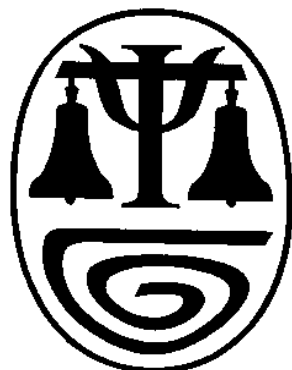


KHARKIV HUMAN RIGHTS PROTECTION GROUP



# ANNUAL REPORT

2017

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## 1. General notes

According to the Strategic Plan for 2016-2019 KHPG works in the following strategic areas:

1. Defense of victims of human rights violations in specific cases. It includes:

- a) Providing help to individuals whose rights have been infringed,
- b) Carrying out investigations into cases of human rights violation;
- c) Providing strategic litigations in national and international proceedings.

2. Civic education and enlightenment on human rights, collection and distribution of information on human rights. It includes:

- a) Gathering information on human rights violations and sending corresponding data to the relevant persons, organizations and mass media as well as state bodies;
- b) Developing human rights education and promoting legal awareness through public actions, educational events and publications.

3. Monitoring, analysis and improvement of the human rights situation in Ukraine, i.e.:

- a) Providing analysis of the human rights situation in Ukraine, assessment of current legislation and draft laws from the point of view of their compliance with international human rights law;
- b) Monitoring law-applying administrative and judicial practice in the context of human rights observation;
- c) Appealing to legislative, executive and judicial authorities on problems concerning human rights.

In addition, KHPG works in the following specific areas:

4. Study of history of human rights movement in USSR and Ukraine and history of political repression in USSR as well as development of KHPG physical and electronic archive on the history of dissident movement in Ukraine.

5. KHPG organizational development.

Of the full range of human rights KHPG usually selects several key rights and freedoms, which are currently the most up to date, and implements work with them as described above in 1-3. Consideration of individual rights KHPG combines well with the analysis and monitoring of the activities of certain government bodies, considering in this case all the rights and freedoms are violated by these bodies. Accounting main trends of state development, KHPG provides the following programs in 2016-2019:

1. Human rights defense through KHPG Public Reception Office (PRO)
2. Human rights defense through KHPG Strategic Litigation Center (SLC)
3. Monitoring, investigation and legal proceeding the most serious violations of human rights in the Donetsk and Luhansk oblasts
4. Human rights protection of internal displaced persons in Ukraine
5. Civic campaign against torture and ill-treatment
6. Defense of the rights of vulnerable groups with focusing on prisoners, drug users and people who live with HIV/AIDS as well as asylum seekers and migrants
7. Defense of freedom of expression, access to information and right for privacy; increasing transparency and openness of work of public administration and local self-government bodies
8. Struggle against discrimination, racism, xenophobia and hate crimes
9. Struggle against political persecutions
10. Protection of the right to a fair trial in criminal proceedings.
11. Security services in a constitutional democracy: oversight and accountability
12. Police reform
13. Dissemination of information and knowledge on human rights and basic freedoms in Ukraine, civil education and aware-raising activities.
14. Monitoring implementation of decisions of international bodies.
15. Study of history of human rights movement in USSR and Ukraine and history of political repression in USSR.

To improve its performance KHPG should also take care of its organizational development: to improve the organizational structure, management system, fundraising and communication (internal and external), to improve the knowledge and skills of the staff, to ensure the conditions for it to work effectively, to attract young professionals who sharing the values and goals KHPG.

Total expenditures of the Group were 11 745 500 UAH. Please, see list of donors in the Appendix.

## 2. Human rights defense through KHPG Public Reception Office

In 2017 2774 people applied to the Public Reception Office (hereinafter –the PRO) of the KHPG, among them – 1608 men and 1166 women. 454 of legal consultations, provided during field receptions in residential areas situated on the demarcation line (Stanytsya Luhanska, Svetlodarska duha, Maryinka, Krasnohorivka, Popasna, Tryokhizbenka etc.) are not included in this Report. It should be mentioned that 6 employees work in the Public Reception Office, including 2 barristers, 2 lawyers, one human rights defender and one student of a legal department (conducts initial reception). Accordingly, on average there are 538 consultations per worker, that is 2-3 consultations per day.

Social status of the applicants is provided in the table below:

IDPs	1248
Military men or their relatives	80
Foreigners and stateless persons	24
Students	14
Victims of crimes	74
Prisoners and their relatives	308
Suspects and their relatives	46
Accused and their relatives	4
Homeless people	2
Unemployed and non-working people	66
Single mothers	18
People with disabilities	156
Pensioners	598
Minors and their representatives	4
Workers of the budget sphere	40
Entrepreneurs	26
Civil activists	8
Journalists	8
Irrational clients	52
Others	394

In the following table there are provided institutions on the actions of which the applicant complained

Administration of enterprises of all forms of ownership	484
State Enforcement Service and the SES officers	64
Education institutions	4
Monitoring bodies	472
Health care institutions	26
The Ministry of Interior and its departments	212
The Ministry of Defense and its departments	26
Executive authorities	570
Local self-government authorities	468
Social protection bodies	486
Organizations providing community facilities	190
The Pension Fund and its units	178
The Prosecutor's Office	146
Courts	722

Penitentiary institutions	94
President	4
Parliament, MPs	4
Other	484

332 applicants applied during field receptions. The other ways of applying, determined by the applicants in the application form are the following: Interned, email, Skype – 24, personal reception – 986, written applications – 256, telephone applications – 1150, not indicated – 6.

The applicants provided the next answers to the question of the application form how they learned about the PRO: from friends – 1098, from state bodies – 8, from the office of FLA (free legal aid) – 28; applied before – 644, from the media – 170, from the Internet – 412; from other reception offices – 4; from job listings – 382. 28 applicants did not answer this question.

Most of the legal problems of the applicants concerned social issues, payment of pensions, community facilities, civil cases. All people who addressed the KHPG received consultations. Persons unable to prepare documents received assistance in preparation of necessary legal documents.

Many complaints concerned problems IDPs: issues regarding obtaining the status, pensions, payment of social benefits associated with the status.

Overall in 2017 the lawyers of the KHPG PPO represented the applicants' interested in 89 court cases, including 25 civil, 21 administrative and 24 criminal cases. Among them, there are fully or partially won 64 cases. Consideration of the remaining 35 cases is pending.

### **3. Providing strategic litigations through KHPG SLC**

In 2017, SLC lawyers represented clients in 258 (in 2016 – 186) strategic cases. This number does not include cases, on which applications to the ECtHR were filed in previous years. In these cases, SLC lawyers were in correspondence with clients and the Court. Also in some cases judgments had been delivered in previous years and SLC lawyers were conducting monitoring of their execution.

35 lawyers (including 7 in-house) were involved in work upon strategic cases of the SLC. Other lawyers were performing fixed-term contracts.

#### ***SLC cases before the ECtHR***

137 strategic cases were presented before the ECtHR. In some of them national judicial proceedings continued simultaneously.

In 2017 the ECtHR have delivered 10 judgments concerning events before 2013. SLC lawyers represented victims of human rights violations in cases of tortures in police units, inhuman conditions of detention and lack of proper medical aid in penitentiary institutions. Other cases were connected with non-providing of access to case-files of imprisoned persons, unreasonable delays in consideration of cases by courts (one of them has been being considered for more than 10 years!), unlawful putting of person to mental health facility, lack of effective investigation in cases of murder and tortures.

In 12 cases SLC lawyers represented their clients before the ECtHR on the stage of communication with the Government of Ukraine. In 2017 SLC lawyers drafted and filed to the Court 115 applications on violations of Convention and according to the Rule 39 of the Court's Statute. 88 of them are related to cases concerning events in Eastern Ukraine: 22 cases of prisoners left in the occupied territories, 17 cases concerning unlawful detention and tortures of prisoners of war as well as killing and wounding civilians which live in "grey zone" and 49 cases concerning damaged property. 27 statements related to other violations of human rights: 5 cases are related to the "Savchenko legal act", 4 – with detention in excess of the established deadline, 18 – other issues, including tortures in police units, extradition, lack of medical aid under detention, different aspects of violation of the right to fair trial, etc.

