

REPORT

on the Observance and Protection of Human and Civil Rights and Freedoms in Ukraine in 2022

Annual Report on the Observance and Protection of Human and Civil Rights and Freedoms in Ukraine for 2022 to the Verkhovna Rada of Ukraine. The Report is the summarising document that describes violations of human and civil rights and freedoms in 2022 in the context of the full-scale armed aggression against Ukraine as to which response measures have been taken by the Ukrainian Parliament Commissioner for Human Rights. The Report also contains the conclusions and recommendations aimed at improving observation of human and civil rights and freedoms.

WAR AGAINST HUMAN RIGHTS	5
YEAR OF WORK BY THE UKRAINIAN PARLIAMENT COMMISSIONER FOR HUMAN RIGHTS	10
Secretariat of the Ukrainian Parliament Commissioner for Human Rights	10
Ombudsman and international cooperation	11
Working with the legal and regulatory framework	15
Ombudsman, civil society and media	19
CHAPTER 1. RIGHTS OF CITIZENS AFFECTED BY THE ARMED AGGRESSION AGAINST UKRAINE	22
CHAPTER 2. RIGHTS OF CHILDREN	46
CHAPTER 3. HUMAN RIGHTS IN THE SECURITY AND DEFENCE SECTOR	61
CHAPTER 4. UKRAINIANS ABROAD	86
CHAPTER 5. SOCIAL STATE	98
CHAPTER 6. ENSURING EQUAL RIGHTS AND FREEDOMS	127
CHAPTER 7. IMPLEMENTATION OF THE NATIONAL PREVENTIVE MECHANISM AND HUMAN RIGHTS IN PLACES OF CUSTODY	147
CHAPTER 8. RULE OF LAW AND ACCESS TO JUSTICE SPECIALIST	166
CHAPTER 9. INFORMATION RIGHTS	181
ANNEXES	220

List of Abbreviations

AR Crimea	—	Autonomous Republic of Crimea	
JSC	—	joint-stock company	
HQCJ Ukraine	—	High Qualification Commission of Judges of Ukraine	
IDP(s)	—	internally displaced	person(s)
HCJ	—	High Council of Justice	
VRU	—	Verkhovna Rada of Ukraine	
MD PFU	—	Main Department of the Pension Fund of Ukraine	
MD NP	—	Main Department of the National Police	
SSEP	—	State Service of Ukraine for Ethnic Policy and Freedom of Conscience	
SEI	—	State Environmental Inspectorate of Ukraine	
SIEP	—	State Inspectorate for Energy Supervision of Ukraine	
SCS	—	State Customs Service of Ukraine	
SSUFSCP	—	State Service of Ukraine on Food Safety and Consumer Protection	
SLS	—	State Labour Service of Ukraine	
SIAUP	—	State Inspectorate for Architecture and Urban Planning of Ukraine	
SCES Ukraine	—	State Criminal Enforcement Service of Ukraine	
SMS	—	State Migration Service of Ukraine	
SJA Ukraine	—	State Judicial Administration of Ukraine	
SI	—	state institution	
USRCD	—	Unified State Register of Court Decisions	
USIS	—	Unified Social Information System	
URPTI	—	Unified Register of Pre-Trial Investigations	
EU	—	European Union	
ECHR	—	European Court of Human Rights	
Mass media			
VTEI	—	vocational (technical) education institutions	
AFU	—	Armed Forces of Ukraine	
IRF	—	Institute for Religious Freedom	
CECU	—	Criminal Enforcement Code of Ukraine	
CEC	—	clinical expert commission	
CrCU	—	Criminal Code of Ukraine	
CMU	—	Cabinet of Ministers of Ukraine	
CrPCU	—	Criminal Procedure Code of Ukraine	
CCU	—	Constitutional Court of Ukraine	
CUAO	—	Code of Ukraine on Administrative Offences	
LGBTQI	—	communities of lesbian, gay, bisexual, transgender, intersex and queer people	
MIA	—	Ministry of Internal Affairs of Ukraine	
MFA	—	Ministry of Foreign Affairs of Ukraine	

MVA	—	Ministry of Veterans Affairs of Ukraine
MEPNR	—	Ministry of Environmental Protection and Natural Resources of Ukraine
MoE	—	Ministry of Economy of Ukraine
MoD	—	Ministry of Defence of Ukraine
MCTD	—	Ministry for Communities and Territories Development of Ukraine
Ministry of Reintegration	—	Ministry of Reintegration of Temporarily Occupied Territories of Ukraine
MSP	—	Ministry of Social Policy of Ukraine
MDT	—	Ministry of Digital Transformation of Ukraine
MoJ	—	Ministry of Justice of Ukraine
CuC Ukraine	—	Customs Code of Ukraine
MCIP	—	Ministry of Culture and Information Policy of Ukraine
CoS	—	compact settlements
MoH	—	Ministry of Health of Ukraine
MES	—	Ministry of Education and Science of Ukraine
MSEC	—	medical and social expert commission
Rehabilitation Commission	—	National Rehabilitation Commission
NSS	—	National Social Service of Ukraine
NGU	—	National Guard of Ukraine
NHRI	—	national human rights institution
NEURC	—	National Energy and Utilities Regulatory Commission
OSCE	—	Organization for Security and Co-operation in Europe
OSA	—	oblast state administration
LSGB	—	local self-government body
UN	—	United Nations
UNDP	—	United Nations Development Programme
PFU	—	Pension Fund of Ukraine
CE	—	Council of Europe
United Nations HRC	—	United Nations Human Rights Council
RF	—	Russian Federation
SSU	—	Security Service of Ukraine
TOT	—	territory (territories) of Ukraine temporarily occupied by the Russian Federation
UNHCR	—	United Nations High Commissioner for Refugees
SIF	—	Social Insurance Fund of Ukraine
ENNHRI	—	European Network of National Human Rights Institutions
ENO	—	European Network of Ombudsmen
ENOC	—	European Network of Ombudspersons for Children
EOI	—	European Ombudsman Institute
GANHRI	—	Global Alliance of National Human Rights

WAR AGAINST HUMAN RIGHTS

Opening Statement of the Ukrainian
Parliament Commissioner for Human Rights
Dmytro Lubinets

In 2022, the country lived in peace and with the quarantine restrictions caused by COVID-19 pandemic for less than 2 months. The martial law has been in effect in Ukraine since 05:30 on 24 February 2022¹. The mass missile attack all over Ukraine had already been launched then, and the military machines started moving from the border areas of the Russian Federation and the Republic of Belarus in breach of the state borders of Ukraine. This date marks the beginning of the period when the Ministry of Foreign Affairs of Ukraine informed the UN Secretary-General and foreign officials of the limitation of human and civil rights and freedoms and derogation from the obligations under the International Covenant on Civil and Political Rights.

The full-scale invasion into Ukraine by the Russian Federation continued the military aggression commenced in February 2014 by invading the territory of the Autonomous Republic of Crimea and city of Sevastopol, and the Donetsk and Luhansk Oblasts. The Russian Federation declared the war against the western world, a part of which Ukraine had been striving to become since the Revolution of Dignity.

The Russian Federation perceived 8 years of the democratic world's attempts to pacify the aggressor as weakness and started the broad-scale invasion. The events in Ukraine in February 2022 caused global disturbances and challenges not only for our country, but also for the entire humanity. The shooting heard in Kyiv on the very first day of the attack echoed on all the continents. When it doubted the existence of the Ukrainian state and denied its independence and sovereignty, the Russian Federation violated the fundamental principles of the United Nations Charter² and distorted the entire system of international security and international law.

The Security Council as one of the principal bodies in the UN system was not capable to offer efficient mechanisms for response that would be able to stop the unjustified armed aggression against Ukraine as the Russian Federation had veto powers. The United Nations Security Council is responsible for maintaining international peace and security.

The Russian Federation committed the crime of aggression against Ukraine in 2014 when it occupied the Autonomous Republic of Crimea and city of Sevastopol. Almost 9 years later, the armed aggression increased in its scale and caused the most massive displacement of the population since World War II. As they fled the hostilities, millions of Ukrainians became internally displaced persons or refugees forced to leave Ukraine and seek temporary shelter. In total, according to the UNHCR³, more

¹ Decree of the President of Ukraine No. 64/2022 “On the Imposition of Martial Law in Ukraine”. Available at: <https://www.president.gov.ua/documents/642022-41397>

² United Nations Charter. Available at: https://unic.un.org/aroundworld/unics/common/documents/publications/uncharter/UN%20Charter_Ukrainian.pdf

³ Refugees from Ukraine. Available at: <https://data.unhcr.org/en/situations/ukraine>

than 7 million Ukrainian citizens have left abroad since the beginning of the full-scale invasion of Ukraine by the RF. More than 3.3 million have been granted the temporary protection status in the EU countries. Around 8 million people have become internally displaced persons who moved from the combat zone and temporarily occupied territories into safer regions of Ukraine.

Commitment of international crimes in Ukraine by the RF has turned into the practice and deliberate tactics of the Russian political and military leaders. The Russian military and units violate the rules of international humanitarian law in all the Ukrainian territories that were and still are controlled by them. Such violations include indiscriminate attacks against civilians, extrajudicial executions, use of prohibited weapons against civilians, cruel treatment of prisoners of war and taking civilians hostage⁴. The cases of execution of prisoners of war and killing of civilian hostages held in the detention facilities have been registered.

The facilities protected by IHL are also attacked: schools and kindergartens, hospitals and maternity houses, evacuation and medical transport as well as emergency service vehicles.

The Russian Federation has restricted the possibility of evacuation of civilians to the territories controlled by the Ukrainian government and has introduced the criminal practice of ‘filtration camps’⁵. Humanitarian access and access of victims to the humanitarian assistance in the territories of Ukraine controlled by the Russian military has been fully ceased, which has entailed deaths as a result of diseases, famine and poverty.

International law also provides for respect for the deceased and possibility of families to know circumstances of the death and to bury the deceased. The Russian Federation has violated these duties by destroying the evidence of its war crimes, and has not registered the circumstances and facts of the people dying under the debris of the collapsed buildings and as a result of indiscriminate shelling. The bright example is burning the remains of the ruined buildings together with the fragments of bodies of the deceased at the disposal field in occupied Mariupol⁶, anonymous mass graves without any identification, and ban on burial of the deceased by their families and relatives.

As of the end of 2022, the Prosecutor General’s Office of Ukraine registered 62,041 crimes of aggression and war crimes⁷.

The civilians and critical civilian infrastructural facilities have turned into the principal targets in the war. Thousands of civilians have been killed by the Russian shelling and violence committed by the Russian military. From 24 February 2022 to 5 February 2023, the Office of the UN High Commissioner for Human Rights recorded 18,817 civilian casualties in Ukraine: 7,155 killed and 11,662 injured⁸. More than 1,300 of the victims in Ukraine are children, including those killed and injured to a different extent. Thousands of citizens died in the battles while defending the country in the Armed Forces of Ukraine or other paramilitary units.

⁴ Report of the Office of the United Nations High Commissioner for Human Rights “Killings of civilians: summary executions and attacks on individual civilians in Kyiv, Chernihiv and Sumy Oblasts in the context of the Russian Federation’s armed attack against Ukraine”, 22 December 2022. Available at:

<https://www.ohchr.org/sites/default/files/2022-12/2022-12-07-OHCHR-Thematic-Report-Killings-UKR.pdf>

⁵ More detailed information on ‘filtration camps’ can be found in Chapter 1 “Rights of citizens affected by the armed aggression against Ukraine” in the paragraph “Filtration activities, deportation and forced displacement of Ukrainian citizens”.

⁶ Mariupol City Council. Available at: <https://t.me/mariupolrada/9212>

⁷ Information from the Telegram channel of the Prosecutor General’s Office of Ukraine https://t.me/pgov_ua/8506

⁸ Ukraine: civilian casualty update 6 February 2023. Available at: <https://www.ohchr.org/en/news/2023/02/ukraine-civilian-casualty-update-6-february-2023>

Millions of people have been affected by the armed aggression against Ukraine. The war has left hundreds of thousands families homeless and ruined entire cities. The bombarding and shelling by the armed forces of the RF have damaged 3,126 education institutions, including 337 that were completely ruined⁹. More than 1,159 cultural heritage facilities in Ukraine have been severely damaged or destroyed by the military of the Russian Federation¹⁰, including 305 religious facilities. Around 350 sports facilities have been destroyed or ruined, and around 140,000 athletes are unable to train.

Since the onset of the full-scale military aggression of the Russian Federation, the prosecutors have registered 171 facts of conflict-related sexual violence, including such types of violence as rape, genital injuries or violence, forced stripping, threats and attempts of rape, coercion to see sexual violence against close persons etc. The youngest victim of conflict-related sexual violence was 4.

The Russian Federation commits terrible crimes, including the ones that have attributes of genocide¹¹. Deportation of the Ukrainian children and their forced transfer to another national group is one of these attributes; according to the National Information Bureau¹², 13,867 cases of children's deportation were registered as of 31 December 2022. These numbers are not final since the work is under way to establish them in the combat zone, temporarily occupied and deoccupied territories.

In 2022, the matter of illegally detained civilians (civilian hostages) as well as the persons missing due to special circumstances and their family members in the context of the armed aggression against Ukraine gained critical importance. It is one of the civilian categories that is most difficult to protect because restoration of their rights directly depends on respect of the rules of international law of the Russian Federation: it is expressly and unconditionally prohibited to imprison civilians, who shall be immediately released. The Russian Federation intimidates the civilian population in occupation and instils the atmosphere of fear in the occupied territories by making the civil opposition movement impossible. Civilian hostages¹³ are representatives of the local self-government bodies, civil activists and volunteers, businessmen and journalists, veterans and participants of hostilities as well as proactive residents of communities.

On 16 September 2022, the Russian Federation ultimately withdraw from the European Convention for the Protection of Human Rights and Fundamental Freedoms. It resulted in Russia being expelled from the Council of Europe¹⁴. The European Court of Human Rights (ECHR) has retained its competence to consider applications against the Russian Federation regarding its actions or omission in

⁹ Prosecutor General's Office of Ukraine. Available at: https://t.me/pgo_gov_ua/8508

¹⁰ Save Ukrainian Culture Project by the Ministry of Culture and Information Policy. Available at: <https://restore.mkip.gov.ua/>

¹¹ Ethan Walton | Genocide Watch, Sep 4, 2022, Genocide Emergency: Ukraine. Available at: <https://www.genocidewatch.com/single-post/country-report-ukraine-1>

¹² The National Information Bureau operates in accordance with the Geneva Conventions relative to the Treatment of Prisoners of War and relative to the Protection of Civilian Persons in Time of War of 12 August 1949. Available at: <https://nib.gov.ua/>

¹³ The problem of civilian hostages is described in more detail in the Chapter "Human rights in the security and defence sector".

¹⁴ Opinion of the PACE 300 (2022) "Consequences of the Russian Federation's aggression against Ukraine" of 15 March 2022

possible violation of the Convention provided that it occurred before 16 September 2022. However, the Parliament of the RF ruled in June that Russia would not enforce those judgements of the ECHR¹⁵.

According to the official website, more than 16 thousand cases against Russia are pending in the ECHR¹⁶, including almost 3,700 individual actions associated with the events in Crimea and hostilities in the east of Ukraine as well as large-scale inter-state actions from Ukraine against Russia¹⁷.

Despite the difficulties associated with enforcement of the judgements of the ECHR and lack of the enforcement mechanism, the positive judgements of the ECHR against the Russian Federation can be used as evidence in other international and national courts and authorities. It will materially impact hearing of cases in the UN court, international arbitration tribunals and investigation of international crimes.

The International Criminal Court is investigating 3 types of crimes in Ukraine, which do not require ratification of the Rome Statute of the ICC by the Russian Federation or resolutions of the UN Security Council: they are war crimes, crimes against humanity and crime of genocide. The Ukrainian Parliament Commissioner for Human Rights provides all the necessary information requested by the international experts and proactively informs the Prosecutor General's Office of Ukraine of such crimes as soon as they become known.

The International Criminal Court cannot hear the case to hold the Russian Federation liable for the crime of aggression, which is a root cause of all the other crimes, because it is restricted by so called Kampala Amendments to the Rome Statute¹⁸. For the court to exercise jurisdiction over the crime of aggression, the attacking state must ratify the Russian Federation, or this situation must be submitted for hearing by the UN Security Council, which cannot be done without a reform inside the UN that would deprive the Russian Federation of the veto powers.

For this very reason, the Office of the Ukrainian Parliament Commissioner for Human Rights has joined the promotion of the idea of establishing the special tribunal for the crime of aggression of the Russian Federation against Ukraine and imposing liability upon its political and military leaders via interaction with national human rights institutions from all over the world. This idea has already been supported by the PACE, the European parliament and individual democratic countries, including Lithuania and Poland, Estonia, Greece, the Netherlands, the Czech Republic, Latvia, Canada, the United Kingdom and others.

Establishment of new mechanisms is of paramount importance against the background of the absolute inability to enforce the ones prescribed by international humanitarian law, in the first place, the

¹⁵ Federal Law No. 183-Φ3 of 11.06.2022 "On Amending Certain Legislative Acts of the Russian Federation and Declaring Certain Clauses of the Legislative Acts of the Russian Federation Null and Void". Available at: <http://kremlin.ru/acts/news/68648>

¹⁶ PENDING APPLICATIONS ALLOCATED TO A JUDICIAL FORMATION. Available at: https://www.echr.coe.int/Documents/Stats_pending_2023_BIL.pdf

¹⁷ Case connected with occupation of the Crimean Peninsula by Russia in 2014.

Case regarding violation of human rights in the temporarily occupied territories of Donetsk and Luhansk Oblasts, which includes the complaint about shooting down the Malaysian plane of MH17 flight, which was filed by Ukraine and the Netherlands.

Case regarding violation of rights of the Ukrainian political prisoners.

Case regarding seizure of the Ukrainian sailors in the Kerch Strait in 2018.

Case regarding the crimes committed by the Russian military in Ukraine during the full-scale invasion.

¹⁸ ICC, Review Conference of the Rome Statute (Kampala, 31 May to 11 June 2010) Official Records, RC/9/11, Annex III, p. 45 and further ("Review Conference, Official Records, RC/9/11")

Geneva Conventions¹⁹. These documents regulate the rules of international law on humane treatment in time of war, which are deliberately ignored and violated by the Russian Federation.

It results in blocking activities of the International Committee of the Red Cross in matters of protection of rights of prisoners of war and civilians who stay in the combat zone or have fallen victim to war crimes, for instance, deportation. Lack of guarantees of safety and initiative by the ICRC in obtaining humanitarian access to victims, including prisoners of war and civilians who are illegally detained, refers to the crisis of the institution. In 2022, violations the principles of the International Red Cross and Red Crescent Movement were registered in the activity of the Russian Red Cross Society, which supported the mobilisation campaign²⁰.

Following the Commissioner's statement, the Prosecutor General's Office of Ukraine instituted the criminal proceedings regarding seizure and misappropriation of the movable property and real estate of the Ukrainian Red Cross Society by the Russian Red Cross Society. A separate meeting on that fact was held with the managers of the International Federation of Red Cross and Red Crescent Societies, where the Commissioner emphasised the need to expel the Russian Red Cross Society from the International Federation in connection of violation of the principles of operation and the Statutes of the Federation.

The military aggression against Ukraine has one more side, the financial one. The Kyiv School of Economics (KSE) estimates the total economic losses since the beginning of the war to be at least 564 to 600 billion US dollars. As of December 2022, the total amount of the direct documented losses inflicted upon the Ukrainian infrastructure as a result of the full-scale invasion launched by the Russian Federation is estimated to be 137.8 billion US dollars (based on the replacement value)²¹. According to the New Lines Institute, an American nonpartisan think tank, from the onset of Russian President Vladimir Putin's invasion of Ukraine, Russia has engaged in a sustained and systematic campaign of uricide²² and ecocide. Both targeted and indiscriminate attacks by air, land, and sea continue to destroy

¹⁹ Geneva Conventions of 1949 on the Protection of Victims of War:

- The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (Convention I).
- The Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Convention II).
- The Geneva Convention Related to the Treatment of Prisoners of War (Convention III).
- The Geneva Convention Related to the Protection of Civilian Persons in Time of War (Convention IV).

Protocols:

- Protocol I Relating to the Protection of Victims of International Armed Conflicts.
- Protocol II Relating to the Protection of Victims of Non-International Armed Conflicts.
- Protocol III Relating to the Adoption of an Additional Distinctive Emblem (of Red Cross or Red Crescent).

²⁰ The Commissioner demands to expel the Russian Red Cross Society from the International Red Cross and Red Crescent Movement and to prohibit it to use the emblem. Available at:

https://www.ombudsman.gov.ua/news_details/upovnovazhenij-vimagaye-viklyuchiti-rosijskij-chervonij-hrest-z-mizhnarodnogo-ruhu-chervonogo-hresta-i-chervonogo-pivmisyacya-ta-zaboroniti-vikoristovuvati-emblemu

²¹ The total amount of direct losses inflicted upon the Ukrainian infrastructure by the war has reached almost 138 billion US dollars. Available at:

<https://kse.ua/ua/about-the-school/news/zagalna-suma-pryamih-zbitkiv-zavdana-infrastrukturi-ukrayini-cherez-viynu-zrosla-do-mayzhe-138-mlrd/>

²² Uricide is a distinct form of mass violence characterized by the deliberate destruction of vital civilian infrastructure. In total disregard for international humanitarian law, uricide is undergirded by a logic of collective punishment, targeting civilian populations and the built infrastructure on which their lives depend. Taken to their furthest extent, such campaigns of systematic bombardment and destruction can leave entire cities in ruins, hence the term uricide – the “killing” of a city.

vital civilian infrastructure, systematically denying Ukrainians access to basic needs and essential services. In the city of Mariupol, previously home to more than 400,000 people, Russia's urbicidal tactics have been taken to the furthest extent yet seen in Ukraine: up to 90% of the city's infrastructure has been damaged or destroyed²³.

The Ukrainian Parliament Commissioner for Human Rights continues his work to protect civil rights during the regime of martial law. The Annual Report describes the principal challenges and tendencies in human rights protection that are faced by the Commissioner's institute during the regime of martial law. In addition to the special reports by the Commissioner, it shapes the general perspective of the state in the field of the problematic issues associated with violation of human rights and efforts to protect them.

More detailed information on the observation and protection of human and civil rights and freedoms in 2022 by the fields can be found in 9 themed chapters of the Report, which is the summarising document that describes violations of human and civil rights and freedoms in 2022 in the context of the full-scale armed aggression against Ukraine. The Report also describes examples of the resorts from citizens and organisations regarding which the Ukrainian Parliament Commissioner for Human Rights has taken measures of response, and also contains the conclusions and recommendations aimed at improving the observance of human and civil rights and freedoms.

YEAR OF WORK BY THE UKRAINIAN PARLIAMENT COMMISSIONER FOR HUMAN RIGHTS

Secretariat of the Ukrainian Parliament Commissioner for Human Rights

The human rights have been the first victim and principal target in this war, which has caused major changes in the work of the Ukrainian Parliament Commissioner for Human Rights. In 2022, the Ukrainian Parliament Commissioner for Human Rights received 42,485 petitions, including 562 collective petitions from 7,779 persons and 41,923 individual petitions.

The approach to working with citizens' petitions has been materially changed. The hot line — 0800-50-17-20 — has been upgraded: it registers all oral petitions from citizens and enables processing each incoming call and giving professional consultation.

There is a pressing need to respond to new challenges and to introduce new tools of human rights protection. The Commissioner has introduced 9 fundamental fields of work²⁴, including the separate issues associated with the military aggression:

1. Rights of citizens affected by the armed aggression against Ukraine
2. Rights of children and families, youth and sports

²³ Russia's Campaign of Urbicide in Ukraine. Available at: <https://newlinesinstitute.org/russia/russias-campaign-of-urbicide-in-ukraine/>

²⁴ The structure of the Secretariat is described in more detail in Annex 1.

3. Human rights in the defence sector and rights of veterans and the military, prisoners of war and their family members
4. International cooperation
5. Observance of social and economic rights
6. Right to a fair trial and procedural rights
7. Observance of information rights
8. Monitoring of observance of equal rights and freedoms, rights of national minorities, political and religious beliefs
9. Implementation of the national preventive mechanism

The approach to working in the territory of Ukraine has materially changed. Despite the safety situation, the Commissioner tries to develop the regional network of the Commissioner's representatives responsible for the specific administrative unit, oblast. It enables bringing the service of consulting on human rights closer to citizens and simplifying access to contact the Commissioner²⁵.

During 2022, the structural subdivisions of the Secretariat of the Ukrainian Parliament Commissioner for Human Rights conducted 2,031 monitoring visits.

The priority of the Office was to protect children's rights: the new space friendly to children and families with children, the Consultation Centre of the Ukrainian Parliament Commissioner for Human Rights with the equipped mother-and-child room, was opened on 18 August 2022 as a part of operation of the information and communication portal "Children of War"²⁶. Similar consultation centres were also opened on 9 December 2022 in the cities of Khmelnytskyi and Lviv. The network of the Consultation Centres will be expanded in 2023.

Special attention is paid by the Commissioner's Office to protection of rights of those affected by the armed aggression against Ukraine. In December 2022, the Special Report of the Ukrainian Parliament Commissioner for Human Rights on the Observance of the Rights of Persons Affected by the Armed Aggression of the Russian Federation for the Period from 24 February to 31 October 2022 was presented.²⁷

Ombudsman and international cooperation

The Commissioner's international work became considerably more intense in 2022. The priorities of the Commissioner's activity within the framework of international cooperation were:

- promoting development of new mechanisms and platforms to protect human rights in Ukraine at the international arena;
- bringing objective information on gross violation of human rights and war crimes by the aggressor state to the attention of the international audience;

²⁵ The contact details of the representatives of the Ukrainian Parliament Commissioner for Human Rights can be found in Annex 2.

²⁶ Children of War Portal <https://childrenofwar.gov.ua>

²⁷ The text of the Special Report is available at <https://cutt.ly/M4favu5>

- negotiating with the Commissioner for Human Rights of the Russian Federation²⁸ regarding release of prisoners of war, termination of the crime of keeping civilians hostage as well as return of the Ukrainian children who have been taken away from Ukraine by force;
- involving non-governmental organizations and NHRI into protection of rights of the Ukrainian citizens who have been forced to leave Ukraine and stay in third countries.

Since the onset of the armed aggression of the RF, there has been a pressing need to join the international efforts and record war crimes to bring the guilty liable in the future.

On 16 March 2022, the Commissioner spoke at the meeting of the European Parliament's Subcommittee on Human Rights by the invitation of the Chairperson the Committee, and emphasised the efficient recording of violation of the rules of international humanitarian law, war crimes, crimes against humanity, to transfer the records to the International Criminal Court and hold the guilty liable in the future²⁹.

On 30 March 2022, the Commissioner spoke at the 49th session of the United Nations Human Rights Council and urged the UN Member States to avail of all the opportunities to tighten the sanction pressure upon the RF, to take the most prompt resolution on introducing the air-exclusion zone over Ukraine, and to accelerate the establishment of the Special Military Tribunal to hold the RF liable for its crimes.

During the reporting period, the Commissioner had trips abroad to the Republic of Poland, the Republic of Austria, the Kingdom of Belgium, the French Republic, the Italian Republic, the Swiss Confederation, the Republic of Croatia, and the United Kingdom of Great Britain and Northern Ireland.

In 2022, 178 high-level bilateral meetings were held with the international partners, namely the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees, the President of the United Nations Human Rights Council, the President of the International Federation of Red Cross and Red Crescent Societies, the President of the International Committee of the Red Cross³⁰, the Secretary General of the Council of Europe, the President of the Parliamentary Assembly of the Council of Europe, the Council of Europe Commissioner for Human Rights, and the European Ombudsman.

The Commissioner provided the information on violation of human rights in the context of the full-scale Russian aggression, which was included into the reports of international organisations and expert groups. In particular, the data were included into the reports of the OSCE Moscow Mechanism's Missions of Experts³¹ on violations of international humanitarian and human rights law, war crimes and

²⁸ Ombudsman Dmytro Lubinets negotiates with the Commissioner for Human Rights of the RF in Turkey https://ombudsman.gov.ua/news_details/ombudsman-dmitro-lubinec-proviv-peregovori-z-upovnovazhenoyu-z-prav-lyudini-rf

²⁹ The Commissioner participates in the meeting of the European Parliament's Subcommittee on Human Rights. Available at: https://ombudsman.gov.ua/news_details/upovnovazhenij-vzvala-uchast-u-zasidanni-pidkomitetu-z-prav-lyudini-yevropejskogo-parlamentu

³⁰ The Commissioner holds the meeting with the delegation of the International Federation of the Red Cross and Red Crescent Societies and the Ukrainian Red Cross Society. Available at: https://ombudsman.gov.ua/news_details/upovnovazhenij-proviv-zustrich-z-delegacijeyu-mizhnarodnoyi-federaciji-tovaristv-cherwonogo-hresta-i-cherwonogo-pivmisyacya-ta-tovaristva-cherwonogo-hresta-ukrayini

³¹ OSCE Office for Democratic Institutions and Human Rights. Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity Committed in Ukraine (1 April – 22 June 2022) (Moscow Mechanism). Available at: https://www.osce.org/files/f/documents/8/b/523811_0.pdf

crimes against humanity committed by the Russian Federation and its armed forces during the ongoing invasive war against Ukraine, which were published in April and July 2022.

The Commissioner had a number of personal meetings with the members of the UN Independent International Commission of Inquiry on Ukraine, which was established pursuant to Resolution of UN Human Rights Council A/HRC/49/L.1 of 4 March 2022. In particular, during the meetings with the experts in April, September and December 2022, the Commissioner furnished the information on the conditions in which the Ukrainian and Russian prisoners of war were held, on civilian hostages, the humanitarian situation in the temporarily occupied territories, observance of rights of internally displaced persons, and the situation in the regions with the largest numbers of internally displaced persons. The corresponding information from the NHRI of Ukraine was included into the interim reports of the Commission to be further presented to the United Nations HRC at their scheduled sessions.

During his visit to Geneva, Switzerland, the Commissioner took part in the 51st session of the UN Human Rights Council, in particular, in presentation of the interim report of the Commission on 23 September 2022, and also made a speech within the framework of the interactive dialogue of the Human Rights Council on the human rights situation in Ukraine and held a number of bilateral meetings with the President of the UN Human Rights Council Federico Villegas and other UN officials³².

On 30 August 2022, the Commissioner had a meeting with the members of the UN Committee on the Rights of the Child in Geneva in order to inform the UN Committee of the violations of and encroachment upon rights of the Ukrainian children and families with children not only in Ukraine, but also abroad³³. The act of armed aggression by the RF has been an example of devaluation of children's life and disregard of children's rights in general. The Commissioner emphasised the importance of development of international mechanisms for resolving matters of return of deported children and their reunion with their families.

From 2018 to 2022, the Committee was regularly sent updates on Ukraine's progress in implementation of the UN Convention on the Rights of the Child, namely implementation of the deinstitutionalisation reform, educational reform (New Ukrainian School), formation of child-friendly justice etc. However, the full-scale invasion of Ukraine by the RF made our country change the priorities and adapt to the new reality when the right to life has become the most important and valuable one. The members of the UN Committee on the Rights of the Child expressed their support to Ukraine and its citizens and agreed with the need to develop the corresponding international mechanisms for protecting their rights.

The Commissioner furnished his proposals on the new Council of Europe Action Plan for Ukraine for 2023-2026. The Action Plan "Resilience, Recovery and Reconstruction" adopted by the CE Committee of Ministers on 14 December 2022 has the largest budget of 50 million euros for the CE Member State in history; it is based on recovery of Ukraine and observation of human rights and rule of law as fundamental values of the Council of Europe. Following the adoption of the Action Plan on 15 December 2022, the Commissioner met the Head of the Council of Europe Office in Ukraine, where the sides decided on the fields of cooperation for the subsequent period since Ukraine is a European country

³² Commissioner's speech during the Interactive Dialogue within the framework of the speech of the UN High Commissioner on the updated human rights situation in Ukraine

https://ombudsman.gov.ua/news_details/promova-upovnovazhenogo-pid-chas-interaktivnogo-dialogu-v-ramkah-vistupu-verhovnogo-komisara-oon-shchodo-onovlennya-situaciyi-z-pravami-lyudini-v-ukrayini

³³ Second round of the dialogue between Ukraine and UN Committee on the Rights of the Child

https://ombudsman.gov.ua/news_details/drugij-raund-dialogu-ukrayini-ta-komitetu-oon-z-prav-ditini

where human rights are an important element of the policy, and the state respects international law despite the Russian aggression.

Ukraine's adherence to the high standards of respect for human rights and fundamental freedoms, which are a basis of the EU as an association and the entire democratic world, resulted in the resolution of the leaders of 27 EU Member States to grant Ukraine the status of a candidate for EU membership on 23 June 2022. The Commissioner participated in completion of the questionnaire for Ukraine to obtain the status of a candidate for EU membership.

The problem of observation of human rights in the temporarily occupied territories of Ukraine is on the agenda of the international NHRI, ombudsmen and their associations. During the year, the Commissioner had regular contacts with the heads of all the most influential NHRI networks: the Chair and Secretary General of the European Network of National Human Rights Institutions (ENNHRI), the Chairperson of the Global Alliance of National Human Rights Institutions (GANHRI), the President of the International Ombudsman Institute (IOI), the leaders of the European Network of Ombudsmen (ENO), the Head of the European Network of Ombudspersons for Children (ENOC), and the leaders of the European Ombudsman Institute (EOI).

On 27 April 2022, the Commissioner took part in the conference of the European Network of Ombudsmen (ENO) "The role of Ombudsmen in times of crisis" for the first time, by the invitation of European Ombudsman Emily O'Reilly. The colleague ombudsmen were informed of the violation of the fundamental right of the Ukrainian citizens to life by the occupying army: indiscriminate killing of civilians and shelling of settlements and infrastructure with unconventional weapons, torture of civilians in the temporarily occupied territories of Ukraine.

On 29 September 2022, the Commissioner was invited by the European Ombudsman to join the ENO, which meant acknowledgement of the European integration work of the Commissioner's institute to bring the standards of observation of human rights in Ukraine in line with the EU standards.

On 20-22 August 2022, Sirpa Rautio, the Chair, and Debbie Kohner, the Secretary General, took a visit to Ukraine for the first time in history of the European Network of National Human Rights Institutions (ENNHRI)³⁴. The leaders of the network personally witnessed the human consequences of the full-scale war against Ukraine when they visited the deoccupied territories of Kyiv Oblast³⁵ and the humanitarian effects for millions of our citizens during their trips to the regions. In order to support the work of protection of human rights and freedoms and the Commissioner's work in this field, the ENNHRI established the special Solidarity Fund for Ukraine³⁶.

The Conference of Ombudspersons and National Human Rights Institutions (NHRIs) was held in Zagreb, Croatia on 26 October 2022 as a part of the First Parliamentary Summit of the Crimea Platform. The Conference titled Battle for Human Rights. Crimea. Ukraine. World was conducted by

³⁴ The Commissioner and the Chairman of the Verkhovna Rada of Ukraine have a meeting with the delegation of the European Network of National Human Rights Institutions. Available at: https://ombudsman.gov.ua/news_details/upovnovazhenij-spilno-z-golovoyu-verhovnoyi-radi-ukrayini-proveli-zustrich-z-chlenami-delegaciyi-yevropejskoyi-merezhi-nacionalnih-institucij-z-prav

³⁵ The Commissioner and the ENNHRI delegation visit the deoccupied city of Irpin in Kyiv Oblast. Available at: https://ombudsman.gov.ua/news_details/upovnovazhenij-razom-z-delegaciyeyu-ennhri-vidvidali-zvilnene-misto-irpin-na-kiyivshchini

³⁶ ENNHRI calls for sustainable and human rights-based solutions to support those fleeing Ukraine. Available at: <https://ennhri.org/news-and-blog/ennhri-calls-for-sustainable-and-human-rights-based-solutions-to-support-those-fleeing-ukraine/>

the Commissioner together with Croatian Ombudswoman Tena Šimonović Einwalter³⁷. The event was attended by 68 participants from 60 countries and heads and representatives of the key associations and networks of Ombudsmen and NHRIs (GANHRI, ENNHRI, IOI, ENO, EOI). Following the discussions at the event, the joint Declaration of the conference participants³⁸ was adopted for the sake of proactive measures in order to draw the global community's attention to violation of human rights in the temporarily occupied territories of Ukraine.

On 8-11 December 2022, Chris Field, the President of the International Ombudsman Institute (IOI), and Rob Behrens, the Vice-President of IOI Europe and the Parliamentary and Health Service Ombudsman of the United Kingdom, came to Ukraine to participate in the International Conference "Human Rights in Dark Times" on 9 December 2022, which was attended by the President of Ukraine and dedicated to the Human Rights Day³⁹. Despite the recommendations of their governments not to visit Ukraine due to the war escalation risk, the leaders of the IOI supported Ukraine during the hardest period in order to demonstrate solidarity and support by the ombudsmen from all over the world in the battle for human rights⁴⁰.

Owing to the joint efforts and the proactive stance of the IOI President, the Commissioner for Human Rights of the RF was expelled from the largest global network of the Ombudsmen on 5 August 2022 for violation of the organisation's working principles; the organisation now has 204 members⁴¹.

In order to inform of violations of human rights by the aggressor state and to promote protection of rights of Ukrainian citizens in foreign states, the Commissioner held more than 50 bilateral meetings with the Ombudsmen and heads of the NHRIs of such countries as Croatia, Moldova, Georgia, Greece, Cyprus, Poland, the United Kingdom, Italy, Albania, Armenia, Azerbaijan, Australia, Bosnia and Herzegovina, Kazakhstan, Kyrgyzstan, Uzbekistan, Denmark, Turkey, Tajikistan, Finland, Estonia, Lithuania, North Macedonia, Mongolia, Costa Rica, Serbia and Sweden.

The Commissioner's activities enhanced the position of Ukraine at the international arena and helped the international partners realise that violations of human rights in Ukraine as a result of the aggression of the RF were a problem not only for Ukraine, but also Europe and the entire world.

Working with the legal and regulatory framework

³⁷ Conference of Ombudspersons and NHRIs. Available at: <https://www.ombudsman.hr/en/conference-of-ombudspersons-and-nhris-within-the-framework-of-the-first-parliamentary-summit-of-the-crimea-platform/>

³⁸ In Zagreb, the participants of the high-level Conference with the ombudsmen and national human rights institutions adopt the joint Declaration. Available at: https://ombudsman.gov.ua/news_details/u-zagrebi-uchasniki-konferenciyi-visokogo-rivnya-za-uchasti-ombudsmaniv-ta-nacionalnih-institucij-z-prav-lyudini-uhvalili-spilnu-deklaraciju

³⁹ There must be the united legal front that will overcome the Russian genocide policy, — speech of the President of Ukraine at the International Conference "UA: Human Rights in Dark Times" in Kyiv. Available at: <https://www.president.gov.ua/videos/maye-buti-yedinij-pravovij-front-yakij-zdolaye-rosijsku-geno-3809>

⁴⁰ IOI President and IOI Vice President Europe attend conference in Ukraine. Available at: <https://www.ombudsman.wa.gov.au/President-News.htm>

⁴¹ International Ombudsman Institute revoked membership of High Commissioner for Human Rights in the Russian Federation. Available at: <https://www.theioi.org/ioi-news/current-news/international-ombudsman-institute-revoked-membership-of-high-commissioner-for-human-rights-in-the-russian-federation>

The Commissioner submits proposals on the measures to be taken to restore and protect human and civil rights, namely by amending the effective legislation or participating in drafting of new legislative regulations, creating corresponding mechanisms for implementation thereof. Moreover, the Commissioner carries out analysis and expert examination of draft legal and normative acts submitted to the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine for consideration and included into agenda of the committees established at the authorities or received for consideration from ministries, agencies and other central executive authorities.

During 2022, the structural subdivisions of the Secretariat of the Ukrainian Parliament Commissioner for Human Rights processed 3,784 draft legal and normative acts, including:

Legal and normative acts in the field of:	Quantity
Observance of social and economic rights	1,135
Observance of the right to a fair trial and procedural rights	326
Observance of human rights in the defence sector and rights of veterans and the military, prisoners of war and their family members	282
Observance of information rights	211
Observance of rights of children and families, youth and sports	178
Observance of equal rights and freedoms, rights of national minorities, political and religious beliefs	157
Observance of rights of citizens affected by the armed aggression against Ukraine	66
Implementation of the national preventive mechanism	23
Total:	3,784

The considerable share of the legal and normative acts processed are documents in the field of ensuring social and economic rights of citizens, including the right to education, health care, cultural and environmental rights as well as protection of labour and consumer rights.

The Commissioner's recommendations on the draft acts were taken into consideration, which helped protect the rights:

- to insurance benefits by the healthcare professionals and family members of the deceased healthcare professionals of private healthcare institutions in connection with the death resulting from infection with the acute respiratory disease COVID-19 caused by the coronavirus SARS-CoV-2 during the performance of their official duties with the elevated infection risk⁴²;
- to automatic extension of payment of the disability pension and the survivor's pension to persons with disabilities due to the inability to pass the repeated examination by the MSEC during the martial law to confirm their disability⁴³;
- to annual pension adjustment by index from 1 March⁴⁴;
- to confirmation of the labour activity periods for the purposes of pensionable service in case archives are destroyed in connection with hostilities (combat operations)⁴⁵;
- to different types of state social assistance to a wider range of persons⁴⁶;
- to confirmation of the right to benefits with the electronic certificate of the beneficiary's category defined in Article 10-1 of the Law of Ukraine "On the Status of Veterans of War and Guarantees of Their Social Protection"⁴⁷;
- to guaranteed social services and care compensations to internally displaced persons at their new place of residence / stay during the state of emergency or martial law imposed in Ukraine⁴⁸;
- to the funds due under the court decision and to the alimony as the second-priority expenditures⁴⁹;
- to a labour contract with the employee with flexible working hours⁵⁰;
- to work in fire and rescue units in order to ensure local fire safety. The employees are guaranteed social security. The employees may be the persons who have turned 18, have full legal capacity, are capable of fulfilling their obligations by their health condition, which is certified with preliminary and regular medical examinations⁵¹;
- in addition to the principal job, to performance of other paid work under a labour contract during the time free from the principal job, and to wages for the actual work⁵²;

⁴² Resolution of the Cabinet of Ministers of Ukraine No. 1350 of 2 April 2022 "On Amending Some Resolutions of the Cabinet of Ministers regarding Implementation of Certain Functions of the Pension Fund of Ukraine, and Invalidating Certain Resolutions of the Cabinet of Ministers of Ukraine"

⁴³ Law of Ukraine "On Amending Certain Laws of Ukraine regarding Protection of Social, Labour and Other Laws of Natural Persons, Including During Martial Law, and Simplifying Record-Keeping on Jobs for Persons with Disabilities"

⁴⁴ Law of Ukraine "On Amending Certain Laws of Ukraine on Improving the Pension Legislation"

⁴⁵ Resolution of the Cabinet of Ministers of Ukraine No. 1058 of 27 September 2022 "On Amending the Resolution of the Cabinet of Ministers No. 637 of 12 August 1993"

⁴⁶ Resolution of the Cabinet of Ministers of Ukraine No. 1320 of 15 April 2022 "On Amending Certain Resolutions of the Cabinet of Ministers of Ukraine on Assignment of Specific Types of State Assistance and Social Scholarships"

⁴⁷ Resolution of the Cabinet of Ministers of Ukraine No. 37 of 17 January 2023 "On Amending Point 5 of the Regulation on the Unified State Automated Register of the Persons Eligible for Benefits"

⁴⁸ Law of Ukraine "On Amending Certain Laws of Ukraine as to Provision of Social Services upon Imposition of the State of Emergency or Martial Law in Ukraine or Individual Areas Thereof"

⁴⁹ Resolution of the Cabinet of Ministers of Ukraine No. 1253 of 1 November 2022 "On Amending Point 19 of the Procedure for Performance of Its Duties by the State Treasury Service in the Special Regime during Martial Law"

⁵⁰ Law of Ukraine "On Amending Certain Legislative Acts of Ukraine on Regulating Labour Relations with Flexible Working Hours: Law of Ukraine"

⁵¹ Law of Ukraine "On Amending Certain Legislative Acts of Ukraine on Operations of the Local and Voluntary Fire Safety Service"

⁵² Law of Ukraine "On Amending Certain Legislative Acts of Ukraine on Optimisation of Labour Relations"

- issue of unified forms of understandable bills to consumers for heating, hot water supply, centralised water supply and waste water disposal services⁵³.

The broad-scale invasion by the Russian Federation has caused the need to improve the legislation on rights of military servants as well as victims of the armed aggression against Ukraine. Thus, when the draft law (registration No. 8081) of 28.09.2022, which provided for granting military servants a part of their basic annual leave during martial law, was considered, the Commissioner furnished the specialised parliamentary Committee with his comments on the need to preserve a compassionate leave. The comments were taken into consideration in the adopted draft law⁵⁴.

The Commissioner emphasised the need to bring the rules of point 1(6) of Article 615 of the CrPCU in line with the Constitution of Ukraine as regards immediate release of a person unless he or she is serviced a justified court decision on placement into custody within 72 hours after the detention. In July 2022, a letter was sent to the Committee of the Verkhovna Rada of Ukraine on Law Enforcement regarding the need to eliminate the inconsistency of Article 615 of the CrPCU in terms of lawfulness of limitation of everyone's right to liberty and security. The Verkhovna Rada of Ukraine adopted Law of Ukraine No. 2462-IX of 27.07.2022 "On Amending the Criminal Procedure Code of Ukraine to Improve Certain Clauses on Pre-Trial Investigation during Martial Law", which resolved that issue.

The work was also performed with governmental documents. Owing to the Commissioner's response, amendments were made on 04.11.2022 to Resolution of the Cabinet of Ministers of Ukraine No. 328 of 20.03.2022 "Certain Aspects of Providing Long-Lived Consumer Goods to the Population during Martial Law"⁵⁵, which removed the discriminatory clause that prevented the IDPs paid an accommodation benefit from receiving food packages.

The comments were provided to the Ministry of Social Policy after the draft resolution of the Cabinet of Ministers of Ukraine "On Approving the List of Categories of Socially Unprotected Categories of the Population Eligible for Accommodation in Buildings for Temporary Residence of Internally Displaced Persons", which was developed in pursuance of Law of Ukraine No. 2254-IX of 12.05.2022 "On Amending Certain Laws of Ukraine as to the Priority Actions in Reformation of the Urban Development Activity".

In particular, it was prescribed by the draft resolution that buildings for temporary residence of IDPs were going to be provided in the first place to staff of the enterprises relocated (evacuated) from the combat zone as well as persons belonging to socially unprotected categories. However, the draft resolution did not specify the priority of provision of temporary accommodation to socially unprotected categories in case, for instance, a family with many children, a foster family, an adoptive family or a family of defenders of Ukraine claimed accommodation in buildings for temporary residence of IDPs at the same time, whereof the owner of the document was informed. The Commissioner submitted his proposals.

Another important task of the Ukrainian Parliament was to revise the national legislation in order to observe rights of national minorities and adopt the corresponding law, which was one of the conditions

⁵³ Draft Order of the Ministry for Communities and Territories Development "On Amending the Requirements for Forming Bills for Heating, Hot Water Supply, Centralised Water Supply and Waste Water Disposal Services"

⁵⁴ Law of Ukraine "On Amending Point 18 of Article 10¹ of the Law of Ukraine 'On Social and Legal Protection of Military Servants and Their Family Members' as regards Granting Leaves to Military Servants during Martial Law"

⁵⁵ Resolution of the Cabinet of Ministers of Ukraine No. 328 of 20 March 2022 "Certain Aspects of Providing Long-Lived Consumer Goods to the Population during Martial Law"

set by the European Commission in its assessment of Ukraine's application for membership in the European Union.

The Commissioner's Secretariat took active part in development of the new Law and assisted in organisation and holding of a number of activities in order to accelerate adoption of the Law of Ukraine "On National Minorities (Communities) of Ukraine".

On 15 July 2022, the Secretariat organised the work meeting chaired by the Commissioner regarding observance of rights of the national minorities (communities) of Ukraine in time of war, with participation of the Minister of Culture and Information Policy of Ukraine and representatives of the national minorities (communities) of Ukraine. The stances on the draft Law of Ukraine "On National Minorities (Communities) of Ukraine" were coordinated with the representatives of civil society and international organisations of the national communities.

On 21 November 2022, the Committee of the Verkhovna Rada of Ukraine on Human Rights, Deoccupation and Reintegration of Temporarily Occupied Territories in Ukraine, National Minorities and Interethnic Relations held the public discussion of the draft Law of Ukraine "On National Minorities (Communities) of Ukraine".

The Verkhovna Rada of Ukraine adopted Law of Ukraine No. 2827-IX "On National Minorities (Communities) of Ukraine" on 13 December 2022.

Ombudsman, civil society and media

The Ukrainian Parliament Commissioner for Human Rights carries out parliamentary control over observance of human rights with participation of representatives of the civil society, scientists and individual experts. In order to inform the Ukrainian citizens and international community of the challenges faced by the Commissioner in his work in connection with the broad-scale armed aggression against Ukraine, the systemic interaction with the media representatives has been established, and own information platforms on social media are developed.

The principles used by the Commissioner in his interaction with representatives of the civil society and media include openness, engagement, efficiency and professionalism.

The systemic interaction with the human rights defence community is carried out via meetings of the Advisory Council at the Ukrainian Parliament Commissioner for Human Rights⁵⁶ and the Advisory Council on the National Preventive Mechanism⁵⁷ at the Ukrainian Parliament Commissioner for Human Rights, which are co-chaired by the Commissioner together with the representatives of the non-governmental sector.

The experts of the Advisory Council take part not only in discussion of the relevant issues of human rights protection, but also submit their proposals on improvement of the legal and regulatory framework. The Commissioner's Secretariat engages the experts of the Advisory Council into formation of the working strategy as well as provision of comments and proposals on this Annual Report.

⁵⁶ Advisory Council at the Ukrainian Parliament Commissioner for Human Rights Established. Available at: https://ombudsman.gov.ua/uk/news_details/stvoreno-konsultativnu-radu-pri-upovnovazhenomu-verhovnoyi-radi-ukrayini-z-prav-lyudini

⁵⁷ Third Meeting of the Advisory Council on the implementation of the national preventive mechanism at the Ukrainian Parliament Commissioner for Human Rights Established Held. Available at: https://www.ombudsman.gov.ua/news_details/vidbulosya-tretye-zasidannya-konsultativnoyi-radi-z-pitan-realizaciyi-nacionalnogo-preventivnogo-mehanizmu-pri-upovnovazhenomu-verhovnoyi-radi-ukrayini-z-prav-lyudini

In order to ensure broader interaction with the public in the Secretariat, each of the Commissioner's representatives has the themed Expert Board⁵⁸, which discusses the relevant issues of human rights protection and possible ways to mitigate negative effects of the armed aggression that has caused mass violations of human rights. The Expert Boards are turning into the principal platform to engage the best specialists and exchange information, and also to plan actions in order to notify the population of possible human rights protection tools.

In addition to work for the Advisory Councils and Expert Boards, there are other types of cooperation:

- involving public monitors into visits to places of custody and implementation of the NPM+;
- conducting monitoring visits into the regions together with civil society organisations;
- working under memoranda of cooperation and implementation of joint projects, in particular, international technical assistance projects;
- involving human rights defenders as representatives of the civil society as Advisers of the Ukrainian Ombudsman (full time and on a voluntary basis);
- running joint information and awareness raising campaigns, participating in round tables, conferences, presentations and other types of public events jointly;
- holding joint educational and awareness raising events for the staff of the Secretariat with participation of experts from human rights defence organisations;
- interacting with representatives of the Ukrainian civil society outside Ukraine, involving Ukrainians abroad into promotion of human rights values;
- conducting briefings, presentations, press conferences with participation of the public;
- giving comments and interacting with the Ukrainian and international media;
- communicating on social media openly.

Principal events organised by the Ukrainian Parliament Commissioner for Human Rights in 2022:

- public presentation of 100 Days of the Ukrainian Ombudsman's Work⁵⁹;
- opening of the Consultation Centre of the Ukrainian Ombudsman⁶⁰;
- international conference "Human Rights in Dark Times"⁶¹;
- 10 years of the National Preventive Mechanism⁶²;

⁵⁸ <https://www.ombudsman.gov.ua/uk/organizacijno-rozporyadchi-dokumenty>

⁵⁹ Dmytro Lubinets Reports on 100 Days of His Activity as the Ukrainian Parliament Commissioner for Human Rights. Available at: https://www.ombudsman.gov.ua/en/news_details/dmitro-lubinec-zvituye-pro-100-dniv-svoyeyi-diyalnosti-na-posadi-upovnovazhenogo-vr-z-prav-lyudini

⁶⁰ Opening of the New Consultation Centre of the Ukrainian Parliament Commissioner for Human Rights. Available at: https://www.rada.gov.ua/preview/anonsy_podij/226933.html

⁶¹ There must be the united legal front that will overcome the Russian genocide policy. Available at:

<https://www.president.gov.ua/videos/maye-buti-yedinij-pravovij-front-yakij-zdolaye-rosijsku-geno-3809>

⁶² Commissioner on the Tenth Anniversary of the NPM in Ukraine: The NPM is a community that shares the same values and is ready to act to protect human rights at places of custody. Available at:

https://www.ombudsman.gov.ua/uk/news_details/upovnovazhenij-do-10-richchya-zapusku-npm-v-ukrayini-npm-ce-spilnota-lyudej-yaki-rozdilyayut-spilni-cinnosti-j-gotovnist-diyati-na-zahist-prav-lyudini-v-miscyah-nesvobod

- meetings with associations of families of prisoners of war, political prisoners etc⁶³.

⁶³ Website of the Ukrainian Parliament Commissioner for Human Rights. News. Available at:
https://www.ombudsman.gov.ua/uk/news_details/ombudsman-dmitro-lubinec-proviv-u-ivano-frankivsku-zustrich-z-rodichami-vijskovopolonenihtazniklih-bezvisti

CHAPTER 1. RIGHTS OF CITIZENS AFFECTED BY THE ARMED AGGRESSION AGAINST UKRAINE

<p>2,845 petitions to the Commissioner 66 legal and normative acts processed and proposals submitted 2 proceedings instituted by the Commissioner 108 monitoring visits made 134 acts of response and letters to the public authorities, institutions and organisations sent</p>

Key events, challenges and tendencies

Almost 9 years ago, Ukraine faced the large-scale negative effects of the war for the first time: mass internal displacement within the country that was caused by the armed aggression and temporary occupation of the part of Ukraine’s territory by the RF. Owing to the full-scale invasion of Ukraine by the RF, 2022 was the year of the largest internal displacement in Ukraine after World War II.

The effects of the armed aggression of the RF against Ukraine include considerable numbers of affected civilians, namely the ones who were forced to leave their place of residence as a result of the armed aggression against Ukraine and were displaced to safer areas in Ukraine and abroad, the persons who were deported or displaced by force as well as the population who stayed in the temporarily occupied territories or combat zones.

Thus, according to the Ministry of Social Policy, 4,851,119 IDPs were officially registered in Ukraine as of 16.01.2023. Before 24.02.2022, there had been 1,470,072 IDPs displaced since 2014. Therefore, the number of IDPs grew more than 3 times in a year.

The effects of the aggression also include considerable numbers of affected civilians. Thus, according to the UN Human Rights Monitoring Mission, as of 10.01.2023, 6,952 civilians had been killed, 11,144 civilians had been injured, almost one third of the Ukrainian population had been forced to leave their permanent residence and turned into IDPs in Ukraine or obtained temporary protection in other countries.

There are currently no reliable data on numbers of the persons living in the areas where there are (were) hostilities and in the temporarily occupied territories.

At the same time, despite the ongoing armed aggression as well as considerable numbers of persons who have been directly or indirectly injured or negatively affected by the actions of the aggressor state, the legislation still has not defined categories of persons who belong to the ones affected by the armed aggression against Ukraine, which results in lack of comprehensive approaches to their support. However, the legislation prescribes (in different manners and at different levels, which are sometimes difficult to consider sufficient) support of IDPs⁶⁴; children affected by military actions and conflicts⁶⁵; persons with disabilities as a result of the war, in case a disability is developed as a result of injuries or other bodily harm by explosive substances, ammunition and military equipment in the territory of the ATO/JFO or activities necessary to ensure defence of Ukraine, safety of the population and interests of the state in connection with the military aggression of the Russian Federation against

⁶⁴ Law of Ukraine “On Ensuring Rights and Freedoms of Internally Displaced Persons”

⁶⁵ Law of Ukraine “On Protection of Childhood”

Ukraine⁶⁶; persons missing due to special circumstances and their family members⁶⁷; persons who are recognised as deprived of liberty due to the armed aggression against Ukraine⁶⁸. Still, other categories of the affected persons have been disregarded by the state.

Ensuring the rights of IDPs

Regarding the long process of registration and occasional denial of registration as an IDP and, therefore, payment of the monetary assistance

One of the reasons for petitions to the Commissioner was denial of registration as an IDP due to no registration of the place of residence in the territory from which the person was displaced. In all the cases, the petitioners are advised to challenge the decision in court. The employees of the social protection authorities mostly justify their denial with insufficient scope of confirmation documents.

The effective legislation does not prescribe the scope of necessary documents to confirm the facts of residence; it merely contains the list of documents that may prove such residence. The list is not exhaustive and includes medical, academic and job records and even photographs and videos. A decision on issue or denial of issue of the certificate is taken by the social protection authority within 15 business days at its own discretion, which may be subjective in certain cases. As a result, such persons are forced to file an action to challenge the denial of registration as an IDP in court.

The Commissioner was contacted by a woman on behalf of her elderly parents (the petitioner's father participated in liquidation of the accident at the Chernobyl NPP, and her mother was very sick). Her parents had been displaced from the AR Crimea and stayed in the territory controlled by the Government of Ukraine. In that regard, the petitioner went to get IDP certificates for her parents, but they were denied because her parents were registered in Crimea and had come to the controlled territory before 24.02.2022.

In order to respond to the petition, the Commissioner contacted the Ministry of Social Policy of Ukraine and asked to check how lawful the denial of registration as an IDP was.

Thus, following the Commissioner's response, the issue was resolved positively because the Ministry of Social Policy furnished explanations to the competent social protection authorities on recognising the AR Crimea and Sevastopol to be temporarily occupied territories in accordance with the Law of Ukraine "On Ensuring Rights and Freedoms of Citizens and Legal Regime in the Temporarily Occupied Territory of Ukraine".

In their turn, the court decisions adopted in favour of IDPs show that a marriage certificate, a copy of the declaration with the doctor providing the primary medical aid where the actual residence or stay address of the patient is specified, a copy of the international vaccination certificate with information on the vaccination place are the documents that certify residence in the territory from which the person is internally displaced.

⁶⁶ Law of Ukraine "On the Status of Veterans of War and Guarantees of Their Social Protection"

⁶⁷ Law of Ukraine "On the Legal Status of Persons Missing due to Special Circumstances"

⁶⁸ Law of Ukraine "On Social and Legal Protection of Persons Who Were Recognised as Deprived of Personal Liberty due to the Armed Aggression against Ukraine, and Their Family Members"

Regarding problematic issues in provision of accommodation to IDPs

Given the complex humanitarian situation in the areas of active hostilities, including partial power cuts, heating, telecommunication and water supply disruptions due to damage to the critical infrastructure, the number of IDPs keeps growing, especially during the cold season.

IDPs are accommodated without limitation in compact settlements (CoS), which are not always suitable for residence. According to the UN Cluster managing the CoS, as of the end of 2022, there are at least 3,090 CoS in Ukraine, with approximately 96,102 IDPs living there: 22,306 children; 1,222 single mothers; 5,781 pensioners; 2,801 persons with disabilities. For reference: before 24.02.2022, there had been 147 CoS in Ukraine for approximately 5,878 IDPs, including 1,383 children and 1,646 elderly persons.

At the same time, with account of dynamics of CoS creation and permanent displacement of persons, neither public authority has up-to-date information on the total number of the CoS in the country, living conditions in such places, their actual addresses and numbers of people living there as well as free beds for new IDPs displaced from the combat zone.

Some of the IDPs are not going to return to their permanent place of residence they have left and will try to integrate into the new hosting territorial community so provision of accommodation and creation of adequate living conditions are a pressing need that will enable faster integration of IDPs.

The Commissioner was contacted by the IDPs residing in a CoS in the urban-type settlement of Hrytsiv, Shepetivka Raion, Khmelnytskyi Oblast regarding violation of their rights to decent living conditions. The elderly people (24 persons) mostly resided in the CoS. In particular, the residents complained that there was no heating, electric power and water at the CoS. The persons had applied to the Hrytsiv Urban-Type Settlement Council, but the officials of the respective local self-government body did not respond.

As a part of response to the petition, the Commissioner filed a request to the Khmelnytskyi Oblast Military Administration regarding observance of rights of the respective persons and resolution of those issues. Following the Commissioner's request, the local authorities took actions to equip the living premises at the Commissioner with furniture and household appliances, to redecorate toilet facilities and, by the decision of the head of the oblast military administration, to install electric generators for the CoS.

Regarding the discriminatory clause on random inspections of IDPs' places of residence

In October 2022, amendments were made⁶⁹ to the Procedure for Granting the Accommodation Assistance to Internally Displaced Persons⁷⁰; they included without limitation a random inspection of the actual place of the IDP's residence/stay and execution of the corresponding report.

According to the National Social Service, 48.1 thousand random inspections of the place of residence were conducted in December 2022. The inspections did not confirm the location of 28.3 thousand persons at the declared place of residence.

⁶⁹ Resolution of the Cabinet of Ministers of Ukraine No. 1168 of 14 October 2022 "On Amending the Procedure for Granting the Accommodation Assistance to Internally Displaced Persons"

⁷⁰ Resolution of the Cabinet of Ministers of Ukraine No. 332 of 20 March 2022 "Certain Aspects of Paying the Accommodation Assistance to Internally Displaced Persons"

Following such inspection, in case an IDP is absent from the actual place of residence, he or she shall arrive at the social protection authority at the place of registration for identification within 10 calendar days. In case he or she fails to arrive, the social protection authority resolves to terminate the accommodation assistance starting from the next month.

These amendments are unjustified with account of martial law. Moreover, unlawfulness of the mechanism for inspection of the IDP's place of residence has already been established. In particular, it was held in the decision of the Kyiv District Administrative Court of 29.06.2017 in case No. 826/12123/16⁷¹ that the clauses of the procedure⁷² on inspections at the IDP's actual place of residence were unlawful and invalid.

It should be noted that the mechanism for inspections does not provide for possibility of payment of the assistance for the period when it was terminated as a result of failure to complete physical identification. The payment resumption procedure is not prescribed by normative acts as well.

At the same time, according to the Law of Ukraine "On Amending Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of the Coronavirus Disease (COVID-19)", the following is prohibited without limitation during the quarantine or restrictions associated with the spread of the coronavirus disease (COVID-19) and for 30 days following the cancellation thereof:

- to adopt a decision to revoke a certificate of registration as an IDP based on information on long-term absence (for more than 60 days) of the person at the place of residence, which gives reasonable grounds to believe that the IDP has returned to the previous place of permanent residence;
- to control payment of social allowances to IDPs at the place of their actual residence/stay.

It should be noted that the quarantine restrictions in the territory of Ukraine have been extended until 30.04.2023 in accordance with Resolution of the Cabinet of Ministers of Ukraine No. 1236 of 09.12.2020 "On Imposing the Quarantine and Anti-Epidemic Restrictions to Prevent the Spread of the Coronavirus Disease COVID-19 Caused by the Coronavirus SARS-CoV-2." So inspections of the IDP's place of residence actually violate the prohibition of inspections during the quarantine restrictions.

Rights of the citizens residing in the TOT and areas of hostilities

Regarding forced passportisation and holding of so called 'referenda' in the temporarily occupied territory of Ukraine

The temporarily occupation of the territory of Ukraine in 2014, namely the Autonomous Republic of Crimea, city of Sevastopol and certain areas of Donetsk and Luhansk Oblasts, by the RF was accompanied by active imposition of Russian citizenship among the Ukrainian citizens who stayed in the temporarily occupied territories. After the launch of the full-scale invasion in 2022, **imposition of the Russian citizenship in the temporarily occupied territories** is a common thing.

The occupants use such methods as intimidation, blackmail or even violence to reach their purpose. The Ukrainian citizens in the occupied territories are not given humanitarian assistance and pensions, are not provided administrative services and are threatened to be dismissed if they do not have a Russian passport. Moreover, the occupation and control of citizens by the regular army of the enemy state creates additional psychological pressure, which makes them unable to make a free choice.

⁷¹ Available at: <https://zakon.rada.gov.ua/rada/show/v2123805-17#n15>

⁷² Practical application of Resolution of the Cabinet of Ministers of Ukraine No. 365 of 8 June 2016 "Certain Aspects of Social Allowances to Internally Displaced Persons"

In 2022, the president of the RF signed several decrees that simplified the procedure for granting Russian citizenship to the Ukrainian citizens⁷³.

The Commissioner agrees with the stance of the human rights defence organisations⁷⁴ that the matter of voluntary or forced acquisition of citizenship of the aggressor state requires careful and balanced communication with account of the position of the Ukrainian citizens in the territories under temporary control by the aggressor state. At the same time, Ukraine as the state represented by the public authorities must have a coordinated stance and attitude to certain actions. Forced passportisation is illegal and is not recognised in Ukraine, is inconsistent with the principles and rules of international law and directly breaches Article 47 of the Geneva Convention Related to the Protection of Civilian Persons in Time of War (Convention IV) and Article 45 of the Hague Convention (IV) respecting the Laws and Customs of War on Land.

Another crime of the RF in the territory of Ukraine and violation of international law is **pseudo-referenda about accession to the RF conducted by the occupying army of the RF** in the temporarily occupied territories of Luhansk, Donetsk, Zaporizhzhia and Kherson Oblasts on 23 September. According to the residents of the occupied territories⁷⁵, the voting was carried out under supervision of the armed representatives of the occupying army, the staff of budget organisations could not refuse to participate, and it was also necessary to vote to get social benefits and humanitarian assistance.

It was emphasised by the Central Election Commission of Ukraine⁷⁶ that so called ‘referenda’ held from 23 to 27 September 2022 in the temporarily occupied territories of Donetsk, Luhansk, Zaporizhzhia and Kherson Oblasts were legally void and were organised by the occupational administrations as another attempt of unlawful annexation of the Ukrainian territories by the Russian Federation, so their results had no legal effects and could not be perceived and recognised either by Ukraine or the international community.

Regarding observance of the right to freedom of religion and belief, rights of national minorities (communities) and indigenous peoples

The military aggression has materially deteriorated the situation in the field of observance of the right to freedom of religion and belief, rights of national minorities (communities) and indigenous peoples affected by the military actions. In particular, according to the oblast military state administrations in the territories of which there have been active hostilities as a result of the armed aggression of the RF against Ukraine, the representatives of the existing ethnic communities and civil society organisations of a national and cultural nature have been forced to move to safer regions of Ukraine or abroad, and some of them continue their operations remotely.

Thus, according to the Donetsk Oblast Military State Administration, only several civil society organisations of national communities out of 81 organisations registered in the oblast demonstrate organisational activities, which remain quite limited due to objectively unfavourable conditions of

⁷³ Decrees of the president of the RF No. 304 of 25.05.2022, No. 330 of 30 May 2022, No. 440 of 11 July 2022

⁷⁴ Stance of the human rights defence organisations “The Ukrainians who have received passports of the RF in occupation are victims of the occupying power’s crime rather than criminals”. Available at: <https://zmina.ua/statements/ukrayinczi-yaki-otrymaly-pasporty-rf-v-okupacziyi-ne-zlochynczi-a-zhertvy-zlochynu-derzhavy-okupanta/>

⁷⁵ “Yes” or “no” — facing the machine gun. Stories of the locals about the ‘referendum’ in the occupied territories. Available at: <https://suspilne.media/284864-tak-abo-ni-v-dulo-avtomatu-rozpovidi-miscevih-pro-referendum-na-okupovanih-teritoriah/>

⁷⁶ Resolution of the Central Election Commission of Ukraine No. 101 of 27 September 2022 “On the Void Pseudo-Referenda in the Temporarily Occupied Territories of Ukraine”

existence. It is known that the premises of the Greek Cultural Centre “Meotyda” of the Mariupol Greek Association (127 Budivelnkyiv Street, Mariupol) were damaged as a result of the hostilities on 15-18 March 2022 (the exact date is not known). Also, the paintings by the Greek artists from Mariupol disappeared from the premises, and it is not known what has happened to the archive materials.

