who face illegal politically motivated persecution at the occupied territories of Ukraine and in Russia.**
As of February 2019, Russia has illegally detained at least 70 Ukrainian nationals in occupied Crimea and in Russia for political reasons, and at least 116 people – military and civilians – have been detained in Russia-controlled territories in Donetsk and Luhansk Oblasts. Ukraine still lacks a comprehensive law that would protect this category of citizens and correspond with the international humanitarian law provisions and human rights standards.
- 2 To create conditions allowing residents of temporarily occupied territories to realize the right to social protection, particularly, the right to pension.**
Currently, almost 700,000 retired individuals from Donetsk and Luhansk oblasts do not receive their pensions. IDPs from Crimea also face massive obstacles during pension application process, which include illegal practice of the Ukraine's Pension Fund of providing the RF's pension bodies with the personal data of Crimeans.
- 3 To abolish the Law of Ukraine No 1636-VII "On creation of the free economic zone "Crimea" and on peculiarities of exercising economic activity in the temporarily occupied territories of Ukraine" and to abolish the Resolution of the National Bank of Ukraine No. 699 in order to remove the discriminatory status of non-residents, which is assigned to the citizens of Ukraine registered or residing in Crimea and the city of Sevastopol.**
- 4 To introduce an administrative (out-of-court) procedure for recognizing facts of birth and death, which occurred in the occupied territories.**
As of 2018, no more than 20% of births and deaths that occurred the occupied territories have been registered by the State of Ukraine.
- 5 To simplify the procedure of crossing the administrative boundary line with Crimea and the contact line with the non-controlled territories of Donbas.**
Namely, to cancel the permit system introduced by Ukraine's Security Service for Donetsk and Luhansk oblasts and to change the procedure for foreign human rights defenders, lawyers and journalists to enter Crimea, making it sufficient for them to only notify the authorities about travel plans rather than forcing them to get a special permission.
- 6 To ensure proper outfitting of entry-exit checkpoints at the administrative border with Crimea and at the contact line in Donbas: proper sanitation, public transport connections, waiting rooms, etc.**



RECOMMENDATIONS OF HUMAN RIGHTS ORGANIZATIONS TO THE GOVERNMENT OF UKRAINE AS REGARD PROTECTION OF CONFLICT-AFFECTED POPULATION IN UKRAINE

- 7 To eliminate obstacles to transporting personal belongings from the occupied territories.**
The Government of Ukraine should only determine a list of banned items, which would not be violating the property rights of IDPs and residents of occupied territories.
- 8 To ensure the ability of IDPs to exercise their voting rights and to adopt the bill No. 6240 "On amendments to certain laws of Ukraine (regarding voting rights of internally displaced persons and other mobile citizens within the country)".**
- 9 To adopt the bill No. 9438, which amends the Criminal Code of Ukraine and allows national investigation bodies and courts to effectively prosecute those persons who have committed grave crimes under international law.**
- 10 To develop and implement an effective mechanism for returning people that were convicted by Ukraine and are held in detention facilities at the occupied territories or have been forcibly moved to the RF. At present, according to human rights organizations, at least 4,000 Ukrainian citizens that were serving their sentences in the occupied Crimea have been forcibly transferred from Crimea to Russia.**
- 11 To develop and implement a nation-wide state policy on protection of the rights of orphans and children deprived of parental care, who remain in the occupied territories of Ukraine. There were at least 4,300 such children in Crimea at the time of the purported annexation. Their fate remains unknown.**
- 12 To establish the Military Ombudsman's office as a key element of democratic supervision over the Armed Forces, National Guard, and Ministry of Interior. As of now, a military person is being a "slave" of her/his superiors deprived of any effective tools to protect his/her rights. Thus, it is necessary to adopt a special legislation on the Military Ombudsman's office.**
- 13 To amend the Law of Ukraine 1644-VII "On sanctions" as well as to implement an analogue of Sergei Magnitsky Rule of Law Accountability Act of 2012 (as a principle for introducing sanctions against persons responsible for gross human rights violations in foreign countries). The said law is in need of significant improvement in order to effectively impose sanctions on persons involved into the commitment of human rights violations in the occupied Crimea, in eastern Ukraine and in Russia linked to the armed conflict.**
- 14 To move all Ukrainian law enforcement agencies of Crimea to Kyiv for better coordination, capacity building and leveling up profession skills in the investigation of war crimes, crimes against humanity and human rights violations at the occupied territories (Crimean Prosecutor's Office, National Police and Security Service departments are located in different cities within the Government of Ukraine-controlled territory). To improve the professional capacity of judges, specifically in part of dealing with conflict-related cases.**