#### ***Strategic cases of the KHPG in national courts***

In 2017 KHPG lawyers represented victims of Human Rights violations in 121 cases before national courts throughout the country. This number includes 8 cases of asylum seekers which were eligible for extradition according to the Prosecutor's Office. Those actions violated defection principle. The State Migration Service actually refused to provide asylum seekers with temporary residence permit. 13 cases

are related to war in Eastern Ukraine. 7 cases are related to Kyiv Euromaidan, including: 5 heroes of the “Heaven’s hundred” – Oleg Kapinos, Igor Kostenko, Leonid Polyanskiy, Vladislav Zubenko and Vyacheslav Veremiy. 28 cases are related to drug-addicts, who suffer severe diseases and other vulnerable groups of imprisoned people. 31 cases are related to unlawful actions of the police and servicemen of the penitentiary system, improper medical aid which resulted patient’s death, distributing by administration of the Berdychiv penitentiary institution of anti-Ukrainian newspaper “Novorossia” among prisoners, different aspect of right to fair trial, etc.

In 36 strategic cases KHPG lawyers had success. In 3 cases or clients refused to support the case or the court rejected the claim. 82 cases are continued.

A brief description of the KHPG strategic litigations in 2017 is placed on the KHPG portal «Human Rights in Ukraine»: <http://khp.org/en/index.php?id=1517497790> (in English) and <http://khp.org/index.php?id=1517497435> (in Ukrainian).

#### **4. Monitoring, investigation and legal proceeding the most serious violations of human rights in the Donetsk and Luhansk oblasts**

In 2015-2016, this migration intensified even more. The occupation of Crimea and the military conflict in Donbas brought about the greatest migration in Europe since the Second World War. In 2015-2016, this migration intensified even more. As of 1 January 2018, according to the Ministry of Social Policy, more than 1.58 million internally displaced persons were registered in Ukraine.

Extraordinary human rights violations appeared in Ukraine in 2014 and became even more widespread in 2015-2016, such as summary executions, forced disappearances, arbitrary arrests and detention beyond any legal procedures, tortures, war crimes. According to the mission of the Office of the UN High Commissioner for Human Rights, from 14 April 2014 to 15 November 2017 10,303 people were killed and 24,778 injured as a result of the military conflict. The number of people shot without trial or missing is unknown; according to various estimates, it ranges between 2,500 and 8,000 victims, however, verification of these data is not yet possible. It is also impossible to tell the exact number of military and civilian prisoners. According to the Security Service of Ukraine (SBU), about 3,300 persons kept in places of confinement by the self-proclaimed DPR and LPR were liberated. On 1 January 2018, while 103 people are still held prisoners, and difficult negotiations for their release continue.

The KHPG objective in this direction is to provide monitoring and documenting the most serious violations of human rights and humanitarian law as well as to provide access to legal aid to victims of these violations in Donetsk and Luhansk regions which have been affected by the occupation by armed groups and the hostilities. Victims are provided with legal support and cases which require urgent life-saving intervention can be addressed.

The primary tool for monitoring is trips of monitoring groups to the settlements along the line of demarcation. In 2017 26 monitoring trips (12 in January-June, 14 in July-December) have been realized. Preliminary KHPG sent information requests to the local self-governments bodies. We requested information about the destruction or partial destruction of buildings – residential and non-residential, the number of victims – dead and wounded, the estimate of the damage, whether the restoration work is carried out. Monitoring group specified during visits responses to information requests: fix on the go as a result of the destruction of property shootings \ attacks; assess the scale of the destruction; are working on the possibility of identifying the perpetrators of the shootings \ shelling; set the exact number of victims as much as possible – with the identification of victims and tracing relatives and questioning them.

Furthermore, monitoring groups look for:

- Illegal actions on the part of Ukrainian units;
- Acts of violence against the person on both sides of the conflict;
- Looting on both sides of the conflict;
- Cases of torture, illegal detention, etc. on both sides of the conflict;
- Executions without trial on both sides of the conflict;
- Kidnapping for political reasons.

Simultaneously members of the monitoring groups provided legal consultations and found victims of grave human rights violations. The members of the monitoring group met with victims of extraordinary human rights violations and conducts video evidence of abuses in the form of semi-structured interviews.

They determined the possibility of legal defense of victims and make recommendations on restoration of the violated rights or mitigation of consequences of the violations. Then they handed such strategic cases to the KHPG SLC.

In 2017 502 legal consultations were provided, 209 legal documents were drafted, 54 unique cases were started. KHPG lawyers prepared and sent 75 applications to the ECtHR: 11 – on prisoners of the so-called DPR and LPR; 6 – on killed civilians, 9 – on injured civilians; 2 – on persons, who are imprisoned in territory controlled by Ukraine; 46 – on real-estate destroyed as a result of shelling, 1 – on person who held in captivity.

In total, to the end of 2017, legal remedies have been exhausted in 100 cases, 100 applications have been prepared and submitted to the European Court for violations of the applicants' rights: relatives of 6 dead, 9 wounded, 2 prisoners, 15 detainees held in ORDLO, 68 lost property destroyed during shelling. We continue to consider 150 strategic cases.

There are typical strategic litigations that could be united in the following groups:

1. Torture and inhuman treatment with persons who held in captivity (Article 3 of the Convention).
2. Deaths and injuries of civilians as a result of shooting during the military conflict (Articles 2 and 3 of the Convention).
3. Missing persons during the war conflict (Articles 2 and 3 of the Convention).
4. Failure to pay the salary to public sector workers if the organization stays in the occupied territories (Article 1 of the Protocol 1 to the Convention).
5. Prisoners in the so-called DPR and LPR who are holding there without legal grounds (Article 5 and 6 of the Convention).
6. Loss of property as a result of shooting (Article 8 and Article 1 of the Protocol 1 to the Convention).

## **5. Civic campaign against torture and ill-treatment**

*Development and strengthening a network for preventing torture.* In the beginning of 2017, KHPG agreed on cooperation and formal coalition with our long-term partners. In January 2017 12 NGOs founded a Coalition «Against Torture» (see the Coalition's site <http://pk.khpg.org> and its page in the Facebook <https://www.facebook.com/%D0%9F%D1%80%D0%BE%D1%82%D0%B8-%D0%9A%D0%B0%D1%82%D1%83%D0%B2%D0%B0%D0%BD%D1%8C-1745692259077732/?fref=ts>. Members of the Coalition have agreed principles of joint work, main directions of activities (see [Memorandum](#)), and [Strategy to achieve the objectives of the Coalition](#).

We developed quite strong working connections between regional human rights NGOs, journalists and lawyers in order to inform on and investigate of ill-treatment cases. Members of the network have extended advisory aid to the citizens, conducted public investigations within their competence and extended aid by professional lawyers cooperating with KHPG. The reports sent by the network partners were collected, generalized, and published in the Coalition site <http://pk.khpg.org> and KHPG portal «Human Rights in Ukraine». KHPG workers and other members of the network took part in visits to detention places jointly with the representatives of the Ombudsman's office according to the OPCAT. Members of the network also held many awareness-raising events in their regions.

In April 2014 Ukrainian Parliament has adopted changes in legislation and amended the Penal Code of Ukraine (PCU). After that the monitors from civil society and journalist may freely carry out the visits without the previous announcement to the institutions of the State Penitentiary Service of Ukraine (SPSU). Articles 24 of PCU postulated that any deputy or his/her assistant or a member of the Public Council at State Penitentiary Service can form a group of three doctors or two journalists and they have the right "freely and without restrictions in time ... move through the territory of penal institutions" – it is a new opportunity to monitor the situation with the human rights in the closed for the society penitentiary institutions.

During 2017 KHPG organized 21 visits to the colonies with different regimes (medium and maximum levels security level) and a number of media-events where the results of the monitoring visits were presented:

1. Colony #74 (Odessa) for women – 30.01.2017

During the visit monitors have visited the department for children whose mothers are serving sentences in this colony 74. The situation in colony after the reform in the penitentiary system, leaving and working conditions for the sentenced women in this colony were monitored and described in the report (published on KHPG site).

<http://khp.org/index.php?id=1486114072>

2. Penal institution, incl. pre-trial detention center # 4 (Dnipro) – 16.02.2017

The medical unit of pre-trial detention center and the Interregional Hospital for sentenced persons were visited and the conditions of the treatment for patient, leaving conditions of patients were monitored.

Appeal on urgent reaction from the administration on the case of failure to provide adequate medical assistance in the pre-trial detention center

<http://khp.org/index.php?id=1487276347>

The text of report on the results of the visit to the Interregional Hospital for sentenced persons was also published on KHPG site

<http://khp.org/index.php?id=1487344416>

On the same day, 16.02.2017, the KHPG monitors held a training session for journalists and NGO activists from the partner organisation SICH (Dnipro) on the methodology of the monitoring visits to the penitentiary institutions.