Moreover, the searches in the accommodation of supporters of Jehovah’s Witnesses continued in 2022, and more people were detained in the TOT of the AR Crimea and Sevastopol. The searches were conducted on 24 August, and 53-year-old Viktor Kudinov and 51-year-old Serhii Zhyhalov were arrested in Sevastopol. On 28 September, there were searches in 8 houses in the urban-type settlements of Nyzhnohirskiyi and Krasnohvardiiske as well as the village of Petrivka. 50-year-old Serhii Parfenovych and 49-year-old Oleksandr Vynnychenko were detained after that. Vynnychenko was released, and Parfenovych was under home arrest after he had spent a month at the pre-trial detention facility. Around 20 searches were conducted at the Jehovah’s Witnesses in and around Simferopol on 12 December. After the search, 53-year-old Dmytro Naukhatskyi was placed under home arrest. Around 40 persons have been subjected to these investigative actions.

The position of the indigenous peoples in Crimea has materially deteriorated since the launch of the armed aggression of the RF against Ukraine. Russia keeps using the territory of the peninsula as a military base. Moreover, the occupying army makes the local population join the war against Ukraine, in gross violation of international law, namely Article 51 of IV Geneva Convention.

The Commissioner and the representatives of the indigenous peoples and national minorities of Ukraine have urged the representatives of their nations in the occupied territories and in the territory of the RF to avoid mobilisation by all possible means and not to join the RF army⁷⁷.

The repressions against the Crimean Tatars in the territory of the peninsula continue. *Mejlis of the Crimean Tatar People has been declared to be an extremist organisation, and its operations are forbidden.* On 26 May 2022, the appellate instance of the illegal occupying so called ‘Supreme Court of Crimea’ amended the previous verdict to the human rights defender and dissident, Ukrainian politician and one of the leaders of the Crimean Tatar national movement Mustafa Dzhemilev, the Head of Mejlis of the Crimean Tatar People in 1991 to 2013, and sentenced him in his absence to 3 years of imprisonment and the fine of 20 thousand Russian roubles. Moreover, Deputy Head of Majlis Nariman Dzhelial was sentenced to 17 years of imprisonment and brothers Asan and Aziz Akhtemov — to 15 and 13 years of imprisonment in September 2022 by the occupying authorities of Crimea⁷⁸.

According to the Crimean Tatar Resource Centre, in 2022, there were 140 arrests, 95 detentions, 94 interrogations, 25 searches of Crimean Tatars; 255 violations of the right to a fair trial, 32 violations of the right to health, 17 fines, 26 prison transfers and numerous violations of rights of the political prisoners, including the prohibition to speak the Crimean Tatar language in court, were registered. Moreover, Susanna Bezazieva, a resident of Dzhankoi, was dismissed from school because she told her pupils that there were no Nazis in Ukraine, and all the Ukrainians were just defending their lands. In

⁷⁷ Joint Statement by the Council of National Minorities of Ukraine and the Commissioner on the Genocide of the Indigenous Peoples of Russia and Ukraine by the Russian Federation. Available at: https://ombudsman.gov.ua/news_details/spilna-zayava-radi-nacionalnih-spilnot-ukrayini-ta-upovnovazhenogo-shchodo-genocidu-rosijskoyi-federaciyi-proti-korinnih-narodiv-rosiyi-ta-ukrayini

⁷⁸ Occupants Deliver Verdict to Dzhelial and Akhtemov Brothers. Available at: <https://qtm.org/okupanty-ogolosyly-vyrook-dzhelyalu-ta-bratam-ahtemovym/>

Sevastopol, a 60-year-old teacher of school No. 22 was dismissed for decorating the classroom with yellow and blue air balloons⁷⁹.

Violation of religious rights in Crimea is also reported. Thus, in Bakhchisarai, the Russian authorities intend to create the leisure area in the territory of the Muslim cemetery of Sauskan. In April, the ‘prosecutor’s office’ in Dzhankoi in occupied Crimea accused Crimean Tatar Emir Medzhytov of ‘unlawful missionary activity’. On 12 May, the final hearing in the case of missionary activity by imam Emir Medzhytov was conducted in the Dzhankoi Justice Court. According to the SSEP, the situation connected with the Crimean Episcopate of the Orthodox Church of Ukraine remains tense as it has been under a permanent threat of eviction from the Cathedral Church of Saint Equiapostolic Duke Vladimir and Duchess Olga in Simferopol since 2019 because of the illegal decision of the Russian occupying administration⁸⁰.

Regarding violation of religious rights of citizens

The data of the Institute for Religious Freedom (IRF) demonstrate that the Russian armed aggression against Ukraine has negatively affected different religious communities regardless of their confession⁸¹.

Since 24 February 2022, the IRF has recorded at least 20 facts of illegal deprivation of liberty of religious figures of Ukraine of different confessions by the Russian military in the Ukrainian territories they temporarily occupied. Moreover, as the victims told the IRF, such unlawful arrests and imprisonment of religious figures were often followed by deliberately causing severe suffering, torture, attempted rape and actual threats of killing, inhuman conditions of detention, threats to kill family members etc.⁸²

Moreover, prosecution of believers of different confessions in temporarily occupied Crimea grows stronger. In April, the ‘Armiansk City Court’ and ‘Yalta City Court’ started the litigation in connection with “organisation and funding of extremist activities” against the Jehovah’s Witnesses⁸³. The Muslims are also known to be prosecuted and accused of affiliation with Islamic organisations or propaganda of activities of the organisations that are recognised to be terrorist or extremist in Russia, but are not considered to be such under the legislation of Ukraine. The cases are heard in breach of the right to a fair trial; the main evidence presented to court is evidence furnished by anonymous witnesses (many of whom work for the Federal Security Service of the RF), pre-trial evidence by the witnesses who claim in court that they had testified under pressure, and linguistic expert examinations of the

⁷⁹ Analysis of human rights violations in occupied Crimea in 2022. Crimean Tatar Resource Centre. Available at: https://ctrcenter.org/wp-content/uploads/2023/01/analiz-porushen-prav-lyudyny-v-okupovanomu-krymu-za-2022-rik_compressed-1.pdf

⁸⁰ Indigenous peoples, national and religious communities severely prosecuted by occupants in temporarily occupied Crimea. Available at: <https://dcss.gov.ua/korinni-narody-natsionalni-spilnoty-i-relihiyni-hromady-zhorstoko-peresliduiutsia-okupantamy-u-tymchasovo-okupovanomu-krymu/>

⁸¹ Russian Attack against Religious Freedom in Ukraine. Research, analysis and recommendations / Under the general editorship by O. V. Zaiets and M. S. Vasin — K.: Published by O. V. Puhach, 2022. Available at: <https://irf.in.ua/files/publications/2022.09-IRF-Ukraine-report-UKR.pdf>

⁸² Ibid.

⁸³ Human rights situation in Crimea and 100 days of the full-scale invasion of Ukraine by the RF. Crimean Human Rights Group. Available at: https://crimeahrg.org/wp-content/uploads/2022/06/100_bookua-1.pdf

conversations between the Muslims being accused. The evidence furnished by the defence lawyer is generally disregarded by the judges⁸⁴.

In addition to the religious figures, the religious facilities have also been under attack. According to the SSEP⁸⁵, at least 270 religious facilities in 14 oblasts of Ukraine were utterly destroyed or damaged to a different extent as a result of the armed attack by the RF since 24 February to 20 September 2022. Most of the destruction occurred in the border regions where the Russian army attacked by land: most of them in Donetsk (71) and Kyiv (53) Oblasts. Although the orthodox churches were most damaged by the missile and shelling attacks, the religious facilities of many other confessions, including Muslim mosques, Jewish synagogues and their holy places, were also damaged.

Regarding violation of the rights of the Ukrainian citizens from the temporarily occupied territory of the AR Crimea and the city of Sevastopol to pension coverage in connection with termination of any ties with the occupying country

Although there is a simplified procedure for the payment of pensions to IDPs based on the electronic pension records, the bodies of the Pension Fund of Ukraine still request paper copies of pension records from absolutely all the pensioners registered in the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol. Since there are no ties with the occupying country, the persons who reside in and/or have been displaced from the territory of the AR Crimea and the city of Sevastopol are deprived of the right to be paid pensions. Citizens regularly submit complaints on this matter to the Commissioner.

Thus, the Commissioner was contacted by the citizen of Ukraine who was paid the social pension (in connection with the disability) and had been displaced from the village of Tabachne, Bakhchysarai Raion of the AR Crimea into Kyiv. The citizen had difficulty exercising her right to pension coverage, namely transferring her pension records from the territory of Ukraine temporarily occupied by the RF (AR Crimea), to keep getting the pension in the territory controlled by Ukraine. The woman applied to the Ministry of Social Policy, the Main Department of the Pension Fund of Ukraine in Kyiv and the Department of the Pension Fund of Ukraine in Dniprovskiy District of Kyiv many times, but the matter remained unresolved.

In order to respond to the petition, the Commissioner filed a request to the Ministry of Social Policy in order to restore the rights of citizen H. to pension coverage.

At the same time, the Ministry of Social Policy informed the Commissioner that the territorial bodies of the Pension Fund of Ukraine had sent requests to the authorised bodies of the RF for pension records of the persons living in the territory of the AR Crimea and city of Sevastopol and had submitted the application and all the necessary documents for payment of the pension in accordance with the legislation of Ukraine. However, payment of the pension to such persons would be resumed from the date of termination thereof at the previous place of residence. The Ministry of Social Policy also informed that, given the act of aggression by the RF as well as severance of diplomatic relations with the aggressor, it was impossible to send requests for pension records to the RF, which made it impossible for the territorial bodies of the Pension Fund of Ukraine to take decisions on granting (resuming)

⁸⁴ Human rights situation in Crimea and 250 days of the full-scale invasion of Ukraine by the RF. Crimean Human Rights Group. Available at: https://crimeahrg.org/wp-content/uploads/2022/12/250_bookua-1.pdf

⁸⁵ 7 months of the full-scale invasion by Russia: the aggressor ruins at least 270 facilities of religious communities of Ukraine. Available at: <https://dessa.gov.ua/ussia-ruined-at-least-270-religious-sites/>

pensions in accordance with the legislation of Ukraine. Therefore, the stance of the Ministry of Social Policy was that there were no legislative grounds for paying the pension to the petitioner.

The Commissioner suggested that the PFU should adopt the mechanism for pension coverage of that category of citizens. The proposal was affirmed. Thus, the Pension Fund of Ukraine developed the draft Resolution of the CMU “On Amending Resolutions of the Ukraine No. 234 of 2 July 2014 and No. 637 of 5 November 2014”. Adoption of the corresponding legal and normative act will create preconditions for resolution of the matter.

Regarding submission of the information notice of the real estate damaged and destroyed as a result of hostilities, terrorist attacks, sabotage caused by the military aggression of the RF

Resolution of the CMU No. 380 of 26.03.2022 approved the Procedure for submitting the information notice of the real estate damaged and destroyed as a result of hostilities, terrorist attacks, sabotage caused by the military aggression of the Russian Federation. Following adoption of Resolution of the CMU No. 885 of 09.08.2022 on amending the Procedure, such notices regarding a number of facilities may be submitted starting from 19.02.2014.

However, the Commissioner has detected the technical defect in the procedure for notification of destroyed property via Diia Portal since it is now impossible to inform of the destruction that occurred from 19.02.2014 although it is provided for by the normative documents (in practice, it can only be done for the property destroyed after 24.02.2022).

Regarding compensation for the accommodation damaged or destroyed as a result of the armed aggression against Ukraine

The matter of compensation for the accommodation damaged or destroyed has been one of the most pressing since the beginning of the armed aggression against Ukraine in 2014.

No monetary assistance is now paid to the persons whose accommodation has been damaged or described. It should be noted that it is prescribed by Resolution of the CMU No. 380 of 26.03.2022 that the information notices submitted by natural persons in accordance with this Resolution shall be treated the same way as applications for compensation for the real estate facilities damaged and destroyed, starting from the effective date of the Law of Ukraine “On Regulating the Relations as to Compensation for the Real Estate Facilities Damaged and Destroyed as a Result of Hostilities, Terrorist Attacks, Sabotage Caused by the Armed Aggression of the RF”.

In March 2022, the draft Law “On Compensation for Damaging and Destroying Certain Categories of Real Estate Facilities as a Result of Hostilities, Terrorist Attacks, Sabotage Caused by the Military Aggression of the Russian Federation” (registration No. 7198 of 24.03.2022)⁸⁶ was registered with the Verkhovna Rada of Ukraine; the Commissioner had submitted his recommendations on that draft Law to the Committee of the Verkhovna Rada of Ukraine on Economic Development regarding the need to expand the list of the property damage to or destruction of which will be compensated for, to extend the deadline for the compensation application and to expand the list of the persons eligible for such compensation.

The compensation procedure established by draft Law No. 7198 will apply to damage to and destruction of real estate facilities as a result of the armed aggression against Ukraine starting from the effective date of Decree of the President of Ukraine No. 64 of 24.02.2022 “On the Imposition of Martial

⁸⁶ The Law was adopted by the Verkhovna Rada of Ukraine on 23.02.2023.

Law in Ukraine”. In other words, the draft Law provides for no compensation for the property destroyed before 24.02.2022. The human rights defence organisations fairly refer to this problem of inconsistent regulation⁸⁷. The clauses of the draft Law also do not prescribe the procedure for compensating for the destroyed real estate located in the temporarily occupied territory of Ukraine.

It should be noted that the legislative mechanism for recovery of real estate items shall rely upon the advantage of restitution (reconstruction of real estate facilities) over compensation, and also consider the positive experience and obstacles to implementation of the regulatory legal and normative acts adopted by the Government of Ukraine in order to register the damaged and destroyed accommodation and property, assess losses and reconstruct the facilities damaged or destroyed as a result of the armed aggression of the RF against Ukraine.

It should separately be noted that this draft Law applies only to the natural persons being Ukrainian citizens whereas the property that has been damaged/destroyed as a result of the armed aggression of the RF belongs not only to Ukrainians, but also foreigners and legal persons. Lack of respective regulation means that Ukraine does not fully perform its positive duties under Article 1 of Protocol 1 to the Convention for the Protection of and Fundamental Freedoms.

Regarding protection of the right to receive/re-issue documents lost

As a result of shelling, destruction of houses and apartments, fires and the need to urgently leave their accommodation, citizens may lose different documents, including their passport of a citizen of Ukraine, a foreign travel passport of a citizen of Ukraine, and other documents. Therefore, lots of citizens need to receive these documents.

For most citizens from the territories that have been affected by the armed aggression against Ukraine or occupied, payment for the form and re-issue services (especially if documents of several family members have been lost) is a considerable financial burden. However, there is no mechanism and normative regulation of release from payment for re-issue of documents for the persons from deoccupied territories who have lost them as a result of the aggressor state’s actions.

Absence of identification documents that certify Ukrainian citizenship makes it difficult for such persons to get around the country and prevents them from going abroad, influences receipt of state social allowances and payments from international organisations, hinders access to humanitarian assistance programmes, and makes it impossible to be officially employed or registered with employment centres.

In order to resolve the matter, the Commissioner has contacted the MIA and the SMS to consider possible ways to solve the problem, in particular, by:

- releasing the persons from deoccupied territories (those who resided in such territories at the moment of deoccupation) from payment for the issue of a passport of a citizen of Ukraine in form of an ID card in connection with loss/damage;
- reducing the payment for issue of documents by raising funds of international organisations in order to cover such costs or by allocating the necessary amount from the state budget.

Moreover, in December 2022, the Ministry of Justice of Ukraine amended Order No. 3734/5 of 03.09.2022 in order to resolve problems associated with issue of documents on state registration of birth during the martial law. In particular, according to these amendments, during the martial law and for a year following termination or cancellation thereof, a birth certificate and/or extract from the Register of

⁸⁷ Basic Rules: Compensation and Granting Mechanism. Available at: <https://r2p.org.ua/proyekt-zakonu-pro-kompensacziyu/>

State Registration of Birth, regardless of the date of such birth, may be issued to the Ukrainian Parliament Commissioner for Human Rights in person or by proxy.

Moreover, the Verkhovna Rada of Ukraine is considering the draft Law “On Amending Article 20 of the Law of Ukraine ‘On the Unified State Demographic Register and Documents Certifying Ukrainian Citizenship, Identity Documents or Documents on the Special Status’ regarding Benefits to Certain Categories of Ukrainian Citizens Issued a Passport of a Citizen of Ukraine or a Foreign Travel Passport of a Citizen of Ukraine for the Period of Martial Law” (registration No. 7358 of 09.05.2022).

Regarding no administrative procedure for registration of acts of civil status for the persons from the temporarily occupied territory (TOT)

Peculiarities of use of the documents issued in the TOT are regulated by the Law of Ukraine “On Ensuring Rights and Freedoms of Citizens and Legal Regime in the Temporarily Occupied Territory of Ukraine”, according to which any act (decision, document) issued by the occupying authorities is invalid and creates no legal consequences, save for the documents on the fact of birth, death, registration (dissolution) of marriage of a person in the TOT, which are attached to the application for state registration of the respective act of civil status.

Although there is a legal rule that expressly allows using documents from the TOT for state registration of acts of civil status regarding the facts occurring in the TOT, there is now only the judicial procedure for establishing the fact of birth or death of a person in the TOT. Thus, Article 317 of the CiPCU regulates peculiarities of judicial proceedings in cases of establishment of the fact of the person’s birth or death in the territory where martial law or state of emergency has been imposed or in the TOT. However, the matter of establishment of the fact of marriage or dissolution thereof in court has not been resolved.

Therefore, it is necessary to introduce the administrative (extrajudicial) procedure for establishment and registration of acts of civil status that have occurred in the temporarily occupied territories of Ukraine.

Citizen Ya. applied to the Commissioner for help in obtaining a certificate of birth of the child born in 2022 in the city of Yevpatoriia, AR Crimea.

Thus, as there was no administrative procedure for state registration of the child’s birth in the TOT, the citizen had to file an action to the local court of Kyiv. However, the claim was dismissed by court due to lack of evidence of impossibility to obtain the child’s birth certificate in the bodies responsible for state registration of acts of civil status.

Regarding confirmation of academic qualifications for citizens from temporarily occupied territories of Ukraine

The matter of confirmation of academic qualifications of the citizens who have obtained such qualifications in the temporarily occupied territory of Ukraine has been relevant since the beginning of the occupation in 2014.

At present, the education gained in the TOT and ‘documents on the respective academic and qualification level’ issued in these territories are invalid and create no legal consequences. Therefore, the persons who have obtained such documents are unable to be employed in the territory controlled by the Government of Ukraine. However, there are no mechanisms to confirm the academic qualifications

obtained in the TOT, including the ones that have been occupied for a long time (the territory of the AR Crimea, city of Sevastopol, certain areas of Donetsk and Luhansk Oblasts). It should be noted that it is a matter of confirmation of academic qualifications rather than documents issued by the occupying ‘authorities’. Qualifications may be confirmed via respective assessment to study the level of knowledge, skills and abilities.

The respective Procedure for certification to recognise qualifications, academic results and periods of education in the higher education system in the TOT of Ukraine after 20 February 2014 was approved by Order of the MES No. 537 of 19.05.2016 and was in effect to confirm the qualifications obtained in the TOT of the AR Crimea and city of Sevastopol until November 2021.

At present, according to the Law of Ukraine “On Ensuring Rights and Freedoms of Citizens and Legal Regime in the Temporarily Occupied Territory of Ukraine”, residents of the occupied territories of Ukraine who started to obtain higher education before the start of temporary occupation of the respective territory shall have the right to complete certification for recognition of their qualifications, academic results and periods of education. In order to ensure that this right is exercised, the Order of the MES needs to be brought in line with the legislation and cover not only the TOT of the AR Crimea and city of Sevastopol, but also other TOTs of Ukraine.

At the same time, in order to ensure exercise of the right to complete certification for recognition of their qualifications, academic results and periods of education of the persons who started to obtain higher education in the TOT after the start of temporary occupation of the respective territory, the specialised legislation needs to be amended.

The Commissioner was approached by the citizens who had obtained higher medical education in the temporarily occupied territory of Ukraine and asked to assist in recognition of their qualifications for employment.

Due to the systemic nature of the matter that needs to be regulated at the legislative level, the Commissioner has submitted relevant recommendations to the MES and MoH.

According to their stance, there are no grounds for introducing the legislative mechanism to recognise results of education (qualifications) of the persons who have obtained higher education in the TOT of Donetsk and Luhansk Oblasts.

At the same time, the MES proposes ways to resolve the matter of recognition of results of education and competencies in the field of higher education of residents of the temporarily occupied territories of certain areas of Donetsk and Luhansk Oblasts by admitting them to the universities that have been in the territory controlled by Ukraine since 2014, carry out the educational process and have the status of relocated universities. Following the assessment of the students’ competencies, the higher education institutions may optimise individual academic plans.

Filtration activities, deportation and forced displacement of Ukrainian citizens

Since the first weeks of the full-scale invasion of Ukraine, the RF created the conditions (due to threat of force or coercion) under which civilians in the TOT had no other choice but to leave for/via the RF.

The Ukrainian citizens who found themselves in the territories of Ukraine seized by the RF and wished to leave for the territory controlled by Ukraine had to get through the front line, on the way to which the Russian army had set dozens of checkpoints and shelled them in most cases. The way through

the occupied territories of Ukraine and the territory of the RF might seem more or less safe for those who had decided to leave.

Moreover, in some cases, representatives of the occupying state displaced the Ukrainian citizens, who stayed in the territories seized by the enemy, to the territory of Russia or Belarus by force under the pretext of ‘evacuation’; some people were brought deeper into the TOT.

Such cases took place in the territory of Zaporizhzhia, Donetsk, Luhansk, Kharkiv and Kherson, Kyiv, Sumy and Chernihiv Oblasts, when the occupying authorities carried several thousands of the local residents into the RF under the pretext of evacuation⁸⁸. They were mostly women and children, who were first brought to so called filtration camps where citizens were divided into “reliable” and “unreliable” ones.

It is now difficult to estimate the number of the Ukrainian citizens who have been deported or forcibly displaced within the territory of Ukraine, including the TOT. According to the National Information Bureau, the number of the persons deported to the RF and the Republic of Belarus and the persons forcibly displaced from 24.02.2022 to 01.11.2022 is 45,995 persons, including 37,855 adults and 8,140 children. However, Ukraine does not have reliable information on the exact number of the Ukrainian citizens deported into the territory of the RF or Republic of Belarus. According to the UNHCR, as of 03.10.2022, there were 2.85 million Ukrainian citizens in the territory of Russia⁸⁹.

Almost immediately after the first official notices of forced displacement or deportation of the Ukrainian citizens by the Russian military, there was evidence of how the displacement process was carried out: it was of forced nature and included so called ‘filtration’. The procedure changed several times since the start of the broad-scale armed aggression against Ukraine: there were searches and examinations at checkpoints in the beginning, followed by ‘filtration points’ then; in the end, there were so called ‘filtration camps’ where they could issue a ‘certificate’ of successful ‘filtration’ or detain a person for further inquiries⁹⁰.

According to the numerous statements of those who passed the ‘filtration’, they were issued migration cards, taken to buses and driven to Russia. Then such people could be brought to remote cities in the territory of the RF (Taganrog, Tomsk, Rostov-on-Don, Voronezh etc.).

There is little information on what happens to those who fail the ‘filtration’. It is known that the people who have failed the first or second level of ‘filtration’ are sent to pre-trial detention centres or prisons in the TOT. During the third ‘filtration’ stage, the detained are interrogated and beaten, tortured cruelly (with electric current), are not given enough food and water (5 litres of water are given for 40 people), are held in inhuman anti-sanitary conditions (40 people were held in one cell where 30 people slept and 10 stood), are not provided medical aid, and are killed.

Such actions violate without limitation Articles 3 and 8 of the Convention for the Protection of and Fundamental Freedoms, which guarantee the right not to be subjected to inhuman or degrading treatment and the right to respect for private and family life, as well as Article 2 of Protocol No. 4 to the

⁸⁸ Deportation of Ukrainian citizens from the territory of active hostilities or the temporarily occupied territory of Ukraine to the Russian Federation and Republic of Belarus. Analytical report by Ukraine 5AM Coalition. Available at: https://zmina.ua/wp-content/uploads/sites/2/2023/01/deportation_ukr.pdf

⁸⁹ UNHCR. Available at: https://data.unhcr.org/en/situations/ukraine#_ga=2.131678351.1201871585.1674904557-641872905.1674687847

⁹⁰ Deportation of Ukrainian citizens from the territory of active hostilities or the temporarily occupied territory of Ukraine to the Russian Federation and Republic of Belarus. Analytical report by Ukraine 5AM Coalition. Available at: https://zmina.ua/wp-content/uploads/sites/2/2023/01/deportation_ukr.pdf

Convention, which guarantees the right to liberty of movement and freedom to choose his residence within the territory of a State, the right to leave any country, and prohibition of expulsion of nationals.

The Ukrainian citizens who found themselves in the territory of the RF faced considerable difficulties. In particular, it was shortage of means of subsistence, inability to exchange hryvnias or withdraw money from their bank cards; lack of clothes, personal hygiene products, medical services and medicines; inability to contact their relatives, be consulted on further stay or departure from the territory of the RF (the largest number of cases). It is one of the factors that makes the deported Ukrainian citizens 'agree' to go to remote depressive regions of the RF.

There are no legal restrictions of departure from the RF now, so the Ukrainian citizens may potentially leave for adjacent countries. However, the substantial problem for the citizens of Ukraine deported from its territory is no identity documents on Ukrainian citizenship, which prevents the Ukrainian citizens from leaving for third countries (EU countries, Georgia and others) or returning to Ukraine.

As there are no foreign diplomatic missions of Ukraine in the territory of Russia, and it is difficult to help the Ukrainian citizens who have found themselves in the territory of the aggressor state, the matter of coordination of efforts of public and private bodies is of critical importance for protection and assistance in departure of the Ukrainian citizens from the territory of the RF to safe third countries, for return of the Ukrainian citizens home.

Moreover, Ukraine has asked⁹¹ Switzerland to assume the mandate of a protecting power for it in Russia. The respective negotiation was completed on 10 August 2022, and Switzerland agreed to represent Ukraine's interests in the RF. However, the accepting party had to give its consent to representation of Ukraine's interests by Switzerland. The RF rejected the initiative.

With account of the acute need to determine the protecting power and provide consular services to Ukrainian citizens in Russia in order to enhance control over respect for international humanitarian law in the Russian Federation, resolve the problems associated with Russia holding the Ukrainian defenders captive and protect civilians of Ukraine from prosecution by the aggressor state, the Ukrainian Parliament Commissioner for Human Rights contacted the Ministry of Foreign Affairs of Ukraine in December 2022 regarding that relevant matter and recommended to include it into the agenda of respective international institutions as fast as possible.

Deportation of children

As of 12.01.2023, according to the state Children of War Portal, 13,899 children had been deported to the RF or forcibly displaced in the TOT of Ukraine (including 9,354 children deported directly to the Russian Federation). 125 children were returned during the reporting period.

Forced displacement or deportation of persons, including children, from the occupied territory is in breach of Articles 49 and 50 of the Geneva Convention Related to the Protection of Civilian Persons in Time of War. Therefore, one of the key tasks of the Commissioner is to identify each deported child and return them to Ukraine. The Commissioner has developed the practices of returning the children who have been deported to the territory of the RF or displaced to the temporarily occupied territories of Ukraine.

⁹¹ Commentary by the speaker of the MFA of Ukraine Oleh Nikolenko regarding the arrangement with Switzerland to represent Ukraine's interests in the territory of Russia. Available at: <https://mfa.gov.ua/news/komentar-rechnika-mzs-ukrayini-olega-nikolenka-shchodo-domovlenosti-iz-shvejcariiyeyu-pro-predstavlennya-interesiv-ukrayini-na-teritoriyi-rosiyi>

At the end of July, the Commissioner was approached by the petitioner from Khmelnytskyi Oblast, who asked to help return his minor nephew from Mariupol. The boy's family lost everything after the shelling in that city: the missile struck their house. His mother was killed. The 16-year-old boy stayed with his old grandparents. However, the full-age sister of the teenager was deported to the territory of the RF together with her 2-year-old child. The petitioner asked to help reunite with his family and return his relatives.

The Commissioner forwarded that information to the Ministry for Reintegration of the Temporarily Occupied Territories, the National Information Bureau, the National Police of Ukraine, the Unified Centre for Searching and Releasing Captives of the SSU, and the Head of the Delegation of the International Committee of the Red Cross.

Moreover, the Commissioner took measures to designate the petitioner his nephew's guardian, which was a basis for returning the child to the legal representative from the temporarily occupied territory of Ukraine.

Another problem associated with return of the children to Ukraine is lack of reliable information on the children in Russia: their personal data, full name and birth date in the first place, whether they are in the occupied territory of Ukraine or the RF, information on the children's health, as well as no channels of communication with the children who have been forcibly displaced or deported. The main condition for the child's return is timely notification of the of the police and other competent public authorities of Ukraine of the child's disappearance or deportation by parents or other legal representatives. However, the fear of legal representatives to be punished by the occupying authorities often prevents them from informing of the child's deportation. Moreover, each child's return is essentially an *ad hoc* mechanism, an individual and complex process that has to consider the child's family ties, place of origin, family situation and so on. There are currently no tools to ensure systemic work to return the Ukrainian children into Ukraine.

Minor K., who had been deported into the territory of the RF and adopted at the beginning of the full-scale invasion of Ukraine by the RF, was returned to Ukraine with the Commissioner's help.

The boy had lived in the vicinity of Mariupol before the deportation. In 2015, the boy was injured by the mine explosion, lost his eye and had foot injuries; his face and body were injured with mine fragments.

After his native settlement had been seized by the Russian occupants, the child and many other children were first taken to Donetsk, which had been occupied since 2014, and then to Russia with the help of Mariia Lvova-Belova, the Commissioner for Children's Rights under the President of the Russian Federation. The family that adopted the boy lived in Moscow Oblast.

The documents of K. were destroyed by the 'authorities' of so called 'DNR', and a birth certificate was issued in accordance with the Russian standards.

In order to return the child to Ukraine, the Ukrainian birth certificate was re-issued with the Commissioner's help.

The passport of a citizen of Ukraine was also issued to the child with the Commissioner's support. The child was assigned the status of the victim of trafficking in human beings.

The matter of restitution of the child's right to adequate social protection, to living in a family and to education will be controlled by the Commissioner until it is resolved. In order to protect the rights of the child affected by the armed aggression of the RF, the respective letter was sent to the guardianship and wardship authority.

The cases of illegal adoption of the Ukrainian orphans, children deprived of parental care who have been illegally displaced to the RF are known from the mass media of the RF and webpages of the Russian top-rank officials, namely the Commissioner for Children's Rights under the President of the RF⁹².

Thus, it was found out in October that 28 Ukrainian children aged 6 to 17 were taken from Oleshky in Kherson Oblast pursuant to 'order' No. 1 of 20.10.2022 of the occupying public authority "On Evacuation of Children" for so called 'rehabilitation' to the territory of Clinical Psychiatric Hospital No. 5, which was located in the territory of temporarily occupied Crimean Peninsula, in the village of Strohonivka near Simferopol. Mariia Lvova-Belova, the Commissioner for Children's Rights under the President of the RF, confirmed that fact in her Telegram channels and informed of taking 52 children from Oleshky Care Home⁹³.

It was also found out that on 21 October 2022 the Russian military took away 46 children under the age of 5 from the Kherson Oblast Orphanage of Kherson Oblast by ambulances to the temporarily occupied territory of Simferopol in the AR Crimea⁹⁴.

Moreover, at the beginning of July 2022, all the children from the Novopetrivske Special School in Mykolaiv Oblast, which was located in the occupied territory, were displaced deeper into the occupied territory of Kherson Oblast. There were 15 children, including 13 orphans and children deprived of parental care, in school.

It was found out from the petition of citizen L. to the Ukrainian Parliament Commissioner for Human Rights that the children from the Novopetrivske Special School in Mykolaiv Oblast were forcibly displaced to the health resort "Pearl of Russia" (Anapa, RF). The children from the facility and their accompanying persons managed to leave the territory of the RF and leave for Tbilisi, Georgia.

It is especially difficult to return the children who have no identification documents on their Ukrainian citizenship. In May 2022, the president of the RF signed a decree on the simplified procedure for granting citizenship to orphans, children deprived of parental care, incapacitated persons who were Ukrainian citizens and stayed in the temporarily occupied territories of Ukraine.⁹⁵ Moreover, in December 2022, the president of the RF signed one more decree⁹⁶ on simplification of the procedure for granting the Russian citizenship to the Ukrainian citizens who have turned 14. However, according to the legislation of Ukrainian citizens, children being Ukrainian citizens may be adopted by foreigners by

⁹² Telegram channel "Mariia Lvova-Belova". Available at: <https://t.me/malvovabelova/855>

⁹³ Telegram channel "Mariia Lvova-Belova". Available at: <https://t.me/malvovabelova/765>

⁹⁴ Telegram channel "Kastyukevich Live" Available at: https://t.me/kastyukevich_live/250

⁹⁵ Decree of the President of the Russian Federation No. 330 of 30.05.2022 "On Amending Decree of the President of the Russian Federation No. 183 of 24 April 2019 "On Determining for Humanitarian Purposes Categories of Persons Entitled to File Applications for Citizenship of the Russian Federation Based on the Simplified Procedure", and Decree of the President of the Russian Federation No. 187 of 29 April 2019 "On Certain Categories of Foreigners and Stateless Persons Entitled to File Applications for Citizenship of the Russian Federation Based on the Simplified Procedure"

⁹⁶ Decree of the President of the Russian Federation No. 951 of 26.12.2022 "On Certain Matters of Acquisition of Citizenship of the Russian Federation"

consent of the central executive authority in charge of implementation of the public policy for adoption and protection of children's rights (Article 283 of the Family Code of Ukraine).

The decree on the simplified procedure for acquisition of citizenship by orphans, children deprived of parental care enables adoption of Ukrainian children without consent of the country of their origin, as prescribed by the Ukrainian and international legislation.

However, this practice is inconsistent with the requirements of the Geneva Convention Related to the Protection of Civilian Persons in Time of War (Convention III). According to Article 50 of the above-mentioned Convention, the Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it.

The reliable number of adoption facts, children's names as well as adoptive Russian families are unknown.

Special attention should be paid to the situation of taking the children being Ukrainian citizens from the temporarily occupied territories of Ukraine for so called 'camping' to the territory of the RF.

After Kharkiv Oblast had been deoccupied, the Commissioner found out that some children had been taken to the RF under the pretext of 'rehabilitation' during the temporary occupation of the oblast.

In order to restore the persons' rights to family reunion and with the Ombudsman's support, the children's parents were paid monetary assistance from the international charitable foundation of Caritas Ukraine. Moreover, the parents were promptly issued foreign travel passports of a citizen of Ukraine with the Commissioner's assistance and in close cooperation with the SMS; the logistics of the centralised trip of those families to the RF to pick up their children and back to Ukraine was planned together with one of the charitable organisations.

Also, 3 other children who had been illegally taken to Russia were returned to Ukraine on 20.12.2022 with the Commissioner's support.

In order to return the children deprived of parental care who had been forcibly displaced, Ukraine simplified the procedure for appointing the legal representative to the maximum extent: in particular, Resolution of the CMU No. 447 of 15.04.2022 amended the Procedure for the Activity Associated with Protection of the Child's Rights by the Guardianship and Wardship Authorities⁹⁷. Thus, a guardian may be appointed if a child is abroad and without the child's consent.

The Coordination Council of Ukraine for the Protection and Safety of Children was established by Decree of the President of Ukraine No. 568/2022 of 08.08.2022; it deals with matters of identification, location and return of the children who have been forcibly displaced from the temporarily occupied territories of Ukraine at its meetings. The Coordination Council is chaired by the Head of the Office of the President of Ukraine. Members of this Coordination Council are also the Ukrainian Parliament Commissioner for Human Rights and the representative of the Ukrainian Parliament Commissioner for Human Rights for rights of children, families, youth and sports.

Forced mobilisation and conscription in the temporarily occupied territories of Ukraine

⁹⁷ Resolution of the Cabinet of Ministers of Ukraine No. 866 of 24 September 2008 "Matters of the Activity Associated with Protection of the Child's Rights by the Guardianship and Wardship Authorities"

Numerous facts of gross violations of international humanitarian law by the RF should include illegal mobilisation of the Ukrainian citizens in the TOT of Ukraine. Forced mobilisation of the protected Ukrainian citizens in the TOT of Ukraine is directly forbidden by the Geneva Convention Related to the Protection of Civilian Persons in Time of War of 1949. According to Article 51, the Occupying Power may not compel protected persons to serve in its armed or auxiliary forces or to undertake any work which would involve them in the obligation of taking part in military operations. Pursuant to Article 23 of the Hague Convention of 1907, it is especially forbidden to compel the nationals of the hostile party to take part in the operations of war directed against their own country.

Violation of both rules is a war crime under Articles 8(2)(a)(v) and 8(2)(b)(xv) of the Rome Statute in form of compelling to serve in the forces of a hostile Power and of compelling to take part in the operations of war directed against their own country. Such actions also constitute violation of the laws and customs of war under Article 438 of the CrCU.

The occupying authorities of the RF have carried out 13 illegal conscription campaigns for the Armed Forces of the RF in the temporarily occupied territory of the AR Crimea and city of Sevastopol since 2015: more than 31 thousand Crimeans, most of whom were probably Ukrainians, were called up for military service for the occupying power.

Before the full-scale aggression of the RF against Ukraine, which started on 24 February 2022, the mobilisation was commenced in the TOT of Donetsk and Luhansk Oblasts: the corresponding 'decrees' were issued on 19 February 2022 by the occupying administrations of so called 'Donetsk People's Republic' and 'Luhansk People's Republic'. Thus, the men aged 18 to 55 were subject to general mobilisation in occupied Luhansk Oblast pursuant to 'decree of the head of LNR'. They were also forbidden to leave so called 'LNR'. The civilians who were Ukrainian citizens were obviously subject to mobilisation. Even when such persons were issued a passport of the RF or so called 'LNR' and 'DNR', forcible imposition of the occupant's citizenship creates no legal consequences (is void).

On 22 February 2022, the 'decree of the head of DNR' on mobilisation of the citizens born from 1995 to 2004 for military mobilisation service was issued. According to point 4 of the 'decree', the conscripts were sent to the reserve of the 'command of the people's police of DNR' for their military mobilisation service. In March 2022, the upper age limit for the mobilisation in the occupied territories of Donetsk Oblast was raised up to 65.

Up to 90,000 residents of the occupied east of Ukraine were mobilised to the military units and subdivisions of the first and second army corps of the Southern Military District of the Armed Forces of the RF since the end of February 2022.

Conscription of the residents of the TOT of the AR Crimea, Donetsk and Luhansk Oblasts for their compulsory military service at the Armed Forces of the RF was carried out forcibly, by applying the rules and clauses of the Criminal Code and the Code on Administrative Offences of the Russian Federation against the residents of the AR Crimea who refused from (evaded) military service in the Armed Forces of the RF. Conscription for the compulsory military service and mobilisation of residents of Donetsk and Luhansk oblasts were carried out by applying physical force and threats of physical injuries.

In its Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity Committed in Ukraine (1 April – 25 June 2022), the OSCE Office for Democratic Institutions and Human Rights noted that abducting men from the streets, their homes, and their workplaces became the new normality in occupied Donbas less than 2 weeks later, when the age limit was raised to 65. Russian authorities have made it illegal for men to leave the occupied territory,

allowing any man between the age of 18 and 65 to be conscripted. In mid-April, for example, local social media groups in Donetsk highlighted how philharmonic and opera musicians, circus performers, educators, and social professionals were forcibly enlisted as "volunteers", despite having no connection to the military. The Russian mobilization in the occupied Donbas is still ongoing, although there are only non-accurate figures on how many men were conscripted for military service⁹⁸.

There are no data on the exact number of the persons who have been mobilised forcibly, but there are thousands and possibly dozens of thousands of them. According to the Main Directorate of Intelligence of the Ministry of Defence of Ukraine, it was planned to mobilise 26,000 persons from the TOT.

The occupying power has been taking all the actions for mobilisation in the TOT, where coercion is the principal tool.

Response to violations of human and civil rights

The majority of the petitions received by the Commissioner were associated with IDPs. The petitions were about violation of the petitioners' rights to monetary accommodation assistance, pensions, provision of temporary or permanent accommodation, re-issue and/or issue of documents.

Thus, numerous petitions were about delays in granting accommodation assistance to IDPs.

The Commissioner was approached by citizen I., who had been displaced from Mykolaiv to Odesa and then to Kyiv, regarding protection of his right to accommodation assistance as an IDP. The petitioner informed that he had been displaced from Odesa to Kyiv, where he was registered as an IDP, in July 2022. However, no accommodation assistance was paid to him from July to December 2022.

When he applied to the social protection authority in Obolonskyi District of Kyiv, the petitioner received the rejection and response that the social protection authority of Odesa would not send the petitioner's personal file. Moreover, according to the officers of the above-mentioned institution, 4 requests had been sent to the social protection authority of Odesa, but no response was received.

In order to respond to the petition, the Commissioner contacted the National Social Service and the Social and Family Policy Department of Odesa Oblast Military Administration. Following consideration of the Commissioner's letter, the petitioner's personal file was transferred to Kyiv, and the monetary assistance was paid to the petitioner.

With account of the persistency of that problem, the Commissioner submitted an address to the Ministry of Social Policy regarding regulation of the matter of long delays in granting accommodation assistance to IDPs. In response, the Ministry of Social Policy informed that it was dealing with the existing problem within the project of creation of the Unified Social Information System. The respective software was introduced into operations in December 2022.

Moreover, the Ministry of Social Policy amended the Instruction on the Procedure for Executing and Keeping Personal Files of Payees of All Types of Social Assistance approved by Order of the Ministry of Social Policy No. 345 of 19.09.2006 as well as Resolution of the CMU No. 332 of

⁹⁸ Conclusions of the mission of experts established under the Moscow Mechanism, invoked by 45 OSCE participating States following bilateral consultations with Ukraine, No. 256/2022, 11.06.2022, p. 33. Available at: https://www.osce.org/files/f/documents/8/b/523811_0.pdf

20.03.2022 “Certain Aspects of Paying the Accommodation Assistance to Internally Displaced Persons”.

In October 2022, the Commissioner started to receive numerous petitions from IDPs regarding termination of their accommodation assistance. As it was established during consideration of the petitions, one of the common reasons for such delays were numerous faults in operation of the USIS and its incompatibility with the Automated Records Processing System.

In December 2022, the Commissioner received the petitions regarding non-payment of the old-age pension for May 2022 from the citizens from Kharkiv Oblast who were paid their pensions in offices of Ukrposhta JSC.

It was established during the communication with the petitioners that the affected persons had resided in the territory of Kharkiv Oblast that was under temporary occupation in May 2022. However, after they had been displaced to the territory controlled by the Ukrainian Government, the pensioners could apply to the departments of the Pension Fund of Ukraine and offices of Ukrposhta JSC to resume payment of their pensions at their new location. Yet, the petitioners were not paid their pensions for May 2022.

Since it is a matter of the most unprotected category of the affected citizens, namely the elderly IDPs, the Commissioner immediately sent the corresponding requests to Ukrposhta JSC. It should be noted that Ukrposhta JSC took prompt necessary actions to pay pensions for May 2022. Therefore, the petitioners’ rights to pension payments were restored owing to the joint coordination of actions of the Commissioner and Ukrposhta JSC.

Regarding the inability of the internally displaced pensioners who were displaced before 24.02.2022 to receive pension cards, which are also pension certificates

The Commissioner found out about the inability of the IDPs who were displaced before 24.02.2022 to receive pension cards, which were also pension certificates, because the institution that produced them had been evacuated and suspended its operations temporarily. In their turn, IDPs cannot receive a pension certificate in hard copy in accordance with the legislation. In other words, such persons have no documents confirming that they have been granted the pension.

At the same time, lack of any document on granting the pension hinders the exercise of rights and legal interests of citizens, including the right to cross the state border. Thus, persons with disabilities who have the legal right to cross the state border cannot cross it due to lack of necessary documents as they do not have a pension certificate, and the MSEC certificate was removed from the list of the documents that give the right to cross the state border in November 2022. Also, absence of documents deprives citizens of benefits for rides in public transport and Ukrzaliznytsia trains.

In order to resolve that issue, the Commissioner contacted the Ministry of Social Policy and suggested initiating legislative amendments in order to enable the IDPs who had received an IDP certificate before 24.02.2022 to receive a pension certificate in hard copy, or to facilitate resumption of issue of electronic pension certificates.

Thus, in order to respond to the Commissioner’s address and ensure issue of pension certificates to the IDPs who have been granted a pension, the Ministry of Social Policy together with the Pension

Fund of Ukraine are drafting resolution of the Cabinet of Ministers of Ukraine “Some Matters of Issue of Pension Certificates to Internally Displaced Persons”.

Moreover, due to the considerable number of the IDPs’ petitions regarding their inability to receive a payment card, the Ministry of Social Policy asked the Pension Fund of Ukraine to issue pension certificates in hard copy to IDPs upon their request. However, the Pension Fund of Ukraine fails to follow this recommendation.

The Commissioner was approached by citizen V., who had been registered as an IDP in Irpin since 2014, Kyiv Oblast, and was a pensioner, regarding the ability to receive the pension card being a pension certificate at the same time (hereinafter the “electronic pension certificate”).

The petitioner filed numerous applications to the Pension Fund of Ukraine and Oschadbank JSC, but they were dismissed. A pension certificate in hard copy was not issued to the petitioner as well.

In order to respond to the petition, the Commissioner filed a request to the Ministry of Social Policy in order to restore the rights of citizen K. to receive the electronic pension certificate.

The Ministry of Social Policy informed the Commissioner that Oschadbank JCS was not producing electronic pension certificates temporarily for technical reasons. Therefore, the respective process of re-issue of electronic pension certificates by Oschadbank JSC was temporarily suspended. At the same time, there were no legal grounds for issuing a pension certificate in hard copy to the petitioner.

Regarding payment of utility bills by displaced persons at the place of registration

After the start of the heating season, centralised heating supply was resumed in a number of territorial communities located in the combat zone or under regular shelling, namely the ones located in Donetsk Oblast. Heating is supplied to the apartment blocks the residents of which have been evacuated or have to live in other regions of Ukraine or abroad. As a result, the IDPs have to pay for heating at the place of their actual residence in the hosting community and at the location of their accommodation. This situation creates an excessive financial burden for respective social categories.

Given the above, the Commissioner asked the Prime Minister of Ukraine to authorise the specialised ministries to initiate corresponding amendments to the legislation in order to release the persons who had been forced to leave their accommodation as a result of the armed aggression of the RF from payment of thermal energy supply bills if such accommodation was located in the territorial communities in the area of hostilities (combat operations) or under temporary occupation, encirclement (blocking). It was also proposed to consider covering thermal energy supply costs from the state or local budget.

Monitoring visits to check observance of rights

The employees of the Commissioner’s Secretariat make regular visits to IDP compact settlements in order to monitor adequate living conditions of IDPs. Thus, monitoring visits were made from August to December 2022, and 101 CoSs for IDPs were inspected in 15 oblasts.

The CoSs located at the facilities and premises of different ownership form were covered by the monitoring visits: state-owned (22%), communal (65%) and private (13%) ones. Out of all the CoSs surveyed, 25% operate in residence halls of vocational colleges, 20% — in schools, 13% — in

kindergartens, 7% — in health care facilities, and 5% — in care homes. Most residents of the CoSs have arrived from Donetsk, Luhansk, Kharkiv and Kherson Oblasts.

The IDPs living in the CoS say that the principal problem is insufficient financial support (the accommodation assistance does not cover all the expenses for their needs, especially medicines).

According to the analysis of the information provided by the CoS administration, the relevant needs of the CoSs include repairs (plumbing repairs, replacement of windows or doors, heat insulation of premises, redecoration) — 70% of the CoSs, generators — 72%, food products — 66%, personal hygiene products — 66%, non-food items (household appliances, furniture, sleeping items) — 57%.

Following the monitoring visits, the reports with respective recommendations were prepared and sent to the public authorities in order to resolve problematic issues and satisfy needs of the IDPs.

Special attention should be paid to charging housing fees from IDPs as the facilities where they reside are not aware of the procedure and conditions for receiving the compensation for the utility services when IDPs reside in buildings (premises) of state-owned, communal and private facilities during martial law.

During one of the monitoring visits by the employees of the Commissioner's Secretariat to Irpin, the persistent problem was identified in connection with granting monetary accommodation assistance to IDPs. Thus, 265 IDPs could not get monetary accommodation assistance at the new place of registration since the social protection authorities at their previous place of residence where the assistance had been granted would not transfer their personal files to the social protection authority of Irpin. In order to respond to the situation, the Commissioner's Secretariat established prompt connections with 8 oblasts from which the personal files were to be sent, and actions were taken to ensure their prompt transfer to the social protection authority of Irpin.

Recommendations

The Verkhovna Rada of Ukraine should ensure consideration and adoption of:

draft Law “On Amending Article 20 of the Law of Ukraine ‘On the Unified State Demographic Register and Documents Certifying Ukrainian Citizenship, Identity Documents or Documents on the Special Status’ regarding Benefits to Certain Categories of Ukrainian Citizens Issued a Passport of a Citizen of Ukraine or a Foreign Travel Passport of a Citizen of Ukraine for the Period of Martial Law” (registration No. 7358 of 09.05.2022).

The Cabinet of Ministers of Ukraine should:

- develop and submit to the Verkhovna Rada of Ukraine for consideration the draft law on the legal status of the persons affected by the armed aggression against Ukraine by defining the concept of the “person affected by the armed aggression against Ukraine” and categories of the persons affected by the armed aggression of the RF as well as the mechanism for compensation for the damage, including restitution, compensation, rehabilitation, satisfaction and guarantees of no recurrence;

- develop the algorithm for returning the children deported into the territory of the RF and/or Republic of Belarus into Ukraine, and develop the procedure for the mechanism of interaction between public authorities and local self-government bodies for priority activities of social protection of children after their return;

- ensure creation of the mechanism for collecting and verifying data on civilians who have been forcibly displaced into the TOT of Ukraine or deported to the RF;

The Ministry of Social Policy of Ukraine should:

- develop and submit to the Cabinet of Ministers of Ukraine for consideration the draft act on the mechanism for pension coverage of persons from the temporarily occupied territory of the AR Crimea and city of Sevastopol;

- develop and submit to the Cabinet of Ministers of Ukraine for consideration the draft resolution on amending the Procedure for Executing and Issuing a Certificate of Registration of an Internally Displaced Person approved by Resolution of the Cabinet of Ministers of Ukraine No. 509 of 01.10.2014, in order to determine the scope of necessary documents to confirm the fact of internal displacement;

- develop and submit to the Cabinet of Ministers of Ukraine for consideration the draft resolution on amending the Procedure for Granting Assistance to Internally Displaced Persons approved by Resolution of the Cabinet of Ministers of Ukraine No. 332 of 20.03.2022, as regards cancellation of the random check of the actual place of residence/stay of IDPs;

- develop and submit to the Cabinet of Ministers of Ukraine for consideration the draft resolution on enabling the IDPs who had received a registration certificate before 24.02.2022 to be issued a pension certificate in hard copy;

- develop and submit to the Cabinet of Ministers of Ukraine for consideration the Procedure for interaction of the public authorities, institutions and organisations to ensure protection and support of the children who have been forcibly displaced to the temporarily occupied territory of Ukraine or deported to the territory of the RF or Republic of Belarus, and have returned to the territory controlled by the Government of Ukraine.

The Ministry of Reintegration of Temporarily Occupied Territories of Ukraine should:

- develop and submit to the Cabinet of Ministers of Ukraine for consideration the amendments to the Strategy for Integrating Internally Displaced Persons and Implementing Mid-Term Solutions for Internal Displacement until 2024 approved by Ordinance of the Cabinet of Ministers of Ukraine No. 1364-p of 28.10.2021, in order to update the document in connection with the need to respond to the consequences of the broad-scale armed aggression against Ukraine, or adopt the new strategy with account of the recommendations given in the Special Report of the Commissioner on the Observance of the Rights of Persons Affected by the Armed Aggression of the Russian Federation for the Period (from 24 February to 31 October 2022);

- develop and submit to the Cabinet of Ministers of Ukraine for consideration the draft act on the centralised (model) algorithm for IDPs' accommodation in CoSs, definition of the CoS and clear procedure for their operations;

- ensure engagement of international organisations and other agents into identification of the persons deported from the territories of Ukraine, including children, into the territory of the RF, and the persons forcibly displaced to the TOT, in order to make it possible to return them to the territory controlled by the Government of Ukraine or to move to safe third countries.

The Ministry for Communities and Territories Development of Ukraine, the Ministry of Reintegration of Temporarily Occupied Territories of Ukraine should:

- develop and submit to the Cabinet of Ministers of Ukraine for consideration the draft act on releasing the persons who have been forced to leave their accommodation as a result of the armed aggression against Ukraine from paying thermal energy supply bills if such accommodation is located in the territories where there are (have been) hostilities or which are temporarily occupied by the RF;

- take actions to observe the IDPs' right to housing, including in the context of construction of new housing, minor repairs of residential buildings, and overhaul or reconstruction of residential buildings;

- take actions to develop and approve the State Targeted Programme for Provision of Accommodation to IDPs.

The Ministry of Digital Transformation Ukraine, the Ministry of Reintegration of Temporarily Occupied Territories of Ukraine should take actions to modify functions at Diia Portal, including its mobile application, and add the function of:

- submission of the information notice of the property damaged and destroyed since 19.02.2014;

- assessment of current needs of IDPs and transfer of information to corresponding public authorities.

The Ministry of Education and Science of Ukraine, the Ministry of Reintegration of Temporarily Occupied Territories of Ukraine should:

- develop and submit to the Cabinet of Ministers of Ukraine for consideration the draft law on introducing the mechanism for recognition of qualifications, academic results and periods of education of graduates from the TOT of Ukraine who started to obtain higher and vocational education in the temporarily occupied territory, regardless of the date of the start of temporary occupation of the respective territory;

- amend the Procedure for certification to recognise qualifications, academic results and periods of education in the higher education system in the TOT of Ukraine after 20.02.2014 approved by Order of the MES No. 537 of 19.05.2016, in order to bring it in line with the Law of Ukraine "On Ensuring Rights and Freedoms of Citizens and Legal Regime in the Temporarily Occupied Territory of Ukraine" and implement it.

CHAPTER 2. RIGHTS OF CHILDREN

<p>1,237 petitions to the Commissioner 178 legal and normative acts processed and proposals submitted 61 proceedings instituted by the Commissioner 43 proceedings completed (30 in 2022; 13 during the previous reporting period) 369 monitoring visits made 1,650 acts of response and letters to the public authorities, institutions and organisations sent</p>

Key events, challenges and tendencies

In the context of the full-scale armed aggression of the Russian Federation in the territory of Ukraine after 24 February 2022, during his parliamentary control, the Commissioner has detected numerous violations of fundamental rights of a child: the right to security, the right to life, to education, to health and personal development, the right to preserve his or her identity, including nationality and family relations, the right to personal and family life, inviolability of the home, right to care and protection by the state etc.

The most relevant issues that were regularly in the focus of the Commissioner's attention during the martial law are as follows: death and injuries of children, deportation, abduction and illegal detention of children, protection of the children deprived of parental care in time of war, social protection of the children affected by hostilities and armed conflicts, protection of rights of orphans, children deprived of parental care, children in difficult life circumstances etc.

During the full-scale invasion of Ukraine by the RF, almost 70% of the Ukrainian children had to leave home and were displaced within the country or abroad. The war took the children away from their fathers, who had to defend their motherland or could not leave Ukraine with their children during the martial law. The children who are not in Ukraine are under permanent threat of hostile mass shelling by the RF, in connection with damage to the energy system, water and heating supply systems, destruction of schools, hospitals, and use of explosive devices against civilians by the occupants etc.

The authorities of the RF in the temporarily occupied territories keep introducing their standards in an active and persistent way, destroy the Ukrainian identity, change the mindset of the children and youth, form positive attitude to the aggressor's actions, to the occupying Russian army, destroy access to the native language and history, and actively turn the children against Ukraine by engaging them into paramilitary children's movements, such as the Young Army.

The key direction of work of the Ukrainian Parliament Commissioner for Human Rights is to establish each fact associated with the potential violations of the rights of the child in the context of the armed aggression of the Russian Federation against Ukraine, to keep records of violations of international humanitarian law and international law and human rights in general.

Also, the rights of the child were subject to assessment within the framework of international human rights mechanisms in 2022.

Thus, on 9 February 2022, the UN Human Rights Committee adopted the Concluding observations on the eighth periodic report of Ukraine⁹⁹ on the implementation of the International Covenant on Civil and Political Rights; in particular, it expressed appreciation for the renewal of the constructive dialogue, provision of information, and also gave recommendations regarding Ukraine ensuring free of charge registration of the children born in its territory, receipt of official birth certificates, and taking measures to avoid pretrial detention of juveniles, with non-custodial alternative measures applied.

As for recommendations of the previous years, there are still some issues connected with implementation of legislative amendments related to child-friendly justice, namely as to elimination of gaps in regulation of protection of children from negative impact of products of a sexual or erotic nature. The Commissioner's proposals to introduce specialisation of the persons conducting criminal proceedings that involve a juvenile as well as regulation of investigative (search) activities involving a juvenile were taken into account in the draft Laws of Ukraine developed by the Cabinet of Ministers of Ukraine "On Child-Friendly Justice" (registration No. 5617 of 04.06.2021) and "On Amending the Code of Ukraine on Administrative Offences, the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine in Terms of Child-Friendly Justice" (registration No. 5618 of 04.06.2021).

On 27 October 2022, the UN Committee on the Rights of the Child adopted the Concluding observations on the combined fifth and sixth periodic reports of Ukraine¹⁰⁰. The Committee is deeply concerned that the armed attack by the Russian Federation since 24 February 2022 has had a devastating effect on people in Ukraine, particularly children, and has since created major obstacles to the implementation of all the rights of the child defined in the Convention and its Optional Protocols. In this regard, the Committee commends the efforts of the State party to mitigate the adverse effects of the armed conflict on children, but is nevertheless gravely concerned about multiple credible, corroborated and consistent reports of gross violations of children's rights since the beginning of the armed conflict, including killings of children, mass displacement of children internally and outside the country, and the destruction of homes, schools, hospitals and water and sanitation systems, committed mainly by the Russian Federation. It also welcomes progress of Ukraine in amending some legislative acts in the field of protection of the rights of the child as well as the establishment of the Coordination Group for the Protection of the Rights of the Child under Martial Law¹⁰¹.

The new space, the Consultation Centre of the Ukrainian Parliament Commissioner for Human Rights, was opened on 18 August 2022 as a part of operation of the information and communication

⁹⁹ CCPR/C/UKR/CO/8. Available at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FUKR%2FCO%2F8&Lang=ru

¹⁰⁰ CRC/C/UKR/CO/5-6. Available at:

https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=5&ctl00_PlaceHolderMain_radResultsGridChangePage=5

¹⁰¹ The Coordination Group for the Protection of the Rights of the Child under Martial Law is a temporary counselling and advisory body of the Cabinet of Ministers of Ukraine that is established in order to assist in coordination of activities of the central and local executive authorities, other public authorities and local self-government bodies during the martial law (*Resolution of the Cabinet of Ministers of Ukraine No. 302 of 17 March 2022 "On Establishing the Coordination Group for the Protection of the Rights of the Child under Martial Law"*)

portal “Children of War”. Similar consultation centres were also opened on 9 December 2022 in the cities of Khmelnytskyi and Lviv. There each citizen can receive explanations on:

- possible ways to return a child or families with children to the territory controlled by the Government of Ukraine;
- receipt of the certificate for the child born within the administrative territory where state registration of acts of civil status is not carried out due to the war;
- procedure for legalisation of the birth certificate issued in the temporarily occupied territory;
- establishment of contact with the child who has been taken abroad by one of the parents;
- consultations on filling in the child search form;
- completion of the application for aid to the children injured as a result of the war.

Right to life and health

During the year, the Commissioner has been receiving information on the children killed and injured as a result of shelling by the aggressor state. According to the Prosecutor General’s Office, 450 children were killed and 872 were injured as of 31.12.2022. These data cannot be considered final since the work is under way to establish the facts of the crimes committed in the areas of active hostilities, in the temporarily occupied and deoccupied territories. At the same time, the number of the children who were killed or injured during 10 months after the full-scale invasion is almost 4.5 times higher than the number of the children affected since the beginning of the armed aggression of the RF in 2014.

Most children were affected in Donetsk, Kharkiv, Kyiv, Mykolaiv, Zaporizhzhia, Kherson, Chernihiv, Luhansk and Dnipropetrovsk Oblasts.

When the causes of the children’s deaths and injuries are analysed, it can be claimed that the RF violations the rules of international humanitarian law and launches the attacks prohibited by the laws of war, i.e. the ones that are not directed at military objects. It is specified in the report of the international non-governmental organisation Human Rights Watch that the aggressor country uses banned landmines and explosive ammunition in the territory of Ukraine¹⁰².

The documented crimes committed by the military of the RF army against children include numerous facts of the children killed and injured during evacuation, namely from Kyiv and Kharkiv Oblasts etc. The Russian military opened fire at the vehicles that were marked with signs “children” and moved with white flags during the evacuation¹⁰³.

As of 2 January 2023, the total number of children who are or have been treated in healthcare institutions in connection with a wound, an injury, a road accident and other incidents as a result of hostilities and/or during evacuation since the start of the broad-scale armed aggression against Ukraine is 898 children, most of whom are registered in Kharkiv Oblast (269), Donetsk Oblast (177), Dnipropetrovsk Oblast (168), Zaporizhzhia Oblast (72) and Mykolaiv Oblast (64). 843 children (94% of the total number) had landmine, explosive and gunshot injuries.

¹⁰² HRW. “Ukraine: Banned Landmines Harm Civilians” Available at: <https://www.hrw.org/uk/news/2023/01/31/ukraine-banned-landmines-harm-civilians>

¹⁰³ Report of the Office of the United Nations High Commissioner for Human Rights “Killings of civilians: summary executions and attacks on individual civilians in Kyiv, Chernihiv and Sumy Oblasts in the context of the Russian Federation’s armed attack against Ukraine”, 22 December 2022. Available at: <https://www.ohchr.org/sites/default/files/2022-12/2022-12-07-OHCHR-Thematic-Report-Killings-UKR.pdf>

There are 28 amputations at different levels of upper and lower extremities of the affected children, which is 3% of the total number of the affected children. 4 children who had undergone the amputation died, and 17 children need prosthetic care for their upper and lower extremities.

Some children cannot be provided adequate medical aid at their place of residence because of the regular shelling by the RF and persistent destruction of the critical infrastructure. Therefore, parents and their children are forced to leave Ukraine in order to obtain proper medical treatment, prosthetic care and rehabilitation.

Observance of the right to healthcare for children suffering from rare (orphan) diseases

Provision of medicines and therapeutic nutrition to the children suffering from rare (orphan) diseases has been permanently controlled by the Commissioner for the last few years¹⁰⁴. During the reporting period, 14,776 children, including 502 internally displaced ones, were registered with the healthcare institutions as of 01.01.2023. 689 children out of the total number were referred to or left Ukraine on their own for further treatment abroad in 2022. At the same time, there are no reliable data on the location and life of the children suffering from rare (orphan) diseases who lived in the temporarily occupied territories of Ukraine.

It should be noted that actual information on satisfying the demand for medicines and therapeutic nutrition of the children suffering from rare (orphan) diseases cannot be established because the analysis of the information from the health care bodies of the oblast state administrations has shown that the majority of regions provided general information on the persons suffering from rare diseases in the region. Therefore, it turned out to be impossible to establish the scope of expenditures for medicines and therapeutic nutrition only for the children suffering from rare diseases. According to the State Enterprise “Medical Procurement”, satisfaction of the children’s need for medicines was not established as well.

As for the pressing problems, attention must be paid to lack of exchange of information on patients with orphan diseases and no state register of this group of patients. The needs of such patients cannot be estimated and fully covered unless their actual number is understood.

In 2022, the Commissioner instituted the proceedings based on the petition of the parents of the children who suffered from cystic fibrosis (14 families), regarding observance of their children’s right to adequate medical aid. It was established during the proceedings that there were medicines called Trikafta (USA) at the international pharmaceutical market for the children suffering from cystic fibrosis, and that those medicines had extreme efficacy and practically stopped progress of the patient’s disease. In response to the Commissioner’s requests, the MoH informed that Trikafta was not procured from the state budget because the product was not registered in Ukraine, and treatment of one patient was expensive and cost hundreds of thousands US dollars. Treatment of such patients could only be ensured via humanitarian assistance or by going to specialised hospitals abroad. The National Children’s Specialised Hospital of the MoH “OHMATDYT” recommended the patients’ parents to apply to the Centre for Orphan Diseases and Gene Therapy or sign up at the website¹⁰⁵ to be given an opportunity to treat their children abroad.

¹⁰⁴ Such patients’ right to adequate treatment is guaranteed by Article 53-1 of the Law of Ukraine “Fundamentals of Legislation of Ukraine on Healthcare”, according to which the state ensures prevention of rare (orphan) disease and organises adequate medical aid for the citizens who suffer from such diseases.

¹⁰⁵ Share4Rare. Available at: <https://www.share4rare.org/contact#no-back>

Moreover, during the martial law, the MoH implemented the Medical Evacuation Programme, which provided for organisation of treatment of Ukrainian citizens abroad in order to obtain highly-specialised medical aid.

The parents of the children suffering from cystic fibrosis applied to the Commissioner regarding that matter many times. The MoH still has not resolved the problem of providing adequate medicines to such children because the manufacturer is not interested in the Ukrainian market, and this expensive product has not been registered in Ukraine. The parents have to apply to the manufacturer of the medicines for humanitarian assistance or to look for sponsors to treat their children abroad.

Therefore, the right of the children suffering from cystic fibrosis to necessary medical aid has been violated as, according to Article 53-1 of the Law of Ukraine “Fundamentals of Legislation of Ukraine on Healthcare”, the citizens who suffer from rare (orphan) diseases shall be continuously provided with free medicines necessary to treat these diseases and respective food products for the special diet, pursuant to the list and volume approved by the central executive authority in charge of formation of the public health care policy, as prescribed by the Cabinet of Ministers of Ukraine.

Moreover, the Commissioner was approached by the head of the Public Association “Orphan Diseases in Ukraine” T. Kulesha, who requested assistance in the matters of introduction of the national classifier ORPHANET and establishment of the chain of orphan centres in Ukraine.

The Commissioner agrees with the concern expressed by the Public Association “Orphan Diseases in Ukraine” that, given the conditions of martial law the country lives in, progress of implementation of the Concept of Development of the Medical Aid System for the Citizens Suffering from Rare (Orphan) Diseases for 2021–2026 approved by Ordinance of the CMU No. 377-p of 28.04.2021 has slowed down considerably. In particular, some of the actions under the Action Plan for Implementation of the Concept were not implemented in 2022: in particular, the national classifier ORPHANET was not implemented to ensure operation of the register of orphan patients, and the network of orphan centres in Ukraine was not established.

Evacuation of children

According to the United Nations Children’s Fund (UNICEF), 4.8 million Ukrainian children have changed their place of residence due to the armed aggression against Ukraine since 24 February 2022; 2.5 million children have been displaced within Ukraine while the others have left abroad.

Evacuation of children in connection with the full-scale invasion by the RF has also demonstrated the actual performance of authorities and institutions of the child’s rights protection system in Ukraine, including guardianship and wardship authorities, children’s services, promptness of their decisions for the benefit of the child, taking of measures and keeping of records on all processes regarding children, care of the children who have lost their parents, provision of necessary services, granting and payment of social assistance etc.

According to the National Social Service, as of 16.12.2022, 6,730 children who are raised in education institutions, healthcare, social protection and private facilities remain in evacuation (2,100 in Ukraine and 4,630 abroad).

As of the start of the full-scale invasion of Ukraine by Russia, 105,459 studied and/or stayed in 727 facilities with 24/7 stay. Due to the permanent threat for life and healthy development, more than 6,750 were evacuated abroad, including 3,610 with the status of an orphan or a child deprived of parental care. The children were evacuated from 274 facilities, including 89 evacuated within Ukraine and 195

— abroad. 36 facilities have already returned from evacuation, including 19 from Ukraine and 17 from abroad.

Most children who have been displaced (evacuated) within Ukraine are in Lviv Oblast (474), Chernivtsi Oblast (339), Zakarpattia Oblast (240), Ivano-Frankivsk Oblast (139), and Kyiv (96). Most children who have been displaced (evacuated) abroad are in Poland (1,533), Germany (736), Turkey (299), Italy (267), Austria (255), Romania (254), Switzerland (181), the Netherlands (159) and Spain (129).

Right to education

According to the Prosecutor General's Office, as of 31.12.2022, the bombarding and shelling by the armed forces of the RF damaged 3,126 education institutions, including 337 that were completely ruined.

85% of the total number of the education institutions started the academic process on 1 September 2022. 444 vocational education institutions started the process with the full-time or combined education. More than 227 thousand pupils, including 83 thousand of newly admitted ones, started studying.