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- ✓ Delivering a speech at [V International Forum “Occupied Crimea: 5 years of resistance”²](#) to highlight key human rights statistics and existing challenges, response provided by human rights defenders, as well as actions already taken and those that should be immediately taken by the Government of Ukraine.
- ✓ Presenting at [media event](#) the UHHRU-co-authored submission to the ICC concerning the use of civilians during capture of strategic targets (so-called “human shields”) in Crimea by the Russian military in 2014 ([video footage](#), in Ukrainian). Subject-matter interview is given [here](#), in Ukrainian.
- ✓ Interview with UHHRU’s Executive Director to discuss how the European Court of Human Rights (ECtHR) judgements can be helpful to overcome consequences of human rights violations in Crimea – [link in Ukrainian](#).
- ✓ Speaking at a street action, hosted by ally Crimean Human Rights Group to send warmth to Volodymyr Balukh and Roman Sushchenko in their birthday and to demonstrate moments of solidarity with other detainees – [link in Russian/Ukrainian](#).
- **Situation with observance of advocates’ rights in Ukraine’s armed conflict context** (*links are in Ukrainian*)

Hromadske Radio news outlet launched a new program “Pravonastup”, and its first [episode](#) was devoted to discussion of the [analytical report](#) “Advocates under occupation: situation with observing the advocates’ rights in the context of the armed conflict in Ukraine” (prepared by UHHRU in partnership with the Regional Center of Human Rights, advocates from the occupied territories and internally displaced advocates).
- **Promoting Program-contributed transitional justice model for Ukraine**

CivilM+ multi-nation advocacy platform, which includes UHHRU, released [proceedings](#) (*in Ukrainian*) of an annual [conference](#) “Autumn talks. Law and justice in post-conflict societies: European experience and perspectives” conference.
- **Presidential elections as a chance to remind about burning human rights issues**

Human Rights Agenda coalition of NGOs, including UHHRU, [voiced out](#) (*link in Ukrainian*) the most topical human rights issues, including conflict-related ones, shaped as 10 questions to persons running for presidency this year to get their response.

STRATEGIC LITIGATIONS

Within this direction the USAID Human Rights in Action Program supports strategic legal cases domestically and internationally to protect public interests³, 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.

² Organized by the Ukraine’s Ministry of Informational Policy

³ 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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Demanding to stop illegal checks of IDPs

UHHRU sent a letter to Ukraine's Social Policy Minister Andriy Reva demanding to take an action with regard to the fact that responsible social protection agencies continue checks of IDPs in the place of their registration. The matter is that the Supreme Court of Ukraine released a judgement in a Program-supported legal case (just like lower instance courts did previously) saying IDPs should no longer be experiencing mandatory checks. However, this damaging practice still blossoms ([link to FB page](#), [link to website, in Ukrainian](#)).

One more Program-contributed precedent court judgement to compensate damage caused by military ammo depots blast (*links are in Ukrainian*)

A recently-obtained court decision clarifies that a person, whose mother died because of the blast at the ammo depots in Balakleya of Kharkiv Oblast (in 2017), must be [compensated](#) in the amount of 300,000 UAH⁴ (this case deals with violation of the right to life).

Just reminding that earlier another Program-supported case also resulted in a successful court ruling, saying that a plaintiff [must be reimbursed](#) over 172,000 UAH since his property has been damaged/destroyed and he suffered moral damage as a consequence of the mentioned explosion.

Applications to the ECtHR

- ✓ Another application was filed regarding property destroyed as a result of the armed conflict in eastern Ukraine: the applicants' apartment was damaged as a result of artillery fire, but the state refused to compensate for pecuniary and non-pecuniary damage caused.
- ✓ Objections were submitted regarding the Ukrainian Government's remarks in cases of applicants, whose criminal proceedings case files remain in the occupied territories and whose cases have been on hold since 2014. The first applicant still has the status of a defendant and his freedom of movement is restricted by court, despite the fact that the case should have been closed since the prosecutor's office is unable to prove the person's guilt in court (presumption of innocence). Another applicant's case file was lost in the occupied Crimea, and yet Ukraine failed to use available legal means at the international level to have the file transferred to Ukraine. Third applicant was convicted by the first instance court, but was unable to have his appeal examined due to the beginning of the armed conflict, so the conviction never entered into force (law enforcement managed to find a part of the case file in the GOU-controlled territory in 2016, even though back in 2015 they claimed that it would be impossible to find a single document).

UHHRU is trying to prove that the government hasn't exhausted all available means to protect the rights of these people in accordance with the European Convention on Human Rights.

Other related activities by UHHRU in brief

- **Legal briefs submitted to the ECtHR in response to the objections of the governments of Ukraine and Russia in seven legal cases**

Those concerned various episodes of the armed conflict in Ukraine, specifically the events in Donetsk in August-September 2014 and the battle of Ilovaisk in August 2014. Among the most frequent violations there were torture and inhuman treatment of civilians and military



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personnel, violations of the right to life, illegal detentions for prolonged periods of time, forced labor and ineffective investigations at the national level.

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 a [Kyiv-based Specialized LAC](#) targeting both Crimean and Donbas residents and IDPs and a Specialized Crimea-oriented LAC in Kherson.

Events to raise awareness of citizens regarding protection of their rights *(links are in Ukrainian)*

- **Helping IDPs to navigate their voting rights**

In its [release](#), Program once again reminds people on how they can enable their participation in the upcoming 2019 presidential elections in Ukraine.