3. Colony #20 (Vilniansk) was visited on 21.02.2017. This colony provided treatment for the sentenced persons with mental disabilities or disorders. The conditions of the maintenance and treatment were studied by monitors and reflected in published report

<http://khp.org/index.php?id=1488178941>

4. Colony #45 (Sofiivska, Makorty) – is provided for disabled sentenced persons. – 01.03.2017

This colony was visited several times by the monitors and the last visit opened a raw of cases that indicated on violation of the rights of sentenced persons. The urgent release of the one sentenced helped to correct one of the observed irregularities (<http://khp.org/index.php?id=1488553265>)

The total report was published on the KHPG site <http://khp.org/index.php?id=1488542731>

5. Colony # 11 (Vilniansk) was visited on 02.03. 2017 by monitors with the aim to check the conditions of the detention life sentenced persons. The doctor was included in the team of monitors with the aim to check complains on non-effective medical treatment by the client of the KHPG, who is also life-sentenced person. The report on the visit was published on the KHPG site

<http://khp.org/index.php?id=1488799650>

6. Colony # 89 (Dnipro) is provided for the sentenced patients with the different forms of tuberculosis. The colony was visited by monitors and the doctor on 10.03.2017. The conditions of treatment of tuberculosis were monitored and the report on the results of the visit was prepared.

<http://khp.org/index.php?id=1491034414>

7. Zhytomyr colony # 4 was visited by the monitors and TV team from “Magnolia TV” on 04.04.2017. After the visit to Zhytomyr colony a TV programme "Magnolia TV" on the conditions in the colony was prepared.

<http://khp.org/index.php?id=1491491257>

After the visit to Zhytomyr colony a TV programme "Magnolia TV" on the conditions in the colony was prepared.

<http://magnolia-tv.com/video-news/2017-04-06/88762-zakon-poryadok-pravniki-v-kolon-v-deo>

8. Zhytomyr penal institution # 8 has a sector where the 180 life-sentenced persons are placed. The monitors visited the prison cells, the most of the convicted for life-long sentences have been in this colony for about 20 years (from 1997-1998). The monitors recorded also information from a convicted person who was transferred from an uncontrolled area in Donezk region in 2016.

<http://khp.org/index.php?id=1492156100>

9. Chernigov colony for women # 44 was visited on 2 of May. The colony has well-equipped department for the children, where their mothers stay with the children (there are properly equipped rooms for mother and her baby). The monitors checked the situation with the health care for the children, possible legal assistance to mothers with the children. The report on the visit was published on KHPG site

<http://khp.org/index.php?id=1494405798>

10. On 09.05.2017 the KHPG monitors have visited Poltava colony # 64.

<http://khp.org/index.php?id=1494924158>



11. On 11.05.2017 monitors visited again BVK # 85, namely the Disciplinary isolator, Unit of increased control (DPK), hospital on the territory of the colony. The KHPG client S. Krotov was moved from VK-45 to this colony and KHPG has started again the procedure of release.

Text of the report was on the KHPG site

<http://khp.org/index.php?id=1494931679>

12. 01.06.2017 the colony # 35 in Bila Zerkva was visited. The monitors found several cases where the urgent legal assistance for the sentenced persons was required, they provided with the some recommendation the administration of the colony.

<http://khp.org/index.php?id=1496910163>

13, 14. Visits to Colony # 85 – 5.07 and 12.07. Monitors visited the colony with the aim to fulfill a court decision on releasing condemned Krotov (without hands and feet).

15. Visit to Colony # 85 – 17.07. Monitors visited the colony in order to transfer released Krotov to the church in Irpin where he has to live. See the article by Oleksandr Pavlichenko and Vasyl Melnichuk “Per aspera ad libertata” <http://khp.org/index.php?id=1500386791>

16. Visit to Mashivska Colony # 9 (Poltava oblast) – 6-7 July. Monitors visited colony in order to study the conditions of residence, work and treatment of convicts.

17. Visit to Gorodishchenska Colony #96 (Rivne oblast) – 25-26 September. Monitors visited colony in order to study the conditions of residence, work and treatment of convicts. Please, see report on the visit: <http://khp.org/index.php?id=1506501994>

18. Visit to Dikanevska Colony # 12 (Kharkiv) – 12 October, monitoring of the hospital in the colony, conditions of living accommodation and work. Meetings with the sentenced patients.

19. Visit to Oleksiivska Colony #25 (Kharkiv) – 2-3 November. Monitors visited colony in order to study the conditions of residence, work and treatment of convicts as well as to participate in the courts procedure representing interests of convicted persons. Please, see report on the visit: <http://khp.org/index.php?id=1509720412>

20. Colony #54 (Kharkiv) for women – 26-27.12.2017 During the visit monitors studied conditions and possible complains of women sentenced to life imprisonment, and interviewed women transferred from the occupied territories of the so-called DNR.

21. 27 December KHPG monitors visited place of exchange of prisoners of war and civil hostages with the purpose of documenting human rights violations during illegal detention.

Additionally, the working meeting with the representatives of the Ministry of Justice, General Prosecutor Office and Ombudsman office was organized on 24 of May 2017 in the Kiev KHPG office with the aim to discuss the difficult conflict situation in the colony # 58 (Zamkova).

Furthermore, KHPG worker Andriy Didenko took part in three visits to the Zamkova colony #58 in Izyaslav of Khmelnytskyi oblast jointly with MP Yuri Timoshenko: on 15 July (see <https://antidot.info/news/deputat-s-pravozahysnykom-zhurnalistom-vidvidaly-zamkovu-vypravnu-koloniyu/>), 8 August (see <https://www.youtube.com/watch?v=HaPLb9fMYIY>), and 6 September.

In addition, the training for journalists on the standards of the coverage of information about the human rights in the penitentiary institutions was prepared on 10.03.2017 in KHPG partner organisation “Magnolia TV”.

<http://magnolia-tv.com/video-news/2017-03-10/87556-pravozakhisniki-rozpov-li-yak-zakhistiti-sebe-v-d-katuvan-v-deo>.

*Development of the system for legal aid to victims of torture and ill treatment.* See previous section. KHPG provides the legal aid to the persons in detention with the qualified work of KHPG lawyers.

*Awareness-raising and educational activities.* Along for the of 2017 we conducted two seminars for judges in Kyiv and Lviv as well as three 5-days school on human rights for human rights activists and training for student of the Lviv Institute of national affairs.

**On 25-29 January** the Twentieth School has been held. This time the representatives of 18 organizations from 16 oblasts of Ukraine gathered in Kharkiv. Each participant obtained the package of documents and books that would help in the human rights protection work.

24 activists from all over Ukraine (Kherson, Donetsk, Luhansk, Poltava, Sumy, Ivano-Frankivsk, Lutsk, Lviv, Kyiv, Kharkiv, Dnipro, Cherkasy regions) during 5 days studied the main questions of human rights's theoretical and practical issues.

On the first day Mr. Vsevolod Rechytsky, PhD, professor of the National Law University named Yaroslav Mudry, discussed with the participants the Ukrainian Constitution in the modern context, and transparency of information as a universal requirement.

Second day was dedicated to the international human rights protection mechanisms. Legal experts of Kharkiv Human Rights Protection Group Olena Ashchenko and Nataliia Okhotnikova highlighted the problems of use the international mechanisms of human rights by non-governmental human rights organizations. Participants learned mechanisms of protecting the rights and freedoms by the European Court of Human Rights and UN Bodies.

Legal experts of Kharkiv Human Rights Protection Group overviewed the main issues of working with vulnerable groups of applicants such as prisoners, combatants of the ATO, drug users, civilians who suffered from the war conflict et cetera. After a break participant worked in the three little groups: 1. Strategic litigation. Enforcement of the ECHR's judgments (moderator – Olena Aschenko). 2. Legal protection and policy, human rights protection and power: is it possible to interact (moderator – Volodymyr Kaplun, KHPG). 3. Legal protection and mass media (moderator – Nataliia Okhotnikova).

Next part of the discussion took place in the framework of three little groups: 1. Protection of victims of torture and ill-treatment. Protecting victims of arbitrary arrests (moderator – Olena Aschenko). 2. Organization of joint actions and campaigns of human rights for NGOs (moderator – Volodymyr Kaplun, KHPG). 3. Military conflict in the eastern Ukraine and human rights (moderator – Nataliia Okhotnikova).