Out of 12,912 schools, almost 60% (7,714) work in the full-time or combined format and provide education services to more than 2 million 126 thousand pupils. With account of the security situation, the other 5,198 general secondary education institutions work remotely. As of 23.09.2022, 1,100 schools are located in the occupied territories. 505 thousand pupils and more than 13 thousand pedagogical employees remain abroad.

The shelters were prepared in education institutions in accordance with the requirements and standards in summer 2022. It was found out that there were not enough existing bomb and radiation shelter, and their capacity was insufficient. Shelters cannot be provided to participants of the academic process in protective facilities and double-purpose facilities, so the education institutions organise shelters for participants of the academic process in basic facilities.

The Commissioner received information on violation of the right of the pupils in the education institutions of Chervonohrad, Lviv Oblast, to safe conditions for education, to life and health.

The shelter in one of schools of Chervonohrad is insufficient for the number of the pupils, and its condition does not meet the sanitary standards.

The Commissioner sent the request to the Executive Committee of Chervonohrad City Council of Lviv Oblast for taking actions in order to observe the right of the participants of the academic process to life and health, and for providing information on availability and condition of shelters in the municipal education institutions for air raid alerts.

Following the Commissioner's response, the shelters of the education institutions of Chervonohrad were brought into the adequate sanitary condition, and the work was performed to use the closest shelters in the areas adjacent to the education institutions.

According to the State Service of Education Quality, the education institutions mostly have basic shelters (65%); civil protection facilities constitute 17% whereas double-purpose facilities make 13%.

Most education institutions (60%) have civil protection facilities, and 13% use protection facilities of other economic operators. However, 31% of the schools have no shelters. The education institutions of Ivano-Frankivsk, Chernivtsi, Lviv Oblasts and Kyiv are provided with shelters best of all.

In addition, one of the relevant issues in connection with shelters was toilet facilities. Moreover, there is a problem with Internet access in shelters.

34.9 thousand pupils from among the persons with special educational needs¹⁰⁶ continue obtaining school education, with 25 thousand inclusion classes opened for them.

Children from among the persons with special educational needs may be provided correctional, development, psychological and pedagogical services and rehabilitation in special education institutions remotely. There are 278 institutions like this, with more than 31 thousand pupils.

During the Commissioner's parliamentary control over the observance of the children's right to education, the following problems were detected: reorganisation and closing of education institutions; provision of adequate educational services (a school bus) to participants of the academic process; observance of the right of participants of the academic process to life and health and safe educational conditions.

In November 2019, Ukraine endorsed the Safe Schools Declaration¹⁰⁷. On 4 August 2021, the CMU issued Ordinance 898-p "On Approving the Action Plan for Implementation of the Safe Schools Declaration".

One of the reasons why Ukraine endorsed the Safe Schools Declaration was the armed conflict commenced by the Russian Federation in 2014. The content of the Action Plan was mostly connected with the activities in Donetsk and Luhansk Oblasts due to the active hostilities in that territory.

In order to keep objective records on destruction of the education institutions and bring such information to the attention of the international community, the Ukrainian Parliament Commissioner for Human Rights sent a letter to the Ministry of Education and Science of Ukraine and proposed to amend the above-mentioned ordinance by expanding the Action Plan to the entire territory of Ukraine. No amendments have been made to the Plan yet.

At the same time, some schools resume their work in semi-destroyed buildings with risks of collapse in the occupied territory. The authorities of the RF claim that the children who have studied and spoken Ukrainian will be forced to study the aggressor's language for 'correctional education' and studying in Russian schools¹⁰⁸. The academic programme in the occupied territories is also replaced with the Russian one.

The children are also militarised and forced to obtain Russian citizenship. Materials and books printed distort historical facts, and children are prevented from entering Ukrainian higher education institutions etc. The component based on the principles of propaganda of the ideology aimed without limitation at forming the stable negative attitude to Ukraine and imposing the pre-defined religious principles is introduced into the educational system.

¹⁰⁶ A person with special educational needs is the one who needs additional permanent or temporary support in the educational process in order to observe his or her right to education (paragraph 1(20) of Article 1 of the Law of Ukraine "On Education").

¹⁰⁷ The Safe Schools Declaration is a political commitment to ensure the best protection of children, teachers and schools, to continue education during hostilities, and to take specific actions to prevent schools from being used for military purposes. The Declaration was opened for endorsement by countries at the Safe Schools Conference convened by the Ministry of Foreign Affairs of Norway in Oslo in May 2015.

¹⁰⁸ Comment by Mariia Lvova-Belova, the Commissioner for Children's Rights under the President of the Russian Federation, during the briefing at the "Civic Chamber of the RF". Available at: https://www.oprf.ru/live_stream/1326

The children are engaged into paramilitary children's movements, such as the Young Army, in the temporarily occupied territories. Military and Russian orthodox subjects etc. are studied in the education institutions deeply¹⁰⁹.

The above means violation of the children's rights established by the UN Convention on the Rights of the Child, namely Articles 8 and 29 thereof, which prescribe the child's right to preserve his or her identity and state that the education of the child shall be directed to preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin.

Response to violations of human and civil rights

During the reporting period, the Commissioner received 1,237 petitions regarding 1,905 issues associated with the children's rights, namely the right to parental care (298, including 12 abroad); the right to education (154, including 1 abroad); the right to maintenance by parents (alimony) (142, including 1 abroad), the right to life and health development (102), the right to a family (78, including 5 abroad); protection of children from domestic violence (78); protection of rights of refugee children and children separated from their family (56); the right to work (49); the children's right to housing (34); drawing of children into the armed conflict (25); protection of the children's right to decent treatment during the education and upbringing process (bullying) (25); the right to a name and to know their parents (17); freedom from all forms of violence and worst forms of child labour (5); protection of children in criminal proceedings (5); the right to rest (1); other matters.

Following the consideration of the citizens' petitions, 1,650 letters were sent to the public authorities, local self-government bodies, institutions and organisations.

In 2022, 61 new proceedings were instituted and 43 proceedings were completed (including 30 in 2022 and 13 during the previous reporting period) by the Commissioner based on the citizens' petitions. 31 proceedings are underway as of the end of the year.

The issues raised by the citizens in their calls to the hot line were connected with the procedure for taking the children raised in care homes, the children accompanied by their relatives and acquaintances abroad, for crossing of the state border of Ukraine by students, men of conscription age and other categories of citizens; search for and return of children; matters associated with departure from dangerous areas and occupied territories; receipt of state types of assistances and payments for children by their parents and other matters. In case an issue could not be resolved on the merits, and the Commissioner's response was necessary due to probable violation of rights, the persons were recommended to file a written petition.

298 petitioners applied in 2022 in connection with **violation of the right to parental care.**

The Commissioner received a petition from citizen V. for assistance in returning his 5-year-old daughter from the Russian Federation.

¹⁰⁹ "Monitoring Report 'Universal Solider' or Education as Russia's Tool in the Occupied South of Ukraine" / M. Sulialina, O. Okhredko — Kyiv: HPC "Almenda". Available at: <https://almenda.org/zvit-universalnij-soldat-abo-osvita-yak-znaryaddy-na-okupovanomu-pivdni-ukraini-lipen/>

The petitioner informed that his ex-wife, a resident of Kharkiv Oblast, left for the RF together with the child as soon as the armed aggression of the RF against Ukraine had started. Some time later, when she returned to Ukraine to collect some personal belongings, the woman was detained by the competent authorities of Ukraine. With account of those circumstances, the aunt went to the RF to pick up the child, and she asked the petitioner to help them return to Ukraine.

Following the measures taken by the Commissioner in cooperation with the Ministry of Reintegration of Temporarily Occupied Territories and the National Police of Ukraine, the child accompanied by her aunt was returned into Ukraine.

It should be noted that the Commissioner registered **violations of the children's rights to a name, citizenship as well as the right to know their parents** during the hostilities. In particular, parents of the newly-born children in the temporarily occupied territories faced the problem of inability to register the child's birth and to get a respective Ukrainian certificate from the State Register of Acts of Civil Status.

As he was aware of relevance of that issue, the Commissioner furnished numerous explanations on how to register the child born during the martial law on the official website, in mass media and on social media.

At the same time, the right to citizenship of the children being Ukrainian citizens is violated by the occupants when they leave the temporarily occupied territory.

The Commissioner was approached by citizen Zh. acting on behalf of her younger sister H., who had left from the territory of Donetsk Oblast temporarily occupied by the Russian Federation to the territory controlled by Ukraine and asked the sister to help her obtain documents and keep studying in one of the education institutions of Kyiv.

The child's father died in 2021, and her mother stayed in the temporarily occupied territory. When the child was leaving the temporarily occupied territory, the original documents (birth certificate, academic records) were taken away and destroyed, and she only had some copies left.

Owing to the immediate response of the Commissioner, the juvenile was registered as a child deprived of parental care, granted the respective status and re-issued a birth certificate.

The older sister was designated the younger sister's guardian by the order of the guardianship authority. The girl was admitted to the ninth grade in the education institution for external studies.

The child's guardian submitted documents on determination of the child's citizenship to the State Migration Service in order to obtain a passport of a citizen of Ukraine for her. The child's right to education and social protection has been restored. The matter of granting Ukrainian citizenship to the child is under the Commissioner's control.

During the full-scale war in the territory of Ukraine, the Ukrainian citizens who had to leave their homes and move to safe regions of Ukraine also applied to the Commissioner for restoring their **right and their children's right to adequate social protection**.

In August, the Commissioner was approached by petitioner K., who was an internally displaced person from Kharkiv Oblast, regarding violation of her right and her child's right to social protection in connection with non-payment of the child birth assistance to the petitioner.

The child's mother received the child birth certificate and submitted an application for the child birth assistance, but the woman could not receive the payment for 9 months. After the family had been displaced to the safe region, the woman applied to the social protection authority repeatedly at the actual place of residence, but her application was dismissed because her application had been registered by the social protection authority twice.

Following the Commissioner's request to the National Social Service, in December 2022, the petitioner was paid the child birth assistance, and the child's right to adequate social protection was restored.

The parents of the children who stayed in the territory of Ukraine at their principal place of residence as well as participants of the educational process who were forced to change their place of residence within Ukraine or to go abroad applied to the Commissioner regarding observance of their right to education in 2022.

In 2022, 154 persons filed petitions to the Commissioner in respect of **violation of the child's right to education**.

The Commissioner was approached by the parents of the children with special educational needs regarding violation of their children's rights to be provided psychological, pedagogical, correctional and development services in the Communal Institution of Obukhiv City Council "Obukhiv City Inclusion and Resource Centre" since the volunteer organisation had started to operate in the centre.

Following the Commissioner's response, Obukhiv City Council established the commission to examine the building and allocate alternative premises for the volunteer movement.

Pursuant to the commission's resolution, the works were commenced on 19.10.2022 to resume the offline educational process in the Communal Institution of Obukhiv City Council "Obukhiv City Inclusion and Resource Centre".

In 2022, 78 persons filed petitions to the Commissioner in respect of **violation of the child's right to a family**.

In August, the Commissioner was approached by the petitioner regarding violation of the right to a family of his nephew born in 2022, who had been taken away from his mother.

The Commissioner intervened and additionally studied the living conditions in the family of his relatives. The Commission on Protection of the Child's Rights considered temporary accommodation of the child, and his uncle was given a permission to visit the child in the facility. Following the Commissioner's response and based on the order of the Children's Service, the nephew was temporarily placed into his uncle's family, and the child's right to a family was restored.

Monitoring inspections of observance of rights

In 2022, 369 monitoring visits were made to the institutions and facilities of different ownership and subordination forms, local authorities, education institutions, social protection facilities and other institutions for children. Monitoring was carried out in the following directions:

- observance of rights of the internally displaced children, children in difficult life circumstances;
- observance of rights of the children who have returned from evacuation to facilities of institutional care and upbringing of different types and subordination to safe living conditions;
- observance of rights of children and persons with disabilities;
- observance of rights of children to protection against all forms of violence and other matters.

754 letters of response were sent following the visits to the public authorities, children's services, establishments and institutions.

During the desk inspections¹¹⁰ all over Ukraine, the matters of observance of children's rights in the context of power decentralisation and administrative and territorial reform as well as of observance of rights of the children who arrived at regions without their parents or legal representatives during evacuation were examined.

The regional representative offices monitored the observance of the children's rights to a healthy diet in all the regions of Ukraine. The majority of visits were made in January and February 2022, before the full-scale armed conflict.

The monitoring was focused on observance of the children's right to healthcare, creation of conditions for the child's health development and balanced nutrition as well as activities within the reform of the school meals system.

The monitoring visits identified the most common problems of lack of necessary equipment and the need to train the staff of food production areas (cooks, nurses responsible for diet meals).

At the same time, the monitoring visits to the education institutions, social protection facilities and children's services demonstrated the following:

1. No interaction between the local authorities, children's services, social service centres, in particular, regarding granting a child the status of an orphan, a child deprived of parental care, and protection of a child in difficult life circumstances.

It was established during the monitoring visit to the Children's Shelter of the Children's Service of Lviv Oblast State Administration¹¹⁰ that some of the personal files of the children did not contain mandatory records that were supposed to be transferred by the children's services at the place of the children's registration. There were no resolutions on granting a child the status of an orphan, a child deprived of parental care, health condition opinions, individual social protection plans for a child in difficult life circumstances, cards of psychological and pedagogical observation and individual educational work with a child in the files.

¹¹⁰ A desk inspection is a form of work by the staff of the Commissioner's Secretariat performed to establish the actual condition of observance of human and civil rights and freedoms by objects of the monitoring visit/desk inspection, to confirm or refute data on possible violation of such rights and freedoms (obtained pursuant to Article 16 of the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights"), by checking open sources of information and/or sending an inquiry to the object.

2. Lack of information on observance of the children's right to housing and on the measures to control preservation of the accommodation and property of orphans and children deprived of parental care¹¹¹.

It was established during the monitoring visit to the Children Assistance Centre "Home of Happy Children" of the Charitable Organisation "Home of Happy Children" in Kyiv that the personal files of children S. born in 2010, B. born in 2012 and T. born in 2010, who had the status of an orphan, contained no records on their survivor's pension.

According to Point 3 of the Procedure for the Activity Associated with Protection of the Child's Rights by the Guardianship and Wardship Authorities approved by Resolution of the CMU No. 866 of 24.09.2008 (as amended), the children's services are directly responsible for keeping files and coordinating activities to protect the children's rights, including orphans and children deprived of parental care, children in difficult life circumstances. However, the administration of the Centre had no information on the pension granted to the children and did not initiate protection of the children's property rights by the respective children's services.

3. Violation of the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development¹¹².

The Children's Service fails to duly control the conditions for accommodation, maintenance, upbringing and education of orphans and children deprived of parental care.

It was established during the monitoring visit to the Children's Shelter of the Children's Service of Lviv Oblast State Administration that the children's living conditions in the shelter were unsatisfactory: the premises had mould and practically no ventilation, the level of humidity was excessive, and there was an unpleasant smell in the residential rooms where the children rested. Moreover, animals (cats and a dog) moved around the building, rooms and food production unit freely.

During the visit, the average temperature at the facility premises was 16-16.5 degrees above zero, which was inconsistent with the State Sanitary Rules and Standards "Temporary Sanitary Rules and Standards for Arranging, Equipping and Maintaining Shelters for Juveniles and Organising Meals and Medical Services for Children". There were no doors at the girls' shower room, which was in breach of their right to privacy.

In breach of the requirements of Article 4 of the Law of Ukraine "On Children's Authorities and Services and Special Facilities for Children", the Children's Service of Lviv Oblast State Administration failed to monitor the conditions for accommodation, maintenance, upbringing and education of orphans and children deprived of parental care in the Children's Shelter of the Service. Therefore, the right of children to special protection and assistance provided by the state is not observed.

¹¹¹ Paragraph 3 of Article 18 of the Law of Ukraine "On Protection of Childhood", Articles 12, 32, 33 of the Law of Ukraine "On Ensuring Organisational and Legal Conditions for Social Protection of Orphans and Children Deprived of Parental Care".

¹¹² Article 27 of the UN Convention on the Rights of the Child, Article 48 of the Constitution of Ukraine, Article 8 of the Law of Ukraine "On Protection of Childhood"

4. Violation of the children's right to a name and to acquire a nationality (Article 7 of the UN Convention on the Rights of the Child, Article 7 of the Law of Ukraine "On the Citizenship of Ukraine"), and failure to observe the right to life and security (Article 3 of the Constitution of Ukraine).

It was established during the monitoring visit to the Vorokhta Oblast Bone and Tuberculosis Health Resort "Smerichka" that 41 children from 4 children's facilities of Kharkiv Oblast had been placed into that health resort. It was found out that only 5 children out of 13 evacuated children born from October 2021 to February 2022 and left by their children in the perinatal centre had birth certificates. As for other 8 children, the accompanying persons only had medical opinions on the children's birth based on the delivery examination results.

As it is prescribed by Article 144 of the Family Code of Ukraine that a child shall be registered with the authority responsible for state registration of acts of civil status within a month after his or her birth, the children's right to a name, to acquire a nationality, to a family and to respective social protection by the state.

The inspection in the Vorokhta Oblast Bone and Tuberculosis Health Resort "Smerichka" also established absence of the equipped basement in order to observe the right of children and staff to life and security in case of emergency during the martial law.

The administration of the health resort was recommended to develop the action algorithm for emergency and/or evacuation of children, to conduct briefings for the staff and volunteers, and to train the staff on occupational safety.

It was established during the monitoring of facilities of different types and ownership and subordination forms during the martial law that the Nizhyn Children's Care Home had not been evacuated during the occupation of Chernihiv Oblast because specialised vehicles and mobile intensive care units were necessary to carry children from the palliative care department. The facility did not have such capacities as of March 2022.

It was established by the inspection that the administration of the facility had prepared strategic reserves of food and medicinal products for at least 6 months as of November 2022. Several generators, autonomous metal furnaces were purchased, the well was drilled, and the mobile kitchen was produced with the assistance and support of charitable organisations to ensure operations of the facility during the blackout.

At the same time, the monitoring of the Nizhyn Children's Care Home detected the need to improve the form of the individual rehabilitation programme for persons with disabilities, children with disabilities as approved by Order of the MoH No. 623 of 08.10.2007 since it was impossible to analyse efficiency of the child rehabilitation work based on the records to be kept in the format prescribed by the legislation.

Recommendations

The Verkhovna Rada of Ukraine should ensure consideration and adoption of:

- draft Law of Ukraine “On Child-Friendly Justice” (registration No. 5617 of 04.06.2021) with account of the Commissioner’s proposals;
- draft Law of Ukraine “On Amending the Code of Ukraine on Administrative Offences, the Criminal Code of Ukraine and the Criminal Procedure Code of Ukraine in Terms of Child-Friendly Justice” (registration No. 5618 of 04.06.2021) with account of the Commissioner’s proposals.

The Cabinet of Ministers of Ukraine should:

- develop and approve the Programme for Complex Social and Psychological Rehabilitation of the Children Affected by Military Actions and Armed Conflicts for 2023-2028, which must provide for conditions for rehabilitation in the field of healthcare, psychological, pedagogical rehabilitation and integration of the children affected by military actions and armed conflicts;
- ensure implementation of the recommendations of the UN Committee on the Rights of the Child given in the Concluding observations on the combined fifth and sixth periodic reports of Ukraine on implementation of the Convention on the Rights of the Child.

The Ministry of Social Policy of Ukraine should:

- develop the draft resolution on amending the Procedure for Granting and Paying the State Assistance to Families with Children approved by Resolution of the Cabinet of Ministers of Ukraine No. 1751 of 27 December 2001 in order to regulate the matter of receiving the financial birth assistance for the child born in the temporarily occupied territory of Ukraine and registered after the deadline set for granting such assistance.

The Ministry of Education and Science of Ukraine should:

- develop and submit to the Cabinet of Ministers of Ukraine for consideration amendments to the Action Plan for Implementation of the Safe Schools Declaration approved by Ordinance of the Cabinet of Ministers of Ukraine No. 898-p of 4 August 2021, and expand its coverage to the entire territory of Ukraine;
- develop measures to grant assistance to the children who temporarily study abroad due to displacement, regarding combination of their studies under the educational programme of the country of their stay and the educational programmes approved by the MoH;
- consider regulation of educational programmes with account of remote studies and the need to support children with special educational needs in order to give them quality and compulsory knowledge, abilities and skills.

The Ministry of Education and Science of Ukraine, the Ministry of Health of Ukraine, the Ministry of Social Policy Ukraine, the oblast military administrations, and the local self-government bodies should:

- with due consideration of special circumstances of organisation of the educational process, operation of healthcare institutions, social protection facilities during the martial law, focus their efforts on meeting the legislative requirements for the equipment, adequate maintenance and readiness of intended use of civil protection facilities, determining additional demand for such facilities and funding construction of new facilities, reconstruction, overhaul, re-equipment of the existing civil protection facilities, and providing necessary material and technical resources thereto.

The Ministry of Internal Affairs of Ukraine should:

- ensure creation of the spaces favourable for work with the children who have fallen victim to violence or committed an offence ('green rooms'), and training of the specialists who work with such children.

The Ministry of Health of Ukraine should:

- revise and update the forms of the individual rehabilitation programme for persons with disabilities, children with disabilities and the Procedure for execution thereof approved by Order of the Ministry of Health of Ukraine No. 623 of 08.10.2007, registered with the Ministry of Justice of Ukraine on 19 October 2007 under No. 1197/14464;

- ensure prosthetic care of the children who have lost their extremities as a result of landmine, explosive and gunshot injuries and, where necessary, rehabilitation of each child with complex combined traumas, polytraumas with complications;

- take efficient response measures to introduce ORPHANET as a national classifier of rare (orphan) diseases in Ukraine and to create the network of reference centres for rare (orphan) diseases;

- together with the OMA, tighten control over provision of children suffering from rare (orphan) diseases with medicines and foods at their place of residence or treatment.

CHAPTER 3. HUMAN RIGHTS IN THE SECURITY AND DEFENCE SECTOR

11,217 petitions to the Commissioner

(51% of them were connected with releasing prisoners of war from captivity and searching the missing military; 16% — searching for civilians (civilian hostages) who were missing or were illegally detained; 21% — protecting rights of military servants and their family members; 12% — protecting rights of persons with the status of military service and security and defence service veterans);

282 legal and normative acts processed and proposals submitted

44 proceedings instituted by the Commissioner

45 proceedings completed

67 monitoring visits made

70 acts of response and letters to the public authorities, institutions and organisations sent, including

66 regarding the observance of rights of military servants, police officers, veterans and other persons, and **4** regarding former Ukrainian prisoners of war

Key events, challenges and tendencies

The most pressing problems in the field of human rights protection in the security and defence sector are majorly associated with effects of the broad-scale armed aggression against Ukraine, which started on 24 February 2022. With account of these circumstances, the Commissioner paid a lot of attention to exercise of rights and freedoms of military servants, prisoners of war, civilians who had been illegally detained (hereinafter the “civilian hostages”) as well persons missing due to special circumstances and their family members in the context of the armed aggression against Ukraine¹¹³.

The material factor that causes a large number of violations of rights is the fact that the RF as the state that has launched unprovoked armed aggression against Ukraine fails to respect international humanitarian law in respect of the Ukrainian prisoners of war and civilians who are held in the RF or temporarily occupied territory of Ukraine, their exchange or return.

The Ukrainian civilians who have been illegally deprived of their liberty as a result of the armed aggression of Russia against Ukraine are not the most unprotected category of persons in terms of their release and return in Ukraine as well as further social and legal protection. Against the background of the growing social dissatisfaction among the civilian hostages’ relatives and families, there is an acute need to determine the efficient mechanism for working to release our citizens from the Russian captivity, the designated authorities and administrative and legal tools to be used etc. In this regard, the process of creating the group with respective functions as a part of the **Coordination Headquarters for the Treatment of Prisoners of War**¹¹⁴ is under way: it is an auxiliary authority of the Cabinet of Ministers

¹¹³ With due consideration of the security situation and the continued martial law in Ukraine, data on the numbers of the military servants and other representatives of security units who have been killed and injured are restrictive information, so it is not disclosed and will not be published in the Annual Report on the Observance and Protection of Human Rights and Freedoms of Citizens of Ukraine for 2022.

¹¹⁴ Established pursuant to Resolution of the Cabinet of Ministers of Ukraine No. 257 of 11.03.2022.

of Ukraine that exercises powers to ensure transfer of captured prisoners of war to the aggressor state and release the defenders of Ukraine who have been captured by the aggressor state; ensures compliance with international humanitarian law during interrogation of prisoners of war by the authorised bodies; determines ways and methods to resolve problems associated with treatment of prisoners of war.

The significant event in the field of protection of rights of prisoners of war, civilian hostages, persons prosecuted by the occupying authorities for political reasons is adoption of the Law of Ukraine “On Social and Legal Protection of Persons Who Were Recognised as Deprived of Personal Liberty due to the Armed Aggression against Ukraine, and Their Family Members” in January 2022 (it entered into force on 19 November 2022). This Law regulates matters of social and legal protection of the persons who were recognised as deprived of personal liberty due to the armed aggression against Ukraine, and their family members. In particular, it deals with protection of prisoners of war and civilians protected by the Convention Related to the Protection of Civilian Persons in Time of War of 1949 who have been deprived of personal liberty due to the armed aggression against Ukraine by the aggressor state (civilian hostages).

The positive changes in the field of observance of rights of the personnel in the security and defence sector in comparison with the previous years are better funding, namely monetary and material support of military servants, provision of modern military equipment necessary for efficient defence of the state, advanced military qualifications during hostilities and with the support of partnering countries abroad as well as rehabilitation in foreign healthcare institutions.

However, there are negative factors as well: mistakes made during the mobilisation (inadequate medical examination of those liable for military service by military medical commissions, conscription of the persons who have a deferment pursuant to the effective legislation), poor supply of military equipment to certain military units etc.

There are still problems in observance of rights of war veterans, in the first place, combatants, military service veterans and their family members as well as family members of the war veterans who have been killed (have died) and family members of the Defenders who have been killed (died). Despite a considerably increase in their number, the situation associated with observance of rights of this category of persons has not changed cardinally in comparison with previous years. At the same time, the role of oblast military administrations and local self-government bodies that are actively involved into resolution of problems of the above-mentioned categories of persons at the local level has grown considerably.

Prisoners of war

According to international humanitarian law, prisoners of war mean combatants who have fallen into the power of the enemy in time of war.

According to the Geneva Convention relative to the Treatment of Prisoners of War (1949), prisoners of war shall in all circumstances be treated humanely. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited. No prisoner of war may be subjected to physical mutilation. The Detaining Power shall provide medical assistance. The premises provided for the use of prisoners of war individually or collectively, shall be entirely protected from dampness and adequately heated and lighted, in particular between dusk and lights out. The basic daily food rations shall be sufficient in quantity, quality and

variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies.

During the international armed conflict, which has been going on in Ukraine since 2014, and the unprovoked broad-scale armed aggression against Ukraine, which started on 24 February 2022, prisoners of war were captured by both adverse parties during military actions. However, there is a material difference in conditions for detention of prisoners of war by Ukraine and Russia.

Thus, according to the confidential interviews of the Ukrainian military servants released from captivity, the aggressor state has not created special camps contrary to the Geneva Convention, so the prisoners of war are mostly detained in the custodial facilities of the penitentiary system of the RF, practically as ordinary prisoners. The administration and staff of these facilities treat the Ukrainian prisoners of war worse than the convicts. The Ukrainian military servants released from the Russian captivity **give testimony of cruel treatment and inform of facts of torture, physical and psychological violence.**

The temperature conditions of detention facilities are not met: according to the released captives, there was minimum heating only in December 2022. The cells are very damp, which results in wearing damp clothes all the time. The prisoners of war had almost no access to toilet facilities since it required permission by the officer on duty. Moreover, the released captives informed of the cases when buckets were placed at the non-residential premises (garages) where the captives were held, instead of toilet facilities.

In all the detention facilities, the prisoners of war were held in overcrowded cells, for instance, 31 to 35 persons in a cell where 6 people stood waiting for their turn to wait because there were no other options: the prisoners of war had to sleep on wooden pallets and cover themselves with cardboard and material similar to artificial leather (faux leather). Warm clothing was not provided until December 2022. No blankets or other cover items were given.

Sanitary and hygienic conditions were terrible in most custodial facilities. There were no conditions for washing up. To wash their clothes, the captives had to share one bowl of water for 300 persons.

According to the former female prisoners of war, they were kept in separate premises in the same prisons as men in June to August 2022. Then they were transferred to women's prisoners, where they were held in the regime conditions of deprivation of liberty for criminal offences.

The prisoners of war **are not provided with the minimum food rations necessary to keep them in good health**, and no access to food is used as a way of torture (they are starved out for several days). Lack of adequate medical support is a standard violation of the right to necessary primary medical aid to prisoners of war. The health condition of practically all the captives who have returned is poor, and most of them have lost a lot of weight as a result of bad nutrition and cruel treatment in captivity.

Those who have minor injuries are held together with the other prisoners of war. Those who have major injuries and severe diseases are held in military or civil hospitals. According to the release captives, the conditions there are satisfactory, but the treatment is only supportive.

The prisoners of war are not provided permanent treatment, such as hormonal therapy, antiretroviral therapy, tuberculosis therapy, which results in high risks of poor health, changes in the phase of the disease for the worse and, as a result, infection of other persons.

The Coordination Headquarters (CH) are taking measures to provide the Ukrainian prisoners of war with necessary items and seasonal shoes as well as medicines. However, this initiative is not of a regular nature now due to the stance of the Russian side.

The Russian side deliberately disregards international humanitarian law, the mandate of the ICRC and UN representatives for the powers under the Geneva Conventions, namely in terms of attendance of the facilities where the Ukrainian prisoners of war and civilian hostages are held, both in the RF and temporarily occupied territories of Ukraine.

Despite the statements by the ICRC about the allegedly well-established process of attendance of the Ukrainian combatants in the Russian prisoners by its representatives, these statements have not been verified. On the contrary, according to the Ukrainian prisoners of war who were held in custodial facilities (pre-trial detention centres, prison camps, prisons located mostly on the regions of the RF bordering Ukraine and in the TOT), they were never visited by representatives of the ICRC during their captivity, and no actions were taken to control conditions for their detention or medical assistance.

On the other hand, according to the requirements of the Geneva Convention, Ukraine has established the special camp for the Russian prisoners of war with adequate detention conditions, which include provision of seasonal clothes and shoes, labour conditions and pay, 3 meals a day, correspondence with families, medical examination and, where necessary, treatment etc. While they are relocated to the camp, prisoners of war are temporarily kept in the designated sites at the custodial facilities of the penitentiary system of Ukraine separately arrested/convicted persons.

According to the Minister of Justice of Ukraine, UAH 3,000 are necessary monthly for meals, personal hygiene products and utility services per prisoner of war (without expenses for medical equipment, medicines, salaries for the staff etc.)¹¹⁵.

The adequate conditions and nature of detention and treatment of the Russian prisoners of war, conformity thereof to the standards and requirements of international humanitarian law were confirmed during the monitoring visits made in 2022 by the Commissioner's Secretariat.

Explosion in Olenivka

At night on 29 July, the building where the Ukrainian prisoners of war, including the ones from Azovstal plant, were kept was destroyed as a result of the explosion in the territory of the former corrective colony in the occupied village of Olenivka (Volnovakha Raion, Donetsk Oblast). Several dozens of the Ukrainian prisoners of war were killed and more than a hundred were injured¹¹⁶.

The explosion was a cynical terrorist attack by the RF, the military provocation the probable purpose of which was to conceal the military crimes committed by the Russian side against the Ukrainian prisoners of war. It can be claimed that ***there was organised killing of the Ukrainian prisoners of war*** in the territory of the former corrective colony. The planned nature of the crime and commitment thereof by the Russian side are proven with lots of recorded evidence: in particular, deliberate transfer of the combatants into the new premises shortly before the explosion, analysis of the nature of damage and movement of the explosive wave, intercepted telephone conversations between the militia fighters, no shelling at that location etc. Therefore, there is no doubt: the explosion in Olenivka was a Russian terrorist attack and gross violation of the international arrangements¹¹⁷.

¹¹⁵ Denys Maliuska: Prisoners of war of the RF are kept in the conditions prescribed by the Geneva Convention in Ukraine as it is a civilised country. Available at: <https://minjust.gov.ua/news/ministry/denis-malyuska-viyskovopoloneni-rf-v-ukraini-yak-kraini-tsvilizovaniy-utrimuyutsya-v-umovah-vidpovidno-do-jenevskoi-konventsii>

¹¹⁶ OHCHR Report on the human rights situation in Ukraine, 1 February to 31 July 2022. Available at: <https://www.ohchr.org/sites/default/files/documents/countries/ua/2022-09-23/ReportUkraine-1Feb-31Jul2022-ua.pdf>

¹¹⁷ Joint statement on the mass killing of the Ukrainian prisoners of war on 29 July 2022 in the urban-type settlement of Olenivka in the temporarily occupied territory of Donetsk Oblast. Available at: <https://ssu.gov.ua/novyny/spilna-zaiava->

According to the conclusions made by the MDI of the Ministry of Defence of Ukraine, in order to conceal inadequate conditions and forms of interrogation of the Ukrainian military servants (which could be an evidentiary basis in Hague), the Russian side destroyed the prisoners of war deliberately. According to the military intelligence, mines had been planted at the place where the Ukrainian combatants were kept by the combatants of Wagner Private Military Company, by means of the highly inflammable substances, which resulted in the quick spread of the fire at the premises¹¹⁸.

As no access was given to the scene of the tragedy by the RF, and there were no guarantees of safety, the UN terminated the mandate of the Mission whose principal task was to establish the circumstances under which the Ukrainian prisoners of war had been killed in Olenivka¹¹⁹. UN Secretary-General António Guterres informed of establishment of the special commission supposed to investigate the terrorist attack of Russia in Olenivka during his visit to Lviv on 17 July 2022. The Mission could not obtain access to the crime scene in Olenivka for more than 5 months. On 5 January 2023, the UN Secretary-General adopted a resolution to terminate the Mission's operations, as it was informed by Spokesperson of the UN Secretary-General Stéphane Dujarric.

Thus, one of the former captives interviewed witnessed the explosion in the adjacent barrack, where the military servants from one of the NGU units, snipers, machine gun operators, marines and military servants of the Special Operations Forces of the AFU had been transferred the day before. According to him, there were 2 explosions inside the barrack at night on 29 July 2022. Each explosion was followed by a shot from Grad, and the shooting from automatic arms started. Stun grenades were thrown at the captives who tried to get out of the burning barrack. Lots of injured captives who were not provided medical assistance died of blood loss. The next day, one of the captives was forced to carry out dead bodies in order construction gloves and medical masks.

Trials of prisoners of war

In addition to detention in intolerable conditions, the occupying authorities hold so called 'trials' of the Ukrainian prisoners of war. The demonstrative example of attempts to carry out unlawful proceedings against the Ukrainian defenders was the attempt of 'trial' of the defenders from Azov, which was widely covered by the mass media¹²⁰ and prevented by the considerable international pressure¹²¹.

After the mass media had published information that the so called 'court of DNR' had sentenced the citizens of the United Kingdom of Great Britain and Northern Ireland Shaun P. and Aiden I. to 'capital punishment' for their participation in defence of Ukraine as members of one of the marine corps of the AFU, the Commissioner proactively sent an address to the ICRC as an

shchodo-masovoho-vbyvstva-ukrainskykh-viiskovopolonenykh-29-lypnia-2022-roku-u-smt-olenivka-na-tymchasovo-okupovanii-terytorii-donetskoi-oblasti

¹¹⁸ Statement of the MDI of the Ministry of Defence of Ukraine on individual facts of the killing of the Ukrainian prisoners of war. Available at: <https://gur.gov.ua/content/shchodo-okremykh-faktiv-vbyvstva-ukrainskykh-viiskovopolonenykh.html>

¹¹⁹ <https://media.un.org/en/asset/k11/k11v6pzz6>

¹²⁰ <https://www.radiosvoboda.org/a/novyny-pryzovya-mariupol-zakhysnyky-azovstal-sud/32002177.html>

¹²¹ Request for urgent measures concerning Ukrainian prisoners of war. ECHR 256 (2022). URL:

<https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7411153-10142112&filename=Request%20for%20urgent%20measures%20concerning%20Ukrainian%20prisoners%20of%20war.pdf>

international humanitarian organisation with the mandate to visit prisoners of war. However, there was no response in pursuance of their powers under Geneva Convention III.

Following the consideration of the petition and meeting with the group of attorneys of the prisoners of war, the Commissioner contacted the UN High Commissioner for Human Rights regarding inadmissibility of the disregard of the standards and requirements of Geneva Convention III by the RF as Shaun P. and Aiden A. were combatants in accordance with international humanitarian law and could not be convicted for defending the country whose military servants they were. Owing to the international pressure and operations of the CH, Shaun P. and Aiden I. were released from captivity on 21 September 2022 by way of their repatriation to the Saudi Arabia.

The events associated with conviction of the foreign volunteers by the so called ‘court of DNR’ drew response in many Ukrainian and foreign mass media. The problem of mass framing up of criminal cases against the Ukrainian prisoners of war and civilians is a common practice by the occupying authorities and one of the bright examples of violation of international humanitarian law.

Civilians deprived of personal liberty due to the armed aggression against Ukraine (civilian hostages)

Since the beginning of the international armed conflict in 2014, capture of civilians being Ukrainian citizens in the TOT by the Russian army or illegal armed groups of so called ‘LNR’ and ‘DNR’ affiliated with the RF has become a common thing. As of the beginning of 2022, there were at least 531 civilians captured in the TOT of the AR Crimea, the city of Sevastopol, and certain areas of Donetsk and Luhansk Oblasts, namely:

- 158 persons detained in the TOT of the AR Crimea and city of Sevastopol;
- 373 persons detained in the territory of Donetsk and Luhansk Oblasts.

After the broad-scale aggression against Ukraine had started, the armed forces of the RF illegally detained a large number of civilians in the territories of Ukraine temporarily occupied by the Russian forces. The victims of such illegal deprivation of liberty mostly were representatives of the local authorities, veterans of the AFU, law-enforcement authorities, volunteers, journalists, human rights defenders, i.e. everyone who could potentially oppose the occupation and support the territorial integrity of Ukraine. The Russian side classifies lots of the civilians captured as prisoners of war (former combatants of the ATO, JFO, officers of the law enforcement authorities and special services). Although most of them were young and middle-aged men, women, children and elderly people were also imprisoned.

In July 2022, the Commissioner received the petition from citizen V. acting on behalf of her sister, citizen A.

On 25.03.2022, citizen A. was abducted from her home in the village of Staryi Bykiv, Chernihiv Oblast, by the Russian soldiers for her persistent pro-Ukrainian stance. Her telephone with patriotic video and photo content was seized when she was detained. Citizen A., who needed treatment due to her health condition, was placed into Pre-Trial Detention Centre (PTDC) No. 1 in Kursk. She did not call after she had been detained and abducted. The petitioner asked the Commissioner to do his best to release her sister, who was illegally kept in the territory of the RF.

As of the end of 2022, the CH and other competent authorities registered more than **18.4 thousand citizens** who had gone missing due to special circumstances, including **921** civilians whose detention was confirmed by the ICRC (civilian hostages) during the occupation of Donetsk, Zaporizhzhia, Kyiv, Luhansk, Sumy, Kharkiv and Kherson Oblasts.

According to the Prosecutor General's Office, 2,804 criminal proceedings were registered from 24.02.2022 until 24.01.2023 in connection with abduction of 12,731 civilians, as a result of the war crimes under Article 438 of the CrCU ("Violation of the laws and customs of war"). In particular, the following numbers of civilians were abducted by oblasts: Vinnytsia Oblast — 35, Volyn Oblast — 27, Dnipropetrovsk Oblast — 52, Donetsk Oblast — 8,495, Zhytomyr Oblast — 16, Zakarpattia Oblast — 20, Zaporizhzhia Oblast — 631, Ivano-Frankivsk Oblast — 3, city of Kyiv — 16, Kyiv Oblast — 293, Luhansk Oblast — 122, Lviv Oblast — 33, Mykolaiv Oblast — 49, Odesa Oblast — 62, Poltava Oblast — 30, Rivne Oblast — 13, Sumy Oblast — 139, Ternopil Oblast — 11, Kharkiv Oblast — 988, Kherson Oblast — 1,136, Khmelnytskyi Oblast — 60, Cherkasy Oblast — 31, Chernivtsi Oblast — 3, Chernihiv Oblast — 466 persons.

Out of the above-mentioned persons, as of 24.01.2023, 7.9 thousand persons are kept in the temporarily occupied territories, and 2.8 thousand persons — in the territory of the RF. According to the Prosecutor General's Office, location of other civilians is not known.

In 2022, the Ukrainian Parliament Commissioner for Human Rights received 710 petitions from relatives of the civilians who had gone missing and had been illegally detained (civilian hostages) regarding assistance in organisation of search.

The civilian hostages kept in the territory of the RF or TOT of Ukraine are detained *incommunicado*, and are unable to inform their family of their location and to obtain proper legal aid.

According to the witnesses, the conditions in which the civilian hostages are kept have been inhumane: they were held by force in basements of district police departments, administrative buildings, enterprises, workshops, plants, and PTDC. The people did not have proper illumination and were rarely taken outdoors, sometimes for half an hour a day; there was no hot running water, there were unable to wash up, and food and water were provided in limited quantities insufficient for all the captives. The civilian hostages kept in unsatisfactory conditions have been unable to obtain adequate medical assistance, with no medicines and doctors, and they have to treat themselves with available means and also make injections, when necessary. The civilian hostages rarely contact their families; the ICRC sometimes helps transfer letters from the civilian hostages kept in the territory of the RF and prisoners of war to their relatives.

The detainees are subject to torture to get a confession and to subsequent forced transfer to the RF for trial and serving a sentence there in violation of international humanitarian law, namely the rules of

the Geneva Convention (IV) relative to the Protection of Civilian Persons: prohibition of taking hostages (Article 34); prohibition of pillage (Article 33); prohibition of any measure of such a character as to cause the physical suffering or extermination of protected persons in their hand (Article 32); prohibition of intimidation and terrorism (Article 33); prohibition of physical or moral coercion against protected persons, in particular to obtain information from them or from third parties (Article 31); prohibition of arrest, prosecution or conviction of protected persons for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof (Article 70) etc.

In November 2022, the Commissioner received the petition for searching for the Ukrainian citizens abducted by the Russian military servants in August 2022, who had been forcibly kept in the command post in Vasylivka, Kherson Oblast. Those Ukrainian citizens were not served any official charges, there was no 'litigation', but the wife of one of the detained Ukrainian citizens informed the Commissioner that the civilian hostages had been released by the Ukrainian military servants in December 2022, after they had been unreasonably held by the enemy for almost half a year.

The civilian hostages are deprived of adequate medical assistance, including regular one (replacement supportive therapy, hormonal therapy, antiretroviral therapy, tuberculosis therapy) which results in high risks of poor health, changes in the phase of the disease for the worse and, as a result, infection of other persons.

In pursuance of point 7 of Moscow Document of 1991, on 11 June 2022, the OSCE Office for Democratic Institutions and Human Rights submitted to the Delegation of the OSCE participating States the Conclusions of the mission of experts established under the Moscow Mechanism, invoked by 45 OSCE participating States following bilateral consultations with Ukraine, where it was noted that “some of the mayors Russia removed, as well as local pro-Ukrainian ‘activists’, journalists and ‘volunteers’ have been ‘abducted’, i.e. arrested and made to forcibly disappear, without respecting any of the procedures IHL prescribes in case of deprivation of liberty and in most cases without informing their family. Other inhabitants have often been arrested for some suspicions (often for information found on their phones). The HRMMU has documented 24 cases of arbitrary detention and enforced disappearance of local officials in regions under the control of Russian forces, 13 of whom have been subsequently released. It has also documented the arbitrary detention and enforced disappearance of 21 journalists and civil society activists who vocally opposed the invasion in Kyiv, Kherson, Luhansk, and Zaporizhzhia Oblasts.”¹²²

Moreover, in its analysis of the testimony by the women released from the Russian captivity, the human rights defence SCO “Media Initiative for Human Rights” notes that the large portion of the detained civilians is women of different age, including the ones with major health issues and pregnant ones. Information on inadequate and cruel treatment of such captives emerged at once. Some women were kept in the same cells as men and were not provided with food, drinking water and personal hygiene products; they were threatened with torture and tortured. The conditions in which captured women are kept are almost the same as the conditions for detaining men. The civilian hostages in the villages in the temporarily occupied territories of Ukraine were brought to schools and other buildings, placed into the

¹²² Conclusions of the mission of experts established under the Moscow Mechanism, invoked by 45 OSCE participating States following bilateral consultations with Ukraine, No. 132/2022, 12.04.2022, p. 24-25. Available at: <https://www.osce.org/files/f/documents/5/2/517815.pdf>

basement; more than 360 civilian men, women, children and elderly people were kept in the small premises¹²³.

In July 2022, the Commissioner was approached by citizen N. who asked to return her mother, citizen K., who was illegally detained in the TOT of Luhansk Oblast. Citizen K. had volunteered in Rubizhne (Luhansk Oblast), had been helping the Ukrainian military and her son, who was also in the army, in the east of Ukraine for 8 years, and making camouflage nets for them, but she was abducted by the representatives of so called 'Ministry of State Security of LNR' on 2 April 2022 after the illegal search in her apartment, and connection with her was lost. Citizen K. last contacted her daughter on 1 April 2022. Citizen K. was returned on 17 October 2022 during the exchange. The woman had been held captive for more than 7 months.

According to the report of the Independent International Commission of Inquiry on Ukraine, submitted in accordance with paragraph 11 (f) of Human Rights Council resolution 49/1, on the situation of human rights in Ukraine stemming from the Russian aggression¹²⁴, presented on 18 October 2022 by the UN Secretary-General, unlawful confinement was often the precursor to execution, sexual violence, torture and ill-treatment. The Commission has documented many cases of torture and ill-treatment committed by Russian armed forces, which is a violation of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment and a war crime. According to the report, Russian armed forces inflicted severe physical and mental pain and suffering upon the victims during detention in Ukraine. Some of the treatments administered included tying of hands or handcuffing, tying of legs, blindfolding with cloth, tape or bags placed on heads, severe and prolonged beatings with rifle butts or batons, electric shocks with tasers, threats of execution or mock executions and prolonged exposure to cold.

Detention of civilian captives and prosecution in the territory of temporarily occupied Crimea

After the full-scale invasion of Ukraine by the RF, occupied Crimea is used by the Russian authorities to keep the Ukrainian citizens abducted in the territories that were occupied after 24 February 2022, namely Kherson and Zaporizhzhia Oblasts. People are abducted in these territories by the Russian military, the Russian Guard or the Federal Security Service of the RF, and then they are held in detention facilities for some time and subjected to torture and inhuman treatment. Some of them are then taken to Crimea and tortured by officers of the Federal Security Service of the RF as well¹²⁵.

According to the human rights defenders, more than 110 persons were kept in PTDC No. 2 (Simferopol) as of the end of 2022. Most of them are civilians from the territories of Ukraine occupied after 24 February 2022 and include civil activists, volunteers and representatives of the local authorities.

In particular, Pavlo Zaporozhets, a resident of Kherson, an ATO participant, who was abducted in May and taken to Crimea after 3 months of captivity and torture, is kept in PTDC No. 2. The

¹²³ Female captives. Analysis of testimony by the women released from the Russian captivity. Media Initiative for Human Rights. Available at: <https://mipl.org.ua/wp-content/uploads/2022/09/Бранки.-Аналіз-свідчень-жінок-звільнених-з-російського-полону.pdf>

¹²⁴ Independent International Commission of Inquiry on Ukraine - Note by the Secretary-General. URL: <https://www.ohchr.org/en/documents/reports/a77533-independent-international-commission-inquiry-ukraine-note-secretary>

¹²⁵ Overview of observance of human rights and rules of international humanitarian law in occupied Crimea for 2022, Crimean Human Rights Group, https://crimeahrg.org/wp-content/uploads/2023/01/2022_bookua_blok.pdf

proceedings were instituted against him under paragraph 3 of Article 30 (criminal attempt) and paragraph 1 of Article 361 (act of international terrorism) of the Criminal Code of the RF. According to the human rights defenders, Pavlo Zaporozhets is now in the psychoneurologic dispensary undergoing the involuntary psychiatric expert examination.

In June, the Russian military abducted the Ukrainian volunteer Yaroslav Zhuk in occupied Melitopol. He was carried to Crimea and accused of a criminal offence under paragraph 1 of Article 361 (act of international terrorism) of the Criminal Code of the RF.

Politically based prosecution of the Ukrainian citizens who reside in the territory of the AR Crimea is also continued. The ‘law enforcement authorities’ of the RF perform unjustified searches and arrests, bring politically motivated framed-up criminal and administrative charges. The Ukrainian citizens detained are subject to torture to get a forced confession, they are forcibly transferred to the Russian Federation for trial and serving a sentence there in violation of international humanitarian law.

Thus, the activist Bohdan Ziza, who had poured yellow and blue paint at the doors of the ‘city administration’, was detained in Yevpatoriia by the representatives of the Federal Security Service of the RF on 16 May 2022. Bohdan Ziza protested against the Russian aggression in Ukraine that way. Bohdan Ziza was kept in the PTDC in Simferopol, and he might be imprisoned for 15 years for his pro-Ukrainian stance.

In order to respond to numerous violations of human rights in occupied Crimea, the UN General Assembly adopted the updated resolution called “Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine” in December 2022.¹²⁶ The updated document condemns the use of Crimea by Russia for the purpose of aggression against Ukraine and to support the attempted illegal annexation of Kherson and Zaporizhzhia Oblasts. Moreover, the Resolution condemns “the incitement of hatred against Ukraine and Ukrainians as well as the dissemination of disinformation justifying the aggression against Ukraine by the Russian Federation, including through the education system”. The General Assembly also condemns “the new unprecedented wave of arbitrary detentions in Crimea, the forcible transfers to and from Crimea, the continuing impunity in reported cases of enforced disappearances, as well as the so-called filtration procedures, in particular in relation to displaced persons”. It is also emphasised that the occupation of Crimea became a blueprint for a grave human rights crisis in other territories of Ukraine under temporary military control by the Russian Federation.

Release of prisoners of war and civilian hostages

Release of prisoners of war and civilians from illegal confinement is one of the priorities in the Commissioner’s activity.

In September 2022, the Commissioner was approached by citizen R. (as a part of the collective petition) whose wife, a military officer, had been captured in May 2022 during the evacuation from Azovstal plant (Mariupol, Donetsk Oblast). Then prisoner of war R. was kept in former corrective

¹²⁶ Resolution by the UN General Assembly “Situation of human rights in the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine”. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/764/92/PDF/N2276492.pdf?OpenElement>

colony No. 120 (urban-type settlement of Olenivka, Donetsk Oblast), where she was subjected to cruel treatment, and the detention conditions were inconsistent with the requirements of the Geneva Convention relative to the Treatment of Prisoners of War. The Commissioner's Secretariat gave citizen R. and other petitioners detailed explanations on their further actions, and also updated data on the prisoners of war, including military servant R., which were used in operations of the CH.

As a result of the actions taken, military servant R. was released from captivity on 21.09.2022. While citizen R. was in a healthcare institution, she was interviewed and granted aid regarding the needs and necessary complete rehabilitation and reintegration assistance, recovery and medical assistance for the persons released from captivity etc.

On 17.10.2022, there was a first meeting between the Ukrainian Parliament Commissioner for Human Rights with T. Moskalkova, the Ombudsman of the RF, during the exchange of prisoners of war¹²⁷. They discussed the problem of returning civilians; possible ways of attendance of prisoners of war, monitoring visits to places of detention of prisoners of war both in the territory of the RF, the TOT of Ukraine (including former corrective colony No. 120 in the urban-type settlement of Olenivka, Donetsk Oblast) and in the territory controlled by the Government of Ukraine; exercise of the right of the prisoners of war to call their family; search for those who had gone missing; family reunion; re-issue of documents and so on. The sides agreed upon correspondence in order to perform their human rights protection tasks.

In general, the Commissioner and staff of the Commissioner's Secretariat took part in the activities conducted to return the military servants as well as civilian hostages from the RF to Ukraine in 2022. As a result, 1,596 persons were returned from the Russian captivity in 2022, including: 1,468 military servants (163 women) and 128 civilians (25 women).

In July 2022, the Commissioner received the petitions from citizens R. and A. for assistance in releasing their family members from the Russian captivity: their father and son, citizens R. and O. had been captured in March 2022 as members of the voluntary unit of the territorial community in Slavutysh, Kyiv Oblast.

According to the petitioners, one of the prisoners was severely injured and needed urgent medical aid, which was not granted despite the requirements of international humanitarian law. Those data as well as information furnished by the petitioners (in particular, regarding official confirmation of captivity by the Russian side) within that matter of assistance in release were sent to the CH and other competent authorities. As a result of the actions taken, citizens R. and O. were released from captivity on 31.12.2022. Their further rehabilitation and provision of all the social protection are under the Commissioner's control.

The military servants returned as a result of the exchanges tell about persistent violation of the rules of the Geneva Convention relative to the Treatment of Prisoners of War by the aggressor. The Commissioner's Secretariat has often drawn the international organisations' attention to the need to ensure that the aggressor state observes rights of prisoners of war.

¹²⁷ Dmytro Lubinets meets Tatyana Moskalkova, the Ombudsman of the RF. Available at: https://www.ombudsman.gov.ua/news_details/dmitro-lubinec-zustrivsyaz-ombudsmenom-rf-tetyanoyu-moskalkovoyu

As the aggressor state fails to observe rights of the prisoners of war, it is important to progress in the matter of determining the **country neutral in the international armed conflict**. In the first place, it will allow repatriating the sick and severely injured prisoners of war to the protection of the neutral country in accordance with international humanitarian law. Another problem is the most prompt resolution of the issue of a protecting power, which will perform consular functions for Ukraine as there are no diplomatic relations with the RF.

An example of the considerable contribution into return of the Ukrainian citizens from the Russian captivity was participation of Turkey and Saudi Arabia in releasing the defenders of Mariupol in September 2022¹²⁸. As a result of the measures taken, 215 defenders of Ukraine were returned from the Russian captivity. It was agreed that 5 released commanders of Azovstal under personal protection by President of Turkey R. Erdoğan would stay in the territory of the country until the war was over.

After the RF had refused to assign corresponding functions to the Swiss Confederation¹²⁹, that theme practically disappeared from the international information space. Therefore, the Commissioner's Secretariat has often raised the issue of the need to designate an intermediary and a protecting power as promptly as possible at the state level. In particular, corresponding letters have been sent to the MFA of Ukraine. Also, that issue was discussed with the senior executives of the Office of the President of Ukraine at the Commissioner's initiative.

Against the background of no consular relations between the RF and Ukraine, a considerable portion of the functions, which used to be performed by the consular staff, for instance, visits to the Ukrainian citizens at the custodial facilities in the territory of Ukraine, could be performed by the International Committee of the Red Cross pursuant to its international mandate since, according to points 3 and 4 of Article 5 of the Protocol Additional to the Geneva Convention relative to the Treatment of Prisoners of War of 1949 (Protocol I) of 1977, if a Protecting Power has not been designated or accepted from the beginning of armed conflict, the International Committee of the Red Cross "shall offer its good offices to the Parties to the conflict with a view to the designation without delay of a Protecting Power to which the Parties to the conflict consent". In 2022, the ICRC did not contact the MFA of Ukraine regarding the initiative of offer its good services with a view to the designation of a protective power in the context of the armed conflict between Russia and Ukraine and the proposals regarding the Committee's functions of a substitute protective power.

At the same time, numerous addresses of the Commissioner's Secretariat to the heads of the ICRC regarding the need to exercise its international mandate in full scope have not resulted in major positive changes and visits to the Ukrainian prisoners of war and illegally detained civilians in the territory of the RF and TOT of Ukraine and, therefore, control over observance of rights of these categories of persons.

With due consideration of the above, the low performance of the ICRC has been in the focus of heightened attention and concern of the international organisations (in particular, OSCE Office for Democratic Institutions and Human Rights), Ukrainian human rights defence civil society organisation and public authorities of Ukraine.

¹²⁸ Successful release of the Russian captives with the help of active participation of Ukraine's international partners, — Head of the Office of the President. Available at: <https://www.president.gov.ua/news/uspihu-operaciyi-zi-zviltrennyalyudej-iz-rosijskogo-polonu-s-77945>

¹²⁹ Briefing by Deputy Director of the Information and Press Department of the MFA of Russia I. I. Nechaev, Moscow, 11 August 2022. Available at: https://www.mid.ru/ru/foreign_policy/news/1825841/#17

In general, it is extremely difficult to return civilians from captivity because the aggressor state violates international humanitarian law via their illegal detention, lack of international legal mechanisms for influencing the RF, efficient mechanism for such return as well as complexity of establishing contacts with the authorities of the RF. This issue is now on the agenda of the negotiation between the Ukrainian Ombudsman and Human Rights Commissioner of the RF T. Moskalkova. In addition to the negotiation on releasing the civilians captured after the start of the broad-scale armed aggression against Ukraine, there is regular negotiation to release the persons captured after 2014, when the armed aggression of the RF against Ukraine started.

The Commissioner received numerous petitions to release citizen Z., who had been illegally detained by the officers of so called 'police of Donetsk Main Department of the MIA of DNR' at Olenivka checkpoint in 2017. During the illegal search of Z., the product for replacement supportive therapy Buprenorfin, which she had legally received by the prescription in Vinnytsia Oblast Narcological Dispensary, was found. On 24.12.2019, so called 'Supreme Court of DNR' convicted citizen Z. for smuggling drugs.

The letters of response were numerously sent for the benefit of citizen Z. to the designated competent authorities in order to take actions for her release; also, letters were sent to the ICRC Delegation asking to ensure her immediate admission to hospital and medical aid. Another letter was sent to the Operational Coordinator of the Humanitarian Work Group within the Trilateral Contact Group. Citizen Z. was returned home on 17.10.2022 with coordination of the Office of the President of Ukraine, direct participation of the Commissioner and competent public authorities.

Support of the released. Rehabilitation and social support of the released

After the exchange, the military servants released from captivity are immediately provided with food packages, warm clothing and mobile telephones to call their family¹³⁰. Then they are taken to respective facilities for a set of actions aimed at further adaptation, reintegration and rehabilitation, under supervision of psychologists. First medical aid is granted to the military servants in need as soon as they arrive at such facilities. Medical sorting is conducted in the very beginning; medical examination is performed, and necessary deeper tests and treatment are prescribed.

At the same time, certain defects in the field of adaptation, recovery, rehabilitation, reintegration and post-isolation support were detected after the first exchanges within the framework of the parliamentary control by the Commissioner over observance of rights of the military servants released from captivity.

Some of those problems was caused by lack of clear action algorithms and deadlines for specific activities conducted for the purpose of rehabilitation and socialisation of the military servants released from captivity by the Ministry of Defence, the MIA, the MoH, the Ministry of Reintegration and other central and local self-government authorities. It was established during the repeated monitoring that most of the issues had been resolved by the responsible authorities (MIA, NGU etc.).

¹³⁰ Order of the Ministry of Reintegration of Temporarily Occupied Territories of Ukraine No. 95 of 18.05.2022 "On Approving the List of Items to Cover the Principal (Basic) Needs of the Released"

When the monitoring group members communicated with some of the released military servants, there were complaints against commanders of some units in connection with lack of due payments for the period of captivity and treatment (rehabilitation); no communication with officials of their units and lack of psychological support of these military servants, and with necessary explanations on further actions.

In this context, it should be noted that, with account of the persistent nature of such violations, in December 2022 the Minister of Defence of Ukraine gave the instruction to the respective units of the Ministry of Defence according to which the military servants of the AFU and the State Special Transport Service would retain their monthly payment in the amounts due for their last positions, following the release from captivity until the day of assumption of new offices or until the day of resignation from the AFU (State Special Transport Service).

However, there is a problem of respective payments to the police officers. Contrary to the family members of the military servants who are paid their relative's salary in accordance with the legislation, family members of the police officers (from November 2015) did not receive such payments since after the Law of Ukraine "On the National Police of Ukraine" had entered into force and the Law of Ukraine "On the Police" had ceased to be in force, the police officers who had been captured, taken hostage or had gone missing ceased to receive due payments, and payments to their family members were terminated.

As of the end of 2022, the MIA had not responded to the numerous requests of the Commissioner to restore the violated rights of these categories of persons.

Another important aspects of reintegration of military servants is re-issue of documents and issue of certificates of the health damage inflicted during the captivity. According to the international standards, the latter shall be issued by the country that has held captive. However, the RF does not do it, thus violating Article 68 of Geneva Convention relative to the Treatment of Prisoners of War. The Ukrainian defenders who return home are referred to the military medical commission, which issues a health condition certificate.

They are also issued a certificate of the National Information Bureau to re-issue their personal documents: a passport, a driving licence, which are ordered by the former captives after the rehabilitation on their own. The State Migration Service of Ukraine accepts documents for a passport of a citizen of Ukraine or a foreign travel passport of a citizen of Ukraine. In other words, the military servants who are released from captivity are re-issued only military documents on a centralised basis whereas personal civil documents must be ordered on their own. The Coordination Headquarters for the Treatment of Prisoners of War is now resolving this matter so that the released defenders will also be issued civil documents on a centralised basis, and they will not lose their time waiting for their passport or driving licence to be re-issued.

In this context, it should be noted that a positive stage of the exercise of rights of military servants, civilian hostages released from captivity is Resolution of the Cabinet of Ministers of Ukraine No. 1210 of 28.10.2022 "Certain Matters of Top Priority Actions for Social Protection of the Released". This legal and normative act defines the top-priority actions to be taken to protect the persons who have been held in captivity, namely organisation of their meeting with family, medical examination followed by medical and rehabilitation aid, free primary legal aid, re-issue of documents etc. However, Resolution No. 1210 establishes only the general directions for the top-priority actions for social protection of the released.

Another important response by the state in this field was the draft Law of Ukraine "On Amending Certain Laws of Ukraine to Grant the Right to Resign from the Military Service and Conscription

Deferment during Mobilisation to the Persons Released from Captivity” submitted to the Verkhovna Rada of Ukraine for consideration (registration No. 8061). This draft law proposes amendments to Article 26 of the Law of Ukraine “On General Military Duty and Military Service”, which will grant the right to resign from military service to the military servants who have returned from captivity, with account of their moral and psychological condition or health. The draft law was proposed to be approved in principle following its consideration in the Parliament in principle by the resolution of the specialised Committee of the VRU on national security, defence and intelligence of 14.11.2022.

The problematic issue, which is gaining more and more relevance, is *rehabilitation of the Ukrainian defenders, including former prisoners of war, civilians who were recognised as deprived of personal liberty due to the armed aggression against Ukraine*. Against the background of the ongoing hostilities, the number of our defenders in acute need of rehabilitation services has considerably grown in comparison with the ATO/JFO period. At the same time, the state rehabilitation and readaptation service system is still being developed.

As there are no procedures for providing social, medical, psychological, rehabilitation and other assistance as prescribed by the Law of Ukraine “On Social and Legal Protection of Persons Who Were Recognised as Deprived of Personal Liberty due to the Armed Aggression against Ukraine, and Their Family Members”, these persons and their family members may not receive these types of assistance.

In its turn, the Ministry of Reintegration has not developed and approved the procedure for duly entering information into the Unified Register of Persons Who Were Recognised as Deprived of Personal Liberty due to the Armed Aggression against Ukraine (hereinafter the “Unified Register”). So the Unified Register does not properly function now.

Moreover, the Ministry of Reintegration has not approved the form of an extract from the Unified Register. It should be noted that an extract from the Unified Register is the document that is supposed to certify that the person has been deprived of personal liberty, and it has compulsory details, namely regarding the period of deprivation of personal liberty, so it is necessary to exercise the rights under the law, namely labour rights, pension coverage rights, rights to compulsory state social insurance etc. Therefore, failure of the Ministry of Reintegration to take the above-mentioned actions prevents the hostages from exercising their rights in accordance with the Ukrainian legislation.

Although a number of legal and normative acts on the principal aspects of rehabilitation services were adopted at the end of 2022 in pursuance of the Law of Ukraine “On Rehabilitation in the Field of Healthcare”, this system needs to be improved and brought in line with the international standards. The actions in this field are now taken by several agencies, namely the MoH, the Ministry of Defence, the MVA, the Ministry of Social Policy etc. This situation causes absence of the unified state concept of rehabilitation and readaptation and requires establishment of the Inter-Agency Centre (similar to the Coordination Headquarters for the Treatment of Prisoners of War), which is supposed to coordinate actions by all the interested authorities in this field.

Persons who have gone missing in the context of the armed conflict

One of the effects of the broad-scale armed aggression against Ukraine has been rapid growth of the number of people who have gone missing in the temporarily occupied territories and areas of hostilities.

According to the Main Investigative Directorate of the National Police of Ukraine, from 24.02.2022 until 21.01.2023, the investigators of the National Police instituted 13,410 criminal

proceedings (including 11,977 of them before 31.12.2022) regarding persons missing due to special circumstances; 16,393 (including 14,884 before 31.12.2022) military servants and representatives of other paramilitary groups of Ukraine, 2,666 criminal proceedings (including 2,624 before 31.12.2022) instituted based on the facts of enforced disappearance and captivity of 2,952 (including 2,900 before 31.12.2022) military servants and representatives of other paramilitary groups of Ukraine.

Moreover, from 24.02.2022 until 21.01.2023, the investigators of the National Police instituted 6,635 criminal proceedings regarding 9,118 civilians who had gone missing due to special circumstances and 1,527 criminal proceedings regarding enforced disappearance or captivity of 7,330 civilians.

In 2018, the Verkhovna Rada of Ukraine adopted the Law of Ukraine “On the Legal Status of Missing Persons” (hereinafter the “Law”). That Law defined the legal status of missing persons and ensured legal regulation of relationships regarding the identification and registration, search for and social protection of the persons concerned and their relatives.

In April 2022, the Law was amended: on the one hand, the regulation was focused on the legal status of persons missing due to special circumstances, i.e. in the context of the armed conflict, military actions, temporary occupation of the part of the territory of Ukraine, an emergency of a natural or man-made nature. On the other hand, the format of coordination of search for persons missing due to special circumstances by the state was changed: the non-functional Commission on the Persons Missing due to Special Circumstances was replaced by the Commissioner for Persons Missing due to Special Circumstances, who was an official of the Ministry of Reintegration mandated to coordinate the search for persons missing due to special circumstances and to resolve other related issues.

However, a number of the rules of the clauses of the Law have not been implemented. The Ministry of Internal Affairs still has not introduced the Unified Register of Persons Missing due to Special Circumstances (hereinafter the “Register”). According to the Regulation¹³¹, the Register is a functional sub-system of the unified information system of the MIA of Ukraine, which ensures its operation. At the end of 2022, the MIA of Ukraine informed the Commissioner that during the second half of 2022 the administrator of the Register had performed the works to design architectural solutions, technological processes of filling the Register and organising information interaction of its subjects, and that the “prototype model of the Register presented on 2 December 2022 to the Office of the Commissioner for Persons Missing due to Special Circumstances had been developed”. Moreover, it was noted that “according to the Law of Ukraine ‘On Protection of Information in Information and Communication Systems’, the Register could only be introduced if the complex information protection system with the certified conformity was used”. It was also noted that “the Register is now developed with the administrator’s own resources and needs additional funding”. In other words, the prototype model of the Register is being tested for possible vulnerabilities and will be commissioned after this process is completed.

The Register is of critical importance for the legal status of a person missing due to special circumstances as, according to Article 4 of the above-mentioned Law, a person acquires the status of a person missing due to special circumstances from the moment of entering information about him/her contained in the missing person report into the Register. Therefore, the mechanism for social protection of family members of persons missing due to special circumstances is not implemented since if a person goes missing, his or her family members acquire the right to pension payments a month after the

¹³¹ Regulation on the Unified Register of Persons Missing due to Special Circumstances approved by Order of the MIA of Ukraine No. 53 of 29.08.2022

respective information is entered into the Unified Register of Persons Missing due to Special Circumstances, but it has not been established. Moreover, the rules of the Law of Ukraine “On the Legal Status of Persons Missing due to Special Circumstances” that workplace and position shall be reserved for a person missing due to special circumstances, until the person concerned is recognised as missing or declared dead.

Lack of the Register affects the search as well since there is no registration, accumulation and centralisation of data and information on the persons missing due to special circumstances.

Mobilised persons and military servants

Another problem to be resolved is **failure to observe citizens’ rights during the mobilisation declared in Ukraine**. Although there are lots of citizens experienced in military operations who volunteered to be mobilised for their military service, the officials of the territorial recruitment and social support centres of the AFU have often violated the rights of the citizens who are not subject to conscription during mobilisation in accordance with Article 23 of the Law of Ukraine “On Mobilisation Training and Mobilisation”. In breach of the requirements of this Law of Ukraine, the persons liable for military service who have 3 or more children younger than 18 or are duly recognised to be persons with disabilities as well as students obtaining pre-higher and higher education who study full-time are conscripted during mobilisation for the special period, without their consent (which is confirmed with the complaints).