LACs also make efforts to raise subject-matter awareness on the local level – this months, our [Pokrovsk](#), Toretsk (link [1](#) and [2](#)) and [Sumy](#) human rights lawyers initiated or joined events, agenda of which included voting procedure issues.

- **Seminar for school children in Kramatorsk**

Representatives of the local LAC visited fourth graders of a Kramatorsk school to tell them about children's rights during armed conflicts.



- **Passport trap, pension blackmail and other “exclusive” rights of IDPs**

In a comprehensive [interview](#), our Sumy-based lawyer shares experience about the main trends in human rights protection of conflict-affected people.



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- **Seminar in Dnipro to explain transitional justice aspects to the legal aid experts**

Program-supported lawyers [held](#) a seminar for the legal professionals from the Regional Legal Aid Center in Dniepropetrovsk oblast, touching upon challenges these experts might face amid assuring legal relief for conflict-suffered population.

Assistance to victims of the conflict and occupation (*links are in Ukrainian*)

- **Kherson-based lawyer helps another person to retrieve suspended pension payments**

When suspending payments, the Ukraine's Pension Fund justified its decision by the fact that claimant's Record of Service Book contained a record, made in 2015 in Crimea, that falls short of complying with Ukraine's law. Besides, it referred to certain actions of occupational judicial authorities. Without hesitation Kherson District Court found such justification inappropriate and ruled to [restore](#) claimant's pension.

- **Are IDP women entitled to “resettlement” money during their maternity leave?**

All women, who left occupied Donbas because of military actions and decided to give birth in GOU-controlled territory, are entitled to monthly targeted assistance for IDPs, supposed to cover their living expenses, including costs of housing and utilities (so-called “resettlement” money). However, due to ambiguous or nebulous legislation that can be easily misinterpreted, more and more IDP women are forced to uphold this right in court. At the same time, social protection agencies claim they are guided by instructions that come from Ukraine's Ministry of Social Policy.

UHHRU Sumy-based lawyers proved the unlawfulness of such refusals by helping an IDP woman on maternity leave to have her resettlement money payments retrieved. The case is currently at the stage of [verdict](#) enforcement.

- **Dnipro-based lawyers unite forces with IDPs in their shared endeavor to help hundreds whose rights are not properly respected**

Amid a [press conference](#), LAC raised concern that over 200 persons (residents of a modular village built in Pavlograd to satisfy IDPs' accommodation needs) face a burden of suddenly-raised utilities tariffs. Our lawyers believe this happens in breach of legislation, and local officials have to approach these people with more care and respect⁵.

Ahead of the press conference, Program's lawyers [provided](#) modular village residents (the majority of which are third age persons, PWDs and multi-children families) with exhausting legal consultations to proceed with a collective complaint to the city council.

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

⁵ [Here](#) is also a related release prepared by a local D1 Channel news outlet, as well as a [publication](#) by Radio Svoboda news outlet.



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Program “[We Understand Human Rights](#)” (WUHR)⁶, which is being the only informal educational system that has the material basis for its activities – Educational Human Rights House-Chernihiv.

Within teaching the second cycle of innovative training course “Human rights standards in legal practice of lawyers and judges” (*links are in Ukrainian*)

On February 8-10, Program [hosted](#) the second in-class seminar for 24 attendees from all over Ukraine, which was meant to draw the final line in course’s module 2 (devoted to the right to life, right not to be subjected to torture and inhuman treatment, and right to personal liberty). Specific attention was paid to cases stemming from Ukraine’s armed conflict and occupation. The seminar was delivered by the [course’s](#) expert Maxim Timofeev, Associate Professor of Law Department at the European Humanities University (Vilnius, Lithuania) and Oleksiy Gotsul, ECtHR lawyer.

Other related activities by UHHRU in brief:

- **UHHRU adheres gender equality aspects in daily work**

UHHRU is glad to announce the [availability](#) of findings from the 2018 Report on Implementation of UHHRU’s Gender Equality and Non-Discrimination Policy, prepared by our gender advisor.

MAIN EVENTS IN HUMAN RIGHTS AREA

New politically-motivated searches in the houses of Crimean Tatar activists in Crimea

On February 14, to intimidate Crimean Tatars the occupational authorities conducted [searches](#), another in a row, accusing people of belonging into “Hizb ut-Tahrir” organization, which Kremlin proclaimed as extremist.

Kremlin not to expel Kurbedinov from “Crimean Central Bar Association”

The RF as an occupying power keeps on putting pressure on the Crimean human rights lawyer Emil Kurbedinov, who defends the Ukrainian nationals held captive by the Kremlin. Earlier, the RF’s Ministry of Justice intended to expel Kurbedinov from de facto Crimean Central Bar Association before March 2019, but later Kurbedinov [announced](#) that it is not about to happen (*link in Ukrainian*).

⁶ 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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This is important in light of the fact that such action might further lead to depriving Kurbedinov of the possibility to practice law and his clients of the right to effective legal remedy.

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