On the third day the Head of Public Reception of the KHPG Ms. Lyudmila Klochko provided information on practical aspects of the work of public reception in NGOs. Then Mr. Yevhen Zakharov, Director of the KHPG, made presentation on the concept of human rights and on the question: What is the human rights protection? He also described main principles of management and funding of NGOs and basics of fundraising for NGOs. On the end of day there was a discussion concerning participants' project proposals.

The fourth day was dedicated to the work on participants' project proposals. After the trainings and work in groups participants presented their project proposals and received remarks and comments from experienced trainers.

Last day consisted on consultation on the project proposals by Mr. Zakharov and he highlighted the problems of project management and preparation of reports.

Participants of the school received the certificates about the participation and the literature ordered additionally.

**On 20-24 June** First School of the second level has been held. The participants were human rights defenders who studied in the KHPG Human Rights School of the first level (there were 20 such Schools since 1999) and continued human rights activities. There were 25 persons from 20 human rights NGOs of 18 regions of Ukraine.

On the first day Mr. Vsevolod Rechytsky, PhD, professor of the National Law University named Yaroslav Mudry, gave two presentations. He discussed with the participants the development of the constitutional system of human rights defense, the amendments to the second section of the Constitution, and the principles of individual complaints to the Constitutional Court. Second presentations had title «Freedom of expression in different constitutional paradigms: U.S., Western Europe and Ukraine».

Second day was opened by the presentation of Yevgeniy Zakharov «Freedom of expression and the right to access information in Ukraine. The position of the ECtHR». Then invited expert Volodymyr Yavorsky, former director of the Ukrainian Helsinki Human Rights Union in 2004-2011, discussed collision between freedom of expression and right to privacy and the position of the ECtHR as well as peculiarities of of the protection of freedom of conscience, religion and belief, freedom of association and freedom of peaceful assembly, and the position of the ECtHR in the case-law on articles 8, 9, 10,11 of the European Convention.

On the third day Gennadiy Tokarev, Head of the KHPG SLC, made two presentations: «Peculiarities of the protection of victims of torture and ill-treatment in the police and penitentiary institutions, the right to life, the problem of the ineffectiveness of the investigation of allegations of illicit use of force, reparation of damage, the fight against impunity, the position of the ECtHR» and «Features of cases of

discrimination and hate crimes, protection of patients with HIV / AIDS and drug addicts, and other representatives of vulnerable groups, the position of the ECtHR». Then Anna Ovdienko, SLC lawyer, discussed with the participants a problem of implementation of the ECtHR judgments in Ukraine. Oleksandr Pavlichenko, Head of KHPG Kyiv Office and KHPG Deputy Director told about monitoring the penitentiary establishments. Vasil Melnichuk, SLC lawyer working in Kyiv, discussed the problems of the asylum system in Ukraine and features of protection of rights of refugees, migrants, foreigners and stateless persons.

On the fourth day Gennadiy Tokarev discussed with participants features of the protection of the right to liberty and personal integrity, right to a fair trial (criminal aspects) and features of the protection of human rights violated in connection with the armed conflict in the Donetsk and Luhansk oblasts as well as ECtHR position in these problems. Than Yevgeniy started to present discussed issues of management and fundraising of human rights NGOs. He told about processes of strategig planning, budgeting, reporting and logical-framework project plan. Participants trained in designing the logframes in the three groups.

On the fifth day participants finished work in three group and each group presented the results of the work to all participants. Yevgeniy Zakharov made the presentation «Information component of human rights protection, PR-service activity, strategy of advocacy and communications». The last session was dedicated to assessment of the School.

Participants of the school received the certificates about the participation and the literature ordered additionally.

**On 22-26 August** Twenty First School of the first level has been held. There were 20 persons from Kharkiv human rights NGOs.

They were enrolled in lectures and seminars, according to the following curriculum:

What is human rights?

What is human rights protection?

The role of human rights protection organizations.

Mechanisms of the human rights protection (judicial, constitutional, international, including appeals to the European Court of Human Rights).

Organization of public reception offices for consultations and defense of victims of human rights violations.

Financing of human rights protection organizations.

Basic knowledge of fundraising.

Basic knowledge of management. Project-by-project administration.

We considered practical exercises of human rights protection and conducted round-table discussion on the topic: “Improvement of the cooperation of human rights protection NGOs, joint protests of human rights protection activists from different organizations in case of brutal violation of human rights and organization of human rights protection campaigns”, “human rights protection NGOs, policy and politics”, “human rights protection NGOs and power”, “human rights protection NGOs and media”. Furthermore, we held a training devoted to preparation of project proposals. Each participant of the schools received materials on human rights published by the KHPG.

**On November 30** KHPG had conducted training «International standards of Court’s practice in the aspect the right to a fair trial» for judges from Kiyv, Vinnitsa, Zhytomyr, Kherson, Sumy, Chernigiv, Cherkasy, Dnipropetrovsk, Kyrovograd, Donetsk, Luhansk regions. The training was conducted in Kyiv and was attended by 69 judges of local courts of the first instance.

The participants were greeted by a representative of the National School of Judges of Ukraine and Nataliia Okhotnikova, a legal expert of the Kharkiv Human Rights Protection Group.

On the first lecture Nataliia Okhotnikova made presentation on the Implementation of Article 6 of the European Convention on Human Rights and the Court’s case law in national courts and highlighted the main problems of implementation of the European Court’s judgments in the Ukrainian court’s practice concerning criminal proceeding.

On the second block Hanna Ovdienko, a legal expert of the Kharkiv Human Rights Protection Group, overviewed the main issues on Article 5 of the Convention in the context of criminal proceedings. Then she discussed main problems of non-compliance standards of the European Court in Ukraine with judges and ways to overcome these problems.

In the last lecture Ms. Aigul Mukanova, a Regional Coordinator of the Network of people with HIV / AIDS overviewed the main issues on Implementation of Articles 2, 3 and 6 of the European Convention on Human Rights and the ECtHR practices in medical cases (HIV / AIDS).

Ms. Mukanova drew attention of the participants to the basic standards of realization on the right to the fair trial of detained persons and to a balance of interests of the individual and society.

**On December 9** KHPG had conducted training «International standards of Court's practice in the aspect the right to a fair trial» for judges from Lviv, Volyn, Lutsk, Zakarpattya, Rivne, Ivano-Frankivsk regions. The training was conducted in Lviv and was attended by 29 judges of local courts of the first instance.

The participants were greeted by Ms. Oksana Polna – the Head of Lviv Regional Unit of the National School of Judges of Ukraine and by Ms. Nataliia Okhotnikova, a legal expert of the Kharkiv Human Rights Protection Group.

On the first lecture Nataliia Okhotnikova made presentation on the Implementation of Article 6 of the European Convention on Human Rights and the Court's case law in national courts. The lecturer highlighted main problems concerning criminal proceeding by the new Criminal Proceedings Code in the view of implementation of the European Court's case-law in the Ukrainian court's practice.

On the second part of the seminar Ms. Hanna Ovdienko, a legal expert of KHPG, made a presentation on the main issues on article 5 of the Convention in the context of criminal proceedings. Then she discussed main problems of non-compliance standards of the European Court in Ukraine with judges and ways to overcome these problems.

In the last lecture Ms. Aigul Mukanova, a Regional Coordinator of the Network of people with HIV / AIDS overviewed the main issues on Implementation of Articles 2, 3 and 6 of the European Convention on Human Rights and the ECtHR practices in medical cases (HIV / AIDS).

Ms. Mukanova drew attention of the participants to the basic standards of realization on the right to fair trial of detained persons with disability and to a balance of interests of the individual and society.

**On December 8, 2017** KHPG had conducted training «International standards of Court's practice» for students of the Law Department of the L'viv University of Internal Affairs.

During the training KHPG legal experts Hanna Ovdienko and Nataliia Okhotnikova highlighted the problems of implementation of the European Court's judgments in the Ukrainian court's practice and discussed typical cases of human rights violation in Ukraine with students.

Lecturers made a presentation on cases related to temporary occupation of the Crimea and effective control of Russia on the Donbass region. There are cases concerning military actions like holding people in captivity, arbitrary detentions, killings and injuries et cetera.

See also section 9.