The letters have been sent regarding the matters claimed by the petitioners to the Ministry of Defence, the General Staff of the AFU and the Military Law Enforcement Service. As a result, the Ministry of Defence initiated the amendments to the legislation via the deputies of the Verkhovna Rada of Ukraine (which have been processed and affirmed without any comments by the Commissioner’s Secretariat) that provide for possible resignation of the persons with 3 or more children younger than 18 during the martial law. On 20 September 2022, the Law of Ukraine “On Amending Article 26 of the Law of Ukraine No. 2599-IX ‘On General Military Duty and Military Service’” regarding possible resignation from the military service by the persons who have 3 or more children under 18 during the martial law was adopted.

Also, the draft Law of Ukraine “On Amending Article 26 of the Law of Ukraine ‘On General Military Duty and Military Service’” (registration No. 8177) regarding possible resignation of the mobilised persons who study in pre-higher and higher education institutions full time from the military service has been registered with the Verkhovna Rada of Ukraine. This draft law is now being processed by the Committee.

The territorial recruitment and social support centres fail to fully comply with the requirements of the law that only the citizens with adequate health have to be conscripted. Thus, medical examination has sometimes been performed on a formalised basis, without necessary healthcare professionals and without account of medical records of the person liable for military service on his health. As a result, the citizens with severe infectious diseases, including the AIDS, and oncological diseases as well as persons with disabilities are recognised to be suitable for military service based on their health.

Attention should also be paid to **observance of rights of the parents doing their military service in the AFU to participate in upbringing of their children**. Around 60 thousand, including 41

thousand military servants and almost 19 thousand of civil workers do their service in the AFU¹³². Both parents are military servants in many cases. This year, the fathers being military servants have been granted new rights and opportunities to take care and raise a child and to combine military service with their family duties. In particular, the issue of granting the fathers being military servants a child care leave until the age of 3 and in case a child requires child care provided that both parents are military servants: such leave will be granted on one of the parents by their joint decision¹³³.

There have been frequent **violations of military servants' rights to timely and full accrual and payment of their financial support as well as additional remuneration** as prescribed by the effective legislation¹³⁴. In particular, the additional monetary remuneration prescribed by Resolution of the CMU No. 168 of 28.02.2022 (UAH 30,000 and 100,000) is not paid in the corresponding amount. The problem is caused by the complex accrual mechanism, which is not understood by most military servants (the payment is only based on the quantity of days in a month during which the military servant has been under shelling or in a combat engagement). Such periods must be specified in combat reports, which often fails to be done. It results in minor payments.

Moreover, the facts of failure to pay the additional monetary remuneration under Resolution of the CMU No. 168 of 28.02.2022 for the period of the military servant's treatment after the combat injury have been established. Delays in payment of additional financial support upon the military servant's resignation from the military service (one-time monetary assistance upon resignation) and of compensation for the leaves that have not been used during the martial law (granting of which has been suspended for the period of the martial law) have been established.

Another problem is delays of military units in provision of the documents necessary to receive the one-time monetary assistance for the deceased to families of the deceased military servants. There have also been cases of untimely payment of funds which the military servant failed to receive before being killed as well as burial assistance.

The Commissioner was approached by citizen S., mother of the military servant killed as a result of the full-scale armed aggression of Russia against Ukraine, regarding non-receipt of the payments due to her son and the burial assistance from the military unit. Following the Commissioner's response, the military unit transferred the funds due to the military servant's mother and sent the documents necessary for the Ministry of Defence to designate and pay the one-time monetary assistance in case of the military servant's death.

One more problem is **to return bodies of the deceased military servants**.

¹³² 101 female military servants have died, and 50 have gone missing since the beginning of the war, — Reznikov.

Available at:

<https://www.ukrinform.ua/rubric-ato/3623578-iz-pocatku-vijni-zaginula-101-zinkavijskova-50-znikli-bezvisti-reznikov.html>

¹³³ Law of Ukraine “On Amending Article 10⁻¹ of the Law of Ukraine ‘On Social and Legal Protection of Military Servants and Their Family Members’ as regards Equal Child Care Opportunities of Military Mothers and Fathers during the Special Period”

¹³⁴ Resolution of the Cabinet of Ministers of Ukraine No. 168 of 28.02.2022 “Matters of Certain Payments to Military Servants, Junior and Senior Personnel, Police Officers and Their Families during the Martial Law”

Thus, it is often impossible to return bodies of the deceased defenders from the TOT Ukraine, which results from the Russia side disregarding the respective collection, storage, registration and transfer of remains of the Ukrainian military servants killed/deceased for further identification and burial as prescribed by international humanitarian law. Also, when it comes to burial, it was done by mass burial without body identification (as military servants or civilians), without specification of the quantity of bodies and with seizure of all the identification documents.

As there is no DNA database (it is being developed) of all the defenders of Ukraine, small numbers of the specialists who perform forensic examination and shortage of equipment and facilities, identification of remains of the deceased defenders of Ukraine is complicated. Even identification of bodies of the deceased whose DNA samples have been drawn for comparison with the DNA samples of their family members is a long process.

Difficulties families of the deceased military servants have registering the fact of their death are also concerning. It happens due to absence of bodies of the deceased and the need to establish the fact of death in court, which adjourns receipt of the death certificate as prescribed by the legislation, designation and payment of the one-time monetary assistance upon the military servant's death as well as designation of social payments to dependants of the deceased, namely the survivor's pension.

Veterans

As the number of war veterans, in the first place, combatants, and family members of the killed (deceased) war veterans, families of the deceased Defenders¹³⁵ has considerably grown since the beginning of the broad-scale aggression against Ukraine, the pressing issues of observance of rights of these categories of persons is assignment of the corresponding status, receipt of payments, namely one-time monetary assistance in case of disability or for the deceased military servant, respective medical and rehabilitation services, adequate pension coverage of the persons dismissed from military service etc.

The legal framework for social protection of veterans includes the laws of Ukraine “On the Status of War Veterans, Guarantees of Their Social Protection”, “On the Status of Military Service Veterans, Veterans of Authorities of Internal Affairs and Some Other Persons, and Their Social Protection”, “On Pension Coverage of the Persons Dismissed from Military Service, and Some Other Persons”.

The Law of Ukraine “On the Status of Veterans of War and Guarantees of Their Social Protection” now contains more than 40 benefits that are granted by different public authorities, but access thereto is difficult due to red-tape procedures. Moreover, some of the benefits are obsolete, for instance, special stores for war veterans, which makes it difficult to implement these rules today.

A separate category must also be allocated among veterans: military service veterans. This status is granted to the persons who have been doing their military service for more than 25 years, regardless of participating in hostilities. This status is regulated by the Law of Ukraine “On the Status of Military Service Veterans of, Veterans of Authorities of Internal Affairs, Veterans of the National Police of Ukraine and Some Other Persons and Their Social Protection”. Certain legal and normative acts that regulate the matter of social protection of this category of veterans increase the red-tape chaos and add

¹³⁵ The term “Defenders” is used in accordance with Article 1-1 of the Law of Ukraine “On War Veterans and Guarantees of Their Social Protection”, families of the killed (deceased) war veterans, family members of the killed (deceased) Defenders of Ukraine.

complexity to getting guaranteed benefits and reintegration into peaceful life (especially if a person has the concurrent right to several beneficial statuses). Moreover, the military service veterans who have benefits and social guarantees prescribed by the legislation are sometimes unable to exercise this right in practice.

It was established during the proceedings instituted in 2022 based on the petition of the NGU veteran that the matter of beneficial rehabilitation and health resort treatment in healthcare institutions of the Ministry of Internal Affairs of Ukraine was actually not regulated for military servants, military service veterans of the NGU, war veterans and pensioners recognised to be persons with disabilities as a result of the disease associated with their military service in the NGU, and their family members.

The Commissioner sent his request to the Ministry of Internal Affairs of Ukraine and proposed to instruct the responsible officials to take immediate efficient measures, including regulatory and legal ones, to restore the violated rights of veterans and their family members by developing the respective agency order and ensuring strict adherence to the legislation on rights of military service veterans by the officials of the MIA and NGU.

At the end of 2022, in pursuance of the order of the MIA, the Main Directorate of the NGU drafted the order of the MIA “On Certain Matters of Health Resort Treatment and Rest in the National Guard of Ukraine”.

The draft order is now being processed to be approved by the respective structural subdivisions of the MIA.

Another relevant matter in this field is proper pension coverage of the persons dismissed from the military service.

According to Article 63 of the Law of Ukraine No. 2262 of 9 April 1992 “On Pension Coverage of the Persons Dismissed from Military Service, and Some Other Persons” (hereinafter “Law No. 2262”), all the pensions granted under this Law are to be recalculated in connection with the increase in the financial support for respective categories of military servants, persons eligible for the pension under this Law, under the conditions, in accordance with the procedure and in the amounts prescribed by the Cabinet of Ministers of Ukraine.

In response to the Commissioner’s requests to the Ministry of Social Policy of Ukraine as drafter of the laws and other legal and normative acts on pension coverage, the Ministry of Social Policy informed that Law No. 2262 had to be amended in terms of the conditions, procedure and further recalculation of pensions in order to resolve matters of regular recalculation of pensions for the persons dismissed from the military service.

Lack of the applicable legal and normative act results in numerous claims filed by this category of people to court to defend their rights to decent pension coverage.

Thus, according to the Ministry of Social Policy, as of 01.01.2023, 186,763 court decisions that have entered into force are now registered in connection with recalculation of the pensions granted under Law No. 2262. This quantity of court decisions is a considerably burden for the State Budget of Ukraine in terms of compensation for court costs, which is intolerable during the martial law.

As for repayment of the debt based on the court decisions delivered in favour of the pensioners, the Commissioner’s Secretariat sent the respective request to the PFU, which informed that, according to Article 8 of Law No. 2262, payment of pensions, including additional payments, extra payments and

surcharges, compensatory payments prescribe by the legislation for the military servants dismissed from the military servants, the persons eligible for pensions under Law No. 2262, and their family members was ensured from the State Budget of Ukraine.

In this context, it should be noted that, in order to resolve issues in the field of pension coverage of pensioners of the authorities in the security and defence sector and in pursuance of the instruction of the Prime Minister of Ukraine, the Cabinet of Ministers of Ukraine adopted Resolution No. 1166 “On Establishing the Interdepartmental Working Group on Monetary and Pension Coverage of Military Servants and Some Other Persons” at the end of 2022. The principal tasks of this working group are to determine the ways, mechanisms and methods to resolve the problems associated with pension coverage of the persons dismissed from the military service and some other persons, and to develop proposals on improving the applicable legal and normative acts, including as to recalculation of pensions. However, as the martial law was imposed in Ukraine in February 2022, the work of the Interdepartmental Working Group was suspended.

The Ukrainian Parliament Commissioner for Human Rights is working with the interested authorities to resume operations of the Interdepartmental Working Group.

Response to violations of human and civil rights

In 2022, the Commissioner’s Secretariat received 11,217 petitions for protection of human rights in the field of security and defence, including 6,656 oral petitions to the hot line and 4,561 written ones.

In 2022, the majority of petitions received by the Commissioner’s Secretariat by e-mail and hot line were connected with the military servants who had been taken captive or had gone missing due to special circumstances. The information received from the petitioners was forwarded to the competent authorities (NIB, the Unified Centre for Searching and Releasing Captives of the Security Service of Ukraine, the ICRC, the Coordination Headquarters for the Treatment of Prisoners of War).

Oral petitions are mostly distributed as follows: military servants (956), illegally detained civilians (5,012), and active military servants and law enforcement officers (534).

As for the written petitions, out of 4,561 written petitions received by the Department for Monitoring Observance of Rights in the Defence Sector and Rights of Veterans, Military Servants, Captives and Their Family Members of the Commissioner’s Secretariat, most (51%) of them were connected with releasing prisoners of war from captivity and searching the missing military; 16% — searching for civilians (civilian hostages) who were missing or were illegally detained; 21% — protecting rights of military servants and their family members; 12% — protecting rights of persons with the status of military service and security and defence service veterans.

As it has been described in detail above, the priority field of activity of the Commissioner’s Secretariat is release of the Ukrainian prisoners of war, civilian hostages and their social and legal protection after they are released.

The important field of activity of the Commissioner’s Secretariat is protection of rights of military servants and their family members, in particular: to mobilisation deferment for those liable for military service, to timely and full payment of the financial support and its elements, to provision of food and personal effects, military service conditions, right to rest and leaves, right to health care and medical aid as well as payment of the one-time monetary assistance and dismissal from the military service in accordance with the effective legislation.

The Commissioner received the collective petition from the personnel of one of the military units of the Kyiv Oblast territorial defence regarding incomplete payments of their financial support and additional remuneration as prescribed by Resolution of the CMU No. 168 of 28.02.2022 “Matters of Certain Payments to Military Servants, Junior and Senior Personnel, Police Officers and Their Families during the Martial Law”.

It was stated in the petition that the military servants had been doing their military service in the combat areas and had taken a direct part in the hostilities and activities to ensure national security and defence, to repel and deter the armed aggression by the occupying country, but they had not received the above-mentioned remuneration in full since June 2022.

Following the Commissioner’s response, the rights of the personnel of the military unit to the full payment of their financial support and additional remuneration during the martial law were restored.

Moreover, as the number of war veterans, in the first place, combatants, and family members of the killed (deceased), war veterans, and families of the killed (deceased) Defenders has considerably grown, the priority direction is parliamentary control over observance of rights of these categories of persons to assignment of the corresponding status and receipt of payments due, namely one-time monetary assistance, medical and rehabilitation services, benefits and social guarantees, adequate pension coverage of the persons dismissed from military service etc.

In 2022, the Commissioner received numerous petitions with complaints against the social protection authorities that had refused to grant the respective status of the family members of the deceased Defenders of Ukraine who were unable to or did manage to obtain the combatant’s status while they were alive.

After new point 5 had been added to Article 10⁻¹ of the Law of Ukraine “On the Status of Veterans of War and Guarantees of Their Social Protection”, families of the killed (deceased) Defenders of Ukraine started to include without limitation families of military servants (reservists, those liable for military service, those who voluntarily joined the Territorial Defence Forces) of the Armed Forces of Ukraine who protected independence, sovereignty and territorial integrity of Ukraine and took a direct part in the activities necessary to ensure defence of Ukraine, protection of public safety and interests of the state in connection with the armed aggression of the Russian Federation against Ukraine, and died (went missing) while they were in the areas and during the period of such activities, during their immediate participation in the activities necessary to ensure defence of Ukraine, protection of public safety and interests of the state in connection with the armed aggression of the Russian Federation against Ukraine.

However, the Government did not establish the procedure for granting the status.

With the support of the Commissioner’s Secretariat (the matter was discussed during the work consultations with the representatives of the respective ministries as regards drafting of the resolution of the Government), the CMU adopted Resolution No. 783 of 01.07.2022 “On Amending Certain Resolutions of the Cabinet of Ministers of Ukraine regarding the Status of a Family Member of the Killed (Deceased) Defender of Ukraine”. It enabled restoring the rights of that category of the Ukrainian citizens.

It was also established during the parliamentary control over observance of rights of family members of the deceased military servants that some territorial bodies of the Pension Fund of Ukraine had unreasonably refused to grant the survivor's pension or granted pensions to the family members of the deceased military servants in a smaller amount due to absence of the documents submitted by the territorial recruitment and social support centres, opinions of the military medical commissions on the causal relation of the military servants' death. The respective request was sent to the Pension Fund of Ukraine in order to restore the violated rights of this category of persons.

The senior executives of the Pension Fund of Ukraine fulfilled the Commissioner's requests and sent applicable explanations to the territorial bodies of the PFU.

The Commissioner was approached by citizen V. acting on behalf of her minor child, whose father was the deceased Defender of Ukraine, regarding delays by the territorial recruitment and social support centre in execution and submission of documents for granting and payment of the one-time monetary assistance to the son of the deceased as prescribed by Resolution of the CMU No. 168 of 28.02.2022 "Matters of Certain Payments to Military Servants, Junior and Senior Personnel, Police Officers and Their Families during the Martial Law".

Following the Commissioner's response within the framework of the parliamentary control over observance of constitutional human and civil rights and freedoms, the head of the oblast territorial recruitment and social support centre informed that the Commission of the Ministry of Defence of Ukraine in charge of the issues related to granting and payment of the one-time monetary assistance and compensations had resolved to grant the one-time monetary assistance to the son of the deceased military servant. The funds due for the one-time monetary assistance were transferred to the petitioner's personal account for the benefit of her minor son.

Also, based on the analysis of the petitions received from the military servants of the SBGS and their family members, the Commissioner's representative sent a letter to the MIA of Ukraine to ensure social and legal protection of these categories of persons. The Ministry took the actions to regulate the matter of granting and payment of the one-time monetary assistance in the State Border Guard Service of Ukraine during the martial law (*order of the MIA of Ukraine No. 383 of 22.06.2022*).

Recommendations

The Cabinet of Ministers of Ukraine should:

- amend Resolution of the Cabinet of Ministers of Ukraine No. 257 of 11.03.2022 in order to include the Secretariat of the Ukrainian Parliament Commissioner into the Coordination Headquarters for the Treatment of Prisoners of War in order to ensure adequate operation of the working group responsible for protecting rights of freedoms of the civilians who are illegally detained by the aggressor state;

- adopt draft Resolution of the Cabinet of Ministers of Ukraine "On Designating the Authority Competent to Issue Certificates of the Amount of Monetary Support for Recalculation of Pensions to the Junior and Senior Personnel of Tax Police, and Preparing and Submitting Necessary Documents to the Pension Granting Authorities", which is prepared by the Ministry of Finance of Ukraine and submitted to the Government for consideration in accordance with the established procedure.

The Ministry of Defence of Ukraine should:

- prepare and submit to the Cabinet of Ministers of Ukraine for consideration, in accordance with the established procedure, the draft Law on dismissal of the military servants who are illegally conscripted as a part of mobilisation during the martial law and are students at pre-higher and higher education institutions on a full-time basis;

- regulate activities of the military medical commissions, bring the premises where medical examination of military servants, including the ones who return from captivity and have severe injuries, in line with the requirements. Ensure adequate control over medical examination of the persons conscripted during the mobilisation by the military medical commissions.

The Ministry of Health of Ukraine should:

- immediately develop draft Procedures for medical, rehabilitation and psychological aid and submit them for public hearing; consider proposals made by representatives of the civil society and approve the procedure.

The Ministry of Defence of Ukraine, Ministry of Health of Ukraine should, with account of the applicable requirements of the Ministry of Defence of Ukraine for meals for injured (sick) military servants, prepare and duly approve the amendments to Order of the Ministry of Health of Ukraine No. 931 of 29.10.2013, which approves the Procedure for Organising the System of Therapeutic Meals for Patients in Healthcare Institutions, in order to determine individual nutritional standards for injured (sick) military servants released from captivity who undergo treatment or rehabilitation in civil healthcare institutions.

The Ministry of Social Policy of Ukraine should ensure the following:

- resumption of the work by the Interdepartmental Working Group on monetary and pension coverage of military servants;

- full-scale implementation of Resolution of the Cabinet of Ministers of Ukraine No. 144 of 23.02.2022 “On Recalculating Pensions to the Persons Released from the Intelligence Authorities” by submitting the draft Resolution of the Cabinet of Ministers of Ukraine “On Amending Resolution of the CMU No. 144 of 23 February 2022” to the Government for approval;

- immediate development and submission to the Cabinet of Ministers of Ukraine for consideration draft procedures for social and professional adaptation, social services and other types of support under the Law of Ukraine “On Social and Legal Protection of Persons Who Were Recognised as Deprived of Personal Liberty due to the Armed Aggression against Ukraine, and Their Family Members”.

The Ministry of Internal Affairs of Ukraine should:

- ensure maintenance of the Unified Register of Persons Missing due to Special Circumstances;

- develop and submit to the Cabinet of Ministers of Ukraine for consideration amendments to the Law of Ukraine “On Social and Legal Protection of Military Servants and Their Family Members” regarding grounds for payment of one-time monetary assistance upon dismissal;

- approve and have duly registered with the Ministry of Justice of Ukraine the draft Order of the MIA “On Certain Matters of Health Resort Treatment and Rest in the National Guard of Ukraine”.

The Ministry of Foreign Affairs of Ukraine should:

- ensure that actions are taken to determine the protective power for humanitarian functions as prescribed by the Geneva Conventions of 1949 and I Protocol of 1977, and also determine (explain) the mechanism for Ukraine to perform its consular functions in the territory of the aggressor state in order to keep protecting rights and interests of Ukrainians in Russia, in the first place, regarding their return to Ukraine.

The Ministry of Reintegration of Temporarily Occupied Territories of Ukraine should:

- ensure maintenance of the Unified Register of Persons Who Were Recognised as Deprived of Personal Liberty due to the Armed Aggression against Ukraine, and approve the form of an extract from the Unified Register of Persons Who Were Recognised as Deprived of Personal Liberty due to the Armed Aggression against Ukraine.

CHAPTER 4. UKRAINIANS ABROAD

45 petitions¹³⁶ were received by the Commissioner regarding violation of rights of the Ukrainian citizens abroad, including:

- 14 regarding issue and receipt of Ukrainian documents abroad
- 4 regarding border crossing
- 27 regarding other matters

7.9 million of our citizens are in the European states.

- 85% of adults are women.
- 35% of the total number are children (18% of girls and 17% of boys).
- 38% of the total number left Ukraine in March 2022.
- 12% Odesa Oblast, 12% Kharkiv Oblast, 10% Kyiv

4.9 million of them were granted temporary protection or other forms of protection outside Ukraine.

Key events, challenges and tendencies

In the context of the full-scale aggression of Ukraine, the key issue is to protect rights of the Ukrainian citizens who have been forced to leave Ukraine due to the war. According to the UNHCR, as of the end 2022, 7.9 million of our citizens are in the European states. 4.9 million of them were granted temporary protection or other forms of protection outside Ukraine¹³⁷. The absolute majority of the persons who have been forced to leave Ukraine in connection with the armed aggression against Ukraine is women, 85%¹³⁸. At present, the exact number of persons in the specific country cannot be calculated due to considerable transit migration from one country to another or due to Ukrainians returning home. Lots of the Ukrainian citizens abroad are not registered with consular missions.

The states of the European Union hosted the largest number of the Ukrainian citizens. In March 2022, the EU Council applied the Temporary Protection Directive (2001/55/EC) for the first time in its history. The Directive applies to the Ukrainian citizens, foreigners who resided in Ukraine, family members of these persons who resided in Ukraine before 24 February 2022.

Temporary protection gives access to the right of residence, access to the labour market, accommodation, social and medical aid. Unaccompanied children and teenagers have access to education and the right to guardianship. The temporary protection has been granted to the Ukrainians until March 2024. The EU Member States may offer broader rights than the ones presented in the Directive, for instance, a longer period of stay or inclusion of a broad group of respective applicants.

However, when they arrived in other states, the Ukrainians citizens and residents did not always find themselves in the favourable environment. On 17 March 2022, the UN Committee on the

¹³⁶ It does not include the petitions where the petitioner did not specify the actual place of residence or applied by e-mail or hot line +38 044-299-74-08

¹³⁷ Refugees from Ukraine recorded across Europe. Available at: <https://data.unhcr.org/en/situations/ukraine>

¹³⁸ Ukraine situation: Regional protection profiling and monitoring factsheet. Available at: <https://data.unhcr.org/en/documents/details/97720>

Elimination of Racial Discrimination expressed its concern¹³⁹ by reports of an increase in discrimination, in particular xenophobic and racist hate speech and violence against people fleeing the conflict, and called upon all States parties to the ICERD, in particular those neighbouring Ukraine, to continue to allow access to their territories to all persons fleeing the conflict without discrimination on grounds of race, colour, descent, or national or ethnic origin and regardless of their immigration status, and also to adopt measures to prevent, combat and sanction all forms of racial discrimination, in particular xenophobic and racist violence and hate speech against persons fleeing the conflict, to take resolute action to protect all persons against racist violence and hate speech, including on the internet, and to publicly condemn and distance themselves from racist hate speech, including in the media and by public persons and political actors.

The city court of Kladno (Czech Republic) convicted 2 bloggers, who are accused of hate speech against Ukrainians in the public video. In particular, in one of their videos, they urged to conduct a counter-rally in response to the Ukrainian rally, and one of the bloggers also claimed, “Ukrainians are starting to multiply here. One rally after another. We have to act now, otherwise we will end up in hell.” The video also contained a number of humiliating and offensive statements where Ukrainians were called “dirty” etc.¹⁴⁰

It must be understood that the Ukrainian citizens who have been granted temporary protection receive payments, which are generally much lower than an average salary in the country, so they have to provide for themselves, which is quite difficult. Due to the language barrier, minor children, inability to certify their degrees and qualifications and other circumstances, Ukrainians are forced to get unqualified and, therefore, low-paid jobs beyond their occupation.

Children of school age have difficulties adapting to the society, integrating into the environment of the education institution, namely due to the language barrier, academic differences and peculiarities of the academic plan.

The European countries were mostly not ready for such number of refugees, so access to the Ukrainian citizens to social, educational and medical services is not always complete. The network of free language or psychological assistance courses is not sufficiently extensive. One of the most pressing issues is access to temporary or permanent accommodation.

On 10 October 2022, some 135 Ukrainian women and children who have been staying in a Killarney hotel were given the notice that they were being moved to another town to make way for 192 male asylum-seekers from other countries. It was done although many of the Ukrainians had found a job in the town, some of them — in the hotel itself. Around 40 children studied in local schools.

¹³⁹ Racial Discrimination against persons fleeing from the armed conflict in Ukraine Statement 1 (2022). URL: <https://www.ohchr.org/sites/default/files/2022-03/Statement-racial-discrimination-against-persons-conflict-Ukraine.pdf?symbolno=INT%2fCERD%2fSWA%2f9532&Lang=en>

¹⁴⁰ 2 bloggers convicted in the Czech Republic for inciting hatred against Ukrainians. Available at: <https://www.ukrinform.ua/rubric-society/3602269-u-cehii-zasudili-dvoh-blogeriv-za-rozpaluvanna-nenavisti-do-ukrainciv.html>

After the community and the town mayor had intervened, the decision on the Ukrainians was reversed at the governmental level; instead, they were promised alternative accommodation so that they could keep working and going to school in Killarney¹⁴¹.

Given the adaptation difficulties, some citizens are ready to return to Ukraine, but the obstacle is destruction of their property or its location in the area of active hostilities or occupation.

As the categories of the citizens who have left Ukraine are vulnerable, many of them are under threat of trafficking in human beings as well as gender-based and domestic violence. Another matter on the agenda is hatred-based crime and disinformation incited with hatred. Women, children and persons with disabilities are especially vulnerable.

As a result of the broad-scale military aggression of the RF against Ukraine, the Ukrainian citizens have faced the **problem of documentation abroad**. Lots of people have left the territory of Ukraine without identification and citizenship documents or have lost such documents. It has caused the high work load for the Ukrainian consular missions, which are unable to receive lots of citizens due to their limited capacity. Restoration of documents and issue thereof abroad are a long process due to the work load in the system of Ukrainian foreign diplomatic missions and bodies of the State Migration Service.

In order to resolve the matter, the CMU adopted Resolution No. 678 of 10 June 2022, which approved the Procedure for Implementing the Experimental Project of Issuing a Passport of a Citizen of Ukraine and a Foreign Travel Passport of a Citizen of Ukraine the Ukrainian Citizens Abroad. The idea of the experimental project is that the documents necessary to receive a passport of a citizen of Ukraine and a foreign travel passport of a citizen of Ukraine will be received from the Ukrainian citizens outside our country by the standalone unit of the State Enterprise “Document” that is located outside Ukraine, is managed by the SMS of Ukraine and administers the Unified State Demographic Register. As of the end of 2022, the problem was only partly resolved since the Passport Service of the State Enterprise “Document” was only opened in the Republic of Poland (Warsaw, Krakow, Wroclaw and Gdansk). In February 2023, the respective services also started to be provided in Turkey (Istanbul), Slovakia (Bratislava) and the Czech Republic (Prague).

The consular and diplomatic missions of Ukraine ceased their operations in the territory of the RF due to the military aggression of Russia against Ukraine. Therefore, the Ukrainian citizens who are in the territory of the aggressor state have to go to neighbouring countries to be provided respective services in the consular missions of Ukraine.

Monitoring of the situation of the forced migration of Ukrainians has demonstrated mostly positive attitude to the displaced Ukrainians, creation of favourable conditions for their stay in the EU countries, simplification of the procedures for granting the temporary protection status to children and their accompanying persons, introduction of the adequate system for support and access to medical and social services.

¹⁴¹ Ukrainian women and children to be moved from Kerry to make space for male asylum-seekers. Available at: <https://www.irishexaminer.com/news/munster/arid-40980908.html?fbclid=IwAR2fr3Yj8L8cd7Xs0dMb8-GwGXoIBGHtFV8ESrAjz3uGoI0RUEjvzc88joY>

At the same time, there is a number of issues that needed and still need to be regulated at the inter-state and national legislative level, for instance, non-recognition of documents of the persons accompanying groups of children from the Ukrainian side.

Resolution of the CMU No. 383 of 29 March 2022 amended the Rules for State Border Crossing by the Ukrainian Citizens approved by Resolution of the CMU No. 57 of 27 January 1995 (hereinafter the “Rules”). Thus, it is prescribed by point 23 of the Rules that in case the state of emergency or martial law is imposed in the territory of Ukrainian citizens, the children who have turned 16 and are accompanied by a parent, a grandparent, a full-aged sibling, a step-parent or another person authorised by one of the parents in the written statement certified by the wardship and guardianship body shall leave Ukraine without a notarised consent of the other parent and provided that there is a passport of a citizen of Ukraine or child birth certificate (where there is no passport of a citizen of Ukraine)/documents with identification data based on which the State Border Guard Service of Ukraine will allow to cross the state border.

This rule has enabled crossing the state border without a notarised consent from the second parent. As a result, there are more petitions to find the child who has been taken abroad by one of the parents and to contact the child or to return him or her from abroad.

Another problem is **receiving the child birth assistance**, namely for the parents whose children are born abroad. There are lots of pregnant women, women who have given birth or are going to give birth abroad among the Ukrainians who have been granted temporary protection abroad. When they carry out the procedure for registering the child’s birth abroad, each parent faces a number of non-regulated procedural issues that need to be resolved.

For instance, it is prescribed by the Procedure for Granting and Paying the State Assistance to Families with Children approved by Resolution of the CMU No. 1751 of 27.12.2001 that the women whose place of residence is registered in Ukraine and who give birth to a child during their temporary stay outside Ukraine shall submit the child birth documents issued by the competent authorities of the country of their stay and duly legalised, unless otherwise stipulated in international treaties of Ukraine. Thus, an application shall be submitted to the social protection unit at the registered place of residence or actual place of stay of the applicant.

The functions introduced to submit an application online cannot be used by all the Ukrainian citizens abroad since the documents issued abroad are not integrated into the State Register of Civil Status Acts, so they will not certify the fact of the child’s birth in case a corresponding request is sent by the social protection authorities.

No amendments that would consider the current situation in Ukraine and the matter of the indefinite period of the Ukrainian women’s stay abroad have not been made to the effective legislation. Therefore, it is now difficult to be paid the assistance for the child who has been born and stays abroad.

In order to enable the Ukrainian citizens to obtain due protection of their rights abroad, the Temporary Offices of the Commissioner were opened in November 2022 abroad, namely in the United Kingdom of Great Britain and Northern Ireland and in the Republic of Ireland. The Temporary Offices of the Commissioner abroad work on a voluntary basis during the martial law and supplement the available mechanisms for protecting rights of the Ukrainian citizens abroad.

Within its competence, the Representative’s Office in the United Kingdom acting on behalf and for the benefit of the Ukrainian Parliament Commissioner for Human Rights organised and conducted the lectures, seminars, trainings, and carried out other information and awareness raising activities in the field of protection of human and civil rights and freedoms for the Ukrainian citizens who had been

displaced to the United Kingdom. The information on violations of rights and freedoms of Ukrainian citizens was searched, collected and analysed within its competence, and numerous consultations were given to the Ukrainian citizens.

The Representative's Office in the Republic of Ireland organised and held meetings of communities, lectures, workshops and trainings in order to facilitate comfortable socialisation of the Ukrainians in Ireland. Assistance was granted to enrol minor children to schools and kindergartens as well as regarding admission to the Irish higher education institutions. Consultation meetings were held regarding temporary accommodation of the Ukrainians who had been granted temporary protection in Ireland. Primary consultations were conducted for the Ukrainians affected by the war effects by the professional psychologists and mental therapists, and there were also information meetings with the organisations of Ukrainians in Ireland, such as the Association of Ukrainians in the Republic of Ireland, Ukrainian Hub "Palianytsia" etc.

Response to violations of human and civil rights

45 petitions were received by the Commissioner regarding violation of rights of the Ukrainian citizens abroad. The most common issues were documentation (14) and border crossing (4).

The Commissioner received the petition from citizen M. regarding assistance in getting a foreign travel passport of a citizen of Ukraine in the Embassy of Ukraine in Georgia.

The Commissioner's Secretariat sent a request to the MFA as a part of his response. According to the MFA, the applicant received the foreign travel passport of a citizen of Ukraine in the Embassy of Ukraine in Georgia on 20 December 2022.

There are numerous questions about getting an identification document to return to Ukraine (in case the petitioners have lost their foreign travel passports of a citizen of Ukraine).

The Commissioner received the petition from citizen V. regarding her return to Ukraine. As the petitioner claimed, she applied to the foreign diplomatic mission of Ukraine to resolve the issue of her return to Ukraine, but it was not settled. The Commissioner sent the letter to the MFA while he was considering the petition. Following the Commissioner's response, the right of citizen V. to obtain documents and return to Ukraine was restored, and she was issued the identification document to return to Ukraine in the foreign diplomatic mission of Ukraine.

Another issue is getting an identification document to return to Ukraine for a child.

The Ukrainian Parliament Commissioner for Human Rights was contacted by minor A. who had left for the Republic of Azerbaijan together with his mother in connection with the full-scale war launched by the RF against Ukraine.

The child noted that he wanted to enter the Ukrainian higher education institution, but he could not return to Ukraine because he did not have a foreign travel passport, and the Ukrainian consular mission in Azerbaijan did not have necessary forms of documents to return to Ukraine.

The Commissioner took urgent actions to help the child return to Ukraine faster and sent the request to the Consular Service Department of the MFA.

Owing to the efficient response by the MFA units and the staff of the consular mission, minor Amin was issued the document to return to Ukraine so that the child could enter the higher education institution.

The considerable number of the Ukrainian citizens faced the inability to get a new passport of a citizen of Ukraine abroad as they could not leave the country of they stay due to the risk of losing temporary protection in the receiving state. It is especially applicable to the Ukrainian citizens who have turned 14 and have been abroad since the beginning of the war. As they do not have a valid passport of a citizen of Ukraine, these children are unable to get a foreign travel passport and, therefore, do not get protection and social guarantees.

The Commissioner was approached by citizen B., who had been forced to leave her accommodation in Sloviansk, Donetsk Oblast in a hurry as she was concerned about her 16-year-old son, who had had a disability since childhood, and her 10-year-old daughter, and to go to Germany based on their national passports.

Thus, on 10.02.2022, the petitioner ordered the foreign travel passports of a citizen of Ukraine, but failed to receive those documents because of the situation in the state. After the petitioner had applied to the SMS, the documents were issued and sent to the Yavoriv Department of the Main Directorate of the SMS in Lviv Oblast, whereof she received the electronic confirmation on 10.11.2022.

However, the petitioner tried to apply to the consular mission many times to receive the corresponding documents. At the same time, the petitioner emphasised that it was impossible to use the electronic queue on the official website of the Embassy of Ukraine in the Federal Republic of Germany.

In order to respond to the petition, the Commissioner contacted the Consulate General of Ukraine in Munich and the MFA. Then the Consulate General of Ukraine in Munich contacted the petitioner, and she submitted an application for forwarding the documents abroad.

However, although she had applied for forwarding the passport documents for herself and her children to Germany in December 2022, the petitioner received the documents only on 1 March 2023.

Non-readiness of some of the states to receive a large number of our citizens resulted in the long-lasting procedure for obtaining the temporary protection status and assistance in those states.

Ukrainian citizen N. asked the Commissioner to help her, the person with disabilities of group I, and her retired mother, citizen CN, to get temporary protection in Cyprus.

In order to find out the problem and assist the Ukrainian citizens in resolution thereof, the Commissioner's Secretariat first contacted the MFA of Ukrainian citizens and the Embassy of Ukraine in the Republic of Cyprus.

During the proceedings based on the petition of citizen N., the explanation of the stance of the Asylum Service of the Republic of Cyprus on that matter was received upon request of the Commissioner's Secretariat from the MFA of Ukraine and the Embassy of Ukraine in the Republic of Cyprus. The competent Service of Cyprus informed that, since citizen N. and citizen SN. had arrived in Cyprus in 2021, they were not covered by Article 5 of Council Directive 2001/55/EC of 20.07.2001 and

the resolution of the Government of the Republic of Cyprus on the procedure for granting Temporary Protection to the Ukrainian citizens who had left Ukraine for the Republic of Cyprus as a result of the armed aggression of the Russian Federation.

With account of the decision of the Asylum Service of the Republic of Cyprus to deny temporary protection for N. and SN. in Cyprus, and due to the humanitarian nature of that matter, the Commissioner additionally sent a motion to assist in positive resolution of the matter to the Commissioner for Administration and the Protection of Human Rights of the Republic of Cyprus.

The Ukrainian citizens are now waiting for the outcome of the final consideration of their matter by the authorities in the country of their state.

During the reporting period, the Commissioner received 19 petitions regarding violation of the children's rights abroad, including the right to parental care (12); right to parental maintenance (alimony) (1), right to education (1), right to a family (5) etc.

In 2022, the Commissioner was approached regarding the return of the children who had been taken to Poland, Germany, Canada and the Czech Republic, **in breach of the right to parental care**. The written explanations on the matter were given.

In pursuance of the Procedure for Implementing in the Territory of Ukraine the Convention on the Civil Aspects of International Child Abduction approved by Resolution of the CMU No. 952 of 10 July 2006 (as amended by Resolution of the CMU No. 795 of 2 September 2010), the petitioners were recommended to contact the Central Authority of the child's habitual residence and/or to the Central Authority of any other Contracting State for assistance in securing the return of the child/children and in exercise of the right of access to them.

However, the Ukrainian citizens faced a number of problems during their evacuation to other countries.

According to Article 313(3) of the Civil Code of Ukraine, the person who has turned 16 shall have the right to freely travel abroad on his or her own, without accompaniment and consent of adults provided that he or she has a foreign travel passport of a citizen of Ukraine.

However, the EU legislation does not consider the special nature and reasons for the children's arrival and stay in the European countries.

In most European countries, such a child is considered to be an unaccompanied child. Therefore, the countries to which the children from Ukraine come refer them to centres for unaccompanied children and sometimes designate a temporary guardian (in particular, if the child's parents or legal representatives cannot pick him or her up in the country of temporary stay).

In April, the Commissioner's hot line received the petition from citizen S. from Kirovohrad Oblast regarding return of her 16-year-old child from the Kingdom of Spain to Ukraine.

The petitioner noted that her daughter had left for their relatives in Barcelona without accompanying adults. The house owner objected to the petitioner's child's stay in his family and called the police. As a result, the child was placed into the local shelter.

As the child is considered to be in the Kingdom of Spain without accompanying adults according to the legislation of that country, in order to protect the interests of the minor, the local social service decided to temporarily place her into the child centre.

With the Commissioner's support and in order to return the minor to Ukraine, the staff of the Consulate General contacted the child's mother, executed notarised consents of the child's parents to

accompaniment of their daughter abroad and sent the request to the local wardship and guardianship authorities asking to transfer the child to the person authorised by the parents.

Following the work performed by the Wardship and Guardianship Service of Leon, it was resolved to transfer the minor to the authorised person to accompany and return her to Ukraine.

There have been several cases of separating the children who were taken abroad by relatives, acquaintances to save them from war, or the groups of children from institutions and facilities taken abroad with the accompaniment of their legal representatives in the European countries that have received our citizens. Most of the states to which evacuation is carried out **do not recognised documents of the persons accompanying** the groups of children from the Ukrainian side although these persons are legal representatives in Ukraine. Such children are considered to be unaccompanied children, so citizens of the receiving country are designated to be guardians (legal representatives).

21 children aged 2 to 16 arrived in Florence, the Italian Republic, from the Makariv Centre of Kyiv Oblast “Promin Nadii”; they were accompanied by the director of the facility. According to the legislation of the Italian Republic, a guardian may only be designated for the group of up to 12 children. The judicial procedure was necessary to confirm the right of the facility director to act as the principal guardian of all the children who had been displaced together with him.

The same situation occurred to the children who had left with groups from the communal facilities. Thus, when the children raised in the communal institution “Social Support Centre for Children and Families “Ridni” and Prosvita Lyceum of Lviv City Council (38 and 18 children) arrived in the Italian Republic, they were also designated the guardians who were citizens of the Italian Republic. Owing to the immediate intervention by the Commissioner, the children from the MF “Ridni Centre” and Prosvita of Lviv City Council returned to Ukraine in summer 2022.

Also, 14 children from the family-type children’s homes (hereinafter the “FTCH”) from Obolonskyi (8 children) and Podilskyi (6 children) District of Kyiv were displaced to Italy together with their foster mothers.

6 out of 14 children from the FTCH were separated from their foster mothers. In particular, 3 children were placed into Italian families for co-residence, 2 children were placed into the shelter, and 1 child was placed into the healthcare institution without notification of the legal representatives of the reasons and diagnoses.

The Italian courts heard cases of 5 other children from the FTCH for a very long time, more than 3 months. When the court decisions were adopted to designate citizens of the Italian Republic to be their guardians and to issue documents of citizens of the Italian Republic to the children, no Ukrainian authority responsible for protecting the children’s rights was engaged.

Owing to the Commissioner’s response in cooperation with the Ministry of Foreign Affairs of Ukraine, 3 out of 5 children from the FTCH were returned to their foster parents in January 2023, and one child came of age and returned to Ukraine. The matter of one more child’s return still has not been resolved and is under control by the Consul General of the Italian Republic. Both FTCH keep living in Ukraine until all the children are returned to their families and return to Ukraine.

When they were abroad, the children did not always have an **opportunity to get Ukrainian education** or even obtain documents on complete general secondary education.

The Ukrainian Parliament Commissioner for Human Rights was approached by the mother of minor O. and asked to help the child obtain the Ukrainian document on complete general secondary education.

Due to the full-scale war launched by the RF against Ukraine, the petitioner and her son left Mykolaiv for the Republic of Austria. In 2022, O. finished the gymnasium in Mykolaiv, but he could not obtain the document on the complete general secondary education.

Owing to the efficient cooperation between the Commissioner for Human Rights and the MFA, the documents were sent to the Embassy of Ukraine in the Republic of Austria by diplomatic mail so that the child could enter university.

Violation of the child's right to a family was also a relevant issue. Due to loss of their legal representatives, while they were abroad, the children needed to be assigned the corresponding status and placed into a family.

The Commissioner was approached by citizen K., who asked to help her family, who were temporarily in Portugal, to resolve the matter of guardianship of her minor niece whose mother had died while the family was abroad.

It was established during the consideration of the petition that the petitioner and her family did not wish to return to Ukraine to get the documents necessary for guardianship of the child until the martial law in Ukraine was over.

Given the above and with account of Article 62 of the Civil Code of Ukraine, wardship or guardianship was assigned at the place of residence of the natural person who needed wardship or guardianship, or at the place of residence of the guardian. According to Article 32 of the Consular Charter of Ukraine approved by Decree of the President of Ukraine No. 127/94 of 02.04.1994, the consul takes actions to assign wardship (guardianship), in particular, of the minors who are in his or her consular district and have been deprived of wardship (guardianship), so the petitioner was recommended to apply to the consul in order to resolve the matter of guardianship of the minor during the martial law.

Following the Commissioner's response and request to the National Social Service and MFA and the children's service of Mykolaiv Oblast Military Administration, the wardship and guardianship body assigned the child the respective child and placed him into the relatives' family.

At the same time, while that matter was being resolved, the Commissioner was approached by 2 more petitioners with the same problem.

In order to observe rights and best interests of children and resolve the matter of placing orphans and children deprived of parental care into their relatives' families abroad, it is expedient to develop the mechanism for assigning wardship/guardianship in respective situations.

The Commissioner submitted the proposal to amend the Procedure for the Activities of the Wardship and Guardianship Authorities Associated with Protection of the Child's Rights approved by Resolution of the CMU No. 866 of 24.09.2008 in terms of assigning wardship/guardianship of the child if both the child and the citizen who has resolved to take care of the child in his or her family reside

abroad to the Ministry of Social Policy of Ukraine. The amendments to the legal and normative is under the Commissioner's control.

As it has been stated above, another problem is **receiving the child birth assistance**, namely for the parents whose children are born abroad.

The Commissioner was approached by citizen F., who had left Ukraine (Bilhorod-Dnistrovskiyi, Odesa Oblast) in March 2022, regarding the inability to exercise her right to receive the child birth assistance abroad. Thus, the petitioner gave birth to the child in June 2022 in Switzerland and received the child birth documents as prescribed by the local rules.

At the same time, as she was in the other country, she could not execute documents and receive the child birth assistance due. Thus, the functions introduced to submit an application online cannot be used by all the Ukrainian citizens abroad since the documents issued abroad are not integrated into the State Register of Civil Status Acts, so they will not certify the fact of the child's birth in case a corresponding request is sent by the social protection authorities.

Moreover, according to the effective legislation, the child birth assistance is granted provided that an application for such assistance is received within 12 calendar months after the child is born.

Given the above, in order to enhance protection of rights of this category of citizens, the Commissioner submitted the proposals to the Ministry of Social Policy to consider the problem and take measures to make corresponding amendments to the effective legislation. The Ministry of Social Policy is now processing respective proposals.

Monitoring inspections of observance of rights

Monitoring of observance of rights of the children who had been evacuated outside Ukraine was an important element of the Commissioner's work to observe rights of the Ukrainians who had been forced to leave Ukraine in connection with the broad-scale armed aggression of the RF. In particular, in 2022, the observance of rights of the children who had been evacuated from Odesa and Odesa Oblast to the village of Ossa, Łódź Voivodeship, Republic of Poland was monitored twice:

for the first time — from 18 to 27 April 2022 by the representatives of the Coordination Group for the Protection of the Rights of the Child under Martial Law, with participation of representatives of the Commissioner's Secretariat. It was established that 555 displaced children had been registered with the consular mission, and the educational process had been organised for them. The evacuated children were accompanied by the staff from the respective facilities, who were replaced from time to time.

for the second time — on 27 November 2022 with participation of the Commissioner, the Commissioner's representative, the Deputy Head of the Secretariat, representatives of the United Nations Children's Fund (UNICEF), the children's Ombudsman of the Republic of Poland.

A number of problems and violations were established during the monitoring visits at the location of the evacuated children, namely as regards:

- transfer of adopted children to their parents pursuant to decisions of the Ukrainian courts that had entered into force;
- entry of children to vocational or higher education institutions;

- need of rotation of the accompanying staff from the facilities and no activities performed for non-formal education and prevention of burnout of guardians and personnel at the compact settlement together with the children;
- legal status of the persons who turned 18 after they had been displaced abroad;
- violation of the right to healthy development of the child (Article 6 of the Convention on the Rights of the Child) and the right of children with special educational needs to education (Article 3 of the Law of Ukraine “On Education”) due to lack of the rehabilitation classes programme for children with mental disorders and log of such classes, lack of the programmes adapted for blind and visually impaired children;
- violation of the right to preserve citizenship regardless of the place of residence (Article 2 of the Law of Ukraine “On the Citizenship of Ukraine”) due to non-payment of funds to legal representatives to pay for a passport of the children of certain age;
- violation of the right to physical education (Article 49 of the Constitution of Ukraine, Article 3 of the Law of Ukraine “On Physical Culture and Sport”) with account of lower efficiency of development of the children’s sports potential, due to remote training lessons for the children studying in specialised sports education institutions;
- violation of the right to protection from all forms of violence (Article 19 of the Convention on the Rights of the Child) as a result of no persistent information and awareness raising activities in order to prevent bullying, cruel treatment, to ensure sexual education of teenagers etc.

Moreover, a minor (aged 15) was found to be pregnant during the monitoring, and she was granted pre-delivery support in the Republic of Poland. Then the child returned to Ukraine.

Following the visits, the Commissioner sent respective letters of response to the Ministry of Social Policy and the National Social Service and asked to take actions to restore the children’s violated rights and improve their conditions of stay.

The joint actions to restore the children’s rights are also initiated and coordinated at meetings of the Coordination Group for the Protection of the Rights of the Child under Martial Law.

Recommendations

The Cabinet of Ministers of Ukraine should:

- develop and introduce the mechanism for consular registration of the Ukrainian citizens abroad via Diia electronic service.

The Ministry of Foreign Affairs of Ukraine should:

- ensure that the number of employees of diplomatic and consular missions is increased for the period of martial law in the countries where there are most displaced Ukrainian citizens;
- expand cooperation with representatives of the Ukrainian Parliament Commissioner abroad in order to ensure interaction during protection of rights and interests of Ukrainian citizens abroad.

The Ministry of Social Policy of Ukraine should:

- develop and submit to the Cabinet of Ministers of Ukraine for consideration the draft resolution on amendments to the Procedure for the Activities of the Wardship and Guardianship Authorities Associated with Protection of the Child’s Rights approved by Resolution of the Cabinet of Ministers of Ukraine No. 866 of 24 September 2008 in terms of assigning wardship/guardianship of the child if the

child with the respective status and the citizen who has resolved to take care of the child in his or her family stay/reside outside Ukraine, in particular, in connection with their departure abroad during the martial law;

- enable the Ukrainian citizens to submit documents necessary to obtain assistance for birth of the child with the foreign birth certificate, from abroad.

The State Migration Service of Ukraine should expand the network of standalone units of the State Enterprise “Document” in Lithuania, Latvia and Estonia, other states of the European Union in order to issue passports of a citizen of Ukraine.

CHAPTER 5. SOCIAL STATE

15,165 petitions to the Commissioner (regarding the right to social protection — 66%, consumer rights — 12%, the right to work — 8%, the right to property — 6%, the right to healthcare — 5%, the right to safe environment — 1%, rights in the field of culture and education — 1%)

1,135 legal and normative acts processed and proposals submitted

294 proceedings instituted by the Commissioner

288 proceedings completed

147 monitoring visits made

3,653 acts of response and letters to the public authorities, institutions and organisations sent

Key events, challenges and tendencies

Ukraine made its civilisational choice in favour of the European development vector, which means without limitation the unconditional rule of law and justice in all the areas of public policy and social life.

Establishment of the social principle of the state in the Constitution of Ukraine provides for full social, economic and cultural human and civil rights. In the context of the full-scale invasion of Ukraine by the RF, the risks of violation of civil labour rights have increased. They include physical destruction of enterprises and large-scale job losses in the areas of active hostilities, forced migration of the population, disruption of economic connections, salary arrears, increase in unemployment rates, and undeclared labour.

Mass violations of civil rights to access to medical aid are registered in the regions of Ukraine that are affected by hostilities as a result of the armed aggression of the RF, and the quality of medical aid.

There are new threats and challenges that have resulted in larger numbers of socially unprotected and vulnerable population in need of state support.

Millions of people have lost their accommodation; the quantity of the detached houses and apartment blocks ruined and damaged as of December 2022 reached 149.3 thousand, including 131.4 thousand detached (individual) houses.

The special challenge for the educational system in the context of the full-scale war is destruction of education institutions by the aggressor. 3,021 education institutions have been damaged by bombarding and shelling, including 1.4 thousand of secondary education institutions, 865 pre-school education institutions, and 505 higher education institutions. Access to quality education is complicated under such conditions¹⁴².

One of the industries that has been most affected by the war is healthcare. According to Minister of Health of Ukraine Oleh Liashko¹⁴³, as of the beginning of 2023, 173 healthcare institutions had been fully ruined, and 1,218 medical infrastructural facilities had been damaged.

¹⁴² Kyiv School of Economics. Available at: <http://surl.li/eqtrk>

¹⁴³ Ukrinform: Healthcare system fighting at the medical front with confidence. Available at: <http://surl.li/exnxd>

The RF keeps trying to destroy all the power infrastructural facilities in Ukraine. According to the National Power Company “Ukrenergo”, all the major power infrastructural facilities have been damaged by the shelling. As a result, the civilian population suffers because they have no electricity, heating and water supply in autumn and winter in 2022 and at the beginning of 2023. In connection with the critical situation in the power industry, the Government applies rolling and emergency power cuts of household consumers during this period.

The effects of the armed invasion by the RF for the environmental security of Ukraine are already described as disastrous ones. All the environmental components are affected: air, soil, water, plants and animals. As a result of the occupation of the territory of Ukraine and ongoing military actions, around 20% of nature reserves with the total area of around a million hectares have been damaged and are in the areas of potential destruction.

The environmental losses as a result of hostilities are globalised and entail future consequences for the entire society since air and water contamination are endless, and losses will keep growing due to the continued hostilities.

The RF continues its attempts to areas the Ukrainian national identity. As of the end of 2022, 1,189 war crimes against the Ukrainian cultural heritage were registered. Almost one third of the cultural infrastructural facilities (446) have been utterly destroyed, which prevents access to cultural services and cultural heritage.

The competent public authorities and local self-government bodies must promptly respond to these threats and challenges in order to grant social and economic support to citizens. At the same time, the state must fulfil the obligations it had had before the martial law, and avoid limitation of the available civil rights to the maximum extent despite the existing challenges.

The Commissioner actively helps these authorities and bodies in this work, and gives necessary recommendations to prevent violations and to observe social and economic human and civil rights.

RIGHT TO SOCIAL PROTECTION

With account of the full-scale invasion by the RF and imposition of the martial law, there was a need to regulate a number of problematic issues so that citizens would be able to exercise their pension coverage and social protection rights.

In order to ensure observance of these rights, the Verkhovna Rada of Ukraine and the Government promptly adopted important legal and normative acts that introduced new mechanisms for pension payment and delivery, payment of state social assistance, benefits and housing subsidies, provision of social services during the martial law¹⁴⁴. However, lots of issues required additional

¹⁴⁴ Law of Ukraine No. 2193-IX of 14 April 2022 “On Amending Certain Laws of Ukraine as to Provision of Social Services upon Imposition of the State of Emergency or Martial Law in Ukraine or Individual Areas Thereof”; Resolution of the Cabinet of Ministers of Ukraine No. 162 of 26 February 2022 “On Special Aspects of Payment and Delivery of Pensions, Monetary Assistance for the Period of the Martial Law”; Resolution of the Cabinet of Ministers of Ukraine No. 214 of 7 March 2022 “Certain Issues of Providing State Social Assistance for the Period of the Martial Law”; Resolution of the Cabinet of Ministers of Ukraine No. 215 of 7 March 2022 “On Special Aspects of Accrual and Payment of Monetary Assistance, Benefits and Housing Subsidies for the Period of Martial Law”; Resolution of the Cabinet of Ministers of Ukraine No. 462 of 19 April 2022 “Certain Issues of Granting Benefits and Housing Subsidies during the Martial Law”; Resolution of the Cabinet of Ministers of Ukraine No. 294 of 16 March 2022 “On Amending the Procedures Approved by Resolutions of the Cabinet of Ministers of Ukraine No. 576 of 26 June 2019 and No. 587 of 1 June 2020”.

legislative regulation, and the Commissioner drew the attention of the competent public authorities thereto.

Problematic issues of observance of civil rights in the field of pension coverage by the territorial bodies of the Pension Fund of Ukraine during the martial law

It was found out during the Commissioner's monitoring that the territorial bodies of the PFU had ceased to pay the disability pension and the survivor's pension to persons with disabilities in case their disability term had expired, and there was no opinion of the MSEC on confirmation of the disability for the subsequent period.

In pursuance of the Commissioner's recommendations, the right of these persons was restored: the legislative acts¹⁴⁵ which guaranteed automatic extension of payment of pensions to the persons with disabilities whose pensions expired during the martial law, the state of emergency in Ukraine in case they were unable to take the repeated examination by the MSEC were adopted.

The violation of the civil rights to granting (recalculation) of the pension from the date of creation of such rights in connection with their inability to submit an application and necessary documents to the territorial bodies of the PFU for reasons beyond their control within 3 months as prescribed by the legislation was detected.

The problem is regulated by the draft Law of Ukraine "On Amending the Law of Ukraine 'On Compulsory State Pension Insurance' regarding Granting of Pensions to the Persons Residing in the Temporarily Occupied Territory or the Area of Hostilities" (registration No. 8198 of 10.11.2022), which has been adopted in the first reading. In particular, this draft law provides for granting of the old-age pension, the disability pension during the martial law in Ukraine and for 3 months following its termination or cancellation, from the day when the person reaches the retirement age or is assigned disability.

There are new challenges associated with exercise of the pension coverage right by the Ukrainian citizens who reside in Ukraine, but have worked in the territory of the RF, since relations under the Agreement on the Guarantees of Rights of Citizens of the Member States of the Commonwealth of Independent States in the Field of Pension Coverage of 13 March 1992¹⁴⁶.

In pursuance of the Commissioner's recommendations, the Ministry of Social Policy has drafted the legal and normative acts¹⁴⁷ that govern the matter of granting pensions to this category of persons as

¹⁴⁵ Law of Ukraine "On Amending Certain Laws of Ukraine regarding Protection of Social, Labour and Other Laws of Natural Persons, Including During Martial Law, and Simplifying Record-Keeping on Jobs for Persons with Disabilities"; Resolution of the Cabinet of Ministers of Ukraine No. 630 of 27 May 2022 "On Amending Certain Acts of the Cabinet of Ministers of Ukraine regarding Prevention of the Spread of the Acute Respiratory Disease COVID-19 Caused by the Coronavirus SARS-CoV-2 in the Territory of Ukraine"; Resolution of the Cabinet of Ministers of Ukraine No. 928 of 19 August 2022 "On Amending Ordinance of the Cabinet of Ministers of Ukraine No. 338 of 25 March 2020 and Resolution of the Cabinet of Ministers of Ukraine No. 1236 of 9 December 2020".

¹⁴⁶ Resolution of the Cabinet of Ministers of Ukraine No. 1328 of 29 November 2022 "On Withdrawing from the Agreement on the Guarantees of Rights of Citizens of the Member States of the Commonwealth of Independent States in the Field of Pension Coverage".

¹⁴⁷ Draft Law of Ukraine "On Amending the Law of Ukraine 'On Compulsory State Pension Insurance' and Some Other Laws of Ukraine as to Proportional Calculation of the Pensionable Service for the Persons Working Outside Ukraine"; draft Resolution of the Cabinet of Ministers of Ukraine "On Amending Resolution of the Cabinet of Ministers of Ukraine No. 261 of 2 April 2005 'On Approving the Procedure for Granting and Paying the State Social Assistance to the Persons Not Eligible for the Pension and Persons with Disabilities, and State Social Assistance for Care'".

well as state social assistance to the persons who are not eligible for pension and to persons with disabilities as well as state social assistance for care.

Problematic issues of observance of civil rights in the field of social protection by the social protection authorities during the martial law

The legislative clauses that regulate the matter of granting certain state social assistance, namely social assistance to families with children, low-income families, and housing subsidies during the martial law need to be revised.

In particular, it is necessary to revise point 14(5) of the Regulation on the Procedure for Granting Housing Subsidies approved by Resolution of the CMU No. 848 of 21 October 1995 (as amended by Resolution of the CMU No. 807 of 14 August 2019, as amended), as regards not granting the housing subsidy if there is a past-due debt for residential and utility services for more than 3 months by introducing the exception to this rule for the persons who have lost their job for reasons beyond their control, or their employment relations have been temporarily suspended for the period of the martial law, as a result of which they are unable to pay for such services.

The income of 0.5 of the minimum salary is unreasonably used to grant the state assistance to low-income families, able-bodied persons who have lost their job for reasons beyond their control, or their employment relations have been temporarily suspended for the period of the martial law¹⁴⁸. In this regard, the amount of the assistance is reduced, or the right thereto is lost.

The Commissioner's recommendations were given to the Ministry of Social Policy regarding amendments to the legislation as to calculation of the average monthly aggregate income for granting of state social assistance to the persons whose employment contract has been suspended by the employer during the martial law.

Progress of implementation of the state budget programmes aimed at protection of human and civil rights in the field of social protection by the public authorities

In 2022, the Commissioner received petitions from citizens regarding failure to repay arrears of pensions/social allowances under the court decisions, which are to be repaid from the state budget by the territorial bodies of the PFU/Ministry of Social Policy.

It was found out during the Commissioner's monitoring that the funds allocated from the State Budget of Ukraine were insufficient to repay the debt and cover the actual need.

According to the PFU, its bodies started to repay the debt in 2022 only on 14 October 2022, after¹⁴⁹ the PFU budget for 2022 had been approved, and UAH 360.0 million were allocated for the repayment. Those funds were used in November and December 2022 to finance repayment of the debt under 9,924 court decisions which had entered into force before 08.07.2020. As of 01.01.2023, 309.1 thousand court decisions with the arrears were registered in the automated data base of the PFU.

According to the Ministry of Social Policy as the main spending unit under the budget programme KPKVK 2501290 "Ensuring enforcement of court decisions", the need for budget allocations for those goals as of 01.09.2022 made UAH 1,462.0 million whereas actual expenditures under the programme were UAH 27.0 million. As of 31.12.2022, all the funds were used to pay the annual one-time monetary

¹⁴⁸ Resolution of the Cabinet of Ministers of Ukraine No. 632 of 22 July 2020 "Procedure for Calculating Aggregate Income of a Family (Household) for All Types of State Social Assistance".

¹⁴⁹ Resolution of the Cabinet of Ministers of Ukraine No. 1167 of 14 October 2022 "On Approving the Budget of the Pension Fund of Ukraine for 2022".

assistance under the court decisions before 5 May, and the debtors were the Ministry of Social Policy and regional social protection authorities.

Response to violations of human and civil rights

In 2022, the Commissioner's Secretariat received 9,190 petitions informing of 9,767 violations of the civil rights to social protection, and 31 proceedings were instituted by the Commissioner.

A number of persistent violations of civil rights, namely the ones to pension coverage, state social assistance and compensations, status of the exonerated person etc., were detected in the field of **social protection**.

The Commissioner received the petitions from the Ukrainian citizens who had acquired their pensionable service abroad regarding violation of their constitutional right to receive a pension in Ukraine.

The Commissioner was approached by the resident of Lviv Oblast regarding violation of his right to timely granting of the old-age pension due to impossibility of confirmation of his pensionable service for the period of work in the Kingdom of Spain from 1999 until 2018.

It was established that the petitioner had filed an application for granting the pension to the MD PFU in Lviv Oblast on 11.05.2022; as of the end of the year, the document certifying his pensionable service under the Agreement between Ukraine and the Kingdom of Spain on Social Security had not been received by the PFU from the National Institute of Social Security of the Kingdom of Spain. As a result, the petitioner did not have the right to be granted the old-age pension due to absence of the necessary pensionable service.

The corresponding right will only appear after the documents certifying such service are received, so the right to the pension from the moment of application for such pension is lost.

The Commissioner gave recommendations to the Ministry of Social Policy to regulate the situation by amending the national legislation (namely, to suspend the 3-month period within which documents can be submitted to be granted the pension, for the period when the documents certifying pensionable service are expected from the Contracting Party to the international treaty) and by initiating amendments to international treaties (in terms of setting time frames for provision of documents certifying pensionable service in the territory of the respective state).

Lots of citizens' petitions were received regarding violation of their rights in the field of pension coverage under the court decisions adopted in their favour.

The Commissioner was approached by the resident of Vinnytsia regarding failure of the MD PFU in Kyiv to grant him the old-age pension due from November 2021, in accordance with Article 114 of the Law of Ukraine "On Compulsory State Pension Insurance" based on the decision of the Vinnytsia District Administrative Court adopted in April 2022.

In pursuance of the Commissioner's recommendations, the MD PFU in Kyiv restored the petitioner's right and granted him the pension for the period from November 2021 until November 2022, which was accrued and paid in November 2022.

The petitions were also connected with timely receipt of pensions by the selected means.

The citizens who used the mobile application “Monobank” by Universalbank JSC complained that they could not get their pension via that bank as the necessary contract had not been made by the PFU.

The Commissioner sent the PFU the recommendations to take actions and resolve the matter.

In pursuance of the Commissioner’s recommendations, the PFU concluded the contract with Universalbank JSC and made necessary technical amendments to the web-portal of the PFU for submission of an online request for changing the pension payment means via that bank.

The Commissioner also received notices of untimely granting of the status of a exonerated person.

It was established that the Exoneration Commission had violated rights of the victims of repressions by the communist totalitarian regime in 1917-1991 to timely granting of the status of a exonerated person due to failure to meet the legislative deadlines for consideration of the cases received from the regional exoneration commissions. One of the causes of the situation was impossibility of the quorum of the commission members sufficient for adopting resolutions with account of challenges of the martial law.

According to the Rehabilitation Commission, as of the end of 2022, 1,188 cases of the petitions received from the regional rehabilitation commissions for recognising the persons to be exonerated or affected by repressions were registered, but were not considered.

Resolutions on granting the status are not sent to the petitioners on time. As a result of such actions, the citizens lose their right to benefits for exonerated persons as prescribed by the legislation, through the fault of the Rehabilitation Commission. Such benefits are not refunded for the previous period.

In November 2022, the Commissioner was approached by the resident of Lviv Oblast who complained that he had not received the resolution of the Rehabilitation Commission of November 2021 on recognising him the exonerated person. Such actions violated the requirements of Article 8 of the Law of Ukraine “On Exoneration of Victims of Repressions of the Communist Totalitarian Regime in 1917-1991”, according to which a resolution of the Rehabilitation Commission shall be delivered (sent) to the applicant within 15 business days after it is adopted.

In pursuance of the Commissioner’s recommendations, the Rehabilitation Commission sent the corresponding resolution to the exonerated person. The petitioner’s right was restored.

The residents of the settlements located in the area of hostilities or TOT face material difficulties exercising their right to social protection.

In particular, the Commissioner was approached by the citizens from the above-mentioned category regarding restoration of their right to the state social assistance for persons with disabilities since childhood, including for the past period.

In her petition to the Commissioner, the person with disabilities of group I, category A, who resided in the territory of Kharkiv Oblast, informed that she had not been paid the state social assistance for persons with disabilities since children since March 2022.

It was established during the consideration of the petition that the petitioner was registered with the social protection directorate of Iziium Raion Military Administration. The directorate had not performed its powers since 24.02.2022 in connection with the active hostilities in Kharkiv Oblast, and partly resumed its operations on 15.07.2022. Payment of the assistance was not resumed as of 24.08.2022.

The request was sent to the Ministry of Social Policy in order to assist the petitioner in exercise of her right to the state social assistance. The petitioner's right to the assistance was restored as a result of all the actions taken. The funds of the state social assistance for persons with disabilities since childhood for March to September 2022 due to the petitioner were included into the payroll for September of the current year to be paid via Oschadbank JSC.

The petitions were also received regarding restoration of the right to the state social assistance for persons with disabilities since childhood in the due amount.

The Commissioner received the petition from the resident of Mariupol, Donetsk Oblast, regarding non-receipt of the state social assistance for persons with disabilities since childhood in connection with the disability since childhood of group I, subgroup A assigned to her by the MSEC on 1 February 2022, which was credited to her in February 2022, due to the martial law. Before that, the petitioner had been paid the assistance in the amount prescribed for persons with disabilities of group I, subgroup B, until January 2022 inclusive.

Following the request sent in February 2022 to the Social Protection Department of the Mariupol City Council, the petitioner was granted the assistance in an increased amount as a person with disabilities of group I, subgroup A starting from 01.02.2022. However, due to the hostilities and martial law imposed in Ukraine, the Department failed to submit the registers of the state assistance granted to the residents of Mariupol in February 2022 to the State Enterprise "Information and Calculation Centre of the Ministry of Social Policy of Ukraine".

In that regard, the payments were made to the petitioner based on the information in the data base, namely in the amount prescribed for persons with disabilities of group I, subgroup B (UAH 3,868).

In pursuance of the Commissioner's recommendations, the petitioner's right was restored: the petitioner was accrued the assistance in the due amount (UAH 6,589.80), which was paid in December of the current year together with the additionally accrued funds for the period from February to November of 2022.

As a result of the Commissioner's actions, the individuals' right to receive compensations for providing social care services on a non-professional basis, including for the past period, was restored.

In February 2022, the Commissioner was approached by the resident of Dubrovytsia City Territorial Community in Rivne Oblast regarding failure to grant the individual's compensation for providing social care services on a non-professional basis upon her request in 2021.