#### *Analytical, research, law-making and lobbying activities.*

In 2017 KHPG monitored draft laws and analyzed new laws for compliance with international norms on human rights. KHPG legal experts in information law, criminal law, criminal procedural law and criminal executive law worked with the Ministry of Justice, Ombudsman's Secretariat, and members of Parliament in order to revise draft laws that jeopardize fundamental freedoms. In addition to reviewing draft laws and new laws, KHPG's legal experts also regularly took part in public meetings on draft laws.

KHPG lawyers conducted the analysis of the penitentiary legislation and practice. They discussed draft of the basic law on penitentiary system and requested to delete statements about penitentiary investigators, usage of article 391 and 391-1 of the Criminal Code, request to register monitoring visits to the corrective colonies in the Ministry of Justice. In 2017 final version of the draft law on penitentiary system has not prepared yet. They also prepared and listed to the Verkhovna Rada of Ukraine a draft legislation on cancellation of criminal responsibility for the willful default of an order made by prison officers. Currently the draft was not passed but we hope that it will happen in the closest future.

In January 2017, experts of the SLC developed proposals on the matter of nutrition of the prisoners in Ukrainian penitentiary institutions connected with the reformation of the correctional system in Ukraine. The main idea of the proposals was to review the food standards on the basis of modern approaches of dietetics. The specific issue proposed for consideration is to reconsider of the norms of exchange of 'basic' kinds of food by their substitutes that on practice distorts normal nutrition of inmates. Also,

proposals for improvement for selling foods in shops inside colonies and on civil control on the matter of nutrition of prisoners has been given.

KHPG experts have contributed to the analysis and defense of detainee's rights. They participated in the project on reformation of the practice of keeping in detention of the persons suspected in commitment of crime at the first period after the arrest, with the goal to implement the IT 'Custody Record' system. KHPG experts shared their experience on the matter of international standards in the field of police detention, participated in series of meetings on discussing the ways of reformation of places of police detention, development of the system of thorough control above the contacts of the police staff with the detainees, by means of video recording and registration in the police database, accessible to the Human Rights Supervision Divisions of the National Police. The project is aimed to achieve the personal responsibility of police officers for well-being of detainees at any moment of the detention starting from the time of the physical apprehension until their release or transferring to the pre-trial detention centres (SIZO).

In June 2017 SLC lawyers made a legal notice on a draft legislation № 6521 "On introduction of amendments to the Law of Ukraine "On preliminary detention" and the Law of Ukraine "On Security service of Ukraine" according to which the Security service of Ukraine will be allowed to found special detention center as it was earlier.

In the legal notice SLC lawyers proved in details non-conformity of such draft with principles of international law on deprivation of liberty as well as conclusions of the Parliamentary Assembly of Council of Europe during consideration of the Ukrainian application on joining to the Council of Europe. According to mentioned documents all penitentiary institution must be under Ministry of Justice's supervision. Moreover, adoption of such law will make additional significant opportunities for violations of human rights and in fact would be a way to the inquisitorial practice.

KHPG experts have also contributed to analysis and defense of rights of asylum seekers and migrants. Given to the series of unlawful detention of migrants in course of both deportation and extradition according to the international agreement on legal assistance, KHPG experts prepared analytical review of the cases of unlawful arrests of aliens, unregistered and ungrounded holding them in detention facilities, arbitrary expulsion from Ukraine. The review was presented by a Director of the KHPG Mr. Zakharov and considered by the Parliamentary Committee on Human Rights national minorities and interethnic relations on its sitting on presence of representatives of the State Migration Service (SMS), State Border Control Service (SBCS), Security Service of Ukraine. The problems of hindering to access to legal aid for the detained aliens, their incommunicado detention, lack of official procedure of their nutrition in places of temporary detention at the border control checkpoints were illuminated to the Committee. The Committee issued recommendations to the above-mentioned agencies to eliminate the repressive practice against those, who are not involved in terrorist activity, pursued in their native countries on political grounds and seek for asylum in Ukraine.

SLC lawyers also dealt with specific problem in extradition procedure when investigative judges did not account the term of extradition arrest in prolonging of penitentiary detention. Lawyers prepared and directed to the High specialized court of Ukraine in civil and criminal cases a written notice. Unfortunately, notification had no effect on non-counting of the term of preliminary detention to the term of extradition arrest in Ukrainian courts.

Also, in 2017 KHPG experts prepared a concept note on reform of the State Migration Service (SMS). This concept note was discussed in the Ministry of Interior and SMS. On the base of this concept note working group of the officers MIA, SMS and Ministry of Justice with participation of KHPG experts has prepared amendments to the law on refugees and the law on foreigners and stateless persons. Now these amendments are discussed with the officers of the UN Higher Commissioner on refugee's rights and other experts involved in question.

In the first half of 2017 KHPG experts have prepared several chapters in annual report of Ukrainian human rights organisations «Human Rights in Ukraine – 2016». They conducted review of legislation, draft law, interim regulation and administrative and judicial practice (including international case law) while preparing the following chapters of the annual report «Human Rights in Ukraine – 2016»:

General review "Human Rights in Ukraine in 2016: main trends",

"Human Rights in so-called Donetsk and Luhansk public republics: Qazi-legislation and Practice",

"Human Rights in the Grey Zone",

“Security Service of Ukraine and Human Rights”,  
“Police Reform and Human Rights”,  
“The right to life”,  
“The right to liberty and security”;  
“The right to be secured form torture and other form of ill-treatment”;  
“The right to a fair trial (criminal aspects)”.

Also, KHPG took active part in preparation of Submissions for the third cycle of the Universal Periodic Review. On behalf of the Coalition of human rights organizations “Against tortures” KHPG as a member of the Coalition prepared a Submission for the third cycle of the Universal Periodic Review. The Submission was created with the aim of overlook torture and ill treatment in law enforcement bodies, prisons, psychiatric institutions, social institutions, places of temporary stay of migrants and other places of detention both legitimate and established illegally, and the impunity of those who commit these crimes in Ukraine.

Furthermore, KHPG created another Submission on analyzing the rate of respect to human rights in the territory controlled by the Government of Ukraine along the delimitation line and in so-called Luhansk People’s Republic and Donetsk People’s Republic. Both submissions were lodged in May 2017 and are going to be considered in Geneva on November, 2017.

In total, KHPG experts prepared and sent to Geneva the submission for the third cycle of the Universal Periodic Review on the following themes:

Right to life;  
Freedom from torture and ill-treatment;  
Right to liberty and security;  
Right to fair trial (criminal aspects);  
Prisoners’ rights to medical aid and labor;  
Rights of migrants and asylum seekers;  
Human rights in the territory controlled by the Government of Ukraine along the delimitation line;  
Human rights in the so-called Luhansk People’s Republic and Donetsk People’s Republic.  
The submission includes recommendations covering all themes.

In November Head of the KHPG SLC Gennadiy Tokarev was invited to take part to Geneva in order to give commentaries on the Government Universal Periodic Review representing KHPG Submissions. KHPG published and distributed their Submissions in Ukrainian and English.

KHPG has continued monitoring Parliament’s legislative work. Since the beginning the work of the new Parliament KHPG experts started to prepare a weekly review of the bills that are passed in the corresponding week to the Parliament for consideration. Review includes list of drafts law concerning human rights with short preliminary analysis of the threatens for human rights and assessment of the quality of preparation of bills. In 2017 52 weekly reviews have been prepared, published and distributed through KHPG portal «Human Rights in Ukraine» <http://khp.org>.

## **6. Defense of the rights of vulnerable groups with focusing on prisoners, drug users and people who live with HIV/AIDS and prisoners of war**

The particular interests of the SLC is in cases of individuals from the vulnerable groups, where due to the specific vulnerability of the people violations of their rights are generally much extensive. In 2017 a number of the cases where the clients are inmates has significantly increased and reached 61 cases, 33 of which have been won, including 5 in the ECtHR. This category of final beneficiaries consists of persons serving punishment, being kept in detention on remand. In 2017 a lot of inmates being kept in penitentiary institutions on the territory of so-called “LNR” and “DNR” applied to the KHPG to complain to the ECtHR on the Ukrainian authorities’ inactivity resulted to that prisoners having not being transported to territory under control of the Government.

Another traditional for the KHPG group of vulnerable people is drug users and people living with HIV/AIDS. In these cases, KHPG lawyers participated in court proceedings presenting 32 clients from this vulnerable group, and 21 cases have been won.

In 2017 the number of cases concerning AS and migrants increased even more, namely, legal aid was provided to 17 persons, 9 cases have been won. The issues of cases of this category are the following:

non-permission to cross the border of Ukraine, unregistered detention in an airport border control facilities, returning to the country (airport) of departure; refusal in the reception of an asylum application in airports, illegal arrest of the persona and holding them in Temporary Detention Centers for migrants, refusal to consider an asylum applications, unlawful forcible removal from Ukraine, shortening the term of legal stay in Ukraine, extradition of the people to Russia, Uzbekistan, Tajikistan.

In 2017 number of cases where the SLC lawyers render legal aid to victims of terrorists in Donbass region diminished because of the most of 'prisoners of war' had been released (exchanged to the criminals convicted by the courts on the controlled territory by the government), however, the cases of victims of torture and ill-treatment on the occupied territory of Donbass among civilians became the new issue for legal aid of our organization.

Information about specific categories of cases, which the SLC lawyers participated in the second half of 2017, is shown in the table.

<b>Inmates (61)</b>	<b>Drug users and HIV (32)</b>	<b>AS and migrans (17)</b>
B-v and L-ko v. Ukraine	Agayeva	Abdulkarimova
Bilousko v. Ukraine and Russia	Apara	Asadullobekov
Blagodiorov v. Ukraine	Bilokopytnyy	Alie Turay
Bordun	Baigush	Amirov
Boyev v. Ukraine and Russia	Baylov	Babayeva
Chenchevik v. Ukraine	Bocharov	Belharoyev
Deyev v. Ukraine and Russia	Botsman	Dadayev
Damaskin	Bychkar	Dira
Dolganin v. Ukraine	Chenayev	Ganiyev
Gapeyev v. Ukraine	Gorovenko	Guseinov
Gerasymchuk v. Ukraine and Russia	Grynshpon	Iliyev
Gruzdov v. Ukraine	Ivashchenko	Kenjayev
Kinash v. Ukraine	Ivinska	Mazhitov
Kiyashko v. Ukraine	Kabalyk	Meyriyev
Klymenko v. Ukraine	Kiyan	Okhunzhonov
Kolos	Kuznetsov	Tumgoyev
Kovrigin v. Ukraine and Russia	Lashkov	Yakin-Nuh
Kovalenko-1 v. Ukraine and Russia	Lazorenko	
Kovalenko-2 v. Ukraine and Russia	Leshchenko	
Krotov v. Ukraine	Maksimov	
Kulik v. Ukraine	Makusynskyy	
Kus	Myhaylov	
Kus v. Ukraine and Russia	Natoptanyy	
Kuzmenko v. Ukraine and Russia	Savenkov	
Litvin v. Ukraine and Russia	Scholokov	
Lutayenko v. Ukraine	Semerenko	
Lypnyk v. Ukraine	Sidorov	
Malyy v. Ukraine	Slipenko	
Molokov	Telnikov	
Mynko v. Ukraine and Russia	Troynyak	
Nazarov	Tyshchenko	
Nezdaymin v. Ukraine	Zukas	
Novikov and Klymentiyeva v. Ukraine		
Novodran v. Ukraine and Russia		
Osipenkov v. Ukraine		
Osipov v. Ukraine and Russia		
Pshenychnyy v. Ukraine and Russia		
Pakhar v. Ukraine and Russia		
Paniotov		
Panomariov v. Ukraine		
Pantiforov		
Petrushak v. Ukraine		

Ponomarenko v. Ukraine		
Poryadynska v. Ukraine		
Radiuk		
Robov v. Ukraine and Russia		
Savitskyy v. Ukraine and Russia		
Savishchenko v. Ukraine		
Severin v. Ukraine		
Sheraliyev		
Shust and Sidorenko v. Ukraine		
Shvets		
Soyma v. Russia, Moldova and Ukraine		
Suhinin v. Ukraine		
Sukachov v. Ukraine		
Turenko		
Varganov v. Ukraine and Russia		
Vdovenko v. Ukraine and Russia		
Yeremenko		
Zadorozhnyy v. Ukraine and Russia		
Zaika v. Ukraine and Russia		
Zubarev v. Ukraine and Russia		

## 7. Protection of the right to a fair trial in criminal proceedings

The KHPG SLC lawyers endeavor to achieve the fair trial in criminal proceedings including:

- reasonableness of judgments;
- non-violation of the privilege against self-incrimination and the right to silence;
- exercising of the right to defense through legal assistance of the lawyer, chosen on a defendant's own or given free by the state from the first moment of criminal proceedings. The SLC lawyer represents a victim in criminal case on the matter of violation of the right to defense, the prosecution presented to court a lot of evidence of the guilt of the accused – former investigator previously worked in the case where the right to defense had been violated. The trial goes to the end, and the judgment is expected to be passed soon. Also, the SLC expert participated in assessment of the Legal Aid System activity in aspect of its compliance to international standards;
- recognition as inadmissible evidence obtained during unlawful search of the dwelling or other private property, particularly a weapon of crime;
- complying with the principle of equality of arms: letting the cross-examination of witnesses under the same conditions, providing the attendance of defense witnesses under the same conditions as witnesses of the prosecution, acceptance of the evidence collected in course of a lawyer's investigation, assignment of an additional forensic examinations upon a motion of a defense lawyer;
- full realization by the defense the right to have the access to all evidence of the prosecution including material ones and those obtained upon results of covert police operations;
- lawfulness of exercising of confidential police operations – presence of grounds, compliance with procedural requirements, prosecutor's or/and judicial control on the activity;
- preventing misuse of anonymous witnesses (witness protection), specifically of questioning of the witnesses with limitation rights of the defense party, adequate safeguards to protect the interests of the accused;
- proper application by courts the option of the agreement on admission the guilt between a prosecutor and a defendant, without compelling the defendant to do this;
- proving provocation of crimes on the part of police, use of police provocateurs, 'duty' eye witnesses dependent from police;
- making accent to referencing to the ECtHR case law on the matter of violations of Article 6 of the Convention.
- use by national courts legal positions of the ECtHR by referencing in their judgments to its case law.

The specific attention of the SLC lawyers concerning the issues of fair trial is paid in the cases on criminal persecution for offences relating to terrorist activity, crimes against national security etc. In such



cases lawyers carry out scrutiny of each evidence of the prosecution, lawfulness of their obtaining, particularly in the aspect of use of force to get the confession.

The specific problem of fair trial in form of the lack of access to court for inmates which wish complaining unlawful decisions, actions and inactivity of penitentiary officers the SLC (which are routinely refused to consider on merits by courts). To solve the problem the SLC lawyer on behalf of an inmate applied to the Constitutional Court of Ukraine. Finally, this problem has been solved by amending of the CCP with a new provision that this category of cases is must be considered by courts of administrative jurisdiction.

## **8. Monitoring implementation of decisions of international bodies**

### ***Monitoring of the ECtHR judgments against Ukraine and making its translations into Ukrainian.***

During the monitoring, all ECtHR's judgments of the second half of 2017 against Ukraine were studied. 11 of them were translated and posted on the KHPG's website:

[Шабельник против Украины \(№ 2\)](#)

[Барышева против Украины](#)

[Виленчик против Украины](#)

[Ростовцева против Украины](#)

[Нина Куценко против Украины](#)

[М.С. против Украины](#)

[Д.С. против Украины](#)

[Дакус против Украины](#)

[Бурмич и другие против Украины](#)

[Григорьян и Сергеева против Украины](#)

[Сойма против Республики Молдовы, России и Украины](#)

### ***Analysis of implementation of the ECtHR judgments was made according to the Law of Ukraine "On implementation of the ECtHR judgments and using the Court's practice".***

The analysis was conducted by monitoring of the Council of Europe Ministers Committee's website and Ukrainian governmental and non-governmental Internet resources: website of the Ministry of Justice, website of the Supreme Court, website of the High Specialized Court on criminal and civil cases, website of the High Administrative Court, websites of the Courts of Appeal, website precedent.ua, websites of lawyers' unions and non-profit-making human rights organizations. Lists of the ECtHR judgments against Ukraine in related to imprisonment cases were made and published in two books: «Judgments of the ECtHR on violations of prisoners' rights on Articles 2, 3 and 8 of the ECHR» (600 pages) and «Judgments of the ECtHR against Ukraine on Articles 2 and 3 of the Convention on violations of prisoners' rights for medical aid» (560 pages). A research on implementations of the ECtHR's judgments towards prisoners was conducted on the ground of these publications: «Implementation of the ECtHR judgments in penitentiary (2013-2014)».