Following the Commissioner's response during the proceedings, the social protection structural subdivision of the Dubrovytsia City Council, Rivne Oblast ensured granting of the compensation to the petitioner based on the package of the documents submitted by her in December 2021, and the compensation for the period from 01.12.2021 until 31.08.2022 was paid in September 2022.

RIGHT TO HEALTHCARE

Progress of implementation of the state budget programmes aimed at protection of human and civil rights in the field of healthcare by the local public authorities and local self-government bodies

One of the industries that has been most affected by the war is healthcare. The Programme for State Guarantees of Healthcare (hereinafter the “Healthcare Guarantees Programme”) does not fully represent packages of the priority services that are of paramount importance during the war and post-war period. The state programmes in the field of healthcare do not consider losses of the healthcare system, damages and necessary changes in healthcare priorities (list of medical services and conditions).

In 2022, the State Budget of Ukraine envisaged UAH 185.2 billion for healthcare, namely the programme of state financial guarantees of healthcare, which was UAH 26.07 billion more than it had been provided for in the State Budget for 2021.

In 2022, UAH 157.3 billion were allocated for implementation of the programme of state financial guarantees of healthcare in Ukraine, which was UAH 34.3 billion more than in 2021, but it made only 3.11% of the GDP (according to the National Bank of Ukraine, the nominal GDP in 2022 was UAH 4.905 trillion¹⁵⁰) and was not consistent with the amount of expenditures for the programme prescribed at the level of 5% of the GDP by the legislation¹⁵¹.

Progress of implementation of the programme documents of the Government aimed at protecting rights of blood and blood component donors and recipients by the MoH remains inadequate as well.

The findings of the parliamentary control of compliance with the Law of Ukraine “On Blood and Blood Component Donors” and the Strategy for Development of the National Blood System until 2022 demonstrate that corresponding legal and normative acts in pursuance of the programme documents that will ensure respect for patients' rights and provision of accessible, quality and safe donor blood components in the sufficient quantity during the martial law have not been adopted.

The rights of blood donors to free meals on the day of free blood or blood component donation are not observed.

There is no mechanism for selling excessive blood plasma for subsequent contractual manufacturing of donor blood products and no procedure for calculating the cost of blood components for the blood system entities.

¹⁵⁰ National Bank of Ukraine. Available at: <http://surl.li/eufbj>

¹⁵¹ Law of Ukraine “On State Financial Guarantees of Healthcare”.

The corresponding recommendations were given by the Commissioner to the MoH, and they were partly considered:

- the Standards of Meals and the Value of a Donor's Meal on the Day of Free Blood and/or Blood Component Donation were approved¹⁵²;

- the draft Resolution of the Cabinet of Ministers of Ukraine "On Approving the Methodology for Forming the Price of Purchasing Plasma for Fractionation from State-Owned and Municipal Blood System Entities" and the Order of the Ministry of Health of Ukraine "On Approving the Methodology for Calculating the Value of Donor Blood and Blood Components Produced by the Blood System Entities, to Ensure Provision of Blood and/or Blood Component Transfusion Services", which are being modified by the MoH together with the Ministry of Finance of Ukraine.

As of 31.12.2022, there is still no mechanism for selling excessive blood plasma for subsequent contractual manufacturing of donor blood products and no procedure for calculating the cost of blood components.

Failure of the MoH to adopt decisions in connection with the challenges associated with the full-scale invasion by the RF

The findings of the parliamentary control show that rights of the civilians affected by the military aggression of the RF are violated since they are assigned disability based on the general disease rather than as a result of the war.

This situation results from no grounds for disability as a result of the injury, shell shock, mutilation, disease due to the military aggression of the RF against Ukraine in the effective legislation. The valid disability criteria¹⁵³ only include getting them in the territory of Donetsk and Luhansk Oblasts rather than the entire territory of Ukraine.

That is why the persons affected by the military aggression cannot be included into the category of persons with disabilities as a result of the war and use the benefits guaranteed by the Law of Ukraine "On the Status of Veterans of War and Guarantees of Their Social Protection".

The Commissioner recommended the MoH to take immediate actions to regulate the matter of assigning disability to civilians as a result of the war in the effective legislation.

Observance of the right to assignment and confirmation of the disability group

The Commissioner received 12 petitions from the citizens regarding difficulties associated with medical social expert examination, assignment and revision of the disability group, and protection of the right to objective medical social expert examination.

Following the Commissioner's monitoring of observance of human and civil rights to assignment and confirmation of disabilities by the medical and social expert commissions (hereinafter the "MSEC") during the martial law, it was established that as of October 2022 39 MSECs did not work in connection with the war launched by the RF in the occupied regions or in the areas where there were hostilities and most premises of the MSECs had been ruined.

It was found out during the monitoring of implementation of the decisions of the Government directed at temporary simplification of the procedure for assigning and extending the disability during

¹⁵² Order of the MoH No. 1359 of 29.07.2022 "On Approving the Standards of Meals and the Value of a Donor's Meal on the Day of Free Blood and/or Blood Component Donation".

¹⁵³ Resolution of the Cabinet of Ministers of Ukraine No. 1317 of 3 December 2009 "Aspects of Medical and Social Expert Examination", point 26 of the Regulation on the Procedure, Conditions and Criteria of Assignment of Disabilities.

the martial law by the MSEC that only 2 persons out of 7,613 used the absent MSEC procedure in March and April 2022, and 82 cases out of 3,496 were considered in absence in June.

In Chernivtsi Oblast, 353 persons out of 6,562 cases submitted to the MSEC wished to have them considered in absence during the same period.

Another problem is restoration of the disability records lost by the citizens in connection with the full-scale invasion of Ukraine by the RF.

According to the monitoring findings, the only document that gives a person with disabilities the right to social guarantees, respective benefits and social allowances is the original certificate issued by the MSEC. At present, the MSEC can only issue copies of documents on assignment of disability rather than a duplicate certificate on the statement of examination by the medical and social expert commission since there is no legal and normative act regulating this matter. This matter can be resolved by creating the unified electronic data base of the citizens who had applied to the MSEC.

The MSEC and participants of the rehabilitation process also have no access to the information in the Centralised Data Bank of Persons with Disabilities. The Commissioner has given relevant recommendations to the MoH.

Observance of the right to medical aid of adequate quality

The Commissioner has received the citizens' statements regarding violation of their rights by the healthcare administration authorities in different regions, namely violation of terms for consideration of the matter of clinical and expert assessment of quality of medical aid and medical services by clinical expert commissions, impossibility to challenge decisions of the CEC to the MoH as the central executive authority in charge of formation of the healthcare policy.

Such situation is caused by the amendments made to the Order of the MoH "On Organising the Clinical and Expert Assessment of Quality of Medical Aid and Medical Services", according to which the meetings of the CEC are not held by the MoH during the martial law in Ukraine¹⁵⁴.

In order to prevent limitation of the right of the Ukrainian citizens to challenge the opinions of the CEC on the clinical and expert assessment of quality of medical aid and medical services in healthcare institutions of any ownership and subordination form and by individual entrepreneurs operating in the field of healthcare in the corresponding administrative territory of Ukraine, the recommendations have been given to the MoH.

Response to violations of human and civil rights

In 2022, the Commissioner's Secretariat received 690 petitions, and 27 proceedings were instituted by the Commissioner.

Numerous petitions were associated with the right to medical aid of adequate quality.

In August 2022, the Commissioner received the petition from citizen T., a resident of Kyiv, who asked to ensure that the clinical expert commission of the Healthcare Department of the executive body of the Kyiv City Council (Kyiv City Military Administration) would carry out the clinical and

¹⁵⁴ Order of the MoH No. 508 of 20 March 2022 "On Amending Order of the Ministry of Health of Ukraine No. 69 of 5 February 2016".

expert assessment of quality of the medical aid granted to her by the private dental hospital since she had been unable to resolve that matter for 2 months.

She was informed by the Department that the quality of the medical aid granted to the petitioner could not be assessed, and that private healthcare institutions did not pertain to the competence of the Department, so it had no impact upon the institution.

The Commissioner gave the Department explanations on establishment of the CEC for collective consideration of applications for the clinical and expert assessment of quality of medical aid and medical services in specific cases in healthcare institutions of any ownership form in the respective administrative territory of Ukraine.

In pursuance of the Commissioner's request, the Department established the CEC and carried out clinical and expert assessment of quality of the medical aid granted to the petitioner.

The Commissioner also received petitions regarding confirmation of the disability group.

In March 2022, the Commissioner's hot line received the petition from citizen S, a person with disabilities of group I who had lived in Kharkiv and moved to Lviv, regarding the need to take a repeated examination by the MSEC.

The Commissioner gave the petitioner explanations on possibility of medical and social expert examination in absence at his place of stay in Lviv until the martial law was terminated or cancelled, and corresponding recommendations were sent to the MSEC.

With the Commissioner's support, citizen S. was immediately received in the healthcare institution in Lviv, the commission considered his case in absence based on the ex-territorial principle, so his right to confirmation of the disability group was observed.

RIGHT TO WORK

Observance of the employees' right to timely remuneration for their work.

The state does not have complete statistical information on the arrears in salaries as natural persons, individual entrepreneurs and legal persons do not have to submit statistical and financial reports during the martial law or war and for 3 months following termination thereof. As of 01.01.2023, the arrears in salaries (without account of some of the temporarily occupied territories) made UAH 2.8 billion. The arrears in salaries at the enterprises subordinated to the central executive authorities made UAH 2.1 billion. The debt to the personnel of the economically active enterprises is UAH 2.3 billion, of the ones undergoing bankruptcy — UAH 0.5 billion, and of the economically inactive ones — UAH 0.04 billion. The Interdepartmental Working Group on repayment of the arrears in salaries (financial support), which a temporary counselling and advisory body of the CMU in the field of coordination of actions of the executive authorities on the matters associated with timely payment and repayment of the arrears in salaries (financial support) held no meetings in 2022 and furnished no proposals on how to decrease the level of arrears in salaries. The Commissioner asked the Ministry of Economy of Ukraine to resume operations of the Interdepartmental Working Group.

Observance of the employees' right to official employment

The level of undeclared labour remains high. The state statistics authorities have not been examining the work force since 2022, so there is no information on informal employment. The State Labour Service and its territorial bodies have not performed state supervision (control) over compliance with the labour legislation by legal persons of any ownership form, type of activity, economic management and by natural persons who used hired labour since 24.02.2022.

The matter of no state supervision (control) by the regulatory authorities in 2022 in connection with imposition of the martial law in Ukraine is persistent and is associated not only with the State Labour Service, but also other public authorities¹⁵⁵.

The State Labour Service does not carry out state supervision (control) over compliance with the labour legislation during the martial law in terms of compliance with the requirements of the Law of Ukraine “On Organising Labour Relations during the Martial Law” as well as detection of unofficial labour relations and lawfulness of termination of employment contracts due to lack of forms of the documents that are made during state supervision and control during the martial law.

The Commissioner has given recommendations to the Ministry of Economy to bring the forms of the documents that are made during state supervision and control in line with the Law, and to amend the Order¹⁵⁶.

Observance of the citizens' rights in case of unemployment

Unemployment is one of the key negative social effects of the war. According to the State Employment Centre, 867,636 persons had the status of unemployed in 2022, which is 72.8% in comparison with the last year (1,191,008 in 2021). However, during the full-scale aggression, the quantity of vacancies as of the end of 2022 made 21,241 or 51.8% in comparison with the last year (41,042 in 2021). There are 9 unemployed persons per vacancy in 2022 whereas there were 7 of them in 2021. Contrary to a decrease in the total number of the unemployed, the number of the persons who do not get salaries or other types of profit is much higher. The factors of this condition include incomplete information from the State Employment Centre, no data from the temporarily occupied territories, departure abroad, unpaid leaves, introduction of the downtime, suspension of employment etc.

Control over observance of labour rights of the personnel of communal enterprises, institutions and organisations by the LSGB

Due to no requirement to hold inspections while exercising their powers in the field of control over compliance with the labour and employment legislation¹⁵⁷ as well as absence of the approved procedure for such control, the LSGB do not control operations of communal enterprises, institutions and organisations in terms of observance of labour rights of the personnel. Thus, the requirements of Article 259(2) of the Labour Code of Ukraine and Article 34(3) of the Labour Code of Ukraine “On Local Self-Governance in Ukraine” are not met.

¹⁵⁵ Detailed information on the Commissioner's recommendations can be found in point 4.4. “Consumer Rights”.

¹⁵⁶ Order of the Ministry of Economic Development, Trade and Agriculture of Ukraine No. 2161 of 27 October 2020 “On Approving the Forms of the Documents Made during State Supervision and Control by the State Labour Service of Ukraine”.

¹⁵⁷ Law of Ukraine “On Local Self-Governance in Ukraine”.

Observance of the right of healthcare professionals and their family members to insurance benefits

Starting from 10.12.2021 (the effective date of Law No. 1894-IX)¹⁵⁸, the healthcare professionals of private healthcare institutions and their family members have been deprived of an opportunity to receive insurance benefits in case of the disease or death due to being infected with the acute respiratory disease COVID-19 caused by the coronavirus SARS-CoV-2, because of the untimely amendments to the Procedure for Paying Insurance Benefits (hereinafter “Resolution No. 498”)¹⁵⁹ and amendments to the Law of Ukraine “On the On the State Budget of Ukraine for 2022”.

In January 2022, the Commissioner received the petition from citizen Z. regarding violation of her right to insurance benefits as a family member of the deceased healthcare professional whose death had resulted from infection with the acute respiratory disease COVID-19 caused by the coronavirus SARS-CoV-2 during the performance of his official duties with the elevated infection risk.

With the Commissioner’s support, on 02.12.2022, amendments were made to Resolution No. 498, and the title of the budget programme that provided for allocation of funds for guaranteed payments to all the healthcare professionals was changed in the Law of Ukraine “On the State Budget of Ukraine for 2023”.

Observance of the rights of certain categories of employees and their family members to monetary assistance during the martial law

Since 24 February 2022, there have been numerous cases of death of and injuries to the persons authorised to perform functions of the state or local self-governance, employees of the critical infrastructural facilities and journalists during fulfilment of their official duties as a result of hostilities, bombarding etc.

The Verkhovna Rada of Ukraine is considering the draft law that is supposed to regulate payment of the one-time monetary assistance to these categories of employees and their family members.

Violation of the citizens’ right to enforcement of court decisions on collection of the past-due salary if debtors are public authorities and state-owned enterprises, institutions and organisations

When they exercise their right to seek legal redresses, citizens cannot restore their rights based on the court decision because the debt under the court decision associated with employment relations is repaid as the second priority¹⁶⁰ as well as due to shortage of funds under the budget programme, which would enable enforcing the court decisions guaranteed by the state within the time frames prescribed by the law. According to the State Treasury Service of Ukraine, as of 28.12.2022, the Treasury Bodies have 5,622 enforcement documents associated with employment relations for the amount of UAH 327.7 million to enforce, namely 983 enforcement documents for the total amount of UAH 151.3 million where

¹⁵⁸ Law of Ukraine “On Amending Article 39 of the Law of Ukraine ‘On Protection of the Population from Infectious Diseases’ as regards Social Protection of the Healthcare Professionals of Healthcare Institutions of Any Ownership Form Affected by the Coronavirus Disease (COVID-19)”.

¹⁵⁹ Resolution of the Cabinet of Ministers of Ukraine No. 498 of 17 June 2020 “Certain Aspects of Insurance Benefits for the Disease or Death of Healthcare Professionals due to Being Infected with the Acute Respiratory Disease COVID-19 Caused by the Coronavirus SARS-CoV-2”.

¹⁶⁰ Law of Ukraine “On the State Guarantees of Enforcement of Court Decisions”.

the debtors are public authorities, and 4,639 enforcement documents for the total amount of UAH 176.4 million where the debtors are state-owned enterprises.

Response to violations of human and civil rights

In 2022, the Commissioner's Secretariat received 1,136 petitions informing of 1,467 violations of the right to work, and 33 proceedings were instituted by the Commissioner.

In particular, the Commissioner received petitions regarding violation of the right to work from civil servants.

In March 2022, the Commissioner received the petitions from 7 employees of Luhansk Oblast territorial recruitment and social support centre regarding their dismissal from their civil service offices after the full-scale aggression had started, and the Commissioner's proceedings were instituted.

It was established during the proceedings that the following requirements had not been met during their dismissal: written notification of the civil servant at least 30 calendar days before changes in the material conditions; possibility of submission of the civil servant's statement of resignation or application for transfer to another proposed office to the head of the civil service.

The order on the petitioners' dismissal was revoked owing to the Commissioner's response. The civil servants' right to work was restored.

Moreover, violations of the rights of insured persons to timely receipt of financial support under the mandatory state social insurance schemes were registered. Thus, the Commissioner received the citizens' notices complaining that the working bodies of the SIF had not paid financial support. It was established during consideration of the petitions that the SIF had not received UAH 5.2 billion of the single contribution to the compulsory state social insurance (hereinafter the "single social tax") due by the insurers and the insured from January to September 2022, which made 19.8% of the target for that period. Underpayment of the single social tax result in the arrears of the SIF in the financial support due to the insured as of 01.10.2022 for the period from 18 July to 30 September 2022 (55 working days) for the amount of UAH 2.9 billion.

In order to restore the rights of the insured, the Commissioner gave recommendations to the Ministry of Social Policy, the Board of the SIF. In some working bodies of the SIF, there are arrears as of 31.12.2022 under the application estimates of the insured who are located in the area of hostilities (combat operations) or of temporary occupation and connection with whom has been lost (the estimates were received in February and March 2022).

4.4. RIGHT OF OWNERSHIP

Ensuring citizens' participation in consideration of their applications in the field of urban development activities

The procedure for state architectural and construction control¹⁶¹ does not provide for participation in meetings of commissions where applications in the field of urban development activities are considered as a video conference, and fails to consider the situation in our country due to imposition of the martial law and ongoing anti-epidemic measures introduced to prevent the spread of the acute respiratory disease COVID-19 caused by the coronavirus SARS-CoV-2.

It gives the commission grounds to leave natural and legal persons' applications in this regard undecided.

According to the SIAUP, the commission left the following undecided due to the applicant's repeated failure to attend:

- for the period from 15.09.2021 until 31.12.2021 — 604 applications (almost 58% of the total quantity of applications);

- for the period from 01.01.2022 until 24.02.2022 — 79 applications (almost 46% of the total quantity of applications).

Due to the prohibition imposed by the Government for state supervision (control)¹⁶², no applications of natural and legal persons on these matters were submitted to the commission's meetings for consideration after 24.02.2022.

The matter of no state supervision (control) by the regulatory authorities in 2022 in connection with imposition of the martial law in Ukraine is persistent and is associated not only with the SIAUP, but also other public authorities¹⁶³.

In order to protect the citizens' rights to adequate consideration of their applications in the field of urban development activities, the Commissioner gave recommendations to the SIAUP to amend point 7¹ of the Procedure as regards meetings of the commission held as a video conference.

The amendments have not been made to the Procedure yet.

Observance of property rights of the citizens who have invested into construction of their own housing by developers

The problem of delayed construction has existed for several years. The investing citizens cannot exercise their property rights and get the title to their apartments, which are being constructed or have been constructed with funds of natural and/or legal persons.

According to the specialised civil society organisations¹⁶⁴, more than 200,000 investing citizens cannot exercise their property rights in Ukraine and get the title to their apartments since the construction objects have not been commissioned, and no construction works are performed there.

According to the information provided by the MCTD, the list of residential construction objects that had not been commissioned was made in 2022; there were 154 objects on the list.

The Interdepartmental Working Group for assisting the affected investors in completion of construction of incomplete residential construction established at the MCTD has not held its meetings since June 2021. No proposals and recommendations on how to resolve the matter of delayed construction have been furnished to the Cabinet of Ministers of Ukraine.

¹⁶¹ Resolution of the Cabinet of Ministers of Ukraine No. 553 of 23 May 2011 "On Approving the Procedure for State Architectural and Construction Control".

¹⁶² Resolution of the Cabinet of Ministers of Ukraine No. 303 of 13 March 2022 "On Terminating State Supervision (Control) and State Market Supervision during Martial Law".

¹⁶³ Detailed information on the Commissioner's recommendations can be found in point 4.4. "Consumer Rights".

¹⁶⁴ Build PortaL. Available at: <http://surl.li/euevf>

Ukraine does not have an efficient system to regulate the legal relations arising upon violation of the deadlines of commissioning of the completed objects of apartment residential construction constructed with funds of natural and/or legal persons at the legislative level.

In her petition to the Commissioner, citizen T. informed that on 08.02.2018, pursuant to the property rights sale and purchase contract, she had purchased the property rights to the apartment in the designed house in the village of Novosilky, Kyievo-Sviatoshyynskyi Raion, Kyiv Oblast, from Novi Teremky Residential Estate LLC, with the approximate completion date on 30 June 2019. The construction object had not been commissioned, and no construction works were performed.

The Main Investigative Department of the National Police of Ukraine informed of institution of the criminal proceedings based on the elements of the criminal offence under Article 190(2) of the CrCU.

The Chabany Urban-Type Settlement Council informed that there were no legal mechanisms for the local self-government bodies to put the incomplete objects on the books and complete their construction.

Violation of civil rights during customs import of vehicles for personal use

The bodies of the State Customs Service of Ukraine made 83 reports on violation of the customs rules in connection with non-export of vehicles by the resident citizens where such vehicles had been imported into the customs territory of Ukraine for personal use.

The violations of the legislation were caused by the restrictions introduced for the male Ukrainian citizens aged 18 to 60 leaving Ukraine.

This matter can be resolved by amending the CuC Ukraine in terms of suspending the terms for temporary import of vehicles for personal use by the Ukrainian citizens until the martial law or state of emergency in the territory of Ukrainian citizens is terminated or cancelled.

It was also established that the rules of the CuC Ukraine were inconsistent with Article 7(b) of Annex C concerning means of transport to the Convention on Temporary Admission (Istanbul, 1990) (Ukraine acceded to the Convention in 2004), according to which “means of transport for private use may be used by third persons who are duly authorized by the persons granted temporary admission. Each Contracting Party may permit the use by a person resident in its territory, in particular, where the means of transport is used on behalf and on the instructions of the person granted temporary admission”.

The corresponding recommendations were given to the Committee of the Verkhovna Rada of Ukraine on Finance, Taxation and Customs Policy.

Response to violations of human and civil rights

In 2022, the Commissioner’s Secretariat received 859 petitions informing of 888 violations of the civil rights to property, and 97 proceedings were instituted by the Commissioner.

In the field of observance of the right of ownership, the Commissioner received the petitions regarding violation of civil rights during customs import of vehicles for personal use.

On 04.02.2022, citizen R. imported the vehicle into the customs territory of Ukraine for personal use as “temporary import for up to 60 days”, without customs clearance.

Citizen R. was unable to drive the vehicle out of the customs territory of Ukraine upon expiration of 60 days since he was subject to the effective restrictions for departure for the male Ukrainian citizens aged 18 to 60 in connection with imposition of the martial law in the territory of Ukraine.

The Chief State Inspector of the Customs Clearance Department of the Customs Checkpoint at Poltava Customs Office of the State Customs Service made the report on violation of the customs rule for the amount of UAH 170 thousand.

Despite the objective circumstances due to which citizen R. was unable to drive out the vehicle, the SCS did not reverse the report.

Instead, the report on violation of the customs rules by citizen R. was reversed by the resolution of the court of appeal.

RIGHTS TO EDUCATION AND CULTURE

No decisions of the MCIP in connection with the challenges associated with the full-scale invasion by the RF

The findings of the parliamentary control have shown that the public authorities failed to take adequate actions to approve the algorithms for protecting material and cultural values in connection with imposition of the martial law (during the military actions) in the context of the full-scale invasion of Ukraine by the RF. The effective Procedure for Evacuation in Case of the Threat or Occurrence of Emergencies¹⁶⁵ fails to consider special aspects of evacuation, transportation, creation of temporary sites for protection and preservation of cultural landmarks during the martial law. As a result, landmarks are destroyed, and cultural and historical values are stolen in the territories occupied by the RF.

The basic network of cultural establishments has suffered from targeted shelling of the civilian infrastructure by the Russian occupants, which has resulted in limitation of the right of access to cultural services and higher outflow of human resources in the industry.

As a result of redistribution of allocations from the state and local budgets, cultural establishments get reduced funding, which entails downtime or suspension of employment contracts with the library staff.

The quality of ensuring the principal state social guarantees as to provision of free services of the state-owned and communal cultural establishments is inconsistent with the State Standard for Provision of Free Services by State-Owned and Communal Club and Library Establishments¹⁶⁶.

The volume of the cultural landmarks and values destroyed, ruined and damaged shows the attempts of the RF to erase the national identity of the Ukrainian people.

The MCIP has not approved the Methodology for Calculating the Damages and Losses Inflicted upon the Cultural Heritage as a Result of the Armed Aggression of the RF, and the Methodology for

¹⁶⁵ Resolution of the Cabinet of Ministers of Ukraine No. 841 of 30 October 2013 “On Approving the Procedure for Evacuation in Case of the Threat or Occurrence of Emergencies”.

¹⁶⁶ Order of the Ministry of Culture of Ukraine No. 983 of 15 October 2013 “On Approving the State Standard for Provision of Free Services by State-Owned and Communal Club and Library Establishments”.

Calculating the Damages Inflicted by Illegal Archaeological Research as a Result of the Armed Aggression of the RF.

According to point 17 of the Procedure for Calculating the Damages and Losses Inflicted upon Ukraine as a Result of the Armed Aggression of the Russian Federation¹⁶⁷, the MCIP is responsible for calculating damages and losses in the field of loss of cultural heritage and cultural value.

Ensuring equal access to the quality vocational (technical), professional pre-higher and higher education regardless of the place of residence during the martial law

The findings of parliamentary control in the field of education show that the matter of ensuring equal access to the quality vocational (technical), professional pre-higher and higher education regardless of the place of residence during the martial law remains problematic¹⁶⁸.

The network vocational (technical) education institutions has materially changed. In the new academic year, the educational process started in 564 VTEI, against 694 institutions that had worked as of 01.01.2022.

The situation was caused by impossibility of educational activities in the education institutions located in the occupied territories and areas of hostilities. There are 24 institutions like this in Kharkiv Oblast, 18 — in Donetsk Oblast, 17 — in Zaporizhzhia Oblast, and 15 — in Luhansk Oblast. Some of the students of the VTEI could not continue their studies in safe conditions, get a certificate of vocational education from the institution where they had studied for objective reasons, although they were given such opportunity by the Regulation on the Internal Academic Mobility of Students of Vocational (Technical) Education Institutions. Introduction of the dual academic form in the VTEI is also complicated by the martial law. According to the MES, the academic process with the dual form will be carried out in 2022-2023 in 46 VTEI, against 217 during the previous academic year.

Only 2 (8.6%) vocational (technical) education institutions in Mykolaiv Oblast, 2 (12%) — in Volyn Oblast, 3 (14%) — in Ternopil Oblast, and 5 (15%) — in Poltava Oblast continue the dual academic form. The situation in Cherkasy, Ivano-Frankivsk and Rivne Oblasts, where such work is performed by less than a quarter of the VTEI, is not better.

Actions were taken in the field of higher and professional pre-higher education to relocated almost 200 institutions and their structural subdivisions from the south-eastern regions to the safe oblasts. However, many of the institutions remained in the temporarily occupied territories. As a result, more than 2 thousand students have no access to higher education and have not received their academic records due to no access to the Unified State Electronic Base on Education.

Another problem in the field of higher and professional pre-higher education in the context of the martial law was narrowing the base for the practical training as a result of reduced operations of training and production integrated plans (centres, complexes) and leading Ukrainian enterprises.

The findings of parliamentary control over equal access to the quality vocational (technical), professional pre-higher and higher education demonstrate adequate response of the MES to the challenges associated with the martial law.

¹⁶⁷ Resolution of the Cabinet of Ministers of Ukraine No. 326 of 20 March 2022 “On Approving the Procedure for Calculating the Damages and Losses Inflicted upon Ukraine as a Result of the Armed Aggression of the Russian Federation.

¹⁶⁸ Monitoring of the exercise of human and civil rights to equal access to vocational (technical) education in the context of martial law. Available at: <https://cutt.ly/R9rQvwd>

Response to violations of human and civil rights

In 2022, the Commissioner's Secretariat received 143 petitions, and 3 proceedings were instituted by the Commissioner.

The Commissioner was approached by the heads of the trade union committees of 3 specialised medical colleges of Kyiv regarding the conflict situation in connection with the resolution on their subordination to the Education and Science Department of the executive body of the Kyiv City Council (Kyiv City State Administration).

The representatives of the Colleges were concerned that changes in the subordination would cause separation of the system of healthcare institutions and professional pre-higher medical education institutions and have a negative impact upon the quality of professional training.

In response to the Commissioner's inquiry, the MoH informed that the Education and Science Department was not authorised to ensure combination of theoretical studies in the Colleges and practical training in the healthcare institutions. Moreover, impossibility of free use of healthcare institutions of Kyiv as practical bases for all the types of practical training under the academic professional programmes would result in lower equality of training of healthcare professionals.

However, despite the stance of the Commissioner, the MoH and Colleges, the local authorities resolved to change the subordination of the professional pre-higher education institutions of Kyiv.

With due consideration of the above, monitoring is scheduled for 2023 in connection with impact of changes in the subordination of the Colleges upon the quality of their educational services to the students getting professional pre-higher medical education in Kyiv.

The Commissioner was approached by citizen Sh. regarding violation of her right to education because the medical higher education institution had failed to issue the corresponding certificate.

The petitioner informed that she had completed her internship training at the medical university in 2022, but she had not been issued the corresponding certificate of the medical specialist. Moreover, the applications submitted by citizen Sh. on that matter to the director of the education institution were of no effect.

Owing to the measures taken by the Commissioner, the petitioner was issued the certificate of the medical specialist, and the citizen's right to education was restored.

The Commissioner was approached by citizen K., a student of Mykhailo Boichuk Kyiv State Academy of Decorative-Applied Arts and Design, regarding violation of her right to social protection, namely the right to a social scholarship.

As a daughter of the military servant who had gone missing during the combat tasks performed to ensure national security and defence, to repel and deter the armed aggression against Ukraine, the petitioner had the right to a social scholarship (according to Resolution of the CMU No. 1045 of 28 December 2016 “Certain Issues of Paying Social Scholarships to Students (Cadets) of Professional Pre-Higher and Higher Education Institutions”).

However, minor K. had not received a scholarship since the beginning of the academic year.

Within the proceedings, the corresponding recommendations were given to the National Social Service, the Social Protection Department of Pecherskyi District State Administration in Kyiv and the education institution itself.

Owing to the measures taken, the petitioner was accrued and paid the social scholarship in December 2022 (for the period starting from September 2022).

The petitioner’s right to social protection by the state was restored.

CONSUMER RIGHTS

Results of processing of citizens’ statements of violation of their consumer rights by the SSUFSCP

After the martial law had been imposed in the territory of Ukraine, the Commissioner received 1,744 statements from the citizens about violation of their rights as consumers of goods and services by economic operators.

Due to the prohibition of state supervision (control) imposed by the Government for the period of the martial law¹⁶⁹, the SSUFSCP did not carry out state supervision (control) over compliance with the legislation on protection of consumer rights by economic operators.

From 24 February to 31 October 2022, the SSUFSCP received 7,666 statements from the citizens regarding violation of their consumer rights, and respective inspection needed to be conducted for 4,574 of them.

Absence of state supervision (control) over activities of economic operators increases risks for citizens’ life and health, and their petitions to the SSUFSCP, the SIAUP, the State Environmental Inspectorate, the State Labour Service etc. are not duly considered.

In order to ensure observance of civil rights in different fields, the Commissioner gave recommendations to the Government to permit the corresponding public authorities to carry out unscheduled state supervision (control) during the martial law.

The Commissioner’s recommendations were affirmed by the Government¹⁷⁰, and it was permitted to carry out unscheduled state supervision (control) based on resolutions of the central executive authority in charge of formation of the public policy in the respective fields.

¹⁶⁹ Resolution of the Cabinet of Ministers of Ukraine No. 303 of 13 March 2022 “On Terminating State Supervision (Control) and State Market Supervision during Martial Law”.

¹⁷⁰ Resolution of the Cabinet of Ministers of Ukraine No. 1363 of 6 December 2022 “On Amending the Resolution of the Cabinet of Ministers No. 303 of 13 March 2022”

Observance of consumer rights in the field of housing and utility services

Economic operators cease to provide electric, gas and water supply services to consumers if they are in arrears although the Government prohibited to suspend provision of housing and utility services to the population in case they are not paid for in full or in part from 24 February 2022 until the termination or cancellation of the martial law in Ukraine¹⁷¹. In the end, it violates the citizens' rights to housing and utility services.

It was established during the mass media monitoring that the problem was of persistent nature, and the citizens were sometimes threatened with eviction from their housing because of their utility debt¹⁷².

This situation results from failure to make amendments to the Law of Ukraine "On the Housing and Utility Services", which would prohibit economic operators to suspend provision of housing and utility services to consumers during the martial law.

Observance of consumer rights in the field of bank services

The banks fail to consider the recommendations given by the National Bank of Ukraine as regards automated extension of the term of bank cards that have expired.

As a result, the citizens who are in the temporarily occupied territories or abroad cannot withdraw (use) funds from their bank account, do not get social allowances, pensions etc.

Most banks extend the term of the card only upon the client's personal request. However, the citizens who are in the TOT or abroad are physically unable to attend the bank.

In order to ensure operations of the banking system during the martial law, the National Bank of Ukraine adopted the resolution¹⁷³, but it failed to resolve the matter.

Observance of rights of consumers of the goods and services purchased via online stores

There were violations of consumer rights when goods and services were purchased (ordered) via an online store.

It was established that the effective legislation¹⁷⁴ did not cover economic rights of a consumer, in particular, upon violation of terms and conditions and the contract for sale and purchase (delivery) of food products in online stores.

There is currently no mechanism for protecting consumer rights on the Internet. There is also no procedure for imposing liability upon the economic operator that provides services of the electronic trade platform in case consumer rights are violated.

This matter can be resolved if the Verkhovna Rada of Ukraine adopts the draft Law of Ukraine "On Protection of Consumer Rights" (registration No. 6134 of 05.10.2021). The Commissioner's proposals and recommendations on the draft law were taken by the Government into consideration when it was drafted.

¹⁷¹ Resolution of the Cabinet of Ministers of Ukraine No. 206 of 5 March 2022 "Certain Issues of Paying for the Housing and Utility Services during the Martial Law"

¹⁷² Ministry of Reintegration of Temporarily Occupied Territories of Ukraine. Available at: <https://cutt.ly/X27gsFe>

¹⁷³ Resolution of the Board of the National Bank of Ukraine No. 18 of 24 February 2022 "On Operations of the Banking System during the Martial Law".

¹⁷⁴ Law of Ukraine "On Protection of Consumer Rights".

Response to violations of human and civil rights

In 2022, the Commissioner's Secretariat received 1,696 petitions informing of 1,744 violations of consumer rights, and 98 proceedings were instituted by the Commissioner.

Thus, following the consideration of the petition, the right of the family whose members were persons with disabilities to the electric power supply service was restored.

In October 2022, the Commissioner was approached by the family from Poltava Oblast, who were persons with disabilities and provided for the minor son, regarding unlawful disconnection of electric power from their accommodation by Poltavaoblenerho JSC. The electric power supply was disconnected from the petitioners' accommodation based on the report on non-admission of the employees of Poltavaoblenerho to the house for replacement of the electric power metering unit.

The Commissioner had given recommendations to the NEURC to conduct an inspection, which found the actions of Poltavaoblenerho to be unlawful since the company had not had replacement of the electronic power metering unit approved by the accommodation owner in advance.

In pursuance of the order of the NEURC, the electric power supply was restored in the petitioners' house on 23.11.2022.

Also, the petitions raised the issue of even distribution of power cuts.

The Commissioner was approached by the resident of Uzhhorod regarding failure of Zakarpattiaoblenerho PrJSC to adhere to the schedule of consumer power cuts.

The Commissioner gave recommendations to the SIEP to inspect adherence to the schedule of consumer power cuts in Zakarpattia Oblast.

Following the inspection, the binding order was issued to eliminate the violations.

Zakarpattiaoblenerho PrJSC developed the new balanced scheduled of hourly consumer power cuts for the residents of Zakarpattia Oblast.

Moreover, the Zakarpattia Oblast Military Administration ordered to prohibit outdoor illumination and advertising board illumination in the settlements of Zakarpattia Oblast.

In connection with the broad-scale armed aggression against Ukraine, lots of Ukrainians have found themselves abroad. They faced major difficulties using bank services there.

The Commissioner was approached by the Ukrainian citizen who was abroad with her child due to the military aggression of the RF and could not withdraw funds from her bank account.

While she was abroad, the petitioner had a problem with the SIM card in her mobile telephone to which the online banking was assigned, so she had difficulty accessing her bank accounts and bank services online. The attempts to resolve that issue on her own, namely to register another mobile telephone number for her online banking resulted in disablement of access to her bank accounts and services by the bank. The petitioner called the contact centre of the bank many times, and sent

applications to the bank's e-mail address. Following the recommendation of the bank staff, she tried to complete bank client identification and verification several times, but she failed to resolve the problem.

The Commissioner gave recommendations to the bank the client of which the petitioner was regarding her access to the bank services.

As a result of the Commissioner's response, the bank fully restored the petitioner's access to online banking, so now she has access to her bank accounts and services while she is abroad with the child.

From October to December 2022, the Commissioner received 160 petitions from citizens regarding extremely hard living conditions caused by the terrorist attacks of the RF against the energy infrastructure of Ukraine. The citizens had no electric power, heating and water supply, communication and Internet.

The Commissioner gave recommendations to the Government to establishing heating points in all the regions of Ukraine so that citizens would be able to warm up, charge their mobile devices etc. in winter when there was no electric power and heating.

The Commissioner's recommendations were affirmed by the Government, and the ministries and heads of oblast and Kyiv City military administrations were instructed to organise operations of invincibility points¹⁷⁵ in Ukraine.

701 mobile evacuation groups were established by the oblast military administrations in order to evacuate the people who are unable to take their own actions to save their life or health due to their age or health condition in case of emergency as well as the persons who take care of (provide services to) such people in accordance with the legislation.

RIGHT TO A SAFE ENVIRONMENT

Threat of a nuclear and humanitarian disaster

The risk of an accident at Zaporizhzhia Nuclear Power Plant is elevated due to the decrease in the water level in Kakhovka Reservoir as a result of the aggressor's actions. The water level in Kakhovka Reservoir is decreasing fast in connection with the uncontrolled water disposal at Kakhovka Hydro Power Plant since the volume of disposal exceeds the volume of filling.

It has a negative impact upon technical processes at Zaporizhzhia Nuclear Power Plant. The water level of 13.2 m is the minimum level for collection thereof into the cooling reservoir. In case water supply is suspended, there will be problems in reactor cooling, which will result in a disaster.

Moreover, Kakhovka Reservoir is a source of drinking water for the cities of Kryvyi Rih, Nikopol, Marhanets and certain raions of Kherson, Zaporizhzhia and Dnipropetrovsk Oblasts as well as the Autonomous Republic of Crimea via the Northern Crimean Canal.

The safety situation at Zaporizhzhia Nuclear Power Plant and provision of drinking water to the population in those territories require further monitoring and timely response.

Results of consideration of the citizens' applications regarding environmental matters by the SEI, and environmental protection activities conducted in the field of environmental protection

¹⁷⁵ Invincibility point. Available at: <https://nezlamnist.gov.ua/>

The SEI received 823 applications from the citizens regarding environmental matters, and 82 of them require an inspection. According to the SEI, 6 state supervision (control) activities were conducted in 2022.

The matter of no state supervision (control) by the regulatory authorities in 2022 in connection with imposition of the martial law in Ukraine is persistent and is associated not only with the State Environmental Inspectorate, but also other public authorities¹⁷⁶.

Despite the prohibition of state supervision (control) and a number of the unscheduled activities that had been approved and conducted, the State Environmental Inspectorate conducted 6,502 environmental protection activities in 2022.

The fines were imposed upon 9,460 offenders for the total amount of UAH 3.3 million, and UAH 3.1 million or 94% of the total amount of the penalties were collected to the State Budget of Ukraine.

In total, the losses inflicted upon the state were estimated to be UAH 1,535.7 million, half of which (UAH 957.79 million) were inflicted by unidentified persons.

The claims and actions were filed for the total amount of UAH 562.39 million, including UAH 96.68 million collected on a voluntary or enforced basis via court decisions (around 17%).

Response to violations of human and civil rights

In 2022, the Commissioner's Secretariat received 175 petitions, and 6 proceedings were instituted by the Commissioner.

The Commissioner received the petitions regarding air contamination.

In August and September 2022, the residents of Zaporizhzhia filed petitions to the Commissioner and informed of air contamination as a result of unidentified substances burnt down in the territory of one of the deactivated enterprises in the city. Air contamination with combustion gases in Zaporizhzhia was permanent, which resulted in deterioration of the residents' health.

The Commissioner asked the SEI to take measures, so an unscheduled inspection of one of the city enterprises was conducted. Following the Commissioner's request, the SEI conducted an unscheduled inspection of one of the city enterprises.

The officials of the enterprise were imposed administrative liability for violating the rules of technical operation of the gas purification plant after the inspection.

It was found out that the MD NP in Zaporizhzhia Oblast instituted the criminal proceedings based on the elements of the criminal offence under Article 241(2) of the CrCU "Air Contamination".

Monitoring observance of rights

34 monitoring sessions were conducted in 2022 at 323 objects, including central executive authorities — 7; territorial executive bodies — 29; local self-government bodies — 54; urban-type settlement military administration — 1; oblast state (military) administrations — 54; permanent healthcare institutions — 24; pharmacies — 132; education administrative bodies of oblast state

¹⁷⁶ Detailed information on the Commissioner's recommendations can be found in point 4.4. "Consumer Rights".

(military) administrations — 17; higher education institutions — 3; authorised governing bodies — 1; other — 1.

The civil rights that had been violated were restored as a result of the actions taken following the monitoring:

to entrepreneurial activity in case of blocking of tax invoices in the Unified Register of Tax Invoices of Individual Entrepreneurs Paying the Value-Added Tax;

to provision of anti-tumour medicinal products financed from the budget to the citizens suffering from cancer;

examination by medical and social commissions for the persons with disabilities who needed to have their disability group to be revised, individual rehabilitation programmes;

indication of the citizens' employment periods in the Register of the Insured in the State Register of Compulsory State Social Insurance based on the data submitted by enterprises, institutions and organisations for registration of the employee's labour in electronic format.

The monitoring detected a number of issues that required legislative amendments and actions by the executive authorities:

in the field of **observance of the right to social protection** — the matter of practical exercise of the right of to pension coverage via the web-portal of the PFU was not resolved for the citizens who were abroad in connection with the full-scale invasion by the RF, in the TOT or territories with hostilities;

in the field of **observance of the property rights** — the forms of notices of estimation of and compensation for losses to land owners and land users, of the agreement on estimating and compensating for losses, the report on estimating and compensating for losses were not approved; there was no commission on estimation of and compensation for losses incurred by land owners and land users, and no regulations on such commission; challenging of results of the commissions' work as well as resolution of disputes in estimation of and compensation for losses were not regulated;

regarding **observance of the cultural rights** — low level of digitalisation of museum infrastructure; there was no electronic version of the National List of Elements of the Intangible Cultural Heritage of Ukraine on the official website of the MCIP; there was no register of the basic network of cultural establishments in order to obtain necessary information on national and regional cultural establishments at the unified information resources; the Ukrainian Digital Library does not work and has not been filled; there is no digital library of musical scores by the Ukrainian composers with free access.

RECOMMENDATIONS

The Verkhovna Rada of Ukraine should ensure consideration and adoption of:

- draft Law of Ukraine “On Protection of Consumer Rights” (registration No. 6134 of 05.10.2021);

- draft Law of Ukraine “On Paying the One-Time Monetary Assistance for Life and Health Damage due to the Injury or Death Caused by the Military Aggression against Ukraine during Public Service, Performance of Duties at Critical Infrastructural Facilities, and Professional Journalist Activities” (registration No. 7353 of 05.05.2022);

- draft Law of Ukraine “On Amending the Law of Ukraine ‘On Culture’ as to Introduction and Maintenance of Electronic Registers of Recording and Managing Cultural Heritage and Cultural Values of Ukraine” (registration No. 8024 of 12.09.2022);

- draft Law of Ukraine “On Amending the Law of Ukraine ‘On Compulsory State Pension Insurance’ regarding Granting of Pensions to the Persons Residing in the Temporarily Occupied Territory or the Area of Hostilities” (registration No. 8198 of 10.11.2022).

The Cabinet of Ministers of Ukraine should:

- approve the draft Resolution of the Cabinet of Ministers of Ukraine “On Approving the Methodology for Forming the Price of Purchasing Plasma for Fractioning from State-Owned and Communal Blood System Entities”;

- approve the draft Resolution of the Cabinet of Ministers of Ukraine “On Approval of the Minimum State Standards of Providing Cultural Services to the Public”;

- submit to the Verkhovna Rada of Ukraine the draft Law of Ukraine developed by the Ministry of Social Policy “On Amending the Law of Ukraine ‘On Compulsory State Pension Insurance’ and Some Other Laws of Ukraine as to Proportional Calculation of the Pensionable Service for the Persons Working Outside Ukraine” regarding granting of persons to the persons who worked both in Ukraine and abroad in connection with denunciation of the Agreement on the Guarantees of Rights of Citizens of the Member States of the Commonwealth of Independent States in the Field of Pension Coverage of 13 March 1992;

- approve the draft Resolution of the CMU developed by the Ministry of Social Policy on amending Resolution of the Cabinet of Ministers of Ukraine No. 261 of 02 April 2005 “On Approving the Procedure for Granting and Paying the State Social Assistance to the Persons Not Eligible for the Pension and Persons with Disabilities, and State Social Assistance for Care” regarding simplification of the procedure for granting this assistance in connection with the military aggression of the Russian Federation;

- adopt time resolutions to allocate funds from the State Budget of Ukraine with a view to repaying arrears in pensions under court decisions, and implementing the programmes related to social protection.

The Ministry of Agrarian Policy and Food of Ukraine should develop the new Procedure for Estimating and Compensating for Losses to Land Owners and Land Users, which will regulate the matters of establishment and operations of the commissions as to estimation of and compensation for losses to land owners and land users.

The Ministry of Economy of Ukraine should take measures to complete the procedure for approving and signing the draft Order “On Amending Order of the Ministry of Economic Development, Trade and Agriculture No. 2161 of 27 October 2020”.

The Ministry of Culture and Information Policy of Ukraine should take measures to implement the Priority Directions and Tasks of Digital Transformation until 2023 approved by Ordinance of the Cabinet of Ministers of Ukraine No. 365-p of 17 February 2021 “Certain Issues of Digital Transformation”.

The Ministry for Communities, Territories and Infrastructure Development of Ukraine should develop and submit to the Cabinet of Ministers of Ukraine for consideration:

- draft Law of Ukraine “On Assisting Affected Investors in Completion of Problematic Apartment Residential Construction Objects”;
- draft Law of Ukraine on amending the Law of Ukraine “On the Housing and Utility Services” regarding the prohibition to terminate/suspend provision of housing and utility services to the population in case they are not paid at all or in full during the martial law in Ukraine;

The **Ministry for Communities, Territories and Infrastructure Development of Ukraine** and the **Ministry of Internal Affairs of Ukraine** should ensure that meetings of the Interdepartmental Working Group on assisting affected investors in completion of problematic apartment residential construction objects are held, and to ensure that the members of this Interdepartmental Working Group arrive at the meetings in accordance with the Regulation on the Interdepartmental Working Group on assisting affected investors in completion of problematic apartment residential construction objects¹⁷⁷.

The Ministry of Social Policy Ukraine should draft legal and normative acts in order to resolve issues as to:

- suspension of the 3-month period for submission of documents on granting the pension to the persons whose pensionable service for their work abroad is confirmed under international treaties, and amendments to these treaties to set time frames for provision of documents on confirmation of the pensionable service in the territory of the respective state;
- granting of state social assistance and housing subsidies during the martial law to the persons who have lost their job or whose employment relations have been suspended temporarily.

The Ministry of Social Policy of Ukraine and the **Pension Fund of Ukraine** should develop the acts in order to resolve the matter of practical exercise of the right of to pension coverage via the web-portal of the PFU was not resolved for the citizens who were abroad in connection with the full-scale invasion by the Russian Federation, in the temporarily occupied territories of Ukraine or territories with hostilities;

The Ministry of Health of Ukraine should:

- approve the Order “On Approving the Methodology for Calculating the Value of Donor Blood and Blood Components Produced by the Blood System Entities, to Ensure Provision of Blood and/or Blood Component Transfusion Services”;
- amend point 3 of Section II of the Regulation on the Clinical Expert Commission of the Ministry of Health of the Autonomous Republic of Crimea, structural subdivisions in the field of healthcare of the oblast, Kyiv and Sevastopol city state administrations approved by Order of the Ministry of Health of Ukraine No. 69 of 05.02.2016 “On Organising the Clinical and Expert Assessment of Quality of Medical Aid and Medical Services” registered with the Ministry of Justice of Ukraine on 24 February 2016 under No. 286/28416, in particular, to extend the time frames for consideration of cases in

¹⁷⁷ On Establishing the Interdepartmental Working Group on Assisting Affected Investors in Completion of Problematic Apartment Residential Construction Objects: Resolution of the Cabinet of Ministers No. 714 of 12 August 2020.

individual cases, regulate operations of the commissions in case of active hostilities and associated consequences that prevent their work;

- to amend the Resolutions of the Cabinet of Ministers of Ukraine regarding establishment of the cause of the civilian's disability as a result of the injury, shell shock, mutilation, disease due to the military aggression of the Russian Federation against Ukraine.

The Ministry of Education and Science of Ukraine should:

- approve the Regulation on the Dual Form of Higher and Professional Pre-Higher Education;
- develop recommendations on spreading the practice of obtaining professional (vocational), professional pre-higher and higher education in dual form;
- amend Order of the MES No. 466 of 25.04.2013 "On Approving the Regulation on Distance Education" in order to organise distance education as a form of obtaining vocational (technical), professional pre-higher and higher education.

Ministry of Finance of Ukraine should:

- develop and submit to the Cabinet of Ministers of Ukraine for consideration the draft Law of Ukraine on amending the Customs Code of Ukraine to resolve the matter of suspending the time frames for temporary import of vehicles by the Ukrainian citizens for personal use until the martial law, the state of emergency in the territory of Ukraine is terminated or cancelled, and also to give the customs authorities the right to permit transfer of the right to use the temporary import regime for the vehicles for personal use to any other person upon request of the person responsible for complying with the customs regime of temporary import, provided that the other person assumes the obligations of the person responsible for complying with the customs regime of temporary import;
- provide for amounts to repay debt under the court decisions associated with employment relations in the Budget Declaration and the State Budget on an annual basis;
- develop and submit to the Cabinet of Ministers of Ukraine for consideration the draft law on amendments to the Final Provisions of the Law of Ukraine "On the State Guarantees of Enforcement of Court Decisions" in terms of repayment of debt under the court decisions associated with employment relations as the first priority.

The Ministry for Communities, Territories and Infrastructure Development of Ukraine and the Ministry of Economy of Ukraine should draft the procedure for the local self-government bodies to exercise their authority of control over compliance with the labour legislation at enterprises, institutions and organisations communally owned by the corresponding territorial community.

The State Inspectorate for Architecture and Urban Development of Ukraine should develop amendments to point 7¹ of the Procedure for State Architectural and Construction Control approved by Resolution of the Cabinet of Ministers of Ukraine No. 553 of 23 May 2011, in terms of the Commission's meetings held to consider applications in the field of urban development as a video conference, and introduce such changes into the Commission's work.

The Board of the National Bank of Ukraine should amend its Resolution No. 18 of 24.02.2022 "On Operations of the Banking System during the Martial Law" regarding automatic extension of bank cards by banks during the martial law.

The National Rehabilitation Commission should meet the deadlines established by the legislation for review and decision-making on the issues of recognising persons as exonerated or victims of repressions as well as time frames for sending resolutions of the commission to the applicants.

CHAPTER 6. ENSURING EQUAL RIGHTS AND FREEDOMS

867 petitions to the Commissioner (including violation of the migration legislation and political rights — 67%, petitions regarding discrimination and spread of hate speech — 16%, petitions regarding domestic violence and trafficking in human beings — 13%, petitions regarding violation of the right to freedom of religion and belief, rights of national minorities and indigenous peoples — 4%)

157 legal and normative acts processed and proposals submitted

24 proceedings instituted by the Commissioner

24 proceedings completed

531 monitoring visits made

Key events, challenges and tendencies

The findings of the monitoring carried out during 2022 regarding compliance with the principle of no discrimination in various fields of public relations show that the matter of equal human and civil rights and freedoms remained relevant in the Ukrainian society despite the unprecedented armed aggression of the Russian Federation against Ukraine.

During the parliamentary control carried out in 2022, the Commissioner detected numerous violations of equal rights and freedoms, including violation of political rights and the migration legislation, discrimination and spread of hate speech, domestic violence and trafficking in human beings, violation of the right to freedom of religion and belief, rights of national minorities and indigenous peoples etc.

The martial law materially imposed equality of human rights and freedoms. It is prescribed by Article 3 of Decree of the President of Ukraine No. 64/2022 of 24.02.2022 “On the Imposition of Martial Law in Ukraine” approved by Law of Ukraine No. 2102-IX of 24.02.2022 that constitutional human and civil rights and freedoms under Articles 30-34, 38, 39, 41-44, 53 of the Constitution of Ukraine may be limited.

At the same time, observance of equal rights and freedoms was subject to assessment within the framework of international human rights mechanisms during the reporting period.

On 9 February 2022, the UN Human Rights Committee adopted Concluding observations on the eighth periodic report of Ukraine on the implementation of the International Covenant on Civil and Political Rights. The imposition of the martial law does not let fully meet the recommendations given in the Concluding observations, but certain matters that have caused the Committee’s concern and have been considered in the Commissioner’s reports for a long time should be mentioned.

The Committee is concerned about the lack of comprehensive anti-discrimination legislation in line with the provisions of the Covenant, and the lack of information about the steps taken to address stigma and discriminatory attitudes towards multiple groups, including ethnic minorities, lesbian, gay, bisexual, transgender and intersex persons, internally displaced persons and persons with disabilities.

The Committee is concerned about reports of intolerance, prejudice, hate speech against members of vulnerable and minority groups in mass media. The Committee is also concerned about reports indicating that the majority of hate crimes against members of minority groups are not classified

as such under article 161 of the Criminal Code as well as the reports indicating that amicable settlements have been mediated instead of prioritizing access to judicial remedy.

While noting the various measures taken to promote gender equality and combat gender stereotypes, the Committee remains concerned about the persistently low level of representation of women in the public sector, particularly at higher State and local levels, including of women representing vulnerable groups. It is also concerned about the persistent wage gap between men and women¹⁷⁸.

On 1 November 2022, the UN Committee on the Elimination of Discrimination against Women gave its Concluding observations on the ninth periodic report of Ukraine on implementation of the Convention on Elimination of All Forms of Discrimination against Women.

The Committee is concerned that the military attack against Ukraine has resulted in grave violations of human rights of Ukrainian women and girls, who are victims of attacks against civilians and civilian objects, as well as of torture and other cruel, inhuman or degrading treatment, arbitrary and extrajudicial executions, enforced disappearances, gender-based violence, including sexual violence, forced transfers and forced displacements of populations. It notes that the military attack by the Russian Federation against Ukraine has a particularly severe impact on women and girls in disadvantaged situations, such as internally displaced women, rural women, older women, women with disabilities, Roma women, lesbian, bisexual, transgender and intersex women and women from other minorities, including Crimean Tatar women.

At the same time, the Committee recognises the efforts of Ukraine in ensuring equal rights and opportunities of women and men, and also gives a number of recommendations how to improve elimination of discrimination of women in different areas of social relations with account of the conditions of the Russian-Ukrainian war¹⁷⁹.

The State Strategy for Ensuring Equal Rights and Opportunities for Women and Men until 2030 was approved by Ordinance of the CMU No. 752-p of 12 August 2022, and the operational plan for implementation thereof for 2022-2024 was approved.

In pursuance of the plan and following the visit to Ukraine by Pramila Patten, the United Nations Special Representative on Sexual Violence in Conflict and Under-Secretary-General of the United Nations, with account of the present-day challenges associated with the full-scale invasion of Ukraine by the Russian Federation, imposition of the martial law and temporary occupation of the new territories of Ukraine by the Russian Federation, the Government of Ukraine has updated the National Action Plan for the Implementation of UN Security Council resolution 1325 on Women, Peace and Security until 2025.

The system for **preventing and combating domestic violence and trafficking in human beings** turned out to be unprepared for the challenges of the war time. The mechanisms for interaction of the entities working in the field of prevention and combating of domestic violence and trafficking in human beings, the systems for operation of the specialised support services for victims of domestic violence, including the ones in the deoccupied territories of Ukraine, as well as the procedure for

¹⁷⁸ CCPR/C/UKR/CO/8. Concluding observations on the eighth periodic report of Ukraine. URL:

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsmmmCeqXycPDoV5Gxrp8KtvO4tw7aWqqrSja6dZBGgcAkF%2Frb7SxkDVAn8GwZyPktpdXFgmd9Xuf9Vi2tjAkz8oYjzJCELidqLckkIcfnHN5>

¹⁷⁹ CEDAW/C/UKR/CO/9. Concluding observations on the ninth periodic report of Ukraine. URL:

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsvglKm%2F71Q4iogAZSMgJYVsfA92MTYctWHEE11uSPzKnKpWwt7TOxV5J8ClgoK%2BclqJPqBxMVCVqFR%2BSTZI1rHS7%2BCUyL61CaAEo%2FwZlhrWF>

assigning the status of a victim of trafficking in human beings need to be brought in line with the present-day challenges.

The milestone event in protection against violence was entry into force of the Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention), ratification of which had been the key recommendation by the Commissioner for the last years, for Ukraine. Owing to this document, protection against violence will have higher standards while offenders will face more severe punishment for their acts.

According to the National Social Service, the police and social protection authorities received 251,829 petitions regarding domestic violence in 2022, which was 11% less than during the equivalent period last year. In 2022, 244,381 petitions and reports on criminal offences and other events related to domestic violence were registered, which was 25% less than in 2021 (325,599 petitions and reports). 43,341 urgent restraining orders were issued by the National Police against the offenders in 2022 in order to stop the domestic violence immediately.

The mobile application for women called SOS Secret Button was introduced to protect rights of victims of domestic violence. After the button is pressed in the application, a message is sent to the police, which is directed in increasing performance of the combat against domestic violence and gender-based violence. 28 messages were received from the mobile application from 01.08.2022 until 31.12.2022.

The problem of trafficking in human beings is also gaining special significance now while risks of falling victim to exploitation abroad are growing. In an attempt to save their life, the Ukrainians sometimes left without adequate documents and were not sufficiently aware of the need of consular registration after they had arrived in another country. This situation is a precondition for falling victim to trafficking in human beings while getting a job, looking for accommodation and travelling. According to OSCE Secretary General Helga Schmid, the quantity of cases of trafficking in human beings has grown abruptly, and the war has severely aggravated the problem of sexual slavery as to the Ukrainian women¹⁸⁰.

Ukraine also faces other challenges in the field of observance of rights of victims of trafficking in human beings in Ukraine. The persons in the occupied territories are the most vulnerable category for such situations since they may be used in the armed conflict or fall victim to labour and other exploitation¹⁸¹.

At the same time, the number of persons identified as victims of trafficking in human beings is going down abruptly. According to the National Social Service, in 2022, the status of a victim of trafficking in human beings was granted to 47 persons, which was 27% less than in 2021 (64 persons). At the same time, according to the Prosecutor General's Office, 66 victims of the criminal offences (proceedings) under Article 149 (Trafficking in human beings) of the CrCU were registered in 2022.

Another acute problem is **no opportunity to register civil partnership in Ukraine**. During the war, the representatives of the LGBTQI community do their military service in the AFU, territorial defence forces etc. and do not have the same opportunities as heterosexual persons to formalise their

¹⁸⁰ "Der Handel mit schwangeren Frauen ist seit Beginn des Krieges deutlich gestiegen". Available at:

<https://www.welt.de/politik/ausland/plus243066691/Ukraine-Der-Handel-mit-schwangeren-Frauen-ist-seit-Beginn-des-Krieges-deutlich-gestiegen.html>

¹⁸¹ More detailed information on observance of rights of the persons affected by the armed aggression against Ukraine can be found in Chapter 1 of this Report.

relations and acquire mutual rights and duties. It is a matter of co-owned property, heritage, guardianship, social guarantees granted to family members, possibility to accompany the partner's minor child abroad, the right to decide on possibility and scope of medical interventions and burial of a person etc.

Completion of the legislative reform of **ensuring rights of representatives of national minorities (communities)** as well as adoption of mechanisms for immediate and efficient implementation thereof is one of the points specified in the European Commission in its assessment of Ukraine's application for the EU membership. In pursuance of the recommendation and based on the interests of the Ukrainian People, the Ukrainian citizens of all nationalities, as to development of the sovereign, independent, democratic, social and rule-of-law state, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On National Minorities (Communities) of Ukraine".

The biggest challenge in observance of rights of the national communities and indigenous peoples in 2022 was the war launched by Russia against Ukraine. Representatives of all the nationalities residing in the territory of Ukraine were affected by the armed aggression of the RF. It was especially applicable to the regions with active hostilities. The compact settlements of the national minorities (communities) in the area of hostilities and under temporary control of the Russian army faced the humanitarian disaster, destruction and terror. The exact information on the numbers of representatives of the national communities who resided in those regions is not known since the local authorities use the data of the nationwide census of 2021 as the only official information. It is also impossible to calculate the exact number of the persons displaced to safer regions of Ukraine or abroad or killed as a result of the military aggression of the RF. Moreover, the local authorities do not have reliable information on the number of people left in occupation and on what has happened to them. At the same time, it is known from the social media that representatives of the national minorities are abducted in the occupied territories due to their pro-Ukrainian position.

Another consequence of the full-scale invasion of Ukraine by the Russian Federation is worse attitude of the Ukrainians to the Russians and Belarussians¹⁸².

The situation of the Roma community, who are always in the focus of the Commissioner's attention, became even worse during the war.

Lots of Roma families have stayed in the temporarily occupied territories of Ukraine as they had no money and evacuation opportunities. According to the European Roma Institute for Arts and Culture (ERIAC), around 100 thousand Ukrainians of Roma origin have been forced to leave their home since February 2022¹⁸³. Half of them went abroad. The Roma families, mostly women with children, tried to leave Zaporizhzhia, Kherson, Kharkiv, Donetsk and Luhansk Oblasts, for other countries. The Roma who have left without documents cannot get an IDP status, humanitarian assistance, and have no subsistence means. According to International Charitable Organisation "Roma Women Fund Chiricli",

¹⁸² KIIS. INTER-ETHNIC PREJUDICE IN UKRAINE, SEPTEMBER 2022. Available at: <https://www.kiis.com.ua/?lang=ukr&cat=reports&id=1150&page=4>

¹⁸³ Faced with discrimination, Ukrainian Roma refugees are going home. Available at: <https://www.euractiv.com/section/non-discrimination/news/faced-with-discrimination-ukrainian-roma-refugees-are-going-home/>

most of those who went abroad at the beginning of the war are coming back home¹⁸⁴ because they cannot find adequate shelter in the countries of Eastern Europe and face prejudiced attitude¹⁸⁵.

On 21 July 2021, the Cabinet of Ministers of Ukraine adopted the Strategy for Promoting the Enjoyment of Rights and Opportunities of Persons Belonging to the Roma National Minority in the Ukrainian Society for the Period Until 2030, but the Action Plan for the Strategy was not approved. With account of the military aggression of the RF against Ukraine, it can be stated that this document needs to be updated, and the corresponding action plan needs to be approved.

According to the studies of the social, economic, public and legal aspect of the Roma communities of Ukraine, the level of education of the Roma population is extremely low: 24% of the Roma have no education at all. Almost every fourth of them cannot read and write in Ukrainian. The share of those who have a university degree is minor, only 1%. At the same time, the Commissioner's recommendations given during the previous years to initiate amendments to the Electoral Code of Ukraine to promote the enjoyment of the electoral right by illiterate citizens, in particular by Roma, have not been fulfilled.

Response to violations of human and civil rights

Prevention of discrimination

According to Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms and Articles 21 and 24 of the Constitution of Ukraine, everyone is guaranteed the right to exercise right and freedoms without discrimination on any grounds. However, the problem of discrimination of vulnerable social groups remains relevant, and cases of homophobia, sexism, anti-Semitism etc. still are registered.

Lack of the uniform approach to definition of the hate speech, the efficient mechanism for monitoring, interaction and responsibility for spreading the hate speech prevents adequate response to such cases and preconditions the feeling of impunity.

In July 2022, the Commissioner received the petition regarding publication of the notices with signs of hate speech against representatives of the Roma national minority on the websites of the information agencies.

In order to prevent discrimination on ethnic grounds and facilitate compliance with the professional ethical standards by journalists of the information agencies, the corresponding letter was sent to the Journalist Ethics Commission.

The Journalist Ethics Commission considered the letter received from the Commissioner's Secretariat and adopted the resolution where it was established that the challenged material contained elements of violations of points 6, 9 and 15 of the Code of Ethics of Ukrainian Journalists, so a warning was issued to the Internet publication and the author of the materials.

Moreover, the Journalist Ethics Commission gave official recommendations to the journalists and editors on non-discrimination in the journalist activity.

¹⁸⁴“People choose to stay in Ukraine”. Roma activist Yulian Kondur on life of the Roma during the war. Available at: <https://romaua.org.ua/news/ukraine/1662664440550>

¹⁸⁵ The Roma refugees fleeing Ukraine fall victim to discrimination and prejudiced attitude. Available at: <https://foreignukraines.com/2022/09/12/roma-refugees-fleeing-war-in-ukraine-say-they-are-suffering-discrimination-and-prejudice/>

Imperfection of the mechanism for imposing liability for discriminatory actions, in particular, lack of administrative liability for discrimination, prevents protection of rights of the persons being discriminated. Although Article 16 of the Law of Ukraine “On the Principles of Prevention and Countering Discrimination in Ukraine” provides for civil, administrative and criminal liability, the CUAO still does not contain a corresponding Article. In the end, the persons who commit discrimination avoid adequate punishment for years.

It was established during the monitoring carried out by the Commissioner that in 2022 the investigative units of the National Police of Ukraine had 434 criminal proceedings instituted based on elements of the criminal offences under Article 161 (Violation of citizens’ equality based on their race, nationality, religious beliefs, disability and other grounds) of the CrCU, including the ones instituted in 2022 (303 as of 01.01.2022 and 131 registered in 2022).

However, indictments were forwarded to court for consideration on the merits only in 8 criminal proceedings (~2%) during the year (with account of the criminal offences of the past years). Agreements on pleading guilty were sent to court in the criminal proceedings based on 4 criminal offences, and a motion to apply involuntary medical measures was filed to court in connection with 1 criminal offence.

The above shows the complexity of examination and confirmation of the probable motive of intolerance in the offences committed, and also conforms the need to divide liability for discriminatory acts into criminal and administrative one.

In July 2022, the mass media monitoring found the information on the Jewish family from Khmelnytskyi who were regularly insulted and humiliated by the neighbour, who probably did that because of his intolerance based on religious beliefs and ethnic origin of the family. As a result of the constant pressure, the father had to take his children to a safer place. In order to protect their rights, the family often applied to the law-enforcement authorities, but no data were registered in the URPTI.

The right of the persons affected by displays of anti-Semitism to adequate response by the law-enforcement authorities and further qualification of the offence with account of the intolerance motive was restored.

The Khmelnytskyi District Police Department of the Main Department of the National Police in Khmelnytskyi Oblast commenced the pre-trial investigation within separate criminal proceedings under Article 161(1) of CrCU (Violation of citizens’ equality based on their race, nationality, religious beliefs, disability and other grounds) of the CrCU.

Rights of persons with disabilities

The rights of persons with disabilities, accessibility of services and universal design remained in the focus of the Commissioner’s response in 2022.

In August 2022, the Commissioner was approached by citizen K., a persons with eyesight disabilities of group I, regarding violation of the right of persons with disabilities to free rides in municipal transport by the carriers in Bila Tserkva, inadequate level of carriage services as well as discrimination on the basis of disability.

Following the response by the Commissioner’s Secretariat:

- the employers imposed administrative penalties, namely the dismissal and warning, upon the drivers against whom the petitioner had complained;

- explanations were given to the carriers and drivers regarding the work place discipline and passenger service culture/policy;

- the personnel was partly changed;

- the bus fleet of one of the carriers was upgraded.

The right of the persons with disabilities to beneficial/free rides in municipal transport, which is guaranteed by Article 38-1 of the Law of Ukraine “On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine”, was restored.