Additionally, an analysis of implementation of the ECtHR judgments on the KHPG lawyers' applications was made by filing informational requests to the Ministry of Justice and judicial bodies.

Also, some relevant for Ukraine judgments were translated into Russian:

[Österreichische Vereinigung zur Erhaltung, Stärkung und Schaffung eines Wirtschaftlich Gesunden Land- und Forst-Wirtschaftlichen Grundbesitzes против Австрии](#)

[Гусева против Болгарии](#)

[Гиллберг против Швеции](#)

[Венгерский Хельсинкский Комитет против Венгрии \(ОНОВЛЕНО\)](#)

### **Examples of successful implementation of the ECtHR judgments in the KHPG's projects.**

The KHPG lawyers permanently use the ECtHR practice as legal grounds in their reasoning in national courts cases. Types of cases:

- choosing of preventive measure for an accused person;
- re-considering of sentences by the higher courts on the basis of the ECtHR's judgments on violations of Article 6 of the Convention in a part of inadmissible evidence using;

- reasoning the position of defense by the ECtHR's practice at courts of all instances.

It is important to publish information about successful for the KHPG's lawyers ECtHR judgments to develop the process of its implementation in national legal system. We pay to it more and more attention. Links to publications are following:

[Рішення управління міграційної служби про скорочення терміну перебування в Україні скасовано в суді](#)

[Шукача притулку, утримуваного в пункті тимчасового перебування іноземців, звільнено.](#)

[Три роки знадобилось, щоб довести очевидне](#)

[Хворий на серце нарешті вдома!](#)

[Трудові відносини з підприємством на непідконтрольній території розірвано у судовому порядку](#)

[Чергова перемога адвоката Куценка](#)

[Після чотирьох місяців за ґратами атошника звільнено. Перемога адвоката ХПГ](#)

[Плата за несвободу \(ОНОВЛЕНО\)](#)

[Жодних доказів, окрім показань «міліцейських» свідків](#)

[Не дати померти в СІЗО](#)

[У Черкасах через 7,5 років чоловіка, нарешті, випустили з СІЗО \(ВІДЕО\)](#)

[Грізна ХПГ, або сімох засуджених звільнено!](#)

[Правозахисникам вдалось вберегти людину від довічного позбавлення волі.](#)

## **9. Struggle against discrimination, racism, xenophobia and hate crimes**

KHPG monitors and monitors from the partner organizations continued to gather and check information on facts of discrimination, hate crime and hate speech from the side of state bodies in all regions of the country including occupied territories and ATO zone. We worked with domestic monitors in different regions of Ukraine and used reports of the monitoring missions to the liberated territories of ATO Zone. We also used reports of Crimea Human Rights Protection Group and Crimean Tatars NGOs about situation on the territories occupied by RF: the Crimea and Sevastopol. We also investigated the information in media and Internet, and analyzed the treatment of people who moved from the occupied territories of Donbass and Lugansk regions and liberated hostages. The monitoring involved identifying "hate crime", "hate speech", as well as xenophobia and racist behavior especially by state officers or public persons and the response of the authorities, in particular, the law enforcement agencies to such cases. Monitors have provided 836 legal aid consultations in cases on discrimination, xenophobia and hate crimes including 623 consultations of IDPs.

It should be noted that level of xenophobia is significantly increased due to the occupation of the Crimea, the military conflict in the East of the country and a large migration from the Crimea, Donetsk and Lugansk regions to other parts of the country.

## **10. Activities against political persecution in Ukraine**

KHPG continued monitoring of political persecutions against so-called separatists, «enemies of Ukraine». This monitoring was conducted with the aim of determination whether in Ukraine there are people who meet the definition "political prisoner" according to the PACE Resolution of 3 October 2012 no. 1900 (2012), in particular, whether there are any political motives in the criminal proceedings and if rights and liberties provided in the European Convention on Human Rights have been violated in the scope of the proceedings. The issue of presence or absence of political prisoners in Ukraine is an important aspect of the Ukrainian-Russian relations and constitute the subject of speculations on the part of Russia, where there are statements about hundreds of political prisoners in Ukraine. Simultaneously, this issue is an indicator of the level of democracy in the state. Consequently, specific research on this problem is very important.

It is clear a priori that criminal prosecution under some Articles of the Criminal Code of Ukraine have or may have political motives: under Articles 109 (actions aimed at violent change or overthrow of the constitutional order or capturing the state power), 110 (separatism, i.e. encroachment on territorial integrity and inviolability of Ukraine), 114 (espionage), 258 (a terrorist act), other Articles related to

terrorist activities (258-1, 258-2 etc.), Articles 294 (mass disturbances) and 341 (capture of buildings). In addition, the following crimes could be politically motivated: the illegal imprisonment or kidnapping (Article 146), intentional destruction or damage of property (Article 194) and illegal handling of weapons, ammunition or explosives (Article 263). Monitoring of political persecution is aimed at identification of criminal cases with presence of political motives during the investigation of the trial on which there have been violations of Articles 3, 5, 6 and possibly other Articles of the European Convention and its Protocols. Thus, according to the PACE Resolution, individuals who have committed violent crimes (murder) and terrorist acts (bombings, sabotage by general dangerous method), as well as persons who are prosecuted for statements of incitement to violence against any group of persons distinguished by common characteristics (e.g., regional or ethnic origin) are not recognized as political prisoners.

Monitoring of political persecution was carried out by the following methods:

A) Conducting search on the Internet and social networks for getting information about criminal cases on the above Articles and their investigation;

B) Establishing communications with lawyers who work on these cases and obtaining from them information on the criminal proceedings, decisions regarding preventive measures etc;

B) Analysis of sentences on the above Articles downloaded from the Registry of court decisions;

D) Media monitoring of relevant media and Internet resources – websites of the Ministry of Interior, the Security Service of Ukraine, the General Prosecutor's Office of Ukraine, the court bodies, political parties, etc.

The specifics of monitoring of political persecution consists in the fact that its result cannot always be made public due to various reasons – the secrecy of investigation, the risk of harm to a victim of persecutions and others. Publication of these results is made in cases when the persecution has already got into the public sphere, and/or results of the monitoring are undeniable and/or publication will benefit for a victim of persecutions. Examples of such publications are as follows:

[The Saakashvili case: politicians kill the law](#)

[9-year sentences for Ukrainian journalists who helped set up Donbas militant propaganda TV](#)

[Ukraine launches spiral of illegality with abduction & expulsion of Georgians linked to Mikheil](#)

[Saakashvili](#)

[Ukraine's strange collaboration with Russia over deportations](#)

[Mounting concern over Ukraine's imprisonment of Zhytomyr journalist Vasyl Muravytsky](#)

and others.

## ***11. Security Services in a Constitutional Democracy: oversight and accountability***

KHPG members carried on monitoring human rights violations from the side of the Security Service of Ukraine (SSU), analysis SSU's activities in the fields of defense state secrets and other classified information, analysis SSU's activities in the fields of wiretapping and other forms of interception of communications as well analysis SSU's activities against terrorism and separatism. It should be noted that KHPG is only organization in Ukraine that conducts monitoring the SSU activities in order to prevent violations of human rights and fundamental freedoms.

Results of monitoring showed that there was misuse of law in criminal cases concerning terrorist acts and separatist acts as well as treason on motherland. For example, cases of Ruslan Kotsaba, Dmitry Vasylets and Vasyl Muravitsky, which were charged with state treason, are examples of typical political persecution. Very dubious cases were criminal persecutions of member of voluntary battalions.

The most serious violations were actions of the SSU concerning exchange of prisoners of wars and hostages. The process of release and exchange is totally closed from the public and monopolized by the SSU which cites the need for secrecy. Who it is that takes decisions about exchanges is presently unknown. It is however known that the SSU is forced to create a so-called 'exchange fund'. People are charged with 'separatism' under Article 110 of the Ukrainian Criminal Code, or with another crime. A written agreement is taken to be part of an exchange (sometimes this happens during the trial), the criminal proceedings are terminated and they're held in custody in the SSU somewhere until the exchange takes place. This disgraceful practice is absolutely beyond the realms of law, however in Ukraine they are force to resort to this in order to free hostages and prisoners.

It is obvious that KHPG has to continue to monitor SSU activities in all spheres.

There are examples of KHPG publications in question:

<http://khp.org/index.php?id=1486465129>

<http://khp.org/en/index.php?id=1487620320>

<http://khp.org/en/index.php?id=1494463475>

<http://khp.org/en/index.php?id=1496107543>

<http://khp.org/index.php?id=1496843403>

<http://khp.org/en/index.php?id=1496964196>

<http://khp.org/en/index.php?id=1498176502>

and others.

## 12. Dissemination of information on human rights and basic freedoms in Ukraine, civil education and aware-raising activities

In 2017 KHPG continued to provide information on human rights and fundamental freedoms in Ukraine by different ways. KHPG updated own portal «Human Rights in Ukraine» <http://khp.org> on a daily basis (2-3 new materials in Ukrainian or Russian and 3-4 new materials in English per day), site of the Coalition «Against Torture» <http://pk.khp.org> for victims of torture and ill-treatment in a daily basis (1-2 new materials per day, 28 visitors per day), site <http://library.khp.org> (virtual library on human rights, 71 visitors per day) on a weekly basis (4-5 new books per week), and site <http://archive.khp.org> (virtual museum and archive of dissident movement in Ukraine, 188 visitors per day) on a weekly basis (1-2 new materials per week) as well as site <http://osvita.khp.org> (civic and human rights education, 157 visitors per day). In addition, the KHPG opened a new website <http://help.khp.org> for electronic consultations on human rights in the form of answers to questions that are received in the electronic reception room. In the reported period in average there were 13 answers per day. The most interesting materials were disseminated in the social networks.

It should be noted that an average number of visitors of the KHPG portal <http://khp.org> is reached 1651 visitors per day (in total, 302 291 visits). More 62% of visitors were Ukrainian-reading readers. About 38% of visitors were English-reading readers. More detailed information is given in the following table.

Country	Visits	Visits, %
Ukraine	103 305	62,37 %
United States	19 935	12,03 %
Germany	4 770	2,88 %
Canada	4 300	2,6 %
United Kingdom	4 221	2,55 %
Russia	3 896	2,35 %
Netherlands	2 883	1,74 %
Poland	1 592	0,96 %
France	1 522	0,92 %
Sweden	1 117	0,67 %

In addition, KHPG has prepared, published in 1000 copies and distributed the following books:

1. «*Restrictions on the rights of prisoners: the legal nature and justification*» (in Russian, 60x84 1/16, 648 pages, 150 copies). Author of the book is KHPG expert Vadym Chovgan. He summarized research of the legislation and practice on prisoners' rights in comparison with international obligations of our country and recommendations of the CAT, SPT, CPT, and ECtHR.

2. *Judgments of the European Court on access to information* (60x84 1/16, 472 pages, 1000 copies). It is collection of translations of the ECtHR judgements on Article 8 and 10 of the European Convention,

devoted to access to information. KHPG made many translations from English into Ukrainian for this edition.

3. *Assessment of the forensic expert's opinion by investigation, court and lawyer* (60x84 1/16, 80 pages, 500 copies). Author of the book is KHPG expert Mykola Tagaev, well-known forensic expert. This book will be very useful to practitioners in their day-to-day practice.

4. *Fundamentals of Preventing Corruption* (60x84 1/16, 175 pages, 200 copies). Author of the book is Mykhailo Romanov, KHPG expert. The book contains many useful examples of fight against corruption concerning drug policy.

5. «*Selected ECtHR judgments v. Ukraine in 2011*» in two volumes (60x84 1/16, volume 1 – 364 pages, volume 2 – 404 pages, 500 copies each).

6. «*Selected ECtHR judgments v. Ukraine in 2012*» in two volumes (60x84 1/16, volume 1 – 408 pages, volume 2 – 368 pages, 500 copies each).

7. *How to eliminate the Soviets from the Ukrainian prison (changes to the Internal Rules of the Corrective Colonies and Pre-Trial Detention Center in the light of international standards)* (in Ukrainian, 60x84 1/16, 332 pages, 1000 copies). Author of the book is KHPG expert Vadym Chovgan.

8. *Submissions for the third cycle of the Universal Periodic Review*. In Ukrainian and English (60x84 1/16, 40 pages each, 100 copies in English and 500 copies in Ukrainian).

9. *Anatomical and physiological substantiation of the causes of death and life expectancy of the mortally wounded* (in Russian, 60x84 1/16, 204 pages, 500 copies). Author of the book is KHPG expert Mykola Tagaev, well-known forensic expert. This book will be very useful to practitioners in their day-to-day practice.

The books are passed to the Ministry of Internal Affairs and their regional departments, Ministry of Justice and their regional departments, Penitentiary Department and their regional departments, Ombudsperson's Secretariat, the Supreme Court, the Constitutional Court, all Appeal Courts, the Security Service and General Prosecutor's office, their regional departments, law educational institutes, central and regional libraries as well as the libraries of institutes and partner human rights NGOs. Mailing list consists of 730 addresses. All publications have placed to the KHPG site <http://library.khpg.org>

Furthermore, we distributed the books fulfilling the requests for literature available in the Group. We used a post service. In addition, we distributed the books during training and school as well as other public events. The book in English will pass to UNCAT, SPT, CPT, and Embassies of foreign countries in Ukraine as well as international and specialized human rights organizations in Ukraine and abroad.

In addition, we sent information materials and books produced by KHPG to NGOs and individuals according to the requests. The KHPG library with open access (more than 12,000 books on law, human rights, history, political sciences, political repressions, etc., and periodic editions) permanently is functioned.

### **13. Studies of history of human rights movement in USSR and Ukraine and history of political repression in USSR**

KHPG continued to collect archive documents on dissident movement in former USSR and Ukraine and program of oral history (interview with ex-dissidents). We continued to translate biographies of dissidents and interviews with them into English as well as to digitize audio tapes and photos. We created the systematic physical archive of dissident movement in Ukraine and electronic archive. In total, we have translated into English and placed on website <http://archive.khpg.org> 312 biography references, 257 interviews. We digitized 270 oral interviews and 4600 photos. Documents and other materials were allocated by archival fonds. Description of 4 fonds was made. Also, the materials of one of the archival fond (Vasyl Ovsienko's and other fonds) were digitized in 7450 files.

### **14. KHPG organizational development**

In 2017 KHPG has made new versions of the following management documents:

- a) Financial policy and procedures;
- b) Procurement policy;

- c) Procedures and systems of the internal control of the transfer of money between the Projects;  
d) Regulation on performers of the KHPG projects.

These documents are implemented into day-to-day KHPG activities.

To improve its performance KHPG should also take care of its organizational development: to improve the organizational structure, management system, fundraising and communication (internal and external), to improve the knowledge and skills of the staff, to ensure the conditions for it to work effectively, to attract young professionals who sharing the values and goals KHPG.

## APPENDIX

### List of the grants fulfilled by KHPG in 2017

We use the following abbreviations:

OSF – Open Society Foundation

NED – National Endowment for Democracy (USA)

EC – European Commission

IRF – International “Renaissance” Foundation

HFHR – Helsinki Foundation for Human Rights (Warsaw)

UNDP – United Nations Development Program

Information on current grants is given in the following table.

Institutional Support for 2016-2017	01/01/2016 – 30/06/2017	OSF	\$ 130 000
Providing Information and Analysis on Human Rights	01/02/2017 – 31/01/2018	NED	\$ 37 600
Improvement of access to justice and defense of the right to a fair trial for vulnerable groups in Ukraine	15/06/2016 – 14/06/2018	EC	€ 260 000
The Strategic Advisory Group on MIA and Police Reform in Ukraine (PoR-SAC)	19/09/16 – 19/05/2017	IRF	994 000 UAH
Action to ensure the respect of human rights in the armed conflict zone and on its bordering territories in Donbass, Ukraine	20/05/2016 – 19/05/2019	U.S. Department through HFHR (Warsaw)	\$ 180 300
Monitoring and defense of rights of internally displaced persons and persons that suffered from the military conflict	29/09/16 – 28/06/2017	U.S. Embassy	\$ 15 070
Institutional Support for 2017-2018	01/07/17 – 30/06/2018	OSF	\$ 100 000
Monitoring and defense of rights of prisoners who are in ORDLO	01/11/17 – 28/02/2018	IRF	476 000 UAH
Submission to the International Criminal Court for crimes against humanity and war crimes committed during the military conflict in eastern Ukraine	05/12/17 – 05/09/2018	UNDP	827 552 UAH
Reform of Asylum System: matters of extradition, expulsion and return of asylum seekers, foreigners and stateless persons	01/11/17 – 31/10/2018	Norwegian Ministry of Foreign Affairs	400 000 NOK