Equal rights and opportunities of women and men

Insufficient equality of rights and opportunities of women and men in different areas of social relations, including displays of sexism, still persists in the Ukrainian society although the women in Ukraine, in particular, in the context of the Russian-Ukrainian war, keep destroying the well-established stereotypes of social roles of women and men.

The Commissioner considered the petition received from the female military servant regarding humiliation and discrimination of female military servants in the basis of gender by the commanders (heads) of the division in one of the military units.

The work was performed by 2 independent work groups from the command of the Air Force of the AFU and the Main Department for Moral and Psychological Support of the AFU, during which interviews and anonymous surveys of the female military servants in the military unit were conducted, and information and awareness raising work with the personnel was performed. Moreover, it was established that the master sergeant of the military unit had violated the requirements of the Internal Service Charter of the AFU. The officials against whom the petitioner had complained apologised to her in public.

Moreover, in order to increase efficiency of organisation of the officials’ work, improve the moral and psychological condition of the personnel, and prevent violation of gender equality and displays of gender-based discrimination in the military unit, the Main Department for Moral and Psychological Support of the AFU recommended the Command of the Air Force of the AFU to perform the information and awareness raising work and conduct the meeting of the Board of Master Sergeants and Certification Committee, followed by the HR decisions in the military unit.

Although Law of Ukraine No. 1750-IX of 10.09.2021 “On Amending Law of Ukraine ‘On Advertising’ as to Prevention of Gender-based Discrimination” entered into force in 2022, the Commissioner still establishes the spread of such advertising.

In 2022, the Commissioner considered 5 petitions regarding the advertising of gender-based discriminatory nature.

In order to ensure proper response to the petitions, the Commissioner’s Secretariat asked the State Service of Ukraine on Food Safety and Consumer Protection to take response actions within its competence in accordance with Article 26 of the Law of Ukraine “On Advertising” and the Procedure

for Imposing Fines for Violation of the Advertising Legislation approved by Resolution of the CMU No. 693 of 26.05.2004.

The cases in connection with violation of the advertising legislation were considered, and 4 entities spreading discriminatory advertising were imposed penalties in accordance with Article 27 of the Law of Ukraine “On Advertising”; it was resolved to cease distribution of the above-mentioned advertising, and the discriminatory was removed in one case.

Counteraction to domestic violence and trafficking in human beings

Response to each case of domestic violence without any exceptions is the main pre-condition for observing the victims’ rights and imposing liability upon offenders. In 2022, the Commissioner received 95 oral and written petitions regarding domestic violence.

Citizen S. informed of domestic violence committed against her by her daughter and grandchildren, in the form of physical injuries, destruction of food products, prevention of use of housing and utility services and deliberate deprivation of communication means and personal belongings.

The Commissioner sent the requests to the OSA, the MD NP and the prosecutor’s office in order to check the facts of domestic violence and respond within their competence. As a result, the right of the victim to protection and assistance was restored:

- the report on the administrative offence under Article 173-2(1) of the CUAO (Commitment of domestic violence, gender-based violence, non-compliance with an emergency restraining order or failure to notify of the place of temporary stay) was drawn up in respect of the grandson of citizen S. and forwarded to court. He was registered with the police authorities for preventive purposes;

- the data were recorded in the URPTI based on the fact of the bodily injuries inflicted upon citizen S. by her daughter, and the pre-trial investigation was commenced based on the elements of the criminal offence under Article 125(1) of the CrCU (Intended minor bodily injury);

- the data were recorded in the URPTI based on the fact of stealing the mobile telephone and money from citizen S., and the pre-trial investigation was commenced based on the elements of the criminal offence under Article 185(1) of the CrCU (Theft);

- the social services registered citizen S. as a victim of domestic violence and provided her a package of social service and psychological assistance.

The efficient means of response to domestic violence is the National Hotline for Prevention of Domestic Violence, Trafficking in Human Beings and Gender-Based Discrimination.

During the expert consultation at the National Hotline¹⁸⁶ for Prevention of Domestic Violence, Trafficking in Human Beings and Gender-Based Discrimination, the employee of the Commissioner’s Secretariat received the petition from citizen M. regarding protection of her and her minor daughter from domestic violence.

Citizen M. informed of regular physical, psychological and economic violence allegedly committed by her husband. The woman also informed that her husband had inflicted bodily injuries and

¹⁸⁶ In cooperation with the Civil Society Organisation “La Strada Ukraine” and within the Ukrainian National Campaign “16 Days of Activism against Violence”, the staff of the Secretariat provide expert consultations at the National Hotline for Prevention of Domestic Violence, Trafficking in Human Beings and Gender-Based Discrimination.

cuts upon her, stolen her documents and mobile phone, and disappeared together with their minor daughter.

The Commissioner sent the inquiries to the oblast military administration and the Main Department of the National Police in one of the oblasts to take actions in order to guarantee observance of rights of the victim and her child to protection and help.

Following the Commissioner's response, the bodies of the National Police established the perpetrator's location, took away the child and returned her to her mother.

Citizen M. was informed of the procedure for getting social services, addresses of specialised support services for victims of domestic violence, and she was provided legal aid.

The rights of the victims of domestic violence to information, protection and help were restored.

During the reporting period, the Commissioner received 14 petitions **regarding trafficking in human beings**. The vast majority of the petitions received by the Commissioner in connection with trafficking in human beings were related to the persons held captive by the occupying army of the RF.

The Commissioner was approached by citizen K. regarding observance of her child's right to be assigned the status of a victim of trafficking in human beings.

In her petition, the petitioner informed that her minor son had been illegally deprived of his liberty by the occupying army of the RF. When the child was in captivity, he was subjected to physical violence.

The Commissioner took actions to restore the child's rights to necessary aid as to the person who had fallen victim to trafficking in human beings. The requests were sent to the executive authorities to take actions within their competence to respond and prepare necessary documents and grant necessary aid to the minor child.

Following the Commissioner's response, the affected person was granted the status of a victim of trafficking in human beings, which gave him the right to free medical, psychological, social, legal and other necessary aid.

Moreover, according to the effective legislation, the person granted the status of a victim of trafficking in human beings has the right to one-time monetary assistance in the amount of 3 subsistence wages for the respective category of persons as established as of the date of application for the financial assistance.

The right of the child affected by trafficking in human beings were restored.

The citizens filed petitions regarding violation of their rights to being assigned the status of a victim of trafficking in human beings, to getting guaranteed free information, medical, social, legal and other types of aid.

The Commissioner took actions based on each fact to assign the status of a victim of trafficking in human beings to such persons as promptly as possible, to grant them necessary aid, including financial one.

The Commissioner instituted the proceedings based on the petition of citizen S. regarding observance of her rights as a person who considered herself to be a victim of trafficking in human beings.

In her petition, she informed that she was illegally deprived of her liberty while the settlement was occupied by the Russian army. She was subjected to psychological violence while she was in captivity. The petitioner was also forced to perform some work.

Within the proceedings, the Commissioner took actions to restore the petitioner's rights to necessary aid as to the person who had fallen victim to trafficking in human beings. Several requests were sent to the central and local executive authorities to take actions within their competence to respond and prepare necessary documents and grant necessary aid to citizen S.

Following the Commissioner's response, the petitioner was granted the status of a victim of trafficking in human beings, which gave her the right to free medical, psychological, social, legal and other necessary aid and the right to use shelter services.

Moreover, according to the effective legislation, the person granted the status of a victim of trafficking in human beings has the right to one-time monetary assistance in the amount of 3 subsistence wages for the respective category of persons as established as of the date of application for the financial assistance.

The right of the person affected by trafficking in human beings were restored.

A number of petitions received regarding the right to one-time financial assistance to the person holding the status of a victim of trafficking in human beings should be separated. It was established by the Commissioner that, according to the National Social Service, only 22 persons out of 36 persons granted the status of a victim of trafficking in human beings in 2022 received the guaranteed one-time financial assistance for this category of citizens.

The Commissioner instituted the proceedings based on the petition of citizen K. regarding observance of his right to one-time financial assistance to the person holding the status of a victim of trafficking in human beings.

In his petition, the petitioner informed that he had been issued a certificate of the status of a victim of trafficking in human beings in August 2022. Then citizen K. applied to the corresponding structural subdivision of the territorial community for one-time financial assistance for such category of persons, but did not receive it for 3 months.

Within the proceedings, the Commissioner took actions to restore the petitioner's right to the guaranteed payment. Several requests were sent to the central and local executive authorities to take actions within their competence as prescribed by the legislation.

Following the Commissioner's response, the petitioner received the financial assistance in the amount of 3 subsistence wages. The right of the person affected by trafficking in human beings was restored.

Observance of the right to citizenship and political rights

The Commissioner received 579 petitions, including the ones on documentation of the Ukrainian citizens — 224 petitions (23 of them were related to documentation of the Ukrainian citizens abroad); on border crossing — 158 petitions, on documentation of foreigners and stateless persons — 79, acquisition of citizenship of Ukraine, renunciation of citizenship of Ukraine — 31, granting of the refugee status — 18, and other issues — 69.

According to Article 5 of the Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons”, confirmation of a lawful stay in the territory of Ukraine beyond the terms of visa restrictions is a permanent or temporary residence permit, which is issued as prescribed by the legislation of Ukraine. Amendments must be made to the legislation of Ukraine to simplify acquisition of citizenship of Ukraine by the foreigners who are defending Ukraine and its sovereignty from the armed aggression. The Commissioner initiated and held the work meetings, sent initiative letters, processed the information and submitted the Commissioner’s Opinions on legislative regulation of acquisition of citizenship of Ukraine by the foreigners who are defending Ukraine and its sovereignty from the armed aggression.

The Commissioner considered the petition from the citizen of the Republic of Belarus who was wounded during the hostilities against the aggressor state as a member of the AFU and asked to help him get the documents and formalise his residence in Ukraine. Following the Commissioner’s response and based on the corresponding letters of response, the petitioner was invited to the regional authority of the State Migration Service of Ukraine, and his legal stay in the territory of Ukraine was registered.

The SMS has temporarily suspended operation of its own information systems and work of all the territorial bodies and units of the SMS since 24 February 2022 in connection with the armed aggression of the RF and the martial law in Ukraine. In this regard, a large number of foreigners and stateless persons were unable to extend their documents on legality of their stay in the territory of Ukraine.

The Commissioner received the petition from citizen of Ukraine R.-S. for the benefit of his wife, citizen of the RF R.-S., regarding violation of his wife’s rights to obtain the permit for permanent residence in Ukraine.

It was established from the petition that the petitioner was married to the citizen of the RF and had lived with her and their children in Mykolaiv since 2016. After the broad-scale military aggression of the RF against Ukraine had started, the petitioner’s family stayed in Mykolaiv because of his disease. The SMS ceased its operations in Mykolaiv Oblast in connection with the martial law. The family could not leave for another city since the petitioner was in hospital in the grave condition during the period when the documents had to be submitted. The petitioner applied to the territorial bodies of the State Migration Service of Ukraine for a long time, but his requests for documents were rejected.

Only after Resolution of the CMU No. 1202 of 21.10.2022 had entered into force, the petitioner’s wife was given the right to receive a certificate and confirm legality of her stay in Ukraine.

In order to restore the petitioners’ violated rights and prevent the equivalent violations, the Ukrainian Parliament Commissioner started consultations with the public authorities, including the State Migration Service of Ukraine, non-governmental civil society organisations (Charitable Foundation “Right to Protection”, Civil Society Organisation “The Tenth of April”), Charitable Foundation “Rokada”), and sent initiative letters to the SMS, the MFA and the Ministry of Reintegration.

On 21.10.2022, the CMU adopted Resolution No. 1202 “Certain Matters of Implementation of Legislative Acts in the Field of Migration during Martial Law”, which enabled entry and lawful stay of foreigners and stateless persons, except for citizens of the Russian Federation, in Ukraine based on the

temporary or permanent residence permit that expired or was subject to exchange after 24 February 2022. This rule is in effect during the martial law and for 30 days after it is terminated or revoked. The Commissioner's proposals and comments were partly considered, and the work is continued to improve the rule.

A separate matter is the status of foreigners being citizens of the Russian Federation in the territory of Ukraine. In 2022, the Ukrainian Parliament Commissioner received more than 50 petitions from the citizens of the Russian Federation and their family members, including the Ukrainian citizens, regarding denial of the bodies of the State Migration Service of Ukraine to accept and consider documents on the migration permit, confirmation of lawfulness of stay of citizens of the RF in the territory of Ukraine.

The Commissioner considered the petition of citizen of the RF B. regarding a temporary residence permit in Ukraine.

As it was established from the petition, the petitioner was a citizen of the Russian Federation who resided in the territory of Ukraine on a legal basis and was married to the Ukrainian citizen. On 24.06.2022, he applied to the territorial body of the SMS of Ukraine to exchange his temporary residence permit in connection with the forthcoming expiration of the permit, but his documents were rejected.

The matter required additional check and legislative regulation.

The Commissioner initiated the inter-agency meeting in order to develop mechanisms for resolving the issues raised without limitation in the petition, for amending the effective legislation of Ukraine and regulating relations with the persons connected with the aggressor state who were in the territory of Ukraine on a legal basis.

Following the Commissioner's response, on 1 November 2022, the CMU adopted Resolution No. 1232 "Certain Matters of Provision of Administrative Services by the State Migration Service during the Martial Law", which enabled certain categories of the citizens of the RF to exchange their temporary residence permit if it expired from 24.02.2022 until the effective date of the resolution. The Commissioner's proposals and comments were partly considered, and the work is continued to improve the rule.

The matter to be resolved is completion of the procedure for acquisition of the Ukrainian citizenship by the citizens of the RF who received a temporary certificate of the Ukrainian citizen and assumed the obligation to renounce their Russian citizenship within 2 years.

In 2022, the Commissioner's Secretariat received 28 petitions on that matter. Also, one meeting was held with representatives of that category of citizens, and it was noted there that there were more than 230 persons like that. According to the SMS of Ukraine (from open sources), there are around 175 thousand persons with the citizenship of the RF in the territory of Ukraine in general. These data do not include temporarily occupied territories of Ukraine.

Thus, the Commissioner considered the collective petition from the former citizens of the RF, which was signed by 76 petitioner who had acquired the Ukrainian citizenship as prescribed by the effective legislation of Ukraine, but could not complete the procedure for acquisition of the Ukrainian citizenship because they could not renounce citizenship of the aggressor state.

The Commissioner considered the petition from citizen of the RF Ch. born in 1985 regarding exercise of her right to acquire the Ukrainian citizenship. According to the petition, the petitioner was born in Ukraine, which was confirmed by her birth certificate. She left for the RF together with her parents and returned to Ukraine in 1998. She had been permanently living in Ukraine since 2007. In 2020, together with the son born in her first marriage, she received a certificate of registration as the Ukrainian citizenship, but she could not complete the procedure for acquiring the Ukrainian citizenship since the broad-scale military aggression of the Russian Federation against Ukraine started. The term of her certificate of registration as the Ukrainian citizen expired in April 2022. As of the date of the petition, the petitioner's status had not been determined, and there was no information on actions taken to acquire the Ukrainian citizenship.

According to the information received from the petitioners, the consular and diplomatic missions of the RF in Ukraine unreasonably refused to accept their documents on renouncing citizenship of the RF, returned their documents without consideration and any records, explanations and written responses since October 2021.

After the full-scale war had started, diplomatic relations with the aggressor state had been severed, and the consular missions of the RF in the territory of Ukraine had closed down, the citizens who had received the temporary certificate of the Ukrainian citizen and assumed the obligation to renounce the foreign citizenship of the RF had the only way out: to renounce the citizenship of the RF outside Ukraine.

One of the proposals of the SMS for such category of citizens was to apply to foreign consular and diplomatic missions of the RF outside Ukraine. However, in case a citizen has no residence permit in the country where he or she applies to the consular mission of the RF, there are no grounds for accepting his or her application for renouncing the citizenship of the RF in accordance with the legislation of the RF. The declarative renunciation of the citizenship of the aggressor state is not a solution as well since the consular missions of the RF in Ukraine have suspended their operations, and a motion to renounce the foreign citizenship of the RF cannot be submitted to consular missions of the RF outside Ukraine.

Therefore, the only opportunity to renounce the citizenship of the RF is to go to the RF and apply to the authorised bodies there. However, in this case, such citizens are under threat of prosecution and detention in the territory of the RF.

Observance of the right to freedom of religion and belief, rights of national minorities (communities) and indigenous peoples

Observance of rights of national minorities (communities) is one of the key activities of the Commissioner, especially in the context of Ukraine's admission to the European Union. The important step on the path to that was adoption of the Law of Ukraine "On National Minorities (Communities) of Ukraine", which was developed with participation of the Secretariat of the Ukrainian Parliament Commissioner for Human Rights in the work group. Given the importance of the matter, in order to enhance protection of rights of representatives of national minorities (communities) and indigenous peoples of Ukraine, the Commissioner's Secretariat has established the department of rights of national minorities, indigenous peoples and religious beliefs.

Since September 2022, the department has received 18 petitions regarding violation of rights and freedoms of representatives of national minorities (communities); use of ethnic profiling by the law-enforcement authorities regarding representatives of the Roma national minority (community); violation of the right to freedom of worldview and religion; violation of the right to use and dispose of the complex of buildings and constructions of orthodox churches of the Orthodox Church of Ukraine.

One of the most vulnerable national communities in Ukraine is **the Roma**. The Commissioner keeps receiving petitions regarding discrimination of representatives of this minority on an ethnic ground.

The Commissioner received the petition from the Coalition of Roma Non-Governmental Organisations of Ukraine regarding application of ethnic profiling by the law-enforcement authorities to representatives of the Roma national minority (community).

In August and September 2022, the armed security guards stopped the representatives of the Roma community at the checkpoints of Zaporizhzhia and Toretsk in Donetsk Oblast without any official explanations and transferred them to the police departments.

Ethnic profiling was applied to the representatives of the Roma national minority (community) in the police departments, which was a gross violation of human rights.

Following the response to the actions of the department officers, the police conducted the official investigation in those regions and gave information on no violation of human rights on ethnic or any other grounds. Then prosecution of the Roma at the checkpoints stopped.

The military aggression of the RF against Ukraine also caused numerous **violations of religious rights of citizens**¹⁸⁷. The Commissioner emphasises that religious organisations cannot be used in the actions against national security of the country, prosecution of representatives of religious organisations for political reasons, duty of the law-enforcement authorities to conduct objective and unprejudiced investigative actions, and inadmissibility of discrimination on grounds of religious beliefs. The Commissioner responds to each violation associated with violation of religious rights of citizens within his competence.

Monitoring inspections of observance of rights

During the reporting period, 172 monitoring visits and desk reviews were carried out, and comments and recommendations were given then to eliminate the violations.

Counteraction to domestic violence and trafficking in human beings

It was established during 26 desk reviews that the gaps in coordination and interaction of the entities responsible for prevention of and counteraction to domestic violence were increased during the martial law. 14 other desk reviews were conducted in the field of counteraction to trafficking in human beings. Interaction of the entities that perform activities in these areas, operation of the specialised support services for victims of domestic violence, recording of findings of medical examination of

¹⁸⁷ More detailed information can be found in Chapter 1 of this Report “Rights of citizens affected by the armed aggression against Ukraine”.

victims of domestic violence, provision of free secondary legal aid to such persons as well as observance of rights of victims of trafficking in human beings to information, protection and help are monitored.

Individual violations of rights of victims to information, help and protection as well as reduction of the quantity of the coordination (inter-agency) boards responsible for counteraction to domestic violence and trafficking in human beings were established during the reviews.

The Commissioner have recommendations on adequate response to domestic violence, trafficking in human beings, help to victims, more active interaction of the entities responsible for prevention of and counteraction to domestic violence and trafficking in human beings.

Mass media and social media were also regularly monitored regarding observance of rights of victim of trafficking in human beings. In total, 105 cases of possible violation of the victims' rights were detected; then applicable requests for guaranteed observance of the victims' rights to protection and help were sent to the interacting entities that performed activities in that area. Owing to the Commissioner's response, the central executive authorities and oblast military administrations conducted detailed inspections of cases of trafficking in human beings; the necessary first aid to the victims was organised, and actions were taken in order to observe the right to information on risks and consequences of trafficking in human beings.

Architectural accessibility monitoring

The major problem is the insufficient level of accessibility, namely architectural one, for persons with disabilities and other reduced-mobility population groups. In 2022, 31 monitoring and desk reviews were conducted, in the first place, in the oblasts where lots of people fleeing the war had been displaced (Vinnytsia, Zhytomyr, Poltava, Dnipropetrovsk, Ivano-Frankivsk, Ternopil, Rivne, Volyn and Zakarpattia Oblasts).

Based on the results of the monitoring, recommendations were provided to eliminate the violations. The facilities eliminate such violations within their budget capacity.

As of the end of 2022, 7 monitored facilities improved their architectural accessibility: separate parking slots for vehicles of persons with disabilities were equipped; contrasting marking was placed on the stairs at entrances to the monitored facilities, rails for the ramps, tactile signs with the names and working hours of the facilities as well as names of offices inside the buildings were installed; rails were installed at the toilet facilities in accordance with the accessibility requirements; reasonable accommodation measures were taken etc.

Observance of rights and freedoms by the local executive authorities and local self-government bodies and satisfaction of needs of different groups of women and men, especially from among the vulnerable ones, during the martial law in Ukraine

It was established during 19 desk reviews and 1 monitoring visit that the most common problems in that area were:

- insufficient communication and consultations with the public sector during the activities performed to observe rights of vulnerable groups during the war;
- insufficient consideration of needs of different social groups, including persons with disabilities and reduced-mobility population groups, in satisfaction of humanitarian needs of the population (for instance, no address delivery of humanitarian assistance to the place of residence of persons with no mobility);
- architectural inaccessibility of places of temporary residence of IDPs to persons with disabilities;

- no established approach to assessing needs of different social groups, as a result of which the assistance granted does not always meet the needs.

The recommendations were given to the corresponding decision-makers following the monitoring.

Observance of rights of Ukrainian citizens, foreigners and stateless persons to documentation

The reviews of the matters of documentation of Ukrainian citizens, foreigners and stateless persons as well as conditions of migrants' stay in the temporary holding centres for foreigners and temporary refugee accommodation centres were conducted during the second half of 2022. There were also additional checks of operation of the points where detainees were held in border guard units. 6 desk reviews and 2 on-site monitoring visits to the territorial bodies of the State Migration Service of Ukraine, 1 on-site monitoring and 1 desk review of the temporary refugee accommodation centres, 2 monitoring desk reviews of the temporary holding centres for foreigners and 2 on-site checks of the points of preliminary detention in the border guard units were conducted.

No violations were detected during the reviews, but the recommendations were given on how to improve the work and ensure observance of rights of foreigners and stateless persons.

It should be noted that the territorial and regional authorities of the State Migration Service of Ukraine generally enable petitioners to exercise their rights, but some aspects of the work need to be revised or improved.

As for centres for refugees and asylum seekers as well as illegal migrants, most of such facilities did not function in connection with the full-scale military aggression of the RF against Ukraine, or started to function after the hostilities in their area had ceased. As a result, monitoring visits to such facilities are scheduled for 2023 in order to establish the actual state of affairs.

Rights of the Roma minority

In September 2022, the Commissioner's Secretariat took visits to the compact settlements of the Roma in Ukraine and had personal meetings with representatives of the Roma community in Zakarpattia, Lviv and Odesa Oblasts. The monitoring detected some cases of denial of employment due to ethnic origin, unsatisfactory household conditions and isolation from social services, limited provision of medical services, improper documentation and inefficient engagement of children into the educational process in the remote format. The monitors also recorded the low level of education and awareness of representatives of the Roma national minority (community) of operation of social institutions, human and civil rights, freedoms and duties that are guaranteed and prescribed by the legislation of Ukraine. Following the monitoring, the corresponding recommendations were given to the public authorities and local self-government bodies on protection of the Roma and optimisation of their integration into the Ukrainian society.

Legislative drafting

Prevention of discrimination

According to Article 16 of the Law of Ukraine "On the Principles of Prevention and Countering Discrimination in Ukraine", those who are guilty of breaching the legislative requirements for preventing and countering discrimination shall bear civil, administrative and criminal liability, the CUAO still does

not contain a corresponding Article. It makes it difficult to impose liability for violation of equal rights of citizens since only Article 161 of the CrCU can be applied in such cases.

The purpose of the draft Law of Ukraine “On Amending the Code of Ukraine on Administrative Offences and the Criminal Code of Ukraine to Combat the Manifestations of Discrimination” (registration No. 5488 of 13.05.2021) is to separate criminal and administrative liability for discrimination, and to approve the conceptual framework in terms of qualification of different forms and displays of intolerance, which still has not been adopted, although this legislative initiative is provided for in point 52 of the Action Plan for the Association Agreement between the European Union, the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, which was approved by Resolution of the CMU No. 1106 of 25.10.2017.

The Commissioner supports the above-mentioned draft law, has participated in drafting thereof and has often stressed the need for prompt adoption thereof, in particular, in the Annual Report on the Observance and Protection of Human Rights and Freedoms of Citizens of Ukraine for 2021.

Equal rights and opportunities of women and men

According to the effective legislation of Ukraine, women perform their military duty on equal terms with men (except as otherwise prescribed by the legislation on protection of motherhood and childhood as well as prohibition of gender-based discrimination). However, the draft laws “On Amending the Law of Ukraine ‘On Ensuring Equal Rights and Opportunities for Women and Men’ As Regards the Definition of Sexism” (registration No. 4598-1 of 02.02.2021) and “On Amending Certain Laws of Ukraine As Regards Addressing the Issue of Response, Prevention and Combatting the Manifestations of Discrimination on the Grounds of Sex and Sexual Harassment Among the Military” (registration No. 5485 of 13.05.2021) still have not been adopted. The Commissioner affirmed the above-mentioned draft laws, expressed proposals thereon and have recommendations to the Verkhovna Rada of Ukraine to accelerate consideration and adoption thereof in the Annual Report on the Observance and Protection of Human Rights and Freedoms of Citizens of Ukraine for 2021.

Moreover, there is generally no legislative approach to definition of sexual harassment in the meaning of Article 40 of the Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention), which was ratified by the Verkhovna Rada of Ukraine this year.

The legislative definition given in the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men” is related to the persons who have relations of labour, official, financial or other subordination.

Therefore, there is no administrative liability and procedure for challenging sexual harassment that occurs outside the work place and as regards the persons who have no subordination whereas Article 173-2 (Commitment of domestic violence, gender-based violence, non-compliance with an emergency restraining order or failure to notify of the place of temporary stay) of the CUAO under which liability can be imposed for sexual harassment as for gender-based violence does not make a difference between domestic violence and gender-based violence, which requires legislative regulation. This matter requires applicable legislative regulation.

Rights of persons with disabilities

Another problem that occurred at the beginning of the full-scale war was accompaniment of persons with disabilities, namely during evacuation outside Ukraine.

In May 2022, the petition of citizen S. was received regarding elimination of the discriminatory clauses of the Rules for State Border Crossing by the Ukrainian Citizens approved by Resolution of the CMU No. 57 of 27.01.1995 (as amended), which prevented a person with disabilities from crossing the border during the martial law together with the male care giver if the latter had not received a certificate of compensation for providing the social care service without entrepreneurial activity. The Commissioner's Secretariat sent a letter to the Ministry of Social Policy, where he asked to consider regulation of the issue and, where necessary, to initiate corresponding amendments to the effective legislation.

This matter has been regulated by Resolution of the CMU No. 1044 of 10 September 2022 . In particular, the fact of care can be confirmed with the report on establishment of the fact of taking care of the parent or parent-in-law or with documents (certificate, statement) on receiving the compensation (assistance, extra payment) for care.

Recommendations

The Verkhovna Rada of Ukraine should ensure consideration and adoption of:

- draft Law of Ukraine “On Amending the Code of Ukraine on Administrative Offences and the Criminal Code of Ukraine to Combat the Manifestations of Discrimination” (registration No. 5488 of 13.05.2021);
- draft Law of Ukraine “On Amending the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men” As Regards the Definition of Sexism” (registration No. 4598-1 of 02.02.2021);
- draft Law of Ukraine “On Amending Certain Laws of Ukraine As Regards Addressing the Issue of Response, Prevention and Combatting the Manifestations of Discrimination on the Grounds of Sex and Sexual Harassment Among the Military” (registration No. 5485 of 13.05.2021);
- initiate amendments to the Electoral Code of Ukraine to promote the enjoyment of the electoral right by illiterate citizens, in particular by Roma.

The Cabinet of Ministers of Ukraine should:

- ensure that the recommendations given by the UN Committee on the Elimination of Discrimination against Women in its Concluding observations on the ninth periodic report of Ukraine are followed;
- develop and submit to the Verkhovna Rada of Ukraine the draft law on stricter liability for gender-based violence, in particular, on introduction of administrative liability for sexual harassment;
- develop and submit to the Verkhovna Rada of Ukraine for consideration the draft Law of Ukraine on ratification of Convention of the International Labour Organisation concerning the elimination of violence and harassment in the world of work No. 190;
- develop and submit to the Verkhovna Rada of Ukraine the draft Law of Ukraine on amending the Law of Ukraine “On the Principles of Prevention and Countering Discrimination in Ukraine” concerning the supplementing of the definition of the term “discrimination” with the aspects of discrimination on the grounds of sexual orientation and gender identity;
- develop and approve the State Target Social Programme for Combating Trafficking in Human Beings for the Period Until 2025;

- approve the Action Plan for the Implementation of the Strategy for Promoting the Enjoyment of Rights and Opportunities of Persons Belonging to the Roma National Minority in the Ukrainian Society for the Period Until 2030.

The Prosecutor General's Office should amend the Code of Professional Ethics and Conduct of Public Prosecutors in order to include the clauses on prevention of gender-based discrimination and sexual harassment at the work place.

The Ministry of Social Policy of Ukraine should:

- amend the Law of Ukraine “On Countering Trafficking in Human Beings” to include the local self-government bodies into the list of the entities that take actions to counter trafficking in human beings;

- ensure implementation of the measures provided for in the State Social Programme for Preventing and Combating Domestic Violence and Gender-Based Violence for the Period Until 2025 as approved by the Resolution of the Cabinet of Ministers of Ukraine No. 145 of 24.02.2021.

The Ministry of Justice of Ukraine should develop and submit to the Verkhovna Rada of Ukraine for consideration the draft law on the legalisation of registered civil partnerships in Ukraine for same-sex couples with regulation of their property rights and non-property rights.

The Ministry of Foreign Affairs of Ukraine should consider provision of consular services to Ukrainian citizens in the territory of the RF via a third-country consular institution.

The National Police of Ukraine should develop and submit to the Cabinet of Ministers of Ukraine for consideration the draft law on amending the Law of Ukraine “On the Disciplinary Charter of the National Police of Ukraine” in order to include the clauses on prevention of gender-based discrimination and sexual harassment at the work place.

The State Service of Ukraine for Ethnic Policy and Freedom of Conscience, the Ministry of Culture and Information Policy should submit for public discussion and approval the draft Action Plan for the Implementation of the Strategy for Promoting the Enjoyment of Rights and Opportunities of Persons Belonging to the Roma National Minority in the Ukrainian Society for the Period Until 2030.

The National Social Service of Ukraine should:

- ensure training on countering trafficking in human beings, including as regards detection and organisation of aid to the persons who have been held captive by the occupying army;

- ensure training on prevention of and counteraction to domestic violence, including as to coordination of the entities responsible for prevention of and counteraction to domestic violence during the martial law and deoccupation of certain parts of the territory of Ukraine.

The State Migration Service of Ukraine should:

- develop and submit to the Minister of Internal Affairs for consideration the draft Law of Ukraine on amending the Law of Ukraine “On the Citizenship of Ukraine” in order to eliminate legislative collisions and gaps that make it impossible to complete the procedure for acquisition of the Ukrainian

citizenship by the citizens of the RF who have received the temporary certificate of the Ukrainian citizenship as prescribed by the law;

- ensure simplification of the procedure for obtaining the status of a stateless person in terms of collection and submission of documents;

- develop and submit to the Minister of Internal Affairs the draft resolution of the Cabinet of Ministers of Ukraine on regulation of legality of stay in the territory of Ukraine for the citizens of the Republic of Belarus who came to Ukraine from 2020 to 2022 as they fled prosecution of Lukashenko's regime, by initiating the corresponding resolution of the Cabinet of Ministers of Ukraine.

The oblast state administrations, the Kyiv City State Administration, local self-government bodies should:

- ensure control over provision of information on submission of the application for the status of a victim of trafficking in human beings for the persons who have been held captive by the occupying army;

- ensure creation and operation of specialised victim support services with account of deoccupation of certain parts of the territory of Ukraine.

CHAPTER 7. IMPLEMENTATION OF THE NATIONAL PREVENTIVE MECHANISM AND HUMAN RIGHTS IN PLACES OF CUSTODY

1,073 petitions to the Commissioner (namely with regard to violation of human rights in penitentiary institutions, pre-trial detention centres, temporary detention facilities and other places of custody — 70%, petitions from citizens and organisations with regard to implementation of the national preventive mechanism — 30%)

23 legal and normative acts processed and proposals submitted

345 visits to places of custody to perform functions of the national preventive mechanism

21 petitions by the Commissioner

8 entries of information into the URPTI following the inspections initiated by the Commissioner and the measures taken

1,008 letters regarding checks of possible crimes

725 other letters on observance of human and civil rights

141 instructions to representatives of civil society organisations to attend the places of custody within the framework of the NPM based on Ombudsman+ formula

The geography of visits is broad and covers all the regions of Ukraine:

city of Kyiv — 68, Kyiv Oblast — 26, Vinnytsia Oblast — 18, Volyn Oblast — 3, Dnipropetrovsk Oblast — 34, Donetsk Oblast — 6, Zhytomyr Oblast — 8, Zakarpattia Oblast — 24, Zaporizhzhia Oblast — 5, Ivano-Frankivsk Oblast — 11, Kirovohrad Oblast — 14, Luhansk Oblast — 3, Lviv Oblast — 12, Mykolaiv Oblast — 4, Odesa Oblast — 8, Poltava Oblast — 7, Rivne Oblast — 16, Sumy Oblast — 10, Ternopil Oblast — 8, Kharkiv Oblast — 5, Kherson Oblast — 4, Khmelnytskyi Oblast — 19, Cherkasy Oblast — 8, Chernivtsi Oblast — 18, Chernihiv Oblast — 6.

General information on the quantity and types of places of custody in Ukraine as of 31.12.2022

Subordination	Type of the facility	Number of facilities	Number of persons held
State Migration Service of Ukraine (SMS)	Temporary holding centres for foreigners for foreigners and stateless persons	3	519
	Refugee accommodation centres	3	241
State Border Guard Service of Ukraine (SBGS)	Temporary detention places (temporary detention points and special premises of the department of the board guard service)	56	1,498

Ministry of Justice of Ukraine (SCES)	Pre-trial detention centres (penitentiary institutions)	30	16,557
	Special corrective colonies	5	51
	Corrective colonies	92	29,024
	Corrective centres	20	754
	Healthcare institutions of the State Institution “Healthcare Centre” of the SCES Ukraine	105	
State Judicial Administration of Ukraine (SJA)	Premises (rooms) for detention of persons on trial (convicts) in court	1,308	12,335
Ministry of Internal Affairs of Ukraine (National Police of Ukraine, NGU)	Rooms for detainees	639	2,289
	Temporary detention facilities (TDF)	117	9,989
	Reception centres for children	3	16
	Special vehicles used to escort the persons held in custody and/or sentenced to imprisonment (NGU)	189	
	Vehicles to carry detainees, persons held in custody and convicts (National Police of Ukraine)	745	
	Special rooms in healthcare institutions where the persons detained and held in custody are guarded by police officers during treatment	430	
Ministry of Social Policy of Ukraine (MSP)	Centres for social and psychological rehabilitation of children	74	4,574
	Inpatient departments for permanent or temporary residence at territorial social service centres	313	9,000
	Psychoneurological care home, geriatric facilities, children’s care homes	282	43,000
	Children’s shelters	4	623

Ministry of Health of Ukraine (MoH) Ministry of Education and Science of Ukraine (MES)	Orphanages	17	662
	Boarding schools for orphans and children deprived of parental care	8	457
	Special education institutions	310	36,294
	Education and rehabilitation centres	80	8,406
	Special psychiatric care facilities	63	
	Kyiv Municipal Forensic Examination Centre	1	
Ministry of Defence of Ukraine	Rooms for temporarily detained military servants at the Military Law Enforcement Service of the AFU	46	3,931
	Military detention facilities	11	
	Disciplinary battalion	1	
	Special rooms in healthcare institutions of the AFU	9	
Security Service of Ukraine	Pre-Trial Investigation Department of the SSU	1	-
Total		4,965	119,313

Key events, challenges and tendencies

According to Article 19-1 of the Law of Ukraine “On the Ukrainian Parliament Commissioner for Human Rights”, the Commissioner shall perform functions of the national preventive mechanism (hereinafter the “NPM”) in accordance with the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In the context of the broad-scale armed aggression against Ukraine, it was difficult to perform the functions of the NPM for a number of reasons, including without limitation:

- aggravation of conditions for detention at places of custody as a result of shelling and seizure hazards, lack of the sufficient quantity of bomb shelters at places of custody, limited reserves of medicines, food and drinking water;
- loss of communication with the staff and detainees in the seized places of custody in the occupied territories;
- destruction of the infrastructure of places of custody as a result of hostilities;
- complicated logistic support of the NPM as a result of destruction of the communication lines, transport infrastructure facilities, and fuel supply disruptions;
- relocation of places of custody in connection with evacuation, including outside Ukraine (orphanages, care homes etc.);
- impossibility to ensure safety of the staff of the NPM and representatives of civil society organisations engaged into regular visits, and their refusal to visit due to departure from Ukraine.

The broad-scale armed aggression against Ukraine has materially affected the places of custody in Ukraine. Some of those places were in the territory controlled and temporarily occupied by the Russian Federation during the first days after 24 February 2022. Therefore, some of the facilities and institutions where the Ukrainian citizens were detained could not be evacuated and remained in the occupied territory.

As for aggravation of conditions for detention at places of custody as a result of shelling and seizure hazards, lack of the sufficient quantity of bomb shelters at places of custody, it can be noted that according to the National Social Service there were 245 social care homes in Ukraine as of 1 January 2022, with 37,899 people staying there. As of December 2022, temporary displacement (evacuation) of 4,198 people from 39 care homes was ensured (11.1% of the total number of all the people staying in the care homes as of 01.01.2022): 3,259 persons were relocated to the care homes in the other oblast, and 939 persons moved abroad.

Pursuant to the decisions of the heads of the oblast military administrations of Donetsk, Dnipropetrovsk, Kharkiv and Zaporizhzhia Oblasts, the MoJ resolved to evacuate the convicts and detainees from 11 facilities located in the areas near the frontline. Evacuation of the convicts and detainees from 7 corrective colonies, 2 penitentiary institutions and 2 corrective centres was ensured, including the following state institutions: Orihiv corrective colony (No. 88), Vilniansk corrective colony (No. 20), Sofiiivska corrective colony (No. 55), Kamianske corrective colony (No. 101), Pokrovske corrective colony (No. 17), Toretsk corrective colony (No. 2), Selydove corrective colony (No. 82), Vilniansk penitentiary institution (No. 11), Bakhmut penitentiary institution (No. 6), Druzheliubivka corrective centre (No. 1), Novyi Buh corrective centre (No. 103).

The total number of evacuated persons was 4,628, namely 648 detainees and 3,980 persons sentenced to deprivation and limitation of liberty, including 48 women, 7 minors and 215 persons sentenced to life imprisonment.

Evacuation as the forced step aimed at saving lives and health of the persons kept in the institution or facility and the staff can also have material negative effects.

As a result of evacuation of the convicts or detainees from the state institution “Vilniansk penitentiary institution No. 11” to the state institution “Kropyvnytskyi pre-trial detention centre”, such persons are forced to stay in inhuman or degrading conditions. When the NPM group visited the

state institution “Kropyvnytskyi pre-trial detention centre”, they detected the violation of the floor area requirements in 35 cells.

The same violations were detected by the NPM groups when they attended the state institutions “Vynnytsia penitentiary institution (No. 1)”, “Uzhhorod penitentiary institution (No. 9)” and “Zamkove corrective colony (No. 58)”.

According to the Ministry of Social Policy, starting from 24.02.2022, more than 5.8 thousand persons were evacuated from the care homes of the social care system, children’s care home, psychoneurological care homes, care homes for the elderly and persons with disabilities in certain oblasts to safe regions, including around a thousand persons evacuated abroad (to Germany, Poland, Spain, Italy and Latvia).

Despite all the difficulties, the Commissioner has continued to perform his functions of the national preventive mechanism in Ukraine, and his international duties under the Optional Protocol to the Convention against Torture will be fulfilled.

However, in some cases, the occupying power performed open deportation of the Ukrainian citizens who were held in the closed facilities in the territories of Ukraine controlled by the Russian army (for instance, according to the Kherson OMA, on 4 November 2022, the occupying authorities deported more than a hundred persons with disabilities from the communal facility of Kherson Oblast Council “Dniprianskyi psychoneurological care home”)¹⁸⁸, and the prisoners from at least three colonies and PTDC in Kherson Oblast were carried to the territory of Russia at the beginning of October 2022.

Findings of NPM visits (by agencies)

345 visits to places of custody to perform functions of the national preventive mechanism, including:

- 144 — system of the Ministry of Social Policy of Ukraine;
- 69 — system of the Ministry of Internal Affairs of Ukraine;
- 61 — system of the Ministry of Justice of Ukraine;
- 26 — system of the Ministry of Education and Science of Ukraine;
- 21 — judicial system (State Judicial Administration of Ukraine);
- 17 — system of the Ministry of Health of Ukraine;
- 7 — system of the Ministry of Defence of Ukraine.

Findings of monitoring of the facilities subordinated to the Ministry of Social Policy of Ukraine

In 2022, 144 facilities of the system of the Ministry of Social Policy of Ukraine were visited during the activities of the NPM, including:

- 39 psychoneurological care homes;
- 24 children’s care homes;
- 25 inpatient departments for permanent or temporary residence at territorial social service centres;
- 15 geriatric homes;
- 14 private geriatric facilities;

¹⁸⁸ Telegram channel of Kherson OMA. Available at: <https://t.me/khersonskaODA/1538>

- 10 centres for social and psychological rehabilitation of children;
- 7 care homes;
- 6 care homes for war and labour veterans;
- 2 private rehabilitation centres;
- 1 shelter for children;
- 1 care home for persons with disabilities and the elderly.

The most common violations detected during the visits to the social care facilities and healthcare institutions are:

- overcrowded rooms;
- violation of the right of wards to privacy during hygienic and medical procedures;
- lack of functional beds for bedridden patients;
- lack of access to drinking water;
- poor ensuring of the right to healthcare and medical assistance (lack of licences for medical practice, understaffing of doctors and medical workers, lack of medicinal products and failure to conduct preventive medical examinations of wards);
- non-compliance with food standards.

During the visit to the communal facility “Vasylkivskiy psychoneurological care home” of Dnipropetrovsk Oblast Council on 29.07.2022, ward D. with permanent soft tissue involvement on his face was detected. It was found out in the course of examination of medical records that the ward had not passed necessary diagnostic examination and was not provided with necessary pathogenetic treatment. According to the medical opinion, the ward suffered from the oncological disease that was life-threatening and required palliative medical aid. Failure to grant such aid is considered to be torture, cruel or degrading treatment or punishment. Ward D. was subjected to adequate medical examination and prescribed palliative therapy only after the NPM had intervened.

The most common violations of rights of the elderly and the persons cannot take care of themselves in some geriatric facilities include:

- violation of fire safety rules, lack of evacuation plans;
- non-provision of specialised medical assistance;
- no medical records or failure to carry out medical examination by the staff of the facility when due;
- inadequate temperature at the premises;
- inadequate care of bed-ridden persons;
- shortage of personnel to ensure adequate care of wards;
- no diet meals for those who need them;
- failure to respect the right for a walk outdoors;
- no barrier-free environment for persons with reduced mobility: lack of rails, ramps, lifts, no personnel call buttons;
- no stands with information on human rights and contact details of the institutions and organisations to which wards can apply if their rights are violated.

On 15.05.2022, the private care home for the elderly “Turbota uliublenykh” in Dnipropetrovsk Oblast was visited to check observance of rights of the wards. When they examined the residential rooms in the care home, the NPM group detected the ward with no traces of life and bodily injuries. Moreover,

the director of the facility failed to furnish any medical records that would specify examination of the bodily injuries of the deceased by the doctor and recording thereof. During their visit, the NPM group called the police and informed that the deceased person had been found. According to the police, criminal proceedings were instituted based on that fact on 30.05.2022.

Moreover, it was established that the facility failed to monitor the health and organise medical aid (including pursuant to the doctors' prescriptions).

In particular, the NPM conducted an interview and personal examination of ward T. during which they found the tender septic wound on her right foot and torn stitches that had not been taken out; the ward complained of strong pain in the area of the wound. It was found out from the medical records that the facility had failed to follow the doctors' recommendations given to ward T. Upon request of the NPM group, the ambulance was called to the facility, and the ward was admitted to hospital.

Findings of monitoring of the facilities in the system of the Ministry of Internal Affairs of Ukraine

In 2022, 69 facilities of the system of the MIA were visited in pursuance of the NPM functions, including:

- 31 police departments;
- 25 police directorates;
- 10 temporary detention facilities;
- 3 police sectors.

The most common violations detected during the visits to the places of custody in the system of the MIA are:

- violation of the terms for keeping detainees in the room;
- failure to adhere to the procedure for providing meals to the persons held in the room for detainees;
- lack of Books (logs) to register detainees and record all the actions taken with participation of the detainee, no procedure for explaining the grounds for detention, rights and obligations to the detainee, for recording of bodily injuries of aggravation of health of detainees by the healthcare professional as well as for registration of bodily injuries of detainees etc.;
- procedural actions with detainees taken in investigators' offices, which increases the risk of inadequate treatment;
- violation of terms for drawing up detention reports;
- no entry of information on bodily injuries inflicted upon individual citizens by police officers into the Unified Register of Statements and Notices of Criminal Offences and Other Events, and no immediate response measures taken, which demonstrates violation of rights of these citizens to an efficient remedy;
- officials' failure to ensure immediate notification of free secondary legal aid centres of detention;
- lack of necessary furniture, low level of illumination in detention rooms;
- few employees of the places of custody who have been trained and have a certificate of knowledge and practical skills of pre-medical aid.

Findings of monitoring of the facilities in the system of the Ministry of Justice of Ukraine

In 2022, 61 facilities of the system of the Ministry of Justice of Ukraine were visited in pursuance of the NPM functions, including:

23 pre-trial detention centres;
15 corrective colonies;
11 penitentiary institutions;
10 medical units of the branches of the State Institution “Healthcare Centre of the State Criminal Enforcement Service of Ukraine”;
1 corrective centre;
1 corrective colony.

The most common violations detected during the visits to the places of custody in the system of the SCEC are:

- failure to comply with the fire safety rules, violation of the Occupational Safety Rules;
- failure to respect the floor area requirements in a cell per detainee, which is less than 4 m² for convicts and 2.5 m² for prisoners in certain cells;
- absence of adequate artificial illumination at the premises;
- no adequate equipment in the bathing and washing facility, no partitions between washing spots;
- location of beds right next to each other;
- inadequate conditions for delivering meals to cells (for instance, no sanitary records of those who carry meals around cells, unsuitable utensils, violation of other sanitary standards);
- tents used for protection against precipitation in the walking yards of the pre-trial detention centres fail to cover the insufficient area;
- the persons sentenced to arrest as punishment are unable to make telephone calls in some pre-trial detention centres;
- foreigners are not informed of the internal regulations in some institutions of the criminal enforcement service due to lack of copies thereof in English or other foreign languages;
- quality of legal defence offered by free secondary legal aid attorneys in some institutions of the criminal enforcement service fails to meet the Quality Standards for Free Secondary Legal Aid in Criminal Proceedings approved by Order of the MoJ No. 386/5 of 25.02.2014;
- the persons in transit with an active form of tuberculosis are kept in the cells that are not designated for isolation of contagious patients and are located in the regime building in some institutions of the criminal enforcement service, which is in breach of infection control requirements and results in the spread of the tuberculosis infection;
- the institutions mostly fail to create conditions for persons with disabilities (no rails, ramps, stairs lifts etc.), which limits movement of persons with disabilities in such institutions and can be treated as cruel or degrading treatment or punishment in the meaning of Article 3 of the Convention for the Protection of and Fundamental Freedoms.

Thus, during their regular visits, the NPM established numerous cases of inadequate primary and preventive medical examinations in the institutions of the State Criminal Enforcement Service of Ukraine. In particular, examination by a psychiatrist and a dentist was often held just to observe formalities, the convicts do not undergo complete preventive examinations in accordance with the Procedure for Organising Medical Assistance for the Convicts Sentenced to Deprivation of Liberty approved by joint Order of the Ministry of Justice of Ukraine and the Ministry of Health of Ukraine No. 1348//5/572 of 15.08.2014. Some medical units do not have a position of a gynaecologist. Therefore, women do not undergo screening examinations for early detection and treatment of oncological and gynaecological diseases in accordance with the unified clinical protocols and medical standards.

Visits to the places of custody regularly detect violation of human rights to an adequate level of life, namely sufficient nutrition.

When the staff of the Department and civil monitors attended the pre-trial detention and penitentiary facilities, they detected the inadequate practice of artificial limitation of the number of sick prisoners and convicts who could receive diet meals prescribed due to their health condition based on medical opinions.

It was caused by performance of the second indent of point 2 of the Procedure for Applying Nutrition Standards and Standards for Replacement of Food Products for the Persons Held in Penitentiary Institutions, Pre-Trial Detention Centres of the State Criminal Enforcement Service, Temporary Detention Facilities, Reception Centres of the National Police¹⁸⁹, according to which the persons suffering from gastrointestinal diseases and receiving diet meals could only make 3% of the registered number of the persons held in the institution.

This approach is inconsistent with the Fundamentals of the Healthcare Legislation of Ukraine, limits provision of adequate medical assistance and care to the sick prisoners and convicts during deprivation of liberty, which can be treated as cruel treatment and create grounds for claims against Ukraine to the European Court of Human Rights.

In December 2022, the Commissioner proposed necessary amendments to the governmental resolution to the CMU.

In pursuance of the instruction of the Prime Minister of Ukraine, the Ministry of Justice of Ukraine processed the draft resolution of the CMU as regards improvement of the previous governmental resolution.

Moreover, torture and discrimination of detainees in places of custody are common. For instance, during the scheduled visit to the place of custody, the state institution “Kropyvnytskyi pre-trial detention centre”, on 4 and 5 October 2022 by the NPM group, it was established that prisoners and convicts had to raise their hands and keep them up all the time when the employees of the pre-trial detention centre opened doors to their cells, when they were visited by the head and deputy heads of the institution.

Moreover, it was established during the visit around the institution that four prisoners were held in one of the cell with three beds only. Also, the prisoners were held in 35 cells of the PTDC in breach of the floor area requirements.

The Commissioner’s Secretariat sent the respective acts of response, following which the data were entered into the URPTI based on the elements of the offences under Article 365(2) and Article 367(1) of the CrCU.

Special attention should be paid to the state institution “Kyiv pre-trial detention centre”, which was attended by the NPM group on 19.10.2022. During the visit, a number of persistent violations of fundamental human rights that posed a real threat for life and health of the detainees were detected.

The SI “Kyiv pre-trial detention centre”, where around 2,500 prisoners and convicts were held as of the end of 2022, is not equipped with a bomb shelter. The video surveillance system does not ensure safety of the prisoners. There is no adequate fire protection, and prisoners are held in unsatisfactory sanitary conditions. It was established that the minor detainees were unable to exercise their right to education as a result of failure of the administration of the institution and the head of general education school No. 139 to organise online studies during the martial law.

¹⁸⁹ Approved by Resolution of the Cabinet of Ministers of Ukraine No. 336 of 16 June 1992

The number of lethal cases among the prisoners and convicts, suicides and self-injuries, bodily injuries and traumas is striking. According to the log of bodily injuries of the detainees and convicts, 88 cases were registered in 2022, and 32 persons died (as of 26.10.2022). However, the cases of bodily injuries inflicted upon the prisoners are investigated just to observe formalities, without any critical approach and specialised studies.

Following the visit, the Commissioner filed a recommendation to the CMU, the MoJ, the executive body of the Kyiv City Council (Kyiv City State Administration) to terminate operations of the pre-trial detention centre due to persistent violations of human rights, to impose disciplinary liability not only on the heads of the pre-trial detention centre, but also the heads of the Ministry of Justice of Ukraine and the Department for Criminal Enforcement. The Verkhovna Rada of Ukraine and the Office of the President of Ukraine were informed of the findings of the visit.

In July 2022, the Commissioner's Secretariat received the information that food products and essential items could not be purchased due to failure to pay wages to the persons serving their sentence in the state institution "Horodok corrective centre (No. 132)".

The Commissioner's Secretariat forwarded the information to Rivne District Prosecutor's Office and asked to examine the situation and response thereto.

In pursuance of the request of the Commissioner's Secretariat, Rivne Oblast Prosecutor's Office instructed the head of the state institution "Horodok corrective centre (No. 132)" to inspect the matters of labour remuneration to the convicts in the institution.

As a result of the actions taken, the convicts serving their sentence in the state institution "Horodok corrective centre (No. 132)" were paid their wages, and violation of the labour legislation was remedied.

Finding of monitoring of the institutions and facilities of the Ministry of Education and Science of Ukraine

In 2022, 26 facilities of the system of the Ministry of Education and Science of Ukraine were visited in pursuance of the NPM functions, including:

- 16 special general education boarding schools for orphans and children deprived of parental care;
- 5 general education and therapeutic boarding schools;
- 4 education and rehabilitation centres;
- 1 orphanage.

The most common violations detected during the visits to the places of custody in the system of the MES are:

- no overhaul of the facilities;
- inadequate conditions for a safe stay (fixed grating on windows, no fire alarm);
- violation of the private right;
- failure to adhere to safe nutrition standards, lack of access to drinking water;
- failure to meet the floor area requirements per person in residence halls.

During the visit, the NPM group detected egregious violations of the children's right to safety in Special Boarding School of Level I No. 25 in Obolonskyi District of Kyiv, Special Boarding School of Levels I and II No. 16 in Sviatoshynskyi District of Kyiv, Special General Education Boarding School

No. 18 of Kyiv, where the evacuation exits from the facilities were locked from the outside in breach of the Fire Safety Rules in Ukraine approved by Order of the Ministry of Internal Affairs of Ukraine No. 1417 of 30.12.2014, which would put the pupils' life under threat in case of fire. The violation was remedied, and the door lock was removed upon request of the NPM group.

The privacy right is guaranteed by Article 32 of the Constitution of Ukraine and Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms. However, it was established during the visits that many of the education institutions had video surveillance, but no documents were provided to prove that the parents and children had been informed thereof, no video camera location plans were made, and no signs warning of video surveillance were placed. Violation of the privacy right was detected in Therapeutic Boarding School of Levels I to III No. 22 in Obolonskyi District of Kyiv, Special School No. 5 named after Ya. P. Batiuk in Kyiv, Special Boarding School of Level I No. 25 in Obolonskyi District of Kyiv, Special School No. 8 of Shevchenkivskyi District of Kyiv, Kharkiv Special School No. 7. In pursuance of the recommendations given by the NPM group members, the defects were eliminated, and the signs warning of video surveillance were placed in accordance with the requirements of Article 6(1), Article 12(2) of the Law of Ukraine "On Personal Data Protection".

Findings of monitoring of the facilities in the judicial system (State Judicial Administration of Ukraine)

In 2022, 21 facilities of the judicial system were visited in pursuance of the NPM functions.

The most common violations detected during the visits to the places of custody in the judicial system are:

- the requirements for the minimum area of cells for defendants (convicts) are not met;
- the court premises are not equipped with the sufficient number of cells per each court room for hearing of criminal cases;
- there is no isolated route to escort the accused (defendants), convicts from the service entrance of the court to the court room, so defendants are escorted via corridors and stairs accessible to third parties;
- there are metal grated cells for persons on trial, which is inconsistent with the requirements;
- the premises for defendants (convicts) have no rooms for confidential communication of the defendants (convicts) and their attorneys, which makes it impossible to exercise their right to a confidential meeting.

Findings of monitoring of institutions of the Ministry of Health of Ukraine

In 2022, 17 institutions of the MoH were visited in pursuance of the NPM functions, including:

10 mental hospitals;

6 child care centres;

1 narcological dispensary.

The most common violations detected during the visits to the places of custody in the system of the MoH are:

- violation of the rules for applying physical restraint and (or) isolation in providing psychiatric care to persons suffering from mental disorders, and forms of primary records;
- medical assistance at the inadequate level;

- violation of the rules for keeping official records (for instance, facts of application of physical restraint and (or) isolation in providing psychiatric care to persons suffering from mental disorders, and forms of primary records are not registered in the records prescribed by the order);
- violation of the patients' privacy right during sanitary and hygienic procedures (there are no partitions in toilets and shower facilities);
- no equipment and devices for the needs of persons with disabilities and other reduced-mobility population groups in hospitals;
- failure to meet the floor area requirements for the wards;
- no fire alarm.

It was established during the visit to the communal non-commercial enterprise "Clinical Hospital "Psykhiatrica" of the Executive Body of the Kyiv City Council (Kyiv City State Administration) on 16 February 2022 that, in breach of Order of the Ministry of Health of Ukraine No. 240 of 24.03.2016 "On Approval of the Rules of Application of Physical Restraint and (or) Isolation in Providing Psychiatric Care to Persons Suffering from Mental Disorders, and of the Forms of Primary Records", the log application of physical restraint and (or) isolation in providing psychiatric care to persons suffering from mental disorders did not specify the period for which fixation or isolation had been prescribed and the time of termination thereof. The defect was eliminated by the administration of the institution in pursuance of the Commissioner's recommendations.

During the visit to the communal non-commercial enterprise "Oblast Psychiatric Care Institution of Vilshany" of Zakarpattia Oblast Council, the NPM group found semi-conscious woman B. in the women's department with the temperature of 37.2 C. It was established from the medical records of patient B. that she had had increased body temperature since 21.02.2022. On 23.02.2022, the patient was taken to Khust Raion Hospital, where she was examined by a general practitioner and passed the ultrasonic and X-ray examination. She was diagnosed with right-sided pneumonia and prescribed treatment. There was no therapeutic progress as of the day of the visit. Upon request of the NPM group, on 21.04.2022 the patient was admitted to Khust Raion Hospital for examination and treatment.

Findings of monitoring of the facilities in the system of the Ministry of Defence of Ukraine

In 2022, 7 facilities of the system of the MoD were visited in pursuance of the NPM functions, including:

- 3 rooms for temporarily detained military servants;
- 3 military detention facilities;
- 1 disciplinary battalion.

The most common violations detected during the visits to the places of custody in the system of the MoD are:

- improper keeping of official records by the officials (for instance, information on medical examination is not entered into the Log of sick military servants held at the military detention facilities and rooms for temporarily detained military servants; the Log of visits to the showering facilities, change of bed linen and provision of soap to military servants held at the military detention facilities had no records for almost a month);
- inability to use Skype online to communicate with relatives, to send electronic petitions;
- medical products that have expired;
- violation of the privacy right of detainees during sanitary and hygiene procedures;

- no personal space, safe location and physical distance between detainees at the sleeping premises;
- no information with numbers of the hot lines of the Ukrainian Parliament Commissioner for Human Rights, the Prosecutor General's Office, and the State Bureau of Investigation;
- no medical and psychiatric examinations as well as medical assistance to the military servants held at the military detention facilities with suspected coronavirus COVID-19, including isolation of contagious patients;
- as the Ministry of Defence has not regulated the matter of engagement and labour remuneration for the convicted military servants in accordance with Article 77 of the CECU, they have not been engaged into paid labour since 2019, which results in violation of their rights under Article 43 of the Constitution of Ukraine.

Violation of the right to liberty and security, legal aid and decent conditions for detention of the military servant was detected during the visit to the military detention facility of the security organisation department of the Central Directorate of the Military Law Enforcement Service (in Kyiv and Kyiv Oblast) of the AFU, which was conducted on 18.08.2022. It was found out by the NPM monitors that, according to the report on detention of citizen K. made by the State Bureau of Investigation based on the suspicion of the criminal offence under Article 407(5) of the CrCU, the actual time of detention specified therein was 03.04.2022, 21:30, but the detention report was only made in 20 hours and 34 minutes after the actual detention in breach of requirements of Articles 208 and 209 of the CrPCU. Citizen K. spent that entire period in the investigator's office without meals, free access to drinking water and toilet facilities and night rest.

Moreover, in breach of the requirements of Article 213(4) of the CrPCU and point 2 of the Procedure for Notification of Free Secondary Legal Aid Centres approved by Resolution of the CMU No. 1363 of 28.12.2011, the investigator failed to immediately inform the free secondary legal aid centre of detention.

After the visit, the letters were sent to the Ministry of Defence, the Prosecutor General's Office and the Main Directorate of the Military Law Enforcement Service with the request to cease and prevent future violation of rights of the detained.

Commissioner's response to violation of human rights at places of custody

During the year, the Commissioner received 687 petitions with 1,717 statements of violation of human rights in penitentiary institutions, pre-trial detention centres, temporary detention facilities and other places of custody, out of which 1,107 persons reported inadequate detention conditions, 299 — non-provision of medical assistance, and 40 — violation of the right to legal aid.

According to Article 64 of the Constitution of Ukraine, the rights and freedoms without limitation under Articles 59 (Right to professional legal aid) and 63 (Right of the suspect, the accused or the defendant to defence) of the Fundamental Law may not be limited during the martial law or state of emergency.

However, after the martial law had been imposed, the mass media monitoring detected reports on termination of meetings of the persons held in the pre-trial detention centres and penitentiary institutions subordinated to the Ministry of Justice of Ukraine, namely in the State Institution "Kyiv pre-trial detention centre", based on Order of the Department for Criminal Enforcement No. 92 BC of 13.03.2022.

It was stated in the announcement published in the State Institution “Kyiv pre-trial detention centre” that according to Article 19 of the Law of Ukraine “On Pre-Trial Detention”, in case the special regime was imposed in the place of pre-trial detention, meetings ceased to be organised for the persons in custody, including without limitation meetings with a defender(s) in criminal proceedings; an attorney(s), a legal representative(s) acting on behalf of the person in cases of administrative offices, administrative, civil and economic cases in court; a lawyer(s), a specialist(s) in the field of law acting on behalf of the person in the ECHR; his/her legal representative(s), representatives of embassies and consular missions.

Violation of the prisoners’ rights to confidential meetings with their attorneys (defenders) was confirmed by the reports received by the Commissioner not only from such persons, but also their attorneys (defenders). 40 reports were received.

In March 2022, the Commissioner received the petition from convict Kh. held in the SI “Zamkove corrective colony (No. 58)” regarding limitation of his right to communicate with the attorney during the martial law although two of his cases were heard by the court.

Following the measures taken by the Commissioner, convict Kh. was granted unhindered access to his defender.

The Commissioner submitted the recommendation to the Minister of Justice of Ukraine due to the persistent nature of the violation of the right of the prisoners and convicts to legal aid, in order to ensure elimination and prevention thereof in the future.

Moreover, the inspection conducted by the Prosecutor General’s Office established violation of the national and international legislation in the activity of pre-trial detention facilities; the instruction was given to the MoJ with the request to immediately ensure observance of the constitutional rights of prisoners and convicts at the pre-trial detention facilities by enabling them to meet their defenders.

In each annual report, the Commissioner emphasises the inadequate medical assistance in the pre-trial detention centres and penitentiary institutions of the Ministry of Justice of Ukraine. The situation did not get any better in 2022.

In January 2022, the Commissioner received the petition from convict K. regarding violation of the convicts’ rights in the SI “Mena corrective colony (No. 91)” to adequate medical assistance, which resulted in lethal outcomes and violation of labour rights of the convicts.

After the Commissioner’s letter had been considered, Chernihiv Oblast Prosecutor’s Office reviewed the facts specified in the letter and established that 7 convicts had died in the SI “Mena corrective colony (No. 91)” in 2020 and 2021. The data in each fact were recorded in the URPTI based on the elements of the criminal offence under Article 115(1) of the CrCU. The criminal proceedings were registered in all the cases with no exception under Article 140(1) of the CrCU regarding possible non-performance or improper performance of their official duties by the healthcare professionals.

Moreover, the data were entered into the URPTI under Article 172(1) of the CrCU based on the fact of the gross violation of the labour legislation detected during the inspection on 01.02.2022, and the pre-trial investigation within those proceedings is still under way.

Moreover, the mass media monitoring found the information on violation of the convicts' rights to medical assistance in Dnipro Multi-Profile Hospital No. 4 of the Branch of the SI "Healthcare Centre of the State Criminal Enforcement Service of Ukraine" in Dnipropetrovsk and Donetsk Oblasts.

In particular, the article of Kharkiv human rights defence group called "Hospital feeling like a stinky coffin" contained information not only on violation of the convicts' rights to medical support and adequate treatment in Dnipro Multi-Profile Hospital No. 4 of the Branch of the SI "Healthcare Centre of the State Criminal Enforcement Service of Ukraine" in Dnipropetrovsk and Donetsk Oblasts, but also on express neglect of their duties by the staff of the healthcare institution.

After the Commissioner's letter had been considered, the acting Prosecutor General informed that the Prosecutor General's Office had instructed Dnipropetrovsk Oblast Prosecutor's Office to conduct the inspection; the latter engaged the specialists from the State Service of Ukraine on Food Safety and Consumer Protection, the State Service of Ukraine on Medicines and Drugs Control, the Main Directorate of the State Emergency Service in Dnipropetrovsk Oblast and territorial healthcare institutions of the MoH detected violations of the legislative requirements for adequate conditions for convicts in the hospital and medical assistance for them.

Moreover, the criminal proceedings were instituted by the Western District Prosecutor's Office of Dnipro on 29.09.2022 based on the facts of non-provision of adequate medical assistance to the convicts, and based on the elements of the criminal offence under Article 140(1) of the CrCU.

At the same time, most persons from the places of custody who apply to the Commissioner regarding inadequate medical support are provided medical assistance following his intervention.

In December 2022, the Commissioner received the petition from convict K. held in the SI "Lviv penitentiary institution (No. 19)" regarding non-provision of medical assistance and the need of surgery.

Following the measures taken by the Commissioner, convict K. was taken to the communal healthcare institution, where he was consulted by the specialists and left for planned surgery.

Also, in December 2022, the Commissioner received the petition from convict H. detained in the SI "Zamkove corrective colony (No. 58)" regarding absence of adequate treatment for deterioration of his chronic hepatitis C.

Following the Commissioner's intervention, the convict was escorted to Shepetivka Multi-Profile Hospital No. 98 of the SI "Healthcare centre of the State Criminal Enforcement Service of Ukraine" in Khmelnytskyi Oblast, where his virus hepatitis C was treated with the products of direct anti-virus effect at the expense of the state programme (3-month course).

It should be noted that not all the convicts who have filed a motion to be discharged from punishment due to their disease under Article 84 of the CrCU are released from penitentiary facilities even if such motions are granted.

It was found out in September 2022 that convict R. who suffered from the oncological disease of stage IV had died in Stryzhavka Multi-Profile Hospital No. 81 of the SI "Healthcare Centre of the State Criminal Enforcement Service of Ukraine" in Vinnytsia Oblast.

Based on the Commissioner's letter, the Prosecutor General's Office reviewed the provision of medical assistance to convict R.

After the death of convict R., the criminal proceedings were instituted by police department No. 3 of Vinnytsia District Directorate of the MD NP on 05.09.2022 based on the elements of the criminal offence under Article 140(1) of the CrCU and the fact of improper performance of their professional duties by the healthcare professionals.

During the review, it was also established that the staff of medical unit No. 71 of the SI “Healthcare Centre of the State Criminal Enforcement Service of Ukraine” in Zhytomyr Oblast had violated the legislative requirements for referring convict R. to compulsory treatment and examination to the in-patient department of the territorial healthcare institution, which was supposed to be performed before medical examination by the medical and counselling commission and referral of the materials on discharge from serving the sentence due to the disease to court.

Therefore, on 05.07.2022, Korosten City and District Court dismissed the convict’s motion to discharge him from serving the sentence due to the disease, in particular, as there were no necessary medical records, including the duly executed opinion of the medical and counselling commission.

The convict filed a motion to the court for the second time to be released from serving the sentence due to the disease under Article 84 of the CrCU, and he was discharged from serving the sentence due to the disease by the ruling of Vinnytsia District Court of 29.08.2022. However, the convict had died before the ruling entered into force.

The issue of additional regulation of the time limits and procedure for appeal against a court ruling on discharge of convicted persons from punishment due to the disease in accordance with Article 84(2) of the CrCU has been in focus of the Commissioner’s attention for several years.

With account of the death of convict R. in September 2022 in Stryzhavka Multi-Profile Hospital No. 81 of the SI “Healthcare Centre of the State Criminal Enforcement Service of Ukraine” in Vinnytsia Oblast, who did not live up to being discharged from serving the sentence for health reasons, the Commissioner repeatedly applied to the Committee of the Verkhovna Rada of Ukraine on Law Enforcement regarding the need of additional regulation of the time limits and the procedure for appeal against a court ruling on discharge of convicted persons from punishment due to the disease in accordance with Article 84(2) of the CrCU.

After the letter had been considered, the Committee of the Verkhovna Rada of Ukraine on Law Enforcement informed that the proposals had been brought to the attention of MPs who were members of that Committee and could consider them in their legislative drafting work as holders of the right of legislative initiative.

Moreover, the Commissioner also submitted that proposal to the Minister of Justice of Ukraine, who informed that expediency of the legislative amendments would be studied within the procedure for monitoring of implementation and analysis of performance of the legislative and other legal and normative acts, in particular, through the prism of findings of the annual online survey of stakeholders in the field of criminal justice, in order to find out the stakeholders’ opinion on possible ways to resolve the problems described in the letter. The issue still has not been resolved.

Right of the persons sentenced to life imprisonment to parole and pardon

One of the most important events for the persons who had been sentenced to life imprisonment was adoption of the Laws of Ukraine No. 2689-IX of 18.10.2022 “On Amending Certain Legislative Acts as to Enforcement of Judgements of the European Court of Human Rights” and No. 2690-IX of 18.10.2022 “On Amending the Code of Ukraine on Administrative Offences, the Criminal Code of

Ukraine and the Criminal Procedure Code of Ukraine as to Enforcement of Judgements of the European Court of Human Rights”, which entered into force on 06.11.2022. Therefore, Ukraine has finally resolved the matter of irreducibility of punishment in the form of life imprisonment and enforced the ECHR judgement in the case of Petukhov v. Ukraine (No. 2) (application No. 41216/13).

The laws have introduced the mechanism for granting parole and replacing the unserved part of the punishment with more lenient one for the persons who have been sentenced to life imprisonment by court. However, the problem is that Law No. 2689-IX does not contain clauses in bringing the other legal and normative acts in line with its rules. In order to adhere to the principle of legal certainty of the legislation, the Commissioner applied to the Head of the Office of the President of Ukraine and proposed to make corresponding amendments to the Regulation on the Procedure for Granting Parole approved by Decree of the President of Ukraine No. 223/2015 of 21.04.2015 (as amended).

In January 2023, the Head of the Office of the President of Ukraine informed the Commissioner that his proposals were being processed in the Office of the President of Ukraine and would be considered in the amendments to the Regulation on the Procedure for Granting Parole approved by Decree of the President of Ukraine No. 223/2015 of 21.04.2015 “On the Regulation on the Procedure for Granting Parole”.

The matter of bringing the Regulation on the Procedure for Granting Parole in line with the Law still has not been resolved.

Recommendations

The Office of the President of Ukraine should bring the Regulation on the Procedure for Granting Parole approved by Decree of the President of Ukraine No. 223/2015 of 21.04.2015 (as amended) in line with the Law of Ukraine No. 2689-IX of 18.10.2022 “On Amending Certain Legislative Acts as to Enforcement of Judgements of the European Court of Human Rights”.

The Ministry of Health of Ukraine should:

- develop and approve an order to regulate the procedure for physical examination during hospitalisation and stay in psychiatric care facilities, for interviews about injuries and documentation of injuries, as well as notifying the respective law enforcement agencies thereof;

- develop and approve the procedure for applying physical restraint and (or) isolation in providing psychiatric care to persons suffering from mental disorders, and forms of primary records in psychoneurological care homes;

- develop and issue an order to approve the form and ensure keeping of the Log of the bodily injuries detected upon arrival and during stay of such detainees in the places of custody of the MoH system, forms of the survey about bodily injuries and registration thereof as well as notification of corresponding law-enforcement authorities thereof;

- take organisational actions to ensure control over the provision of necessary somatic treatment of patients who have been receiving treatment in psychiatric care and social protection facilities for a long time;

- ensure the placement, in social protection institutions and psychiatric care institutions, of information in an accessible form about the rights of persons with disabilities, hotline numbers, phone

numbers of officials, including the Commissioner, and free legal aid centres to which a person with mental disorders can turn.

The Ministry of Social Policy of Ukraine should:

- develop and issue on order to approve the form and ensure keeping of the Log of the bodily injuries detected upon arrival and during stay of such detainees in the places of custody of the MSP system, forms of the survey about bodily injuries and registration thereof as well as notification of corresponding law-enforcement authorities thereof;
- ensure that the social protection facilities obtain a medical practice licence;
- develop and approve the procedure for applying physical restraint and (or) isolation in providing psychiatric care to persons suffering from mental disorders, and forms of primary records in psychoneurological care homes;
- take organisational actions to ensure control over the provision of necessary somatic treatment of patients who have been receiving treatment in psychiatric care and social protection facilities for a long time;
- ensure the placement, in social protection institutions and psychiatric care institutions, of information in an accessible form about the rights of persons with disabilities, hotline numbers, phone numbers of officials, including the Commissioner, and free legal aid centres to which a person with mental disorders can turn.

The Ministry of Justice of Ukraine should:

- develop and approve departmental legal and normative acts on the implementation of the provisions of the United Nations Guidelines on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) to ensure proper documentation of cases of torture and other cruel degrading treatment and punishment;
- develop and duly submit to the Cabinet of Ministers of Ukraine for consideration the draft law on amending the CrPCU regarding additional regulation of time limits and procedure for appeal against a court ruling on discharge of convicted persons from punishment due to the disease in accordance with Article 84(2) of the Criminal Code of Ukraine;
- take comprehensive measures to arrange barrier-free environment in places of custody in accordance with the provisions of DBN of Ukraine B.2.2-40:2018 — Inclusiveness of Buildings and Structures;
- ensure the filling of vacancies at the medical units of State Institution “Healthcare Centre of the State Criminal Enforcement Service of Ukraine”;
- take organisational measures to ensure control with a view to preventing the spread of contagious diseases among prisoners and convicts.

The Ministry of Internal Affairs of Ukraine should:

- take comprehensive measures to arrange barrier-free environment in places of custody in accordance with the provisions of DBN of Ukraine B.2.2-40:2018 — Inclusiveness of Buildings and Structures;

- develop and approve the implementation of standards for the provision of persons at TDF with bed clothing, tableware, soap and synthetic detergents, as well as medical equipment and other consumables.

The oblast military administrations, Kyiv City (Military State Administration), and Kyiv City Council:

- take organisational measures to ensure control in subordinated psychiatric care facilities over the use of fixation straps during physical restraint of patients/wards;

- take comprehensive measures to arrange barrier-free environment in places of custody in accordance with the provisions of DBN of Ukraine B.2.2-40:2018 — Inclusiveness of Buildings and Structures;

- ensure the placement, in social protection institutions and psychiatric care institutions, of information in an accessible form about the rights of persons with disabilities, hotline numbers, phone numbers of officials, including the Commissioner, and free legal aid centres to which a person with mental disorders can turn.

The Ministry of Education and Science of Ukraine should:

- develop and issue on order to approve the form and ensure keeping of the Log of the bodily injuries detected upon arrival and during stay of such detainees in the places of custody of the MES system, forms of the survey about bodily injuries and registration thereof as well as notification of corresponding law-enforcement authorities thereof;

- take comprehensive measures to arrange barrier-free environment in places of custody in accordance with the provisions of DBN of Ukraine B.2.2-40:2018 — Inclusiveness of Buildings and Structures.

The Ministry of Defence of Ukraine, the Security Service of Ukraine, the State Bureau of Investigation, and the State Judicial Administration should take comprehensive measures to arrange barrier-free environment in places of custody in accordance with the provisions of DBN of Ukraine B.2.2-40:2018 — Inclusiveness of Buildings and Structures.

The State Institution “Healthcare Centre of the State Criminal Enforcement Service of Ukraine” should:

- ensure the filling of vacancies at the medical units of State Institution “Healthcare Centre of the State Criminal Enforcement Service of Ukraine”;

- take organisational measures to ensure control with a view to preventing the spread of contagious diseases among prisoners and convicts.

The Coordination Centre for Legal Aid Provision should take organisational measures to ensure control over proper provision of free primary and secondary legal aid to detainees and persons held in places of custody.

CHAPTER 8. RULE OF LAW AND ACCESS TO JUSTICE SPECIALIST

2,975 petitions to the Commissioner (including the ones regarding violations during criminal proceedings — 82%, in civil and administrative proceedings — 12%).
326 legal and normative acts processed and proposals submitted
210 proceedings instituted by the Commissioner
210 proceedings completed
67 court session monitoring activities in order to observe rights of litigants
28 entries of information into the URPTI following the inspections initiated by the Commissioner and the measures taken
2,228 acts of response and letters to the public authorities, institutions and organisations sent

Key events, challenges and tendencies

The key problems of access to justice in 2022 were failure to respect a reasonable time for judicial hearing of cases, violation of procedural rights during the pre-trial investigation, inadequate enforcement of court decisions and decisions of other authorities (officials), limitation of access to court decisions.

The ECHR has repeatedly stated that there are issues associated with everyone's guaranteed right to a fair trial. As of the end of 2022, 10,400 applications against Ukraine were considered by the ECHR. In total, in 2022, the ECHR delivered 144 judgements in the cases against Ukraine, 21 of which stated violation of Article 6 of the Convention (right to a fair trial).

Also, in the Concluding observations of the UN Human Rights Committee on the eighth periodic report of Ukraine on the implementation of the International Covenant on Civil and Political Rights of 09.02.2022, the Committee expressed its concerns regarding everyone's guaranteed right to a fair and public trial by a competent, independent and impartial court. In particular, it was connected with the lack of measures to fully ensure the independence of judges and prosecutors; the lack of transparency in the procedure for the appointment and dismissal of prosecutors; the challenges faced during the qualification assessment of judges; the insufficient number of judges in the State party, which had resulted in delays and lack of access to justice for a significant number of citizens. The Committee was also concerned about reports of persons, including children, being held in pretrial detention for long periods, contrary to the Covenant.

Another problem in the national legal system is **impossibility to ensure a fair trial as there is no competent High Council of Justice (HCJ)**. Therefore, lack of adequate human resources in the judicial system affects adherence to the procedural time limits in consideration of civil and administrative cases. Moreover, the matter of efficient justice also depends on whether the persons administering justice can be held liable.

The resolution of the HCJ of 05.08.2021 suspended distribution of complaints against the judge's disciplinary offence (disciplinary complaints) submitted in accordance with the Law of Ukraine "On the Judiciary and the Status of Judges" among the HCJ members.

Since the judiciary is independent and cannot be controlled by any other national public authorities except for the HCJ, inactivity of the latter results in legal impunity of judges when they consider cases.

Resolution of this issue depends to a considerable extent on operation of the specialised authority responsible for selection of staff for the judicial system and disciplinary proceedings against judges, the HCJ, activities of which will enable observing the citizens' right to a fair and public trial within a reasonable time.

At attempt to resolve the issue of excessive duration of civil, economic and administrative proceedings was the draft law submitted by the Cabinet of Ministers of Ukraine to the Parliament "On Amending Certain Legislative Acts as to Resolution of the Issue of Excessive Duration of Civil, Economic and Administrative Proceedings" (registration No. 8083). However, there are no efficient mechanisms for observing the right to a trial within a reasonable time.

Moreover, the problem of **insufficient funding of the judiciary and understaffing of courts with judges** remained unresolved in 2022.

The powers of all the members of the HQCJ Ukraine were terminated early by Law of Ukraine No. 193-IX of 16.10.2019 "On Amending the Law of Ukraine 'On the Judiciary and Status of Judges' and Some Laws of Ukraine on Operations of the Judicial Governance Bodies". As a result, all the competitions that had been announced and had not been completed by the HQCJ Ukraine were actually suspended for an indefinite period of time. There has been no selection of judges and filling of vacancies since November 2019 due to no qualified composition of the HQCJ Ukraine. Law of Ukraine No. 1629-IX of 13.07.2021 "On Amending the Law of Ukraine 'On the Judiciary and Status of Judges' and Some Laws of Ukraine on Resumption of Operations of the High Qualification Commission of Judges", which provided for resumption of operations of the HQCJ Ukraine by establishing the Competition Commission with international experts for the competition for the position of a member of the HQCJ Ukraine, entered into force on 05.08.2021.

The HCJ appointed the first composition of the Competition Commission, which was supposed to select members of the HQCJ Ukraine, on 17.09.2021. The Competition Commission started its official activities only at the beginning of 2022. However, on 24.02.2022, the Chairperson of the Competition Commission informed of temporary suspension of the Commission's operations due to the imposition of martial law in Ukraine. The Competition Commission responsible for selecting candidates for positions of members of the HQCJ Ukraine held its first official meeting after the full-scale invasion of Ukraine by Russian on 13.07.2022 and started the competitive selection procedure. Formation of the HQCJ Ukraine had not been completed as of the end of 2022.

It should be noted that the judiciary has had shortage of the judges authorised to administer justice for the last several years. Therefore, there is an excessive work load in the courts, which results in violation of a reasonable time for hearing.

Moreover, in 2022, the entire judiciary faced the problem of adequate financial support of judicial proceedings. Thus, the courts often informed that they could not send summons, notices and other information from court, including procedural documents, by mail because those mailing expenditures were not sufficiently funded; due to the full-scale military invasion by the Russian Federation on 24 February 2022, a considerable portion of the court premises has been destroyed or damaged, and the level of payroll for the court staff is inadequate.

It should be noted that as of the end of 2022 the number of persons whose powers as a judge were terminated in connection with expiration of the 5-year period of their office and whose qualification

assessment had not been completed was 290, including 4 persons who had not taken the judge's oath and had not been enlisted to court. However, such persons retained their status of a judge, so they received the monthly judicial remuneration from the State Budget in the amount of the fixed salary as prescribed by the Law of Ukraine "On the Judiciary and Status of Judges" in 2022. In particular, the total amount of the judicial remuneration accrued and paid in 2022 to the judges whose powers had been terminated in connection with expiration of the 5-year period was UAH 309.6 million, including UAH 272.7 million in local general courts, UAH 21.3 million in local administrative courts, and UAH 15.6 million in local economic courts.

In 2022, the new problems **caused by the martial law** were added to the issues of human resources in the local courts and no mechanism for disciplinary liability of judges, which had not been resolved by restoring the constitutional functions of the HCJ and its bodies.

After the full-scale military invasion of Ukraine by the RF, the Ukrainian judiciary faced lots of organisational, material, technical and procedural issues, which need to be resolved as promptly as possible for adequate administration of justice in courts of any jurisdiction.

As a result of the hostilities by the Russian Federation, 12 court premises have been ruined (2 premises have been partly ruined), and 97 court premises have been partly damaged: broken windows, no electric power, heating and water supply in some of them, damaged ceiling, internal doors, destroyed internal partitions between offices, damaged court rooms etc. The windows were broken or damaged in some buildings of the local courts at the beginning of hostilities, and then the buildings suffered additional damage. The largest number of damaged/ruined court premises is located in Kharkiv (20 premises), Mykolaiv (18 premises), Donetsk (15 premises) and Kherson (14 premises) Oblasts.

However, within a month following the liberation of the territories temporarily occupied by the Russian Federation in Kyiv, Zhytomyr, Chernihiv and Sumy Oblasts, almost all the courts in those oblasts the premises of which had been damaged resumed their operations. Nevertheless, Borodianka District Court of Kyiv Oblast the building of which was destroyed by the bombing has been working in the new leased premises since May 2022.

Imposition of the martial law has caused **changes in the jurisdiction of the courts** located in the temporarily occupied territories, in the territories where there are active hostilities or adjacent territories.

The Verkhovna Rada of Ukraine has amended certain legislative acts and transferred some of the powers of the inactive HCJ to the President of the Supreme Court. The territorial jurisdiction of court cases of 80 courts was changed by the order of the President of the Supreme Court during the year due to their inability to administer justice in the temporarily occupied territories of Ukraine as well as in the damaged or fully destroyed courts. As a result, the cases were resubmitted for automated distribution in the courts to which they had been transferred, and the hearing was recommenced. It affected observance of the right to a trial within a reasonable time, as guaranteed by Article 6 of the UN Convention for the Protection of Human Rights and Fundamental Freedoms.

Moreover, it was established based on the petitions submitted to the Commissioner that when the territorial jurisdiction had been changed, and the cases had been transferred to the courts located in the territory without hostilities, citizens' rights to access to justice were sometimes violated as a result of neglect of their official duties by the staff of the corresponding courts.

Limitation of access to justice as a result of inadequate organisation of changes in the territorial jurisdiction of courts results from loss of judicial cases, inability to find case papers or some procedural documents.

The reason for the above-mentioned violations is lack of the legal and normative act that would regulate the procedure for transferring cases in case their territorial jurisdiction changes.

Moreover, Law of Ukraine No. 2455-IX of 27.07.2022 “On Amending Certain Laws of Ukraine regarding Activities of Private Enforcement Officers and Enforcement of Court Decisions, Decisions of Other Authorities (Officials) during the Martial Law” **introduced the moratorium on scheduled and unscheduled inspections of private enforcement officers** during the martial law.

Impossibility to inspect private enforcement officers and no mechanism for disciplinary liability of private enforcement officers have caused persistent violations of the rules of professional ethics by private enforcement officers and non-fulfilment or improper fulfilment of their duties.

The martial law has also affected **access to court decisions**. According to Article 2(2) of the Law of Ukraine “On Access to Court Decisions”, all court decisions are open and shall be made public in electronic form at least the next day after they are produced and signed, except for rulings on attachment of property and temporary access to belongings and documents in criminal proceedings, which are to be published not earlier than on the day of submission thereof for enforcement. Limitation or adjournment of general access to electronic resources of the USRCD on any grounds other than the ones prescribed by the Laws of Ukraine “On Access to Court Decisions”, “On State Secret” is not allowed.

However, the full general access to the USRCD as well as access to such services of the website as “Judiciary of Ukraine”, “Progress of cases”, “List of cases scheduled for hearing” with data on the day, time and venue of the hearing of the case were limited from 24 February to 20 June 2022. General access to court decisions in the USRCD still is sometimes limited.

Response to violations of human and civil rights

Procedural rights in civil and administrative proceedings

In 2022, 670 petitions were received. They contained 790 reports on violation of human rights in administrative and civil proceedings as well as at the stage of enforcement of court decisions.

Also, petitions were received during the year as regards the law enforcement officers exercising their powers in cases as to administrative offences, including 298 regarding procedural violations during the hearing, 153 regarding improper performance of their official duties and abuse of their rights by the law enforcement officers, and 77 regarding unlawful omission of the authorities and persons responsible for enforcement of court decisions and other decisions subject to enforcement.

As it has been stated above, due to lack efficient mechanisms for observing the right to a trial within a reasonable time, the Commissioner’s response is associated with this issue.

In September 2022, the Commissioner was approached by citizen S. regarding violation of a reasonable time for hearing of her case (more than two years) by the judge of Dzerzhynskiy District Court of Kharkiv. The petitioner emphasised that Dzerzhynskiy District Court of Kharkiv had been hearing the civil case based on her claim for revoking the dismissal order, reinstating her in her position, and collecting the average income for the forced absenteeism since 2020.

Following the inspection conducted by the Commissioner, on 03.12.2022, Dzerzhynskiy District Court of Kharkiv informed the Commissioner that no decision had been delivered in that case.

Therefore, citizen S. could not defend her rights in court for more than 2 years as a result of unreasonable delays in hearing.

Alongside with changes in the territorial jurisdiction, the Commissioner received 29 reports of violation of the citizens' rights to access to justice as a result of neglect of their official duties by the staff of the corresponding courts.

A number of the petitions submitted to the Commissioner were dedicated to assistance in adequate transfer of cases in order to enable access to justice.

In September 2022, the Commissioner was approached by citizen T. regarding the long-term hearing of the civil case by Polohy District Court of Zaporizhzhia Oblast; the proceedings in the case had been instituted based on her claim. In order to prevent violation of the petitioner's right to access to justice, the Commissioner instituted the proceedings in which the territorial jurisdiction of the petitioner's case was changed by the order of the President of the Supreme Court. The Commissioner sent the requests to Ordzhonikidze District Court of Zaporizhzhia Oblast and Solone District Court of Dnipropetrovsk Oblast in order to establish the fact of transfer of the case papers to those courts. In response, the courts informed that the case papers had not been received.

The Commissioner conducted a review of assistance in adequate transfer of cases in order to enable access to justice. In December 2022, the Commissioner applied to the SJA Ukraine to find out about legal regulation of the procedure for transferring court cases upon changes in the territorial jurisdiction of courts during the martial law.

According to the SJA Ukraine, the first-instance and appellate courts were given recommendations for the cases of seizure of the settlement and/or court or an immediate threat thereof in Instruction of the President of the Supreme Court No. 6/0/9-22 of 13.03.2022. Cases are carried away provided that it is possible; it is applicable to the cases heard by the judges or at least the most important (high-profile) cases, materials of the criminal proceedings where a person has been placed into custody, proceedings regarding minors; proceedings regarding especially grave crimes; other cases consideration of which can be of material significance for the process participants. If there is no possibility, case papers must be kept in safe boxes at the court premises.

On the one hand, this information shows that there is a specific mechanism for preserving case papers, but it cannot be considered to be efficient in terms of practical implementation as it mostly contains abstract, judgement-based categories that are within the discretionary powers of the staff of the corresponding court.

At the same time, it is necessary to draft the legal and normative act on transfer of court cases from the courts located in the areas of hostilities whose territorial jurisdiction has been changed, which directly corresponds to prevention of violation of the right of access to justice under Article 6 of the Convention for the Protection of and Fundamental Freedoms.

Ensuring enforcement of court decisions is an integral element of the right to a fair trial since enforcement proceedings are the final stage of the litigation. In 2022, the Commissioner received 45 petitions regarding failure of the private enforcement officers to take the actions to enforce court decisions as prescribed by the Law of Ukraine "On Enforcement Proceedings".

The Commissioner has contacted the MoJ several times in order to resolve the matter of liability of private enforcement officers under the specific petitions, but the factor that prevents any disciplinary actions against the persons is the moratorium on inspections of private enforcement officers that has been mentioned above.

In August 2022, the Commissioner received the complaints from citizen S. regarding the omission and unlawful actions by the private enforcement officer of the enforcement district in Poltava Oblast. In his complaints, the petitioner informs that the petitioner fully enforced the decision in accordance with the enforcement document (notary writ) within the enforcement proceedings: in particular, he paid the enforcement fee and the private enforcement officer's fee, but the enforcement proceedings remained open.

Thus, in October 2022, the Commissioner received the complaint from citizen K. regarding the omission by the private enforcement officer in the enforcement district of Odesa Oblast, which constituted failure to complete the enforcement proceedings after the actual enforcement.

The Commissioner sent numerous letters to the MoJ based on the petitioners' complaints and asked to conduct inspections and respond. However, the Ministry of Justice of Ukraine informed that, according to point 61(3) of Section IV "Final and Transitional provisions" of the Law of Ukraine "On the Authorities and Persons in Charge of Enforcement of Court Decisions and Decisions of Other Authorities", scheduled and unscheduled inspections of private enforcement officers were not conducted during the martial law.

Such inspections will be conducted by the Ministry of Justice of Ukraine after the martial law is terminated or cancelled, based on the written request of a party to the enforcement proceedings.

The above means that it is necessary to resume scheduled and unscheduled inspections that, according to point 61(3) of Section IV "Final and Transitional Provisions" of the Law of Ukraine "On the Authorities and Persons in Charge of Enforcement of Court Decisions and Decisions of Other Authorities" have been suspended for the period of martial law.

Therefore, in December 2022, the Commissioner sent the recommendation to the MoJ for the actions to be taken to amend the Law of Ukraine "On the Authorities and Persons in Charge of Enforcement of Court Decisions and Decisions of Other Authorities" by revoking point 61(3) of Section IV "Final and Transitional Provisions" of the Law in terms of cancellation of the moratorium on scheduled and unscheduled inspections of private enforcement officers.

In response to the recommendation, the Ministry of Justice of Ukraine explained that there was an alternative mechanism for influencing the private enforcement officer's activity during the martial law. In particular, according to point 61(4) of Section IV "Final and Transitional Provisions" of Law No. 1403-VIII, during the martial law imposed in accordance with the Law of Ukraine "On Legal Regime of Martial Law", the private enforcement officer's activity may be suspended for a month by the order of the Ministry of Justice of Ukraine based on the recommendation of the head of the structural subdivision of the MoJ in charge of implementation of the public policy for enforcement of decisions, upon approval of at least five members of the Disciplinary Commission, in case signs of gross violation (the gross nature of the violation is justified in the text of the order) of the legislative requirements for enforcement of decisions by the private enforcement officer during the performance of his or her official duties.

Also, according to the seventeenth indent of point 102 of Section III “Final and Transitional Provisions” of Law No. 1404-VIII, during the martial law a resolution or another procedural document (or a part thereof) that is issued by the private enforcement officer in enforcement proceedings and is inconsistent with the legislative requirements for enforcement of decisions may be revoked upon request of a party to the enforcement proceedings or a person whose rights have been violated, by the resolution of the head of the structural subdivision of the Ministry of Justice of Ukraine in charge of implementation of the public policy for enforcement of decisions or the acting head, except when there is information on the litigation initiated by the person who has filed the request, in connection with the dispute between the same parties on the same matter and grounds.

Moreover, during the martial law, a private enforcement officer shall have the right to resolve to revoke the resolution or another procedural document (or a part thereof) issued by him or her in the enforcement proceedings, upon request of a party to the enforcement proceedings or at his or her own initiative provided that there are objective grounds (the eighteenth indent of point 102 of Section XIII “Final and Transitional Provisions” of Law No. 1404-VIII).

It is prescribed by point 1 of Section V of the Procedure for Inspecting Operations of the State Enforcement Service, Private Enforcement Officers approved by Order of the MoJ No. 3284/5 of 22.10.2018, registered with the MoJ under No. 1195/32647 on 22.10.2018 that during the martial law the Ministry of Justice of Ukraine inspects compliance with the legislative requirements by a private enforcement officer as regards enforcement of decisions during the performance of his or her official duties based on the data in the automated enforcement proceedings system.

However, such mechanisms for inspecting operations of private enforcement officers during the martial law and enforcement of decisions cannot be considered to be sufficiently efficient and the ones that will result in use thereof and imposition of disciplinary penalties upon the enforcement officers who have violated the legislative requirements for enforcement proceedings. Suspension of the private enforcement officer’s activity for a month does not entail any penalties to prevent recurrence of the violation.

The private enforcement officer’s ability to revoke his or her own resolutions at his or her own discretion cannot be treated as an efficient mechanism since the he or she also becomes a decision-maker on his or her own actions directed at enforcement of the court decision.

The information that the MoJ checks the private enforcement officer’ compliance with the legislative requirements for enforcement of decisions during the performance of his or her professional duties based on the data in the automated enforcement proceedings system is true, but the automated enforcement proceedings system is used in order to obtain information on the progress of the enforcement proceedings, which is confirmed by the reviews conducted by the Commissioner. The Ministry of Justice of Ukraine merely provided the information form the automated enforcement proceedings system on progress of enforcement proceedings, and although such information contained some data on failure to perform or improper performance of certain enforcement actions, it did not result in disciplinary penalties imposed upon private enforcement officers, which could prevent recurrence of the violation in the future.

Given the above, the alternative mechanism proposed by the MoJ contrary to the full-scale resumption of inspections of private enforcement officers cannot be considered efficient and the one preventing unlawful omission by private enforcement officer or urging them to perform their duties in good faith.

Procedural rights in criminal proceedings

In 2022, 1,545 oral and written petitions were considered on the matters of observance of rights in criminal proceedings. They contained reports on 3,628 violations, including violation of the right to judicial protection of human and civil rights and freedoms — 1,340; the right to efficient pre-trial investigation and a reasonable time thereof — 597 and illegal termination of criminal proceedings — 68; violation of rights by the law enforcement officers — 1,003; right to registration of statements of and reports on criminal offences with the URPTI — 153; right to a fair trial in criminal proceedings for a reasonable time — 114; right to adequate enforcement of court decisions — 19.

The Commissioner submitted 5 motions to the authorised bodies, sent requests and letters regarding inspections, official investigations and response measures based on the information on violation of procedural rights in criminal proceedings, namely the right to efficient pre-trial investigation, procedural actions and procedural decisions within a reasonable time, enforcement of the court decision in criminal proceedings.

Following the consideration of the documents by the Commissioner's Secretariat, the procedural rights of more than 60 persons were resumed; in particular, the public prosecutors revoked 10 resolutions on termination of the criminal proceedings, delivered 13 other procedural decisions and took procedural actions in order to restore the right to efficient pre-trial investigation (to change the jurisdiction, to terminate the criminal proceedings, to change the prosecution group, to initiate suspension of the investigator from the office, to give written instruction); the investigators and public prosecutors entered data into the URPTI and instituted 23 criminal proceedings, provided copies of their procedural decisions to the applicants and enabled to examine papers of the criminal proceedings; violation of the procedural rights of the parties to criminal proceedings and work regulations by 22 officials was confirmed during the official reviews.

It was established within the proceedings instituted based on the petition of attorney Sh. on behalf of N. regarding omission by the police officers in form of failure to abide by the court decisions and return the property that was temporarily seized during the pre-trial investigation within the criminal proceedings that the property (funds) had been seized during the search on 15.04.2019 at the place of residence of N.

On 15.09.2020, the investigating judge ruled to revoke the property attachment.

Despite the requirements of Article 169(4) of the CrPCU regarding the need to return the temporarily seized property after the attachment is revoked as well as two other rulings of the investigating judge of 28.07.2021 and 17.06.2022, which obliged the investigator to return the seized funds, the omission of the investigators of the National Police of Ukraine in performance of the requirements of the criminal procedural law and enforcement of the court decisions lasted almost 2 years.

Owing to the persistent correspondence between the Commissioner's Secretariat and the pre-trial investigation bodies and the motion filed by the Commissioner to the Head of the National Police of Ukraine on 20.07.2022, the rights of N. were finally restored, the property was returned to the owner on 17.08.2022, and the disciplinary offences by 10 officials of the National Police of Ukraine of different levels were confirmed during the official investigation.

Owing to the response of the Commissioner's Secretariat to the petition of T. regarding violation of his constitutional rights and freedoms in connection with the long-lasting (for 15 years) pre-trial investigation during which the applicant had been subjected to remand in custody and had spent 4 years

behind the bars, the Kyiv City Prosecutor's Office resolved to terminate the criminal proceedings due to lack of elements of the criminal offence in the act (based on paragraph 1(2) of Article 284 of the CrPCU).

Following consideration of the letter from the Commissioner's Secretariat of 02.11.2022 based on the petition of M. against Lviv District Prosecutor's Office regarding violation of the petitioner's rights to pre-trial investigation within a reasonable time (the pre-trial investigation lasted almost 8 years), on 10.11.2022 the investigator resolved to terminate the criminal proceedings due to lack of elements of the criminal offence in the act based on paragraph 1(2) of Article 284 of the CrPCU.

Lots of petitions (1,003) received in 2022 contained reports on arbitrary actions by the law enforcement officers who violated rights during detention, unlawful deprivation of liberty, cruel treatment, violation of the right to defence, detention in inadequate conditions, failure to inform relatives of detention or arrest, and disregard of legislative requirements.

It was established during the proceedings instituted in accordance with Article 17 of the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights" based on the petitions against violation of the civil rights and freedoms by the officers of the SSU by requesting information, documents and interviews that M. had been detained at the work place 5 days before the start of the pre-trial investigation, namely 19.03.2022, within the criminal proceedings data on which were entered into the URPTI on 23.03.2022. The officers of the SSU failed to draw up procedural documents on detention of M. in accordance with the requirements of Article 208(5) of the CrPCU, and failed to notify the public prosecutor, relatives, body (institution) authorised by the law to grant free legal aid of the detention. The fractured rib was found during the medical examination of M.

Following the proceedings based on the petition of attorney H., the data were obtained that citizen H. had been detained by the officers of the SSU on 02.03.2022 at the place of residence, and he was held without any procedural documents and a change to contact and see the defender for more than 2 days.

Moreover, the location of two persons who communicated with the SSU still is unknown.

The UN Committee against Torture treats enforced disappearance as a form of torture. In its decision under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/54/D/456/2011, hereinafter referred to as the "Convention"), the UN Committee recalls that enforced disappearance entails multiple human rights violations and a failure by the State party concerned to comply with the obligations contained in the Convention, and constitutes in itself, in relation to the disappeared person, or in relation to the person's relatives, a form of torture contrary to the Convention.

Pursuant to the information confirmed during the proceedings instituted based on the petitions about violation of the civil rights and freedoms guaranteed by the Constitution of Ukraine, namely the right to respect for dignity, liberty and security, to professional legal aid, to inviolability of the home, as well as requirements of the CrPCU that prescribe rights of parties to criminal proceedings, the motion was sent to the Prosecutor General for response as prescribed by the law.

As a result, data under all the applications and reports on unlawful actions of law enforcement officers that have elements of criminal offences must be entered into the URPTI, and the investigation must be conducted.

The real challenge for the entire judiciary has been work during the war. All the areas of public relations have been adjusted. It has also affected administration of justice.

Right to access to court decisions

The Law of Ukraine “On Access to Court Decisions” does not contain such grounds for limiting access to the USRCD as cyber attack threats, prevention of threats for life and health of judges and litigants, and imposition of martial law or state of emergency all over Ukraine or in some areas.

In order to adhere to the principle of legal certainty of the legislation, the MoJ has been proposed to consider drafting the law to supplement Article 4(4) of the Law of Ukraine “On Access to Court Decisions” with the rule on possible limitation of the right to free use of the official web-portal of the judiciary of Ukraine for the period of martial law or state of emergency. In August 2022, the MoJ informed that the proposals would be considered in drafting of the laws aimed at improvement of judicial proceedings.

On 1 November 2022, the Cabinet of Ministers of Ukraine registered the draft law “On Amending Section XII ‘Final and Transitional Provisions’ of the Law of Ukraine ‘On the Judiciary and Status of Judges’ regarding Administration of Justice during Martial Law” (registration No. 8168) with the Verkhovna Rada of Ukraine. In particular, this draft law suggests that the SJA Ukraine may limit the right to free use of the official web-portal of the judiciary of Ukraine during the martial law or state of emergency in order to protect information therein.

However, the legal uncertainty still has not been eliminated.

Lawfulness of limitation of the right to liberty and security of person

The CrPCU has been amended more than all the other procedural codes in connection with the armed aggression against Ukraine and imposition of the martial law. In particular, in April 2022, the Verkhovna Rada of Ukraine adopted the Law of Ukraine “On Amending the Criminal Procedure Code of Ukraine as regards Improvement of the Procedure for Criminal Proceedings during Martial Law”, which prescribed without limitation that in case martial law was imposed, and a person was detained without a ruling of an investigating judge, court under Article 208 of the Code, or there were justified circumstances giving grounds to suppose that the suspect of the crime could escape to evade criminal liability, the designated official could decide to detain such person without a ruling of an investigating judge, court or a resolution of the head of the prosecution authority, and the period of such detention could not exceed 216 hours from the moment of detention, which was determined in accordance with Article 209 of the Code.

It was emphasised by the Commissioner that everyone was guaranteed the right to liberty and security by Article 29 of the Constitution of Ukraine. A person can only be arrested or detained based on the justified court decision and on the grounds and in accordance with the procedure prescribed by the law. Where it is essential to prevent or terminate the crime, the duly authorised bodies may place a person into custody as a temporary restraint, which has to be checked by court within 72 hours. The detained person shall be immediately released unless he or she is serviced a justified court decision on placement into custody within 72 hours after the detention. Although the martial law has been imposed

in Ukraine, the right guaranteed by Article 29 of the Constitution of Ukraine may not be limited during the martial law.

Therefore, the Commissioner emphasised the need to bring paragraph 1(6) of Article 615 of the CrPCU in line with the Constitution of Ukraine. In July 2022, a letter was sent to the Verkhovna Rada Committee on Law Enforcement regarding the need to eliminate the inconsistency of Article 615 of the CrPCU in terms of lawfulness of limitation of everyone's right to liberty and security.

The Verkhovna Rada of Ukraine adopted Law of Ukraine No. 2462-IX of 27.07.2022 "On Amending the Criminal Procedure Code of Ukraine to Improve Certain Clauses on Pre-Trial Investigation during Martial Law", which resolved that issue.

However, the matter of adapting the procedural legislation to the martial law needs to be resolved.

Lack of legal regulation providing for possible resumption and extension of procedural time frames based on the circumstances caused by the martial law or state of emergency in Ukraine

Following the expert analysis of the effective legislation and examination of the case law of courts of different levels, the Commissioner detected lack of legal regulation providing for possible resumption and extension of procedural time frames based on the circumstances caused by the martial law or state of emergency in Ukraine.

The Council of Judges of Ukraine and the Supreme Court have tried to partly resolve the problem. On 02.03.2022, the Council of Judges of Ukraine recommended all the courts to apply the balanced approach to the matters associated with returning different procedural documents, leaving them without consideration, setting different time frames and, where possible, extending them at least until the expiration of the martial law.

The order of the President of the Supreme Court of 04.03.2022 also recommended the courts to consider that imposition of the martial law in the specific territory was a good reason for resuming procedural time frames.

Therefore, amendments need to be made to the legislation as regards resumption and extension of procedural time frames during the martial law and state of emergency in order to ensure efficient and timely protection of rights, freedoms and interests of litigants.

The proposed amendments are supported by the Supreme Court, the Council of Judges of Ukraine and the High Council of Justice.

After the amendments proposed by the Commissioner had been considered, the Committee of the Verkhovna Rada of Ukraine on Legal Policy informed that the proposals had been brought to the attention of MPs who were members of that Committee and could consider them in their legislative drafting work as holders of the right of legislative initiative.

The issue still has not been resolved at the legislative level.

Lack of legal regulation providing for possible procedural actions within criminal proceedings as a video conference during litigation by means of litigants' own devices

It was established by the Commissioner that the rules of the CrPCU do not provide for a court session as a video conference by means of litigants' own technical devices, the way it is regulated in the civil, economic and administrative proceedings.

The Regulation on the Procedure for Operation of Individual Subsystems of the Unified Judicial Information and Telecommunication System approved by Resolution of the High Council of Justice No. 1845/0/15-21 of 17.08.2021 does not limit possibility of a video conference outside the court premises

by means of own technical devices to a separate type of judicial proceedings, so it is possible within criminal proceedings. However, the CrPCU does not expressly provide for such possibility.

Nevertheless, the start of active hostilities in Ukraine has changed the courts' attitude to possibility of remote criminal proceedings by means of own technical devices.

In its letter No. 2/0/2-22 of 03.03.2022 "On Certain Aspects of Criminal Proceedings during Martial Law", the Supreme Court recommended that in case a party to criminal proceedings could not participate in the court session via video conference communication by means of the technical devices prescribed by the CrPCU due to objective circumstances, such party could be allowed to participate by means of other devices as an exception, but his or her procedural rights and obligations must be explained.

This approach is now understandable as the judges face forced long breaks in judicial proceedings because the accused, witnesses and experts are in temporarily occupied territories, witness and experts cannot be interviewed because their location is not known, the persons have been internally displaced etc.

Therefore, although the recommendations given in the letter of the Supreme Court cannot replace the effective legislation, they are actively used by courts in practice. The criminal proceedings are conducted by means of own technical devices of public prosecutors, attorneys, witnesses and other parties to judicial proceedings. EasyCon, ZOOM and other software are used for court sessions.

Moreover, one of the activities to improve access to justice in accordance with the Strategy for Developing the Judiciary and Constitutional Judicial Proceedings for 2021-2023 approved by Decree of the President of Ukraine No. 231/2021 of 11.06.2021 is the need to develop electronic judicial proceedings.

With due consideration of the above, in October 2022, the Commissioner sent the letter to the Verkhovna Rada Committee on Law Enforcement and suggested drafting the law providing for possible procedural actions within criminal proceedings as a video conference during litigation by means of litigants' own technical devices.

In November 2022, the Verkhovna Rada Committee on Law Enforcement informed that the draft Law of Ukraine "On Amending the Criminal Procedure Code of Ukraine as regards Gradual Introduction of the Unified Judicial Information and Telecommunication System" (registration No. 8219) was registered with the Verkhovna Rada of Ukraine on 23.11.2022. In particular, it amended Article 336 of the CrPCU, which provided for possible procedural actions as a video conference during litigation by means of own technical devices.

The issue still has not been resolved at the legislative level.

Lack of legislative regulation providing for disclosure of information on activities of the Qualification and Disciplinary Commission of Public Prosecutors

In pursuance of Law of Ukraine No. 1554-IX of 15.06.2021 "On Amending Certain Legislative Acts of Ukraine as to First-Priority Actions to Reform the Prosecution Authorities regarding Individual Aspects of the Transitional Provisions", the effect of certain clauses of the Law of Ukraine "On the Prosecutor's Office" was resumed in terms of formation of the designated authority in charge of disciplinary proceedings and determination of its powers.

On 17.09.2021, the Committee of the Verkhovna Rada of Ukraine on Law Enforcement approved appointment of three members of the designated authority in charge of disciplinary proceedings, in

accordance with paragraph 1(4) of Article 74 of the Law of Ukraine “On the Prosecutor’s Office”. Those members were appointed to the office by the Commissioner’s order on 20.09.2021.

Therefore, the qualified composition was formed on 20.09.2021. According to resolution of the authority No. 163П-21 of 26.10.2021, it would start to operate on 03.11.2021. The designated authority in charge of disciplinary proceedings is made of eleven members, three of whom are appointed by the Ukrainian Parliament Commissioner for Human Rights in consultation with the committee of the Verkhovna Rada of Ukraine responsible for organisation and activities of the prosecution authorities.

On 28.08.2021, the Ukrainian conference of public prosecutors adopted the Regulation on the Operating Procedure of the Designated Authority in Charge of Disciplinary Proceedings.

However, there is no procedure and mechanism by means of which the Commissioner can receive information on activities of the members of the designated authority in charge of disciplinary proceedings appointed based on his quota. Therefore, the matter requires normative regulation.

Right to a fair trial within a reasonable time in criminal proceedings

One more challenge for justice in criminal proceedings was the impossibility to transfer case papers from the courts located in the area of hostilities or in the temporarily occupied territory after the territorial jurisdiction had been changed.

The problem that required legal regulation was established during the consideration of petitions from the prisoners held in the state institutions Mykolaiv pre-trial detention centre“, “Cherkasy pre-trial detention centre”, “Zaporizhzhia pre-trial detention centre” regarding the unjustified extension of their detention, delays in consideration of acts of indictment on the merits of the charges by court due to impossibility to transfer case papers from the courts located in the area of hostilities or in the temporarily occupied territory to the designated after the territorial jurisdiction had been changed. In particular, the clauses of the CrPCU do not prescribe the mechanism for restoring materials of the criminal proceedings that have been carried out by the court, but has not ended in a verdict. Such legal uncertainty created conditions for violating the right to a fair trial within a reasonable time, as guaranteed by Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

With due consideration of the above, on 20.10.2022, the Commissioner sent the letter to the Verkhovna Rada Committee on Law Enforcement regarding draft law No. 7494 of 27.06.2022 “On Amending the Criminal Procedure Code of Ukraine to Elaborate the Clauses on Restoration of Lost Materials of Criminal Proceedings, to Cancel the Pre-Trial Restraint for Military Service during Martial Law” and made proposals to be considered in the draft law for the second reading. In particular, it was proposed to amend Article 615-1 of the CrPCU by supplementing it with the clauses that lost materials of the criminal proceedings were to be restored if the act of indictment, the motion to apply involuntary medical or correctional measures, the motion to discharge the person from criminal liability had been sent to court, but there had been no preliminary hearing; the litigation had been started, but the court had not delivered a decision; the court had delivered a decision, but it had not entered into force.

The Commissioner’s proposals were fully taken into consideration by the Verkhovna Rada of Ukraine. The Law entered into force on 11.12.2022.

Therefore, the legislation provides for restoration of lost materials and elimination of the objective cause of violation of the right to a trial in criminal proceedings within a reasonable time.

Recommendations

The Verkhovna Rada of Ukraine should ensure consideration and adoption of:

- draft Law of Ukraine “On Amending Certain Legislative Acts as to Resolution of the Issue of Excessive Duration of Civil, Economic and Administrative Proceedings” (registration No. 8083);
- draft Law of Ukraine “On Amending Section XII ‘Final and Transitional Provisions’ of the Law of Ukraine ‘On the Judiciary and Status of Judges’ regarding Administration of Justice during Martial Law” (registration No. 8168);
- draft Law of Ukraine “On Amending the Criminal Procedure Code of Ukraine as regards Gradual Introduction of the Unified Judicial Information and Telecommunication System” (registration No. 8219).

The Committee of the Verkhovna Rada of Ukraine on Legal Policy should initiate development and submission to the Verkhovna Rada of Ukraine for consideration amendments to the Code of Administrative Procedure of Ukraine, the Civil Procedure Code Ukraine and the Economic Procedure Code of Ukraine regarding judicial proceedings during martial law or state of emergency in terms of resumption and extension of procedural time limits during martial law and state of emergency.

The Ministry of Justice of Ukraine should develop and submit to the Cabinet of Ministers of Ukraine of Ukraine for consideration the draft law on amending the Law of Ukraine “On the Authorities and Persons in Charge of Enforcement of Court Decisions and Decisions of Other Authorities” by revoking point 61(3) of Section IV “Final and Transitional Provisions”.

The State Judicial Administration should draft the legal and normative act on transfer of court cases from the courts located in the areas of hostilities whose territorial jurisdiction has been changed.

The Prosecutor General’s Office should:

- request and examine information on the persons held in custody in the state institutions “Mykolaiv pre-trial detention centre”, “Cherkasy pre-trial detention centre”, “Zaporizhzhia pre-trial detention centre” in the criminal proceedings materials of which have been lost, and ensure submission of motions to restore the lost materials of the criminal proceedings in order to eliminate and prevent violation of their rights to a fair trial within a reasonable time and personal liberty;
- organise reviews of compliance with the law by the prosecution authorities during consideration by the designated officials of statements and reports on unlawful actions of the law enforcement officers during the martial law with signs of criminal offences in 2022;
- amend the Regulation on the Operating Procedure of the Designated Authority in Charge of Disciplinary Proceedings (as adopted by the Ukrainian conference of public prosecutors on 28.08.2021), which should provide for the mechanism for informing the Commissioner of activities of the members of the Qualification and Disciplinary Commission of Public Prosecutors appointed based on his quota.

CHAPTER 9. INFORMATION RIGHTS

8,027 petitions to the Commissioner

(including the right to petition — 33%, regarding violation of the right to access public information — 17%, the right to written response — 15%, the right to proper review of the petition — 14%, the right to submit a petition — 7%, the right to timely review of the petition — 6%, issues related to illegal personal data processing — 3%, the right to personal reception — 2%, the right to access information on yourself — 2%, organisation of personal data processing — 1% and recommendations and explanations on practical application of the legislation on personal data protection — 1%)

211 legal and normative acts processed and proposals submitted

605 proceedings instituted by the Commissioner

418 proceedings completed

38 administrative offence reports

(including 35 reports under Article 212-3 of the CUAO “Violation of the right to information and the right to petition” and 3 reports under Article 188-39 “Violation of the legislation in the field of personal data protection”)

353 monitoring visits made

75 orders to eliminate the violations detected during the reviews, in particular, to restore rights of personal data subjects

26 recommendations and explanations given to the power entities as regards practical exercise of the citizens’ right to petitions and application of the legislation on access to public information

5 Commissioner’s motions sent to the public authorities for corresponding measures to be taken

9.1. Right to access information and right to petition

Key events, challenges and tendencies

The martial law has been in effect in Ukraine since 05:30 on 24.02.2022, in connection with the military aggression of the Russian Federation against Ukraine; it was imposed by Decree of the President of Ukraine No. 64/2022 of 24.02.2022 “On the Imposition of Martial Law in Ukraine” approved by Law of Ukraine No. 2102-IX of 24.02.2022.

Certain rights and freedoms may be limited for a specific period of time during the martial law or state of emergency. However, the person’s constitutional right to petition and response under Article 40 of the Constitution of Ukraine may not be limited during the martial law.

The Commissioner received the report according to which the State Agency of Automobile Roads of Ukraine temporarily ceased to respond to the citizens’ petitions not associated with the martial law, military operations, medical assistance, evacuation of the population etc. starting from 25.02.2022, in connection with the issue of Decree of the President of Ukraine No. 64/2022 of 24.02.2022 “On the Imposition of Martial Law in Ukraine”. However, the constitutional right to apply to power entities guaranteed by Article 40 of the Fundamental Law of Ukraine is one of 18 human and civil rights and

freedoms that cannot be limited even during the martial law or state of emergency in accordance with Article 64 of the Constitution of Ukraine. Therefore, the citizens' constitutional right to submit individual or collective written petitions and receive response thereto cannot be limited even during the martial law.

In order to eliminate the violations of the human and civil rights and freedoms and prevent them in the future, being guided by Article 101 of the Constitution of Ukraine, Articles 13, 15, 16, 22 of the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights", Article 10 of the Law of Ukraine "On Legal Regime of Martial Law", Article 28 of the Law of Ukraine "On Petitions of Citizens", the Commissioner sent the motion to the State Agency of Automobile Roads of Ukraine and asked to remedy the constitutional violations of the human and civil rights and freedoms and to consider them in future work.

According to the State Agency of Automobile Roads of Ukraine, the violations were remedied, the heads of the standalone structural subdivisions and independent senior specialists of the State Agency of Automobile Roads of Ukraine were informed thereof, and responses to the citizens' petitions were resumed.

Also, according to Article 34(3), 64(2) of the Constitution of Ukraine, the right to access information during the martial law may be limited by the law, in particular, for the purposes of national security, territorial integrity or public order, in order to prevent riots or crimes.

Moreover, it is prescribed by Article 8 of the Law of Ukraine "On Legal Regime of Martial Law" that public authorities and local self-government bodies take the actions necessary to repel the threat, deter the armed aggression and ensure national security in the first place. These actions may make it difficult for citizens to exercise their right to information. For instance, such actions can include enhanced security and special operations of the public authority, local self-government body etc. to which a petition or request has been sent; introduction of the curfew in the specific territory; special conditions for entering/leaving, limitation of freedom of movement etc.

The ability to process the citizens' petitions and requests during the martial law also depends on the technical capacity for processing correspondence, proximity of the institution to the area of hostilities, actual threat for life or health of staff of the institution etc.

With account of the special legal regime in Ukraine, the citizens' need to exercise their right to apply to power entities, associations of citizens, enterprises, institutions and organisations of any ownership form and right to information has increased. The summary of the monitoring of observance of the constitutional human and civil rights and freedoms, in particular, the rights to send a petition and receive a response from power entities, the rights to information, posting of public information on official websites of administrators in the context of the limitations associated with the legal regime of martial law has shown the low level of observance of the rights.

In July 2022, the Commissioner was approached by the citizen who complained against violation of the Law of Ukraine "On Access to Public Information" by the Dubno City Council (hereinafter the "Council"). The petitioner stated that she had filed an inquiry to the Council asking to disclose information on the salary accrued and paid to Dubno City Head and his deputies from January to June 2022. However, the petitioner was informed that access to the requested information was limited during the legal regime of martial law.

In order to restore the petitioner's right to information, corresponding letters were sent by the Commissioner's Secretariat to the Council in order to explain the clauses of the Law of Ukraine "On Access to Public Information". However, the Council repeatedly dismissed the inquiry on the same grounds.

Given the above, the designated official of the Commissioner's Secretariat drew up the administrative offence report on the Dubno City Head as prescribed by Article 2123(2) of the CUAO.

According to the decision of the Dubno City and District Court of Rivne Oblast, the Dubno City Head was found guilty of the administrative offence under Article 212-3(2) of the CUAO, and the fine was imposed.

Prompt information to public information (via official websites, social media) that is of major social interest and is connected with the exercise without limitation of human rights to life, health, liberty and security (including information on accidents, disasters and other emergency events that have occurred or might occur and threaten citizens' security) is of paramount importance during the martial law.

Thus, during 2022, the Commissioner received the citizens' reports that the power entities had temporarily ceased without limitation to respond to the citizens' inquiries not associated with the martial law, military operations, medical assistance, evacuation of the population etc.

In that regard, the power entities were sent the Commissioner's motions to take the actions in order to remedy the constitutional violations of human and civil rights and freedoms and ensure adequate exercise of the citizens' rights to information, petition and response during the martial law.

In addition to the martial law challenges, there is a number of other issues, some of which have often been described in the Commissioner's reports. In particular, exercise of the constitutional right to petition by the persons who have been recognised by court to be legally incapable is not regulated by the legislation. Based on the constitutional submission of the Commissioner, the particular provisions of Article 8(2), the second sentence of Article 16(4) of the Law of Ukraine "On Petitions of Citizens" (the case on petitions of persons recognised as legally incapable by court) were found to be non-constitutional and ceased to be in force from the date of the corresponding decision of the Constitutional Court of Ukraine No. 8-p/2018 of 11 October 2018. The Verkhovna Rada of Ukraine registered the draft Law of Ukraine "On Amending the Law of Ukraine 'On Petitions of Citizens' regarding the Exercise of the Constitutional Right to Petition by Persons Recognised as Legally Incapable by Court" (registration No. 1186 of 29.08.2019), which still is being considered.

Despite the ratification of the Council of Europe Convention on Access to Official Documents in 2020 and the Commissioner's recommendations, its clauses still have not been implemented in the Ukrainian legislation. It is extremely relevant to develop the draft law on amendments to the Law of Ukraine "On Access to Public Information" with account of the circumstances resulting from the legal regime of martial law.

In general, analysis of the citizens' petitions received by the Commissioner and results of the reviews show that there are persistent violations of constitutional human and civil rights to information and petition by the public authorities, local self-government bodies, associations of citizens, enterprises, institutions and organisations in 2022, namely:

- ceasing to consider requests for information, petitions of citizens during the legal regime of martial law;

- administrators of information failing to publish socially important information related to exercise of human rights to life, health, liberty and security, in the first place, on the official websites;
- closing public registers;
- administrators of information unreasonably adjourning response to requests for information;
- classifying information as the one with limited access without any grounds;
- individual applicants abusing their right to access public information;
- accepting citizens' petitions only in electronic form;
- responding to citizens' petitions with a delay;
- violating the requirements of Article 18 of the Law of Ukraine "On Petitions of Citizens" (to attend consideration of a petition or complaint, to examine materials of the review);
- being unable to exercise the right to submit an oral petition, by telephone, hot line;
- failing to respect the right of petition of the persons with the special social status.

Response to violations of human and civil rights

Right to petition

In 2022, 6,204 citizens filed reports with the Commissioner on violations of Law of Ukraine No. 393/96–BP of 2 October 1996 "On Petitions of Citizens". In 2021, 19,642 citizens filed reports, i.e. the number of petitioners decreased significantly.

The reports were related to the following groups of rights:

- right to timely review of petitions;

In September, the Commissioner received three reports from citizen B. regarding no response to her request about house maintenance tariffs from the staff of the National Complex "Expocentre Ukraine".

The Commissioner took actions to ensure consideration of the requests of petitioner B. within the proceedings by the National Complex "Expocentre Ukraine". The petitioner's right was restored.

- right to personal reception;

In November, the Commissioner received the petition from citizen H. regarding violation of the requirements of the Law of Ukraine "On Petitions of Citizens" under Article 18 in terms of attendance of consideration of the complaint of citizen H., by the officials of the Ministry of Finance of Ukraine, the State Tax Service, the National Agency of Ukraine for Civil Service, the Main Department of the State Labour Service in Kyiv Oblast.

Within the framework of parliamentary control and in order to restore the petitioner's right, the corresponding response measures were taken; in particular, the violating authorities were sent letters to ensure repeated consideration of the petition and exercise of the citizen's rights under Article 18 of the Law of Ukraine "On Petitions of Citizens". The petitioner's right was restored.

- right to proper review of petitions;

The Commissioner carried out the proceedings based on the application of citizen A. regarding probable violation of his right to petition and proper review of petition by the officials of the MSP and the MoH.

During the proceedings, the MSP considered and furnished citizen A. with information on the procedure for provision of services in the state rehabilitation facility.

The MoH also answered the questions asked in the petition of citizen A. In particular, it was stated that citizen A. could take a medical rehabilitation course based on the family doctor's referral in the physical therapy and rehabilitation department of the communal non-commercial enterprise "2nd City Health Clinic of Lviv".

Therefore, the Commissioner's proceedings restored the right of citizen A. to proper review of his petition.

- right to file petitions;

In August 2022, the Commissioner received the petition from the people's deputy of Ukraine regarding violation of the right of citizen B. to send a petition and receive response thereto by the officials of the joint-stock company "Kharkiv Publishing House".

The measures taken by the Commissioner did not confirm that the joint company "Kharkiv Publishing House" had violated the requirements of the Law of Ukraine "On Petitions of Citizens", but it was established that the matter described in the petition of citizen B. was within the competence of law-enforcement authorities.

With the Commissioner's support, the pre-trial investigation was started by the law-enforcement authorities in criminal proceedings.

- right to written response;

In February, the Commissioner received two petitions from citizen P. regarding the violation by the private joint-stock company "TAS Insurance Group" and individual entrepreneur O. F. Kovalenko, which had failed to give written response to the petitions of citizen P.

The actions were taken within the proceedings to ensure comprehensive, complete and objective consideration of the petitions of citizen P. by the private joint-stock company "TAS Insurance Group" and individual entrepreneur O. F. Kovalenko.

Hence, the right of petitioner P. to file a petition and get a response was restored by the Commissioner.

- other violations of the right to petition.

In October 2022, the Commissioner received the petition about the alleged violation of the right of citizen P. by Kehychivka Village Council of Krasnohrad Raion, Kharkiv Oblast, and by Krasnohrad Raion State Administration in terms of refusal to accept his oral petition on the hot line.

Following the response by the Commissioner, the Krasnohrad Raion State Administration and the Kehychivka Village Council of Krasnohrad Raion, Kharkiv Oblast informed the Commissioner's Secretariat of the unconditional exercise of the human and civil right to petitions during the martial law, in particular, as to registration of citizens' oral petitions, personal reception of citizens and work of the trust line at the hot line numbers.

Hence, the right of the petitioner to file a petition and get a response was restored with the Commissioner's support.

281 proceedings were instituted based on the reports received by the Commissioner in order to respond and restore the citizens' rights to petitions.

Right to access information

In 2022, the Commissioner received 1,370 citizens' reports of violations of the right to access public information.

The monitoring conducted by the Commissioner in 2022 within parliamentary control over observance of the constitutional human right to information and processing of corresponding petitions of citizens identified the following violations of the right to information: a large number of administrators of public information refused to disclose it; limited access to the information published on the official websites; suspended consideration of requests for information due to the legal regime of martial law; unreasonably applied the tool of adjournment to requests for information; refused to disclose information on salaries of staff of the public authorities and local self-government bodies, in particular in the areas without active hostilities, as well as information on distribution and receipt of humanitarian assistance etc.

In July 2022, the Commissioner was approached by the chief editor of a local newspaper in Poltava Oblast, who complained that Poltava Oblast Prosecutor's Office had violated his right to information in connection with the refusal to disclose the requested information on the amount of the salary accrued and paid in 2022 to the head of Kremenchuk District Prosecutor's Office in Poltava Oblast, with the explanation that the requested information would be provided after the termination (cancellation) of the legal regime of martial law in Ukraine. Following the response measures, the chief editor's right to information was restored, and the Prosecutor's Office disclosed the requested information in full.

In July 2022, the Commissioner received the petition from the civil society organisation regarding violation of the requirements of the Law of Ukraine "On Access to Public Information" by the National Aviation University of Ukraine in connection with the refusal to disclose information on payment of the salary to the principal and vice principals of the NAU for the period from January to July 2022. Following the response measures, the right of the civil society organisation to information was restored, and the University disclosed the requested information in full.

In September 2022, citizen K. applied to the Commissioner in connection with violation of his right to information by the Main Department of the State Geocadastr in Ivano-Frankivsk Oblast (hereinafter the “Department”) in connection with failure to provide the job description of the employee of the Department. Thus, in response to the petitioner’s request, the Department informed that the requested copy of the job description could not be provided as it pertained to information with restricted access, namely the proprietary one.

During the review, the Department was sent the letter of the Commissioner’s Secretariat, where the requirements of the effective legislation as to lawfulness of limitation of access to information were explained.

The right of citizen K. to information was restored with the support of the Commissioner’s Secretariat, and the requested information was provided to the petitioner.

In August 2022, the Commissioner received the complaint from citizen S. regarding violation of her right to information by the Mukachevo Raion Military Administration (hereinafter the “Administration”) in terms of disclosure of data on vacancies in the Administration. In particular, the Administration adjourned consideration of the petitioner’s request until the end of the martial law in Ukraine.

Corresponding response measures were taken within parliamentary control in order to restore the petitioner’s right to information. In particular, the letter was sent to the Administration to explain the requirements of the Law of Ukraine “On Access to Public Information”, namely as regards application of the legal tool of adjournment during the martial law.

Following the response measures taken by the Commissioner’s Secretariat, the petitioner’s request was repeatedly considered by the Administration, and the requested information was provided.

Moreover, the petitioners complained that they could not get information from public registers, including the USRCD, which can also be treated as limitation of the right to information. However, the context of this matter should consider the balance between freedom of expression and guarantees of national security during the legal regime of martial law.

In August 2022, the Commissioner received the petition from the civil society organisation regarding the fact that the State Judicial Administration of Ukraine (hereinafter the “SJA”) had ceased to publish and update the set of open data “Unified State Register of Court Decisions” on the Unified State Open Data Webportal in connection with the martial law imposed in Ukraine.

Within the proceedings, the SJA informed that the USRCD contained more than 104 million electronic court decisions with data on names and address of the military units and formations of the AFU, law-enforcement authorities etc., infrastructural facilities: information on the judges who had carried out criminal proceedings in connection with crimes against the fundamentals of the national security of Ukraine, public order, protection of classified information, inviolability of state borders etc. Disclosure of such information could materially damage the national security, life and health of judges, staff of courts, litigants and other citizens of Ukraine. Therefore, the data set “Unified State Register of Court Decisions” ceased to be published on the Portal. At the same time, the SJA informed that after the work was performed to impersonalise some of the information in the electronic court decisions access

to which had been restricted, the administrator would resume publication of the data set “Unified State Register of Court Decisions” on the Portal. The matter is under the Commissioner’s control.

Moreover, in connection with imposition of the legal regime of martial law and armed aggression, the MDT temporarily suspended operation of the Unified State Open Data Webportal pursuant to Resolution of the CMU No. 263 of 12 March 2022 as the Portal contained the data that could be of prejudice to the national security interests. At the same time, use of the open data published on the Portal enables analysing the public policy, controlling actions of the government, increasing civic participation] in decision-making, and helps take better decisions in the economic area etc.

After the Portal had resumed its operations on 1 August 2022, some administrations of the information fail to publish sets of open data subject to compulsory publication, contrary to the requirements of Article 10-1 of the Law of Ukraine “On Access to Public Information” and Resolution of the CMU No. 835 of 21 October 2015 “On Approving On Approving the Regulation on Datasets to Be Published in the Form of Open Data”.

In this regard, two motions were sent by the Commissioner to the National Health Service of Ukraine (hereinafter the “NHS”) and to the State Tax Service of Ukraine (hereinafter the “STS”) as regards elimination of the violated right to information. After the motion had been considered, the NHS published the corresponding data sets on the Portal; the second motion still is being considered by the STS.

258 proceedings were instituted based on the reports received by the Commissioner in order to respond and restore the citizens’ rights to access to information, and 11 administrative offence reports were made and sent to the local courts.

Monitoring inspections of observance of rights

Right to petition

The staff of the Commissioner’s Secretariat carried out 16 monitoring reviews in the central executive authorities in 2022 to check observance of the constitutional human and civil rights and freedoms, including the right to petition.

In February 2022, the staff of the Commissioner’s Secretariat conducted the monitoring of observance of the citizens’ rights to petition to the power entities via personal reception by their heads during the quarantine restrictions in the MIA and the MoD.

The respective reports on violations were made following the reviews and sent to the ministries in order to prevent possible defects in their further work.

As the legal regime of martial law had been imposed in Ukraine, the question of checking observance of the constitutional right to petition and response by the power entities during the martial law came up.

During the monitoring, the staff of the Commissioner’s Secretariat detected a number of violations, including temporary suspension of consideration of the citizens’ petitions and requests for public information not associated with the martial law, military operations, provision of medical assistance, evacuation of the population etc., suspension of personal reception of citizens, no working

hours of the hot line on the website of the power entity, which prevented citizens from exercising their right to submit an oral petition, no online form on the websites of the power entities for citizens to submit electronic petitions by filling in respective fields, with mandatory specification of the full name, place of residence, summary of the matter, comment, proposal, application or complaint, request or claim.

Moreover, observance of information rights during martial law was monitored from the end of August until the beginning of November 2022 with the support of UNDP Ukraine. In particular, observance of the citizens' right to submit an oral petition and to exercise the right to personal reception during martial law by the public authorities and local self-government bodies was assessed.

The power entities monitored in 2022 were selected with account of the current circumstances of occupation / deoccupation of specific communities and included 132 public authorities and local self-government bodies: oblast and raion military administrations, city councils of oblast centres. The findings of the monitoring of observance of the citizens' information rights during the martial law demonstrated the need to organise consistent and responsible work of the public authorities and local self-government bodies in that field.

Right to access information

With account of the legal regime of martial law, occupation of certain settlements, internal migration of citizens in connection with hostilities and the citizens' need of prompt communication with the public authorities, the citizens' access to information on the basic relevant channels of communication with the administrators of information, their working hours and legal and normative acts adopted during the war is important. Moreover, there was an elevated interested of the public to information on the structure, principles of formation and labour remuneration, payments and additional benefits due to heads of the public authorities in 2022.

In that regard, the Commissioner's Secretariat monitored compliance with specific requirements of Article 15 of the Law of Ukraine "On Access to Public Information" by 19 ministries in August 2022.

The findings of the monitoring demonstrate that the ministries mostly publish information on their activities (namely the location, mailing address, telephone numbers and e-mail), names of the head and deputy heads of the authority; legal and normative acts and draft resolutions to be discussed on the official websites.

At the same time, most ministries do not publish or partly publish information on the principal functions of their structural and regional subdivisions and contact details of their heads; contact details and e-mail addresses of heads and deputy heads of the ministries, and fail to specify the dates of publication or update of all the categories of the information published on their official websites.

Moreover, it was established during that monitoring that neither of the ministries had published information on the structure, principles of formation and labour remuneration, payments and additional benefits due to heads and deputy heads. Thus, pursuant to the Law of Ukraine "On Amending Certain Laws of Ukraine as to Open Information on Labour Remuneration in State and Municipal Companies", which entered into force on 02.10.2021, such information shall be regularly published by individual administrators, including ministries.

After the ministries had processed the acts of response sent by the Commissioner's Secretariat following the monitoring, most of the ministries eliminated the violations by publishing certain types of information under Article 15 of the Law of Ukraine "On Access to Public Information" on their websites.

Recommendations

The Verkhovna Rada of Ukraine should:

- modify the draft law “On Amending the Law of Ukraine ‘On Petitions of Citizens’ Concerning the Exercise of the Constitutional Right to Petition by Persons Recognised as Legally Incapable by Court” (registration No. 1186 of 29.08.2019) aimed at implementing Decision of the Constitutional Court of Ukraine No. 8-p/2018 of 11 October 2018 in the case of a constitutional petition of the Ukrainian Parliament Commissioner for Human Rights on compliance with the constitutionality of certain provisions of Article 8(2), the second sentence of Article 16(4) of the Law of Ukraine “On Petitions of Citizens” (the case on petitions of persons recognised as legally incapable by court);

- resume the work to develop amendments to the Law of Ukraine “On Access to Public Information” in connection with the ratification and entry into force of the Council of Europe Convention on Access to Official Documents and the circumstances resulting from the legal regime of martial law.

The Ministry of Infrastructure Ukraine, the Ministry of Internal Affairs of Ukraine, the Ministry of Defence of Ukraine, the National Social Service Ukraine, the Ministry of Environmental Protection and Natural Resources of Ukraine should approve and publish the schedule of personal reception of citizens by the head of the central executive authority in order to observe the citizens’ constitutional right to petitions and response.

The Ministry of Economy of Ukraine, the National Commission for State Regulation of Energy and Public Utilities, the State Customs Service of Ukraine should resume personal reception of citizens as guaranteed by Article 40 of the Constitution of Ukraine and the derivative right to personal reception by heads of power entities during the martial law.

9.2. Right to protection of personal data

Key events, challenges and tendencies

In 2022, the Verkhovna Rada of Ukraine made a number of amendments to the effective legislation on personal data protection, namely the Law of Ukraine “On Personal Data Protection” as to cloud services, personal data processing during the martial law, provision of medical services and statistical activities.

During the year, the Commissioner registered the following violations of personal data protection: unlawful processing of personal data, including their unlawful spread and use; failure to provide the personal data subject with complete information on the personal data owner, improper execution of consent to personal data processing, failure to provide access to your personal data (information on yourself), publication of personal data of the Ukrainian military and foreigners granting military assistance of Ukraine during the martial law online, excessive collection of personal data by providers of humanitarian, volunteer and other charitable assistance to the population.

New challenges in this field are associated with the armed aggression against Ukraine, which has increased the necessity of personal data protection. Under the given conditions, personal data leak can have effects not only as interference into the person's private life, but also a threat for personal security.

According to the Security Service of Ukraine, the special services of the Russian Federation intended to fully destroy Ukraine's entire cyber protection on 24 February 2022: the largest number of cyber attacks against the Ukrainian systems was registered then.

According to the State Service of Special Communications and Information Protection of Ukraine, the Computer Emergency Response Team of Ukraine (CERT-UA) has registered and studied more than 1,500 attacks since the beginning of the full-scale military invasion of Ukraine by the Russian Federation. Most of them were launched by the Russian Federation.

In 2022, the target of the cyber offenders was civil servants who received e-mails with the malware capable of getting access, namely to their personal data. In this case, access to personal data can result in interference with operation of the information systems, work of public authorities, stealing of funds etc.

It was found out from the mass media reports that a hacker attack against a number of the governmental websites was launched at night on 14 January 2022. The provocative message about personal data leak was published on the main page of those websites. In that regard, the Commissioner sent the acts of response to the MDT, the SSU, the Cyber Police Department of the National Police of Ukraine, and the Administration of the State Service for Special Communication and Information Protection of Ukraine.

In response, the public authorities informed the Commissioner that the criminal proceedings had been instituted based on the cyber attack under Article 361 of the CrCU (Unauthorised interference with operation of information (automated), electronic communication, information communication, and electronic communication networks). Following the investigation within the corresponding criminal proceedings, the authorised bodies established the details of the cyber attack, including its sources and possible damages.

Spread of personal data can be of material prejudice to the defensive capacity of the state in the context of martial law. Publication of personal data of the persons participating or assisting in defence of Ukraine was registered during the reporting period.

It was found out by the staff of the Secretariat that the personal data of the Ukrainian military and foreigners granting military assistance to Ukraine during the martial law had been published online on one of the websites by the unidentified persons. The Commissioner applied to the SSU and the National Police of Ukraine as a part of his response. The Pecherskyi Police Directorate of the MD NP in Kyiv instituted criminal proceedings based on the fact of personal data publication.

Introduction of the European standards and approximation to full membership with the EU require to update the Ukrainian regulatory framework for personal data protection with account of the European standards. The Law of Ukraine "On Personal Data Protection", which was developed in 2010

and is based on Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, which has been repealed and replaced with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation, GDPR) needs to be updated. For this very reason, the Commissioner recommends to expedite the consideration by the Verkhovna Rada of Ukraine and adoption of the draft Laws of Ukraine “On Personal Data Protection” (registration No. 8153 of 25.10.2022) and “On the National Commission for Personal Data Protection and Access to Public Information” (registration No. 6177 of 18.10.2021).

Response to violations of human and civil rights

The same way as during the previous years, violations in the field of unlawful processing of personal data remain the key problem although the quantity of reports is materially lower than in 2021. 844 petitions were received in 2022, and there was response to violations of human and civil rights as to:

- 60% of the reports associated with unlawful processing of personal data;

In July 2022, the Commissioner received the citizen’s petition about telephone calls with threats and text messages sent to the petitioner’s phone number from representatives of the financial company as to repayment of the debt under the loan contract he had not concluded. Following the response, the petitioner’s mobile phone contact number was removed from the database of the financial company. The petitioner’s right was restored.

In July 2022, the Commissioner received 2 petitions from the citizens regarding unlawful spread and use of their personal data. In one of the petitions, the petitioner complained that his and his wife’s personal data had been disclosed in a publication of medical records on Facebook. It was noted by the second petitioner that while she was registered with the employment centre, she found out that her personal data had been unlawfully used by the limited liability company by registering sham employment relations with her. Following the Commissioner’s response, the corresponding police departments instituted the criminal proceedings under Article 182(1) of the CrCU (Violation of inviolability of private life).

The Commissioner was approached by person V. regarding the alleged violation of the legislation on personal data protection by the law-enforcement authorities in connection with the fact that the automated information and search system of the law-enforcement authorities contained unreliable (erroneous) information on the petitioner (the petitioner’s photo was shown together with details of the other person who was hiding from the public authorities and was on a wanted list).

The petitioner emphasised that the actions of the law-enforcement authorities, entry of the unreliable data as well as presentation of the unreliable information in the search data bases resulted

in the illegal processing of the petitioner's personal data (confidential information) and caused interference with his private life.

Given the above, the MIA was sent the request to check the information and take actions to remove the unreliable personal data (photograph).

The petitioner's right was restored with the response measures taken, and the petitioner's photograph and data on him being on a national wanted list were removed from the information and search system.

- 28% reports on violation of the right to access information on yourself;

In August 2022, the Commissioner received the citizen's petition regarding violation of the petitioner's right to get information on himself in connection with payment of the one-time monetary assistance and calculation of the pension by the officials of one of the departments of the Pension Fund of Ukraine. In that regard, actions were taken to ensure that the petitioner's requests would be considered in a comprehensive, complete and objective manner, and grant the petitioner access to his personal data. The petitioner's right was restored.

- 12% of the reports about organisation of processing of personal data.

In August 2022, the Commissioner received the citizen's petition regarding lack of information on the economic operator (seller) collecting, using and storing personal data on the website of the e-pharmacy, and regarding improper form of consent. Following the response measures taken, information on the economic operator on the website of the e-pharmacy was updated, and proper form of user's consent was used. The rights of users of the e-pharmacy were restored. The website of the e-pharmacy has more than a million visitors a month.

66 proceedings were instituted by the Commissioner based on the reports, and the response measures were taken to restore rights of the citizens (personal data subjects).

Monitoring inspections of observance of rights

During the reporting period, the staff of the Commissioner's Secretariat conducted 85 inspections of compliance with the legislation on personal data protection. The inspections were conducted in the ministries and other central executive authorities, state agencies and services, local self-government bodies, social protection authorities, administrative services centres, air enterprise, housing and utility enterprises, healthcare institutions, charitable foundations, credit history bureaus, Internet providers, translation agencies etc.

The inspections studied observance of human rights to personal data protection, analysed the internal processes of personal data work organisation and means of protection of the personal data fully or partly processed by automated means as well as the personal data that are kept or are to be entered into the card register by non-automated means.

Following the inspections, 75 binding orders were issued to eliminate the violations.

To sum up the findings of the inspections, the following standard violations of the legislation on personal data protection can be classified:

- the administrative document on general requirements for personal data processing and protection has not been approved, or the administrative document has been approved, but it fails to meet the legislative requirements, in particular, to specify categories of personal data subjects; elements of the personal data collected as to personal data subjects; procedure for personal data processing and protection;
- improper legal grounds for personal data processing;
- failure to inform all the personal data subjects of the personal data owner, elements and content of the personal data collected, their rights prescribed by the legislation, the purpose of personal data collection, and the persons receiving their personal data;
- no action plan in case of unauthorised access to personal data, damage to technical equipment and emergency situations;
- no procedure for disposal/deletion of the personal data the period of storage of which has expired;
- no registration of operations associated with personal data processing.

Explanatory, awareness-raising and legislative drafting work

In connection with the mass cyber attacks, spread of hazardous e-mails and in order to prevent personal data loss and violation of citizens' rights, the applicable warnings have been published, and recommendations have been given to citizens and other parties to the relations in the field of personal data. Thus, the staff of the Commissioner's Secretariat conducted training for the public authorities and judges on relevant matters of personal data protection in 2022.

Recommendations

The Verkhovna Rada of Ukraine should consider and adopt the draft Laws of Ukraine "On Personal Data Protection" (registration No. 8153 of 25.10.2022) and "On the National Commission for Personal Data Protection and Access to Public Information" (registration No. 6177 of 18.10.2021).

The entities in the national cyber security system: The State Service of Special Communications and Information Protection of Ukraine, the National Police of Ukraine, the Security Service of Ukraine, the Ministry of Defence of Ukraine, the General Staff of the Armed Forces of Ukraine, the intelligence authorities and the National Bank of Ukraine should develop and implement the preventive, organisational, educational measures in the field of cybersecurity, cyber defence and cyber protection in order to prevent unauthorised access to personal data, namely in connection with the armed aggression of the Russian Federation against Ukraine.

The Cyber Police Department of the National Police of Ukraine should publish recommendations for citizens online security and protection from fraud.

Стан виконання рекомендацій Щорічної доповіді про стан дотримання та захисту прав і свобод людини і громадянина в Україні за 2021 рік

№	РЕКОМЕНДАЦІЯ	СТАН ВИКОНАННЯ
ОСОБИСТІ ПРАВА І СВОБОДИ		
1	Комітету Верховної Ради України з питань фінансів, податкової та митної політики розробити та внести на розгляд Верховної Ради України законопроект про внесення змін до законодавства, якими передбачити, що розмір плати за використання позичальником коштів фінансової установи не може перевищувати подвійну облікову ставку Національного банку України.	ВИКОНАНО
2	Національному банку України забезпечити виконання вимог Закону України «Про внесення змін до деяких законів України щодо захисту споживачів при врегулюванні простроченої заборгованості» від 19 березня 2021 року № 1349-ІХ щодо здійснення контролю за діяльністю колекторських компаній під час врегулювання простроченої заборгованості та розробити рекомендації щодо покращення інформування позичальника про розмір реальної процентної ставки за кредитом (з урахуванням витрат на страхування, комісії тощо).	ВИКОНАНО
3	Центральним органам виконавчої влади та органам місцевого самоврядування затвердити внутрішньорозпорядчі документи щодо обробки та захисту персональних даних відповідно до вимог наказу Уповноваженого Верховної Ради України з прав людини від 08 січня 2014 року № 1/02-14 «Про затвердження документів у сфері захисту персональних даних».	ВИКОНАНО
4	Державній службі спеціального зв'язку та захисту інформації України розробити для державних органів, органів місцевого самоврядування, а також підприємств, установ і організацій, що належать до сфери їх управління, вичерпний перелік вимог до комунікаційно-інформаційних систем (інформаційно-телекомунікаційних систем), в яких обробляється інформація, що містить персональні дані.	ВИКОНАНО
5	Національній поліції України провести перевірки баз даних у мережі Інтернет на предмет виявлення фактів неправомірного поширення персональних даних громадян.	ВИКОНАНО

6	Верховній Раді України прискорити розгляд та прийняття проектів законів України «Про захист персональних даних» (реєстр. № 5628 від 07.06.2021) та «Про Національну комісію з питань захисту персональних даних та доступу до публічної інформації» (реєстр. № 6177 від 18.10.2021).	ВТРАТИЛА АКТУАЛЬНІСТЬ
6.1	Верховній Раді України прискорити розгляд та прийняття проектів законів України «Про захист персональних даних» (реєстр. № 5628 від 07.06.2021) та «Про Національну комісію з питань захисту персональних даних та доступу до публічної інформації» (реєстр. № 6177 від 18.10.2021).	У ПРОЦЕСІ ВИКОНАННЯ
7	Органам державної влади керуватись рекомендаціями Уповноваженого щодо усунення типових порушень законодавства про захист персональних даних у процесі підготовки та прийняття нормативно-правових актів	У ПРОЦЕСІ ВИКОНАННЯ
8	Верховній Раді України прискорити розгляд та прийняття законопроекту про внесення змін до Кодексу України про адміністративні правопорушення та Кримінального кодексу України щодо боротьби з проявами дискримінації (реєстр. № 5488 від 13.05.2021).	НЕ ВИКОНАНО
9	Кабінету Міністрів України забезпечити адаптування офіційних вебсайтів органів виконавчої влади для користувачів з порушеннями зору, слуху, опорно-рухового апарату, мовлення та інтелектуального розвитку відповідно до ДСТУ ISO/IEC 40500:2015 «Інформаційні технології. Настанова з доступності веб-контенту W3C (WCAG) 2.0».	У ПРОЦЕСІ ВИКОНАННЯ
10	Міністерству соціальної політики України забезпечити внесення змін до Типового положення про центр для ВІЛ-інфікованих дітей та молоді, затвердженого постановою Кабінету Міністрів України від 04.10.2017 № 741, з метою дотримання вимог щодо конфіденційності інформації про ВІЛ-статус особи.	У ПРОЦЕСІ ВИКОНАННЯ
11	Обласним, Київській міській державним адміністраціям забезпечити приведення виборчих діляниць у відповідність до потреб маломобільних груп населення згідно із вимогами ДБН В.2.2-40:2018 «Будинки і споруди. Інклюзивність будівель і споруд».	ВТРАТИЛА АКТУАЛЬНІСТЬ
12	Кабінету Міністрів України забезпечити контроль за своєчасним виконанням пунктів 28–33 плану дій з реалізації Національної стратегії у сфері прав людини на 2021–2023 роки, затвердженого розпорядженням Кабінету Міністрів України від 23.06.2021 № 756-р.	У ПРОЦЕСІ ВИКОНАННЯ

13	Національній поліції України забезпечувати належне виконання положень Закону України «Про Національну поліцію», зокрема, всебічно, повно і неупереджено досліджувати мотив нетерпимості за ознаками сексуальної орієнтації та гендерної ідентичності під час розслідування правопорушень та у разі наявності відповідного мотиву, здійснювати кваліфікацію правопорушень за статтею 161 Кримінального кодексу України.	У ПРОЦЕСІ ВИКОНАННЯ
14	Комітету Верховної Ради України з питань організації державної влади, місцевого самоврядування, регіонального розвитку та містобудування розглянути можливість ініціювання внесення змін до Виборчого кодексу України з метою сприяння реалізації виборчого права неписемними громадянами, зокрема ромами.	НЕ ВИКОНАНО
15	Державній службі з етнополітики та свободи совісті прискорити подання на розгляд Кабінету Міністрів України Плану заходів з реалізації Стратегії сприяння реалізації прав і можливостей осіб, які належать до ромської національної меншини, в українському суспільстві на період до 2030 року.	У ПРОЦЕСІ ВИКОНАННЯ
16	Місцевим державним адміністраціям та органам місцевого самоврядування: Забезпечити проведення інформаційно-просвітницьких заходів щодо застосування законів України «Про забезпечення функціонування української мови як державної» від 25 квітня 2019 року № 2704-VII та «Про корінні народи» від 1 липня 2021 року № 1616-IX в у різних сферах суспільного життя. Вжити заходів для забезпечення доступу до інформації, у тому числі такої, що має важливий суспільний інтерес, на інтернет-сайтів органів державної влади, місцевого самоврядування, освітніх та інших установ і закладів мовами національних меншин та корінних народів.	У ПРОЦЕСІ ВИКОНАННЯ
17	Верховній Раді України прискорити розгляд та прийняття проектів законів України: «Про внесення змін до Закону України «Про забезпечення рівних прав та можливостей жінок і чоловіків» щодо визначення поняття «сексизм» (реєстр. № 4598-1 від 02.02.2021); «Про внесення змін до деяких законів України щодо врегулювання питання реагування, запобігання та протидії проявам дискримінації за ознакою статі та сексуальних домагань серед військовослужбовців» (реєстр. № 5485 від 13.05.2021).	НЕ ВИКОНАНО
18	Верховній Раді України внести зміни до Закону України «Про Регламент Верховної Ради України» від 10 лютого 2010 року № 1861-VI щодо проведення гендерно-правової експертизи законопроектів, що вносяться до Верховної Ради України Президентом України та народними депутатами України.	НЕ ВИКОНАНО

19	Кабінету Міністрів України розробити системи моніторингу та оцінки виконання зобов'язань у межах Конвенції про ліквідацію всіх форм дискримінації щодо жінок, Конвенцій МОП, що стосуються прав працівниць та працюючих матерів, та інших міжнародних договорів у сфері рівності прав і можливостей жінок і чоловіків	У ПРОЦЕСІ ВИКОНАННЯ
20	Державній службі статистики України розробити методологію оцінки неоплачуваної домашньої праці у ході дослідження домогосподарств.	У ПРОЦЕСІ ВИКОНАННЯ
21	Президенту України внести на розгляд Верховної Ради України проект Закону України «Про ратифікацію Конвенції Ради Європи про запобігання насильству стосовно жінок і домашньому насильству та боротьбу з цими явищами».	ВИКОНАНО
21.1	Верховній Раді України прискорити розгляд та прийняття проекту Закону України «Про внесення змін до статей 110 та 111 Сімейного кодексу України» (реєстр. № 5492 від 14.05.2021).	У ПРОЦЕСІ ВИКОНАННЯ
	Кабінету Міністрів України:	
22	Забезпечити створення та функціонування Єдиного державного реєстру випадків домашнього насильства та насильства за ознакою статі відповідно до статті 16 Закону України «Про запобігання та протидію домашньому насильству» від 07.12.2017 № 2229-VIII.	НЕ ВИКОНАНО
23	Забезпечити виконання рекомендацій, викладених у заключних зауваженнях до восьмої періодичної доповіді України про виконання Конвенції ООН про ліквідацію всіх форм дискримінації щодо жінок Комітет ООН з прав людини від 11.11.2021 в частині протидії насильству щодо жінок.	ВИКОНАНО
24	Міністерству внутрішніх справ України, Національній поліції України забезпечити розгляд заяв і повідомлень про вчинення домашнього насильства з урахуванням кваліфікуючих ознак, визначених статтею 173-2 КУпАП (Вчинення домашнього насильства, насильства за ознакою статі, невиконання термінового заборонного припису або неповідомлення про місце свого тимчасового перебування) та статтею 126-1 КК України (Домашнє насильство).	У ПРОЦЕСІ ВИКОНАННЯ
	Міністерству соціальної політики України забезпечити:	
25	Виконання заходів, передбачених Державною соціальною програмою запобігання та протидії домашньому та насильству за ознакою статі на період до 2025 року, затвердженою постановою Кабінету Міністрів України від 24.02.2021 № 145.	У ПРОЦЕСІ ВИКОНАННЯ
26	Функціонування кол-центру з питань запобігання та протидії домашньому насильству, насильству за ознакою статі та насильству стосовно дітей, в усіх областях України.	У ПРОЦЕСІ ВИКОНАННЯ

	Обласним, Київській міській державним адміністраціям, органам місцевого самоврядування:	
27	Забезпечити створення та функціонування усіх спеціалізованих служб підтримки постраждалих осіб, передбачених Законом України «Про запобігання та протидію домашньому насильству» від 7 грудня 2017 року № 2229-VIII.	ВИКОНАНО
28	Передбачити доступ до інформації, розміщеної на сайтах місцевих органів виконавчої влади та органів місцевого самоврядування в спеціальній рубриці «Запобігання та протидія домашньому насильству».	ВИКОНАНО
29	Забезпечити можливість подання на офіційних сайтах місцевих органів виконавчої влади та місцевого самоврядування в рубриках «Запобігання та протидія домашньому насильству» електронного звернення про вчинення домашнього насильства.	ВИКОНАНО
30	Верховній Раді України прискорити розгляд та прийняття проекту Закону України «Про внесення змін до Кримінального кодексу України щодо посилення кримінальної відповідальності за торгівлю людьми» (реєстр. № 5134 від 22.02.2021).	У ПРОЦЕСІ ВИКОНАННЯ
31	Кабінету Міністрів України розробити та затвердити Державну цільову соціальну програму протидії торгівлі людьми на період до 2025 року.	У ПРОЦЕСІ ВИКОНАННЯ
	Обласним та Київській міській державним адміністраціям, місцевим державним адміністраціям:	
32	Забезпечити координацію діяльності суб'єктів, що здійснюють заходи у сфері протидії торгівлі людьми, їх взаємодію на місцевому рівні.	ВИКОНАНО
33	Провести інформаційні кампанії для населення про права постраждалих від торгівлі людьми та механізми їх реалізації, наявні послуги і способи їх одержання, відповідальність осіб, які винні у порушенні законодавства у сфері протидії торгівлі людьми.	ВИКОНАНО
34	Верховній Раді України прискорити розгляд та прийняття проекту Закону України «Про внесення змін до Кодексу України про адміністративні правопорушення та Кримінального кодексу України щодо вчинення повторного порушення, пов'язаного з незаконною відмовою у доступі журналіста до інформації» (від 06.10.2021 № 6136).	

35	<p>Міністерству з питань реінтеграції тимчасово окупованих територій України, Міністерству культури та інформаційної політики України, Міністерству цифрової трансформації України розробити та подати в установленому порядку на розгляд Кабінету Міністрів України комплексну програму щодо посилення присутності України в інформаційному просторі окупованих територій, збільшення потужності телерадіомовлення та забезпечення діяльності українських ЗМІ з метою поширення правдивої інформації про діяльність Уряду України, можливості доступу до послуг і виплат на підконтрольній Уряду України території, одержання правової допомоги.</p>	У ПРОЦЕСІ ВИКОНАННЯ
ГРОМАДЯНСЬКІ ТА ПОЛІТИЧНІ ПРАВА		
36	<p>Міністерству фінансів України розробити та подати в установленому порядку на розгляд Кабінету Міністрів України законопроект щодо внесення змін до пункту 2 статті 3 Закону України «Про відкритість використання публічних коштів» від 11 лютого 2015 року № 183-VIII в частині обов'язкового оприлюднення інформації про укладені договори та стан їх виконання, загальна вартість яких перевищує 1 млн гривень.</p>	НЕ ВИКОНАНО
37	<p>Міністерству юстиції України та Державній судовій адміністрації України спільно розробити та подати в установленому порядку на розгляд Кабінету Міністрів України законопроект щодо внесення змін до Закону України «Про доступ до судових рішень» від 22 грудня 2005 року № 3262-IV з метою усунення колізії між цим Законом та Кримінальним процесуальним кодексом України у частині обмеження доступу в Єдиному державному реєстрі судових рішень до судових рішень на підставі постанов слідчих органів досудового розслідування.</p>	У ПРОЦЕСІ ВИКОНАННЯ
38	<p>Міністерству юстиції України, Міністерству культури та інформаційної політики України спільно розробити та подати в установленому порядку на розгляд Кабінету Міністрів України законопроект щодо внесення змін до законів, які регулюють питання доступу до інформації, в частині імплементації в законодавство України положень Конвенції Ради Європи про доступ до офіційних документів, зокрема щодо надання можливості розпорядникам інформації в окремих випадках надавати посилання запитувачу на загальнодоступне джерело, де міститься запитувана інформація, а також щодо впровадження механізмів реагування розпорядників інформації на випадки надходження масових однотипних запитів від одного і того самого запитувача (зловживання правом на інформацію).</p>	У ПРОЦЕСІ ВИКОНАННЯ

39	<p>Міністерству з питань реінтеграції тимчасово окупованих територій України, Міністерству фінансів України, Міністерству розвитку громад та територій України, Державній службі статистики України забезпечити оприлюднення наборів даних, що підлягають оприлюдненню у формі відкритих даних, на Єдиному державному веб-порталі відкритих даних (https://data.gov.ua/).</p>	У ПРОЦЕСІ ВИКОНАННЯ
40	<p>Державній установі «Відкриті публічні фінанси» як адміністратору порталу Єдиного вебпорталу використання публічних коштів (spending.gov.ua) усунути функціональну невідповідність структури Порталу вимогам пункту 7 Порядку адміністрування Єдиного вебпорталу використання публічних коштів, затвердженого постановою Кабінету Міністрів України від 14.09.2015 № 694.</p>	НЕ ВИКОНАНО
41	<p>Верховній Раді України прискорити розгляд та прийняття проєктів законів України: «Про внесення змін до Закону України «Про звернення громадян» щодо реалізації конституційного права на звернення особами, які визнані судом недієздатними» (реєстр. № 1186 від 29.08.2019), «Про внесення змін до Закону України «Про звернення громадян» щодо умов розгляду звернень» (реєстр. № 2480 від 21.11.2019), спрямованих на виконання Рішення Конституційного Суду України від 11 жовтня 2018 року № 8-р/2018 у справі за конституційним поданням Уповноваженого Верховної Ради України з прав людини щодо відповідності Конституції України (конституційності) окремих положень частини другої статті 8, другого речення частини четвертої статті 16 Закону України «Про звернення громадян» (справа про звернення осіб, визнаних судом недієздатними); «Про адміністративну процедуру» (реєстр. № 3475 від 14.05.2020) з пропозиціями Президента України.</p>	У ПРОЦЕСІ ВИКОНАННЯ
42	<p>Державній комісії з питань техногенно-екологічної безпеки та надзвичайних ситуацій ухвалити новий протокол, яким дозволити обласним та Київській міській державним адміністраціям разом із заінтересованими центральними та місцевими органами виконавчої влади проведення особистих прийомів громадян за наявності у заявників (окрім осіб, які не досягли 18-річного віку) одного з таких документів: міжнародного, внутрішнього або іноземного сертифіката, що підтверджує вакцинацію від COVID-19 (у паперовому або електронному виді, чинність якого підтверджена за допомогою державного вебпорталу електронних послуг, зокрема з використанням мобільного додатка Порталу «Дія»); негативного результату тестування на COVID-19 методом ПЛР або експрес-тесту на визначення антигена коронавірусу SARS-CoV-2, яке проведене не більш як за 72 години до відвідування громадської приймальні.</p>	НЕ ВИКОНАНО

43	Міністерству інфраструктури України, Міністерству енергетики України, Міністерству економіки України, Міністерству культури та інформаційної політики України, Міністерству оборони України, Державній службі України з питань безпеки харчових продуктів та захисту споживачів розробити та затвердити відповідні внутрішньо-організаційні акти (порядки роботи телефонів гарячої лінії) з метою забезпечення належного функціонування телефонів гарячої лінії.	ВИКОНАНО
44	Верховній Раді України прискорити розгляд та прийняття проекту Закону України «Про надання захисту іноземцям та особам без громадянства» (реєстр. № 3387 від 24 квітня 2020 р.).	У ПРОЦЕСІ ВИКОНАННЯ
45	Державній міграційній службі України забезпечити додержання вимог законів України «Про біженців та осіб, які потребують додаткового або тимчасового захисту» від 8 липня 2011 року № 3671-VI та «Про правовий статус іноземців та осіб без громадянства» від 22 вересня 2011 р. № 3773-VI щодо процедур і строків видачі документів, підтверджують законність перебування іноземців та осіб без громадянства на території України, та надання обґрунтованих відмов у їх видачі виключно на підставах, встановлених законодавством України.	У ПРОЦЕСІ ВИКОНАННЯ
46	Обласним державним адміністраціям та органам місцевого самоврядування провести просвітницькі заходи для населення із залученням працівників територіальних органів Державної міграційної служби України щодо правових наслідків та порядку отримання довідки про визнання особою без громадянства.	ВТРАТИЛА АКТУАЛЬНІСТЬ
47	Міністерству внутрішніх справ України внести зміни до Інструкції з оформлення поліцейськими матеріалів про адміністративні правопорушення у сфері забезпечення безпеки дорожнього руху, зафіксовані не в автоматичному режимі, затвердженої наказом Міністерства внутрішніх справ України від 07 листопада 2015 року № 1395, щодо врегулювання механізму контролю керівництвом органів Національної поліції України за роботою підлеглих працівників під час оформлення протоколів про адміністративне правопорушення у сфері забезпечення безпеки дорожнього руху.	НЕ ВИКОНАНО
48	Державній судовій адміністрації України забезпечити раціональний розподіл та використання коштів, передбачених у державному бюджеті на здійснення правосуддя.	ВИКОНАНО
49	Верховній Раді України прискорити розгляд та прийняття проекту Закону України «Про відбування адміністративного арешту» (реєстр. № 3047а від 31.08.2020).	У ПРОЦЕСІ ВИКОНАННЯ
	Міністерству юстиції України:	

50	Вжити заходів щодо нормативно-правового врегулювання порядку взаємодії державних органів та установ під час практичної реалізації положень статей 182 та 202 КПК України в частині обміну інформацією про внесення застави, її зарахування на спеціальний рахунок відповідного органу ДСА України та інформування про це установи попереднього ув'язнення.	У ПРОЦЕСІ ВИКОНАННЯ
51	Прискорити дослідження питання про необхідність внесення доповнень до частини восьмої статі 284 КПК України положеннями про те, що закриття кримінального провадження або ухвалення вироку з підстави, передбаченої пунктом 4 частини першої цієї статті, не допускається, якщо підозрюваний проти цього заперечує.	ВИКОНАНО
52	Вжити заходів щодо розроблення проєкту закону про внесення змін до Закону № 3262 з метою узгодження його положень із нормами КПК України в частині можливості обмеження доступу до судових рішень в Єдиному державному реєстрі судових рішень.	У ПРОЦЕСІ ВИКОНАННЯ
53	Міністерству юстиції України розробити та подати в установленому порядку на розгляд Верховної Ради України проєкт закону про внесення змін до Кримінального процесуального кодексу України, Кримінально-виконавчого кодексу України, Кодексу України про адміністративне правопорушення, якими передбачити повну відеофіксацію затримання осіб працівником правоохоронного органу, доставляння та перебування затриманих осіб до приміщень правоохоронних органів, а за відсутності такої фіксації у разі оскарження зазначених дій/бездіяльності стороною адміністративного або кримінального провадження передбачити можливість визнання здобутих в зазначений період доказів неприпустимими.	НЕ ВИКОНАНО
54	Верховній Раді України прискорити розгляд та прийняття проєкту Закону України «Про соціальний і правовий захист осіб, стосовно яких встановлено факт позбавлення особистої свободи внаслідок збройної агресії проти України, та членів їхніх сімей» (реєстр. № 6104 від 27.09.2021).	ВИКОНАНО
	Міністерству закордонних справ України:	
55	Під час забезпечення представництва України в міжнародних організаціях та спеціальних місцях, співробітництва з іноземними державами продовжувати інформування щодо стану додержання прав громадян України, які переслідуються Російською Федерацією за безпідставними та політично вмотивованими звинуваченнями, з метою посилення тиску міжнародної спільноти для звільнення ув'язнених осіб.	ВИКОНАНО
56	Продовжити заходи щодо надання консульської допомоги громадянам України, які перебувають за кордоном під арештом або відбувають покарання, з метою дотримання їхніх прав і свобод.	ВИКОНАНО

57	Вжити заходів щодо прискорення підписання договорів з:	
58	Грецькою Республікою щодо нагляду за умовно засудженими або умовно звільненими правопорушниками.	У ПРОЦЕСІ ВИКОНАННЯ
59	Народною Республікою Бангладеш щодо передачі засуджених осіб.	У ПРОЦЕСІ ВИКОНАННЯ
60	Міністерству юстиції України в межах повноважень, наданих Конвенцією про передачу засуджених осіб 1983 року, а також на підставі двосторонніх договорів про передачу засуджених осіб з окремими країнами, прискорити вирішення питання щодо переведення в Україну для подальшого відбування покарання громадян України, засуджених на територіях інших країн.	У ПРОЦЕСІ ВИКОНАННЯ
ПРАВА ДИТИНИ		
61	Міністерству соціальної політики України, Національній сервісній соціальній службі України забезпечити навчання/підвищення кваліфікації працівників служб у справах дітей, фахівців соціальної роботи територіальних громад.	ВИКОНАНО
62	Міністерству соціальної політики України, Міністерству освіти і науки України, Міністерству охорони здоров'я України забезпечити реалізацію II етапу Національної стратегії реформування системи інституційного догляду та виховання дітей на 2017–2026 роки, затвердженого розпорядженням Кабінету Міністрів України від 09.08.2017 № 526-р	У ПРОЦЕСІ ВИКОНАННЯ
63	Комітету Верховної Ради України з питань освіти, науки та інновацій прискорити підготовку та внесення до Верховної Ради України проекту Закону України «Про професійну (професійно-технічну) освіту».	НЕ ВИКОНАНО
64	Міністерству освіти і науки України, обласним, Київській міській державним адміністраціям забезпечити своєчасний розподіл коштів за КПКВК «Субвенція з державного бюджету місцевим бюджетам на надання державної підтримки особам з особливими освітніми потребами» та контроль за її використанням.	ВИКОНАНО
65	Обласним, Київській міській державним адміністраціям вжити заходів щодо забезпечення дітей з особливими освітніми потребами якісним навчанням, психолого-педагогічними і корекційно-розвивальними послугами.	ВИКОНАНО
66	Органам місцевого самоврядування забезпечити ефективне використання коштів за КПКВК «Субвенція з державного бюджету місцевим бюджетам на надання державної підтримки особам з особливими освітніми потребами» та створення належних умов для	ВИКОНАНО

	надання якісних освітніх послуг дітям з особливими освітніми потребами.	
67	Міністерству охорони здоров'я України забезпечити своєчасну закупівлю вакцин та посилити контроль за проведенням вакцинації дітей відповідно до Календаря профілактичних щеплень.	У ПРОЦЕСІ ВИКОНАННЯ
68	Обласним та Київській міській державним адміністраціям забезпечити своєчасний розподіл вакцин у регіоні та дотримання планових показників вакцинації дітей.	ВИКОНАНО
69	Міністерству охорони здоров'я України, обласним та Київській міській державним адміністраціям посилити інформаційно-роз'яснювальні заходи щодо важливості вакцинації дітей для захисту від інфекційних хвороб.	ВИКОНАНО
70	Кабінету Міністрів України розробити та внести до Верховної Ради України проект Закону України «Про внесення змін до Закону України «Про Державний бюджет України на 2022 рік» з метою збільшення субвенції за бюджетною програмою КПКВК 2511180 для придбання житлових приміщень особам з числа дітей-сиріт та дітей, позбавлених батьківського піклування.	ВТРАТИЛА АКТУАЛЬНІСТЬ
71	Національній соціальній сервісній службі вжити заходів щодо забезпечення контролю за додержанням житлових прав дітей-сиріт та дітей, позбавлених батьківського піклування, осіб з їх числа.	У ПРОЦЕСІ ВИКОНАННЯ
72	Національній поліції України вжити заходів для забезпечення належного досудового розслідування кримінальних проваджень за заявами батьків щодо невиконання рішень судів стосовно визначення місця проживання дитини та участі в її вихованні.	У ПРОЦЕСІ ВИКОНАННЯ
73	Офісу Генерального прокурора вжити заходів для посилення органами прокуратури контролю за досудовим розслідуванням кримінальних проваджень за заявами батьків щодо невиконання рішень судів стосовно визначення місця проживання дитини та участі у її вихованні.	У ПРОЦЕСІ ВИКОНАННЯ
	Міністерству освіти і науки України, Міністерству цифрової трансформації України:	
74	Сприяти наданню доступу усіх закладів освіти до високошвидкісного Інтернету.	У ПРОЦЕСІ ВИКОНАННЯ
75	Забезпечити комп'ютерною технікою всіх педагогічних працівників.	У ПРОЦЕСІ ВИКОНАННЯ

76	Вжити заходів щодо забезпечення онлайн-платформ, які використовуються під час освітнього процесу з метою недопущення порушення прав дітей.	У ПРОЦЕСІ ВИКОНАННЯ
77	Міністерству освіти і науки України прискорити подання на розгляд та затвердження Кабінету Міністрів України проєкту Стратегії цифрової трансформації освіти і науки.	НЕ ВИКОНАНО
78	Верховній Раді України прискорити розгляд та прийняття проєктів законів: «Про внесення змін до Закону України «Про захист суспільної моралі» щодо захисту прав та найкращих інтересів дитини» (реєстр. № 5330-1 від 07.04.2021); «Про юстицію, дружню до дитини» (реєстр. № 5617 від 04.06.2021); «Про внесення змін до Кодексу України про адміністративні правопорушення, Кримінального кодексу України та Кримінального процесуального кодексу України щодо юстиції, дружньої до дитини» (реєстр. № 5618 від 04.06.2021); «Про внесення змін до деяких законів України щодо вдосконалення законодавства щодо протидії булінгу (цькуванню)» (реєстр. № 6393 від 06.12.2021).	НЕ ВИКОНАНО
79	Міністерству освіти і науки України вжити заходів для забезпечення права на безпечне освітнє середовище дітей з особливими освітніми потребами, зокрема дітей з порушеннями ментального розвитку.	У ПРОЦЕСІ ВИКОНАННЯ
80	Міністерству освіти і науки, Міністерству охорони здоров'я, Національній поліції України, Національній соціальній сервісній службі України розробити методичні рекомендації щодо механізму ідентифікації дітей, постраждалих від домашнього насильства, у тому числі дітей-свідків.	НЕ ВИКОНАНО
81	Офісу Генерального прокурора вжити заходів для внесення змін до Єдиного державного реєстру досудових розслідувань з метою обліку дітей, які стали свідками домашнього насильства. Національній поліції України вжити заходів з метою внесення змін до форм обліку зареєстрованих заяв та повідомлень про кримінальні правопорушення та інші події, пов'язані з домашнім насильством, з метою виокремлення заяв та повідомлень про вчинення домашнього насильства відносно дітей.	У ПРОЦЕСІ ВИКОНАННЯ
82	Національній соціальній сервісній службі України посилити контроль за додержанням права на захист від домашнього насильства дітей-сиріт, дітей, позбавлених батьківського піклування, які влаштовані в сімейні форми виховання.	ВИКОНАНО
	Органам місцевого самоврядування:	
83	Забезпечити виконання Державної соціальної програми запобігання та протидії домашньому насильству та насильству за ознакою статі на період до 2025 року, затвердженої постановою Кабінету Міністрів України від 24.02.2021 № 145.	У ПРОЦЕСІ ВИКОНАННЯ

84	Здійснювати виконання положень Порядку забезпечення соціального захисту дітей, які перебувають у складних життєвих обставинах, у тому числі дітей, які постраждали від жорстокого поводження, затвердженого постановою Кабінету Міністрів України від 01 червня 2020 р. № 585.	У ПРОЦЕСІ ВИКОНАННЯ
СОЦІАЛЬНІ, ЕКОНОМІЧНІ ТА КУЛЬТУРНІ ПРАВА		
Кабінету Міністрів України:		
85	Розробити та винести на розгляд Верховної Ради України проєкт Закону України «Про внесення змін до Закону України «Про Державний бюджет України на 2022 рік», в якому передбачити видатки на реалізацію програми державних гарантій медичного обслуговування населення на рівні 5% ВВП відповідно до вимог статті 4 Закону України «Про державні фінансові гарантії медичного обслуговування населення» від 19 жовтня 2017 року № 2168-VIII.	ВИКОНАНО
86	Забезпечити на перехідний період до створення системи державної служби судово-психіатричної експертизи виділення цільової субвенції з державного бюджету місцевим бюджетам на здійснення підтримки діяльності закладів охорони здоров'я, пов'язаної з проведенням судово-психіатричної експертизи.	ВТРАТИЛА АКТУАЛЬНІСТ Ь
Міністерству охорони здоров'я України:		
88	Розробити та затвердити нормативно-правові акти щодо функціонування структури Національної системи крові та порядку фінансування її діяльності, що передбачені Стратегією розвитку національної системи крові на період до 2022 року.	У ПРОЦЕСІ ВИКОНАННЯ
89	Розробити та затвердити нормативно-правові акти, необхідні для функціонування системи державної служби судово-психіатричної експертизи.	ВИКОНАНО
90	Внести зміни до нормативно-правових актів, якими регулюється порядок реалізації програми медичних гарантій, для відшкодування пацієнту сплачених ним коштів за надані медичні послуги та придбані лікарські засоби в умовах амбулаторного лікування.	НЕ ВИКОНАНО
Верховній Раді України:		
88	Передбачати в Бюджетній декларації та державному бюджеті щороку кошти на погашення заборгованості по заробітній платі на державних підприємствах та в бюджетній сфері.	НЕ ВИКОНАНО
89	Прискорити розгляд і прийняття: проєкту Закону України «Про внесення змін до деяких законодавчих актів щодо порядку державного нагляду (контролю) за додержанням законодавства про працю», розроблений Мінекономіки;	ВТРАТИЛА АКТУАЛЬНІСТ Ь

90	проекту Закону України «Про внесення змін до Закону України «Про судоустрій і статус суддів» щодо врегулювання питання оплати праці працівників судів» (реєстр. № 6311 від 16.11.2021);	НЕ ВИКОНАНО
91	проекту Закону України «Про внесення змін до Податкового кодексу України щодо подання єдиної звітності з єдиного внеску на загальнообов'язкове державне соціальне страхування і податку на доходи фізичних осіб» (реєстр. № 6120 від 30.09.2021);	В ПРОЦЕСІ ВИКОНАННЯ
92	проекту Закону України «Про особливості приватизації єдиного майнового комплексу Харківського державного авіаційного виробничого підприємства» (реєстр. № 5799 від 19.07.2021);	НЕ ВИКОНАНО
93	проекту Закону України «Про внесення змін до деяких законодавчих актів щодо реформування служби зайнятості, соціального страхування на випадок безробіття, сприяння продуктивній зайнятості населення, у тому числі молоді, та впровадження нових активних програм на ринку праці» (реєстр. № 6067 від 16.09.2021).	ВИКОНАНО
Кабінету Міністрів України:		
94	Розробити та подати на розгляд Верховної Ради України проект Закону України «Про внесення змін до Закону України «Про основні засади державного нагляду (контролю) у сфері господарської діяльності» від 05.04.2007 № 877-V щодо врегулювання механізму державного нагляду (контролю) у випадку неможливості проведення перевірки суб'єктів господарювання у зв'язку з їх відсутністю за місцезнаходженням юридичної особи.	В ПРОЦЕСІ ВИКОНАННЯ
95	Розробити та подати на розгляд Верховної Ради України законопроект про внесення змін до статті 265 КЗпП щодо посилення відповідальності для юридичних осіб та фізичних осіб – підприємців, які використовують найману працю та є платниками єдиного податку першої–третьої груп за наявність неоформлених трудових відносин.	ВТРАТИЛА АКТУАЛЬНІСТЬ
96	Внести зміни до постанови Кабінету Міністрів України від 22 квітня 2020 р. № 306 «Про затвердження Порядку надання та повернення коштів, спрямованих на фінансування допомоги по частковому безробіттю на період карантину та/або надзвичайної ситуації, встановлених Кабінетом Міністрів України з метою запобігання поширенню на території України гострої респіраторної хвороби COVID-19, спричиненої коронавірусом SARS-CoV-2», якими передбачити виплату громадянам допомоги по частковому безробіттю на період карантину та/або надзвичайної ситуації, які мали право на таку виплату, але припинили трудові відносини до отримання роботодавцем цих коштів.	ВИКОНАНО

97	Внести зміни до постанови Кабінету Міністрів України від 24.05.2017 № 358 «Деякі питання оплати праці державних службовців судів, органів та установ системи правосуддя» щодо забезпечення єдиних підходів до оплати праці державних службовців як апаратів судів, так і інших державних органів.	ВТРАТИЛА АКТУАЛЬНІСТЬ
98	Визначити порядок проведення органами Держпраці інспекційних заходів з метою запобігання випадкам незадекларованої праці.	ВИКОНАНО
99	Міністерству фінансів України, Міністерству економіки України розробити законопроект, яким передбачити в Бюджетному кодексі України зміни щодо захищених видатків бюджету та включити до них нарахування єдиного внеску на загальнообов'язкове державне соціальне страхування на оплату праці працівників бюджетних установ, а також нарахування на заробітну плату.	НЕ ВИКОНАНО
100	Міністерству економіки України розробити законопроект, яким визначити механізм поновлення права осіб передпенсійного віку, що були звільнені з роботи у період з квітня 2020 року та які набули право на допомогу по безробіттю, на отримання допомоги по безробіттю тривалістю до 720 календарних днів.	ВТРАТИЛА АКТУАЛЬНІСТЬ
101	Міністерству соціальної політики, Міністерству економіки України розробити та подати на розгляд Кабінету Міністрів України законопроект щодо порядку зарахування до стажу роботи періоду, за який з вини роботодавця не сплачено ЄСВ.	У ПРОЦЕСІ ВИКОНАННЯ
102	Фонду державного майна України розробити та подати на розгляд Кабінету Міністрів України зміни до статті 27 Закону України «Про приватизацію державного і комунального майна», в якій передбачити зменшення строку виконання зобов'язань з метою поновлення права громадян на отримання заробітної плати та зарахування їм страхового стажу.	НЕ ВИКОНАНО
103	Верховній Раді України прискорити розгляд та прийняття проекту закону «Про здійснення комплексної реконструкції кварталів (мікрорайонів) застарілого житлового фонду» (реєстр. № 6458 від 22.12.2021).	У ПРОЦЕСІ ВИКОНАННЯ

104	Кабінету Міністрів України опрацювати питання щодо відновлення фінансування житлових програм із загального фонду держбюджету, а саме програм: «Надання державної підтримки для будівництва (придбання) доступного житла», «Державне пільгове кредитування індивідуальних сільських забудовників на будівництво (реконструкцію) та придбання житла», «Надання пільгового довгострокового державного кредиту молодим сім'ям та самотнім молодим громадянам на будівництво (реконструкцію) та придбання житла», а також програми «Соціальний захист громадян, які постраждали внаслідок Чорнобильської катастрофи» фінансування в частині потреби для вирішення житлового питання громадян, які постраждали внаслідок Чорнобильської катастрофи.	ВИКОНАНО
105	Кабінету Міністрів України розробити та подати на розгляд Верховної Ради України законопроект про внесення змін до статті 48 Закону України «Про виконавче провадження» щодо особливостей накладення арешту на кошти на рахунках боржника – фізичної особи, які відкриті для зарахування заробітної плати, пенсії, стипендії на інших соціальних виплат, які є єдиним джерелом існування громадянина.	НЕ ВИКОНАНО
106	Територіальним громадам передбачити кошти на виконання робіт з інвентаризації земель, що належать до комунальної власності ТГ (в межах населених пунктів) та провести таку інвентаризацію.	У ПРОЦЕСІ ВИКОНАННЯ
107	Верховній Раді України прискорити розгляд та прийняття проекту Закону України «Про внесення змін до деяких законодавчих актів України щодо удосконалення пенсійного законодавства» щодо підвищення рівня пенсійного забезпечення окремих категорій осіб» (реєстр. № 4668 від 28.01.2021).	ВИКОНАНО
	Кабінету Міністрів України:	
108	Розробити та подати на розгляд Верховної Ради України законопроекти щодо: забезпечення прав осіб, які постраждали внаслідок Чорнобильської катастрофи, та ветеранів війни відповідно до рішення КСУ від 17 липня 2018 року № 6-р/2018; внесення змін про недопущення зменшення розміру пенсійних виплат після проведення їх перерахунку на виконання рішення суду.	НЕ ВИКОНАНО
109	Розглянути та затвердити: проєкт постанови Кабінету Міністрів України «Про затвердження Основних напрямів запобігання бездомності до 2026 року»; проєкт постанови Кабінету Міністрів України «Деякі питання діяльності територіальних центрів соціального обслуговування (надання соціальних послуг)».	У ПРОЦЕСІ ВИКОНАННЯ
110	Здійснити заходи щодо визначення потреби у коштах на погашення заборгованості за рішеннями судів і на виконання програм, пов'язаних	НЕ ВИКОНАНО

	із пенсійним забезпеченням та соціальним захистом населення, та передбачити їх у Державному бюджеті України.	
	Міністерству соціальної політики України:	
111	Завершити розроблення нормативних актів для забезпечення реалізації положень Закону України «Про соціальні послуги».	ВИКОНАНО
112	Опрацювати питання перегляду на законодавчому рівні джерел фінансування компенсації фізичним особам, які надають соціальні послуги з догляду на непрофесійній основі (шляхом запровадження відповідної субвенції з державного бюджету місцевим бюджетам).	НЕ ВИКОНАНО
113	Національній комісії з реабілітації забезпечити додержання строків розгляду та прийняття рішень з питань визнання осіб реабілітованими або потерпілими від репресій.	НЕ ВИКОНАНО
114	Пенсійному фонду України здійснювати контроль за додержанням територіальними органами прав громадян при призначенні (перерахунку) пенсій відповідно до ухвалених на їх користь судових рішень.	У ПРОЦЕСІ ВИКОНАННЯ
115	Місцевим органам виконавчої влади та органам місцевого самоврядування вжити заходів для забезпечення права громадян на отримання соціальних послуг та інших соціальних гарантій, фінансування яких має здійснюватися за рахунок місцевих бюджетів.	У ПРОЦЕСІ ВИКОНАННЯ
116	Верховній Раді України прискорити розгляд та прийняття проекту Закону «Про управління відходами» (реєстр. № 2207-1-д від 04.06.2020).	ВИКОНАНО
	Міністерству захисту довкілля та природних ресурсів України:	
117	Забезпечити своєчасне виконання заходів, передбачених Національним планом управління відходами до 2030 року.	У ПРОЦЕСІ ВИКОНАННЯ
118	Забезпечити загальну організацію та координацію суб'єктів моніторингу атмосферного повітря для належного впровадження державного моніторингу у галузі охорони атмосферного повітря.	У ПРОЦЕСІ ВИКОНАННЯ
119	Міністерству економіки України забезпечити своєчасне виконання заходів, передбачених Національним планом управління відходами до 2030 року.	ВТРАТИЛА АКТУАЛЬНІСТЬ
120	Обласним державним адміністраціям, Київській міській державній адміністрації, виконавчим органам міських рад (суб'єктам моніторингу атмосферного повітря відповідно до Постанови № 827):	
121	Розробити та затвердити програми державного моніторингу в галузі охорони атмосферного повітря.	У ПРОЦЕСІ ВИКОНАННЯ

122	Встановити пункти спостережень за станом атмосферного повітря та забезпечити ведення спостереження за рівнями забруднювальних речовин в межах території відповідної зони або агломерації.	НЕ ВИКОНАНО
123	Верховній Раді України прискорити розгляд та прийняття проекту Закону України «Про професійну (професійно-технічну) освіту» (реєстр. № 4207 від 12.10.2020) і проекту Закону України «Про професійну освіту» (реєстр. № 4207-1 від 26.10.2020).	У ПРОЦЕСІ ВИКОНАННЯ
124	Кабінету Міністрів України розробити та затвердити нормативно-правові акти щодо: чіткого розподілу повноважень між центральними та місцевими органами виконавчої влади в управлінні та фінансуванні закладів професійної (професійно-технічної) освіти та визначити їх відповідальність; підвищення оплати праці педагогічних працівників закладів професійної (професійно-технічної) освіти відповідно до Закону України «Про освіту».	НЕ ВИКОНАНО
	Міністерству освіти і науки України:	
125	Забезпечити виконання Плану заходів на 2020–2027 роки із запровадження Концепції реалізації державної політики у сфері професійної (професійно-технічної) освіти «Сучасна професійна (професійно-технічна) освіта на період до 2027 року», затвердженого розпорядженням Кабінету Міністрів України від 29 квітня 2020 року № 508-р.	У ПРОЦЕСІ ВИКОНАННЯ
126	Завершити передачу цілісних майнових комплексів закладів професійної (професійно-технічної) освіти з державної до комунальної власності та повноважень з управління закладів професійної (професійно-технічної) освіти на обласний рівень і їх фінансування.	У ПРОЦЕСІ ВИКОНАННЯ
127	Сприяти поширенню практики здобуття професійної (професійно-технічної), фахової передвищої та вищої освіти за дуальною формою.	У ПРОЦЕСІ ВИКОНАННЯ
128	Вжити заходів щодо унормування дистанційного навчання як форми здобуття професійної (професійно-технічної), фахової передвищої та вищої освіти.	ВИКОНАНО
	Кабінету Міністрів України:	
129	Розробити та затвердити порядок надання субвенцій і дотацій з державного бюджету, які мають спрямовуватися на забезпечення гарантованого державою для кожного громадянина України обсягу культурно-мистецьких послуг, на розвиток сфери культури і мистецтв окремих об'єднаних територіальних громад; наближення рівня заробітних плат працівників культури до рівня середніх заробітних плат у державі.	У ПРОЦЕСІ ВИКОНАННЯ
130	Затвердити мінімальні стандарти забезпечення громадян культурними послугами.	У ПРОЦЕСІ ВИКОНАННЯ

	Міністерству культури та інформаційної політики України:	
131	Забезпечити постійний контроль за виконанням Плану заходів щодо реалізації Концепції реформування системи забезпечення населення культурними послугами, затвердженого розпорядженням Кабінету Міністрів України від 22 травня 2019 року № 355-р.	У ПРОЦЕСІ ВИКОНАННЯ
132	Розробити та подати на затвердження Кабінету Міністрів України мінімальні стандарти забезпечення громадян культурними послугами.	У ПРОЦЕСІ ВИКОНАННЯ
133	Кабінету Міністрів України вирішити питання щодо виплати допомоги по частковому безробіттю на період карантину застрахованим особам, зокрема працівникам, з якими припинено трудові відносини.	ВИКОНАНО
134	Кабінету Міністрів України розробити і затвердити порядок забезпечення гарантованих законом соціальних гарантій членам сімей померлих медичних працівників, смерть яких настала внаслідок інфікування коронавірусною хворобою (COVID-19).	ВИКОНАНО
135	Міністерству соціальної політики України забезпечити взаємодію ПК «Соціальна громада» з іншими програмним забезпеченням у сфері соціального захисту населення.	ВИКОНАНО
136	Територіальним громадам прискорити процес державної реєстрації земельних ділянок як комунальної форми власності, що розташовані за межами населених пунктів.	У ПРОЦЕСІ ВИКОНАННЯ
137	Кабінету Міністрів України запровадити ефективну модель фінансування системи забезпечення населення культурними послугами.	ВИКОНАНО
	Міністерству культури та інформаційної політики України:	
138	Вжити заходів щодо формування спроможної системи управління у сфері культури в об'єднаних територіальних громадах.	ВИКОНАНО
139	Затвердити порядок формування базової мережі закладів культури місцевого рівня в частині визначення чітких вимог до здійснення реорганізації (ліквідації) закладів культури.	ВИКОНАНО
	Місцевим органам виконавчої влади та органам місцевого самоврядування:	
140	Забезпечити збереження базової мережі закладів культури.	ВТРАТИЛА АКТУАЛЬНІСТЬ
141	Сприяти здійсненню належних заходів щодо збереження кадрового потенціалу закладів культури, покращенню організації роботи щодо підвищення кваліфікації працівників культури, модернізації системи стимулів у сфері культурно-мистецької діяльності.	ВТРАТИЛА АКТУАЛЬНІСТЬ

142	Вжити заходів щодо зміцнення та оновлення матеріально-технічної та навчально-методичної бази закладів і установ культури, забезпечити їх безперервну роботу	ВТРАТИЛА АКТУАЛЬНІСТЬ
ПРАВА ВІЙСЬКОВОСЛУЖБОВЦІВ, ПОЛІЦЕЙСЬКИХ, ПЕНСІОНЕРІВ З ЧИСЛА ОСІБ, ЗВІЛЬНЕНИХ ЗІ СЛУЖБИ, ВЕТЕРАНІВ ТА ЧЛЕНІВ ЇХНІХ СІМЕЙ		
143	Кабінету Міністрів України розробити та внести зміни до постанови Кабінету Міністрів України «Деякі питання забезпечення житлом військовослужбовців та інших громадян» від 02.09.2015 року № 728 з метою поширення її дії на звільнених з військової служби осіб, які відслужили 20 років і більше та звільнилися на пенсію по закінченню контракту.	ВТРАТИЛА АКТУАЛЬНІСТЬ
144	Міністерству оборони України, Міністерству внутрішніх справ України вжити заходів щодо розроблення та затвердження нормативних документів, необхідних для реалізації механізму підвищення рівня винагороди військовослужбовців, поліцейських та рятувальників до рівня не нижче середнього рівня заробітної плати по регіону дислокації відповідного підрозділу з метою забезпечення достатнього грошового забезпечення особового складу в обсязі, що відповідає умовам служби, та стимулює закріплення кваліфікованих кадрів.	ВИКОНАНО
145	Міністерству внутрішніх справ України розробити та подати на розгляд Кабінету Міністрів України Положення про проходження служби працівниками Національної поліції.	ВТРАТИЛА АКТУАЛЬНІСТЬ
146	Міністерству оборони України забезпечити виконання вимог Закону України «Про внесення змін до деяких законодавчих актів України щодо удосконалення порядку проходження військової служби» від 06 грудня 2016 року № 1769-VIII в частині звільнення з військової служби громадян України, з якими впродовж 2014–2016 років було укладено контракт про проходження військової служби «до закінчення особливого періоду або до оголошення рішення про демобілізацію», і які після набрання чинності цим Законом не висловили бажання продовжувати військову службу під час особливого періоду (не уклали новий контракт), або забезпечити укладення з цією категорією громадян нового контракту на визначений строк.	ВТРАТИЛА АКТУАЛЬНІСТЬ
147	Верховній Раді України прискорити розгляд і прийняття проекту Закону України «Про внесення змін до Закону України «Про пенсійне забезпечення осіб, звільнених з військової служби, та деяких інших осіб» щодо відновлення дії попередніх редакцій норм зазначеного Закону» щодо перерахунку та виплати військових пенсій (реєстр. № 2141 від 13.09.2019).	НЕ ВИКОНАНО

148	Кабінету Міністрів України внести зміни до постанови Кабінету Міністрів України від 27 квітня 2011 року № 446 «Про затвердження Порядку забезпечення санаторно-курортними путівками до санаторно-курортних закладів військовослужбовців, ветеранів війни, ветеранів військової служби, органів внутрішніх справ та деяких інших категорій осіб і членів їхніх сімей» у частині забезпечення державними органами путівками до санаторно-курортних закладів ветеранів військової служби, які отримують пенсію за іншими законами.	НЕ ВИКОНАНО
ПРАВА ОСІБ, ЯКІ ПОСТРАЖДАЛИ ВІД ЗБРОЙНОГО КОНФЛІКТУ ПРОТИ УКРАЇНИ		
149	Верховній Раді України прискорити розгляд та прийняття проекту Закону України «Про захист права власності та інших речових прав осіб, постраждалих внаслідок збройної агресії» (реєстр. № 5177 від 01.03.2021).	ВТРАТИЛА АКТУАЛЬНІСТЬ
Кабінету Міністрів України:		
150	Розробити та подати на розгляд Верховної Ради України проект закону щодо визначення статусу жертв збройного конфлікту, норм соціального та правового захисту цивільного населення, постраждалого від збройної агресії Російської Федерації проти України, запровадження єдиної державної системи обліку осіб, які загинули, зазнали поранень, матеріальних втрат та чий права були порушені внаслідок збройної агресії.	НЕ ВИКОНАНО
151	Розробити та затвердити нормативні документи щодо запровадження уніфікованого порядку фіксації та документування заподіяної шкоди за зруйноване або пошкоджене внаслідок збройної агресії майно, єдиних підходів до документування, оцінки, зберігання та акумулювання відповідної інформації.	ВИКОНАНО
152	Включити до повноважень Мінреінтеграції або іншого центрального органу виконавчої влади збір та узагальнення інформації про попит ВПО на житло та рівень забезпечення ним шляхом внесення змін до відповідного положення про такий орган.	НЕ ВИКОНАНО
	Розробити та затвердити механізм легалізації інформації, що міститься в документах, виданих підприємствами (установами, організаціями), які зареєстровані та здійснюють/здійснювали свою діяльність на тимчасово окупованих територіях.	НЕ ВИКОНАНО
153	Міністерству з питань реінтеграції тимчасово окупованих територій України вжити заходів щодо створення та впровадження Єдиного державного реєстру обліку об'єктів, яким заподіяно шкоду внаслідок збройного конфлікту.	ВИКОНАНО

154	Міністерству юстиції України внести на розгляд до Кабінету Міністрів України проект змін до Закону України «Про правовий статус осіб, зниклих безвісти» від 12 липня 2018 року № 2505-VIII щодо забезпечення ефективних заходів щодо розшуку осіб зниклих безвісти та додержання прав їхніх рідних.	ВИКОНАНО
	5. Обласним державним адміністраціям та органам місцевого самоврядування, військово-цивільним адміністраціям:	
155	Забезпечити надання допомоги постраждалим особам у зборі документів, необхідних для отримання грошової компенсації за зруйноване або пошкоджене внаслідок збройної агресії майно.	У ПРОЦЕСІ ВИКОНАННЯ
156	Передбачити в місцевих програмах окремі заходи щодо надання соціально-психологічних, реабілітаційних послуг цивільному населенню, постраждалому внаслідок збройної агресії, інформування про можливість одержання допомоги та компенсацій.	У ПРОЦЕСІ ВИКОНАННЯ
	6. Кабінету Міністрів України:	
157	Розробити та подати на розгляд до Верховної Ради України законопроект про внесення змін до Закону України «Про судовий збір» від 8 липня 2011 року № 3674-VI щодо звільнення від сплати судового збору під час звернення до суду для встановлення фактів народження та смерті на тимчасово окупованих територіях.	ВИКОНАНО
158	Внести зміни до порядків, затверджених постановами Кабінету Міністрів України від 04.06.2014 № 289 і від 25.03.2015 № 302 в частині розширення переліку осіб, які можуть бути свідками під час проведення процедури встановлення особи (цивільні партнери, співмешканці, однокласники тощо).	ВИКОНАНО
159	Міністерству з питань реінтеграції тимчасово окупованих територій України, Міністерству юстиції України розробити та подати на розгляд до Кабінету Міністрів України проект постанови щодо запровадження адміністративної процедури державної реєстрації фактів народження та смерті, які відбулися на тимчасово окупованих територіях.	У ПРОЦЕСІ ВИКОНАННЯ
160	Міністерству з питань реінтеграції тимчасово окупованих територій України, Міністерству закордонних справ України звернутися до міжнародних правозахисних організацій щодо можливості придбання та подальшої передачі на тимчасово окуповані території Донецької та Луганської областей тестів для діагностування та медичних препаратів для лікування хвороби COVID-19.	ВТРАТИЛА АКТУАЛЬНІСТЬ
161	Офісу Генерального прокурора забезпечити ефективний нагляд за дотриманням процесуального законодавства під час проведення досудового розслідування злочинів, передбачених частиною першою статті 438 КК України (Порушення законів та звичаїв війни).	У ПРОЦЕСІ ВИКОНАННЯ

162	Верховній Раді України прискорити розгляд та прийняття проекту Закону України «Про засади державної політики перехідного періоду» (реєстр. № 5844 від 09.08.2021).	ВТРАТИЛА АКТУАЛЬНІСТЬ
163	Міністерству закордонних справ України забезпечити постійне інформування міжнародної спільноти про порушення прав людини на тимчасово окупованих територіях України.	У ПРОЦЕСІ ВИКОНАННЯ
ПРАВО ЛЮДИНИ НЕ БУТИ ПІДДАНОЮ КАТУВАННЮ, ЖОРСТОКОМУ, НЕЛЮДСЬКОМУ АБО ТАКОМУ, ЩО ПРИНИЖУЄ ЇЇ ГІДНІСТЬ, ПОВОДЖЕННЮ ЧИ ПОКАРАННЮ		
164	Верховній Раді України прискорити розгляд та прийняття проекту Закону України (реєст. № 5336 від 05.04.2021) щодо приведення змісту статті 127 КК України у відповідність до Конвенції проти катувань та інших жорстоких, нелюдських або таких, що принижують гідність, видів поводження і покарання.	ВИКОНАНО
165	Міністерству охорони здоров'я України, Міністерству соціальної політики України, Міністерству юстиції України, Міністерству внутрішніх справ України розробити та затвердити відомчі нормативно-правові акти щодо імплементації положень Керівництва ООН з ефективного розслідування та документування катувань та інших жорстоких, нелюдських та таких, що принижують гідність, видів поводження та покарань (Стамбульського протоколу) з метою належного документування фактів катувань, інших жорстоких та таких, що принижують гідність, видів поводження та покарання.	У ПРОЦЕСІ ВИКОНАННЯ
166	Міністерству внутрішніх справ України розробити та затвердити нормативно-правовий акт щодо забезпечення харчуванням і питною водою осіб затриманих за підозрою у вчиненні злочину, які тривалий час (понад 3 години) перебувають в органах поліції, та не можуть утримуватися в кімнатах для затриманих у зв'язку з їх відсутністю або з припиненням функціонування через невідповідність національним та міжнародним стандартам та з інших причин.	У ПРОЦЕСІ ВИКОНАННЯ
167	Міністерству охорони здоров'я України розробити та затвердити наказ щодо забезпечення унормування порядку проведення тілесного огляду при госпіталізації та під час перебування в закладах з надання психіатричної допомоги, опитування щодо тілесних ушкоджень і фіксації їх виявлення, а також повідомлення про них відповідні правоохоронні органи.	НЕ ВИКОНАНО
168	Обласним, Київській міській державним адміністраціям забезпечити контроль у закладах з надання психіатричної допомоги за застосуванням ременів фіксації при фізичному гамування пацієнтів/підопічних.	НЕ ВИКОНАНО

169	Міністерству охорони здоров'я України, Міністерству соціальної політики України, Міністерству юстиції України, Міністерству освіти і науки України, Міністерству внутрішніх справ України, Державній міграційній службі України, Адміністрації Державної прикордонної служби України, Міністерству оборони України, Службі безпеки України, Державному бюро розслідувань, Державній судовій адміністрації України, обласним державним адміністраціям та обласним радам забезпечити ефективний внутрішній контроль за додержанням прав людини в підпорядкованих підрозділах, де утримуються чи можуть утримуватися особи.	У ПРОЦЕСІ ВИКОНАННЯ
	Центральним органам виконавчої влади (Міністерству охорони здоров'я України, Міністерству соціальної політики України, Міністерству юстиції України, Міністерству освіти і науки України, Міністерству внутрішніх справ України, Державній міграційній службі України, Адміністрації Державної прикордонної служби України, Міністерству оборони, Службі безпеки України, Державному бюро розслідувань, Державній судовій адміністрації України, обласним, Київській міській державним адміністраціям та обласним радам:	
170	Забезпечити повноцінне фінансування, утримання та діяльність органів, установ, закладів, в яких утримуються особи; привести умови тримання в них відповідно до санітарно-гігієнічних вимог, встановлених законодавством України та європейськими стандартами.	У ПРОЦЕСІ ВИКОНАННЯ
171	Вжити вичерпних заходів для організації безбар'єрного простору у приміщеннях місць несвободи відповідно до ДБН України В.2.2-40:2018 «Інклюзивність будівель і споруд».	У ПРОЦЕСІ ВИКОНАННЯ
171.1	Міністерству внутрішніх справ України розробити, затвердити та забезпечити виконання норм забезпечення осіб, які перебувають в ІТТ, постільними речами, столовими наборами, милом та синтетичними миючими засобами, а також медичним інвентарним і витратним майном. Зазначена рекомендація не виконана.	НЕ ВИКОНАНО
172	Центральним органам виконавчої влади (Міністерству охорони здоров'я України, Міністерству соціальної політики України, Міністерству юстиції України, Міністерству освіти і науки України, Міністерству внутрішніх справ України, Державній міграційній службі України, Адміністрації Державної прикордонної служби України, Міністерству оборони України), Службі безпеки України, Державному бюро розслідувань, Державній судовій адміністрації України, обласним, Київській міській державним адміністраціям та обласним радам забезпечити внутрішній контроль за додержанням прав людини на охорону здоров'я та медичну допомогу в	У ПРОЦЕСІ ВИКОНАННЯ

	підконтрольних центральним органам виконавчої влади місцях несповоди.	
173	Міністерству охорони здоров'я України, Міністерству соціальної політики України забезпечити контроль за наданням необхідного соматичного лікування пацієнтам, які тривалий час перебувають на лікуванні в закладах з надання психіатричної допомоги та соціального захисту населення.	НЕ ВИКОНАНО
	Міністерству юстиції України, Центру охорони здоров'я Державної кримінально-виконавчої служби України:	
174	Забезпечити укомплектування вакансій працівників у медичних частинах державної установи «Центр охорони здоров'я Державної кримінально-виконавчої служби України».	НЕ ВИКОНАНО
175	Забезпечити контроль за вжиттям заходів щодо недопущення поширення інфекційних хвороб серед ув'язнених та засуджених осіб.	НЕ ВИКОНАНО
176	Міністерству внутрішніх справ України розробити та затвердити нормативно-правовий акт з метою забезпечення органів та підрозділів поліції засобами медичного призначення для надання домедичної допомоги.	ВИКОНАНО
177	Міністерству внутрішніх справ України, Національній поліції України, Адміністрації Державної прикордонної служби України, Державній міграційній службі України забезпечити додержання права на захист утримуваних осіб відповідно до чинного законодавства України.	У ПРОЦЕСІ ВИКОНАННЯ
178	Міністерству соціальної політики України, Міністерству охорони здоров'я України, обласним, Київській міській державним адміністраціям забезпечити в установах соціального захисту населення та закладах з надання психіатричної допомоги розміщення інформації в доступній формі про права осіб з інвалідністю, номери телефонів гарячих ліній, посадових осіб, зокрема Уповноваженого та центру з надання безоплатної правової допомоги, до яких можна звернутися особам із розладами психіки.	НЕ ВИКОНАНО
179	Обласним, Київській міській державним адміністраціям забезпечити контроль за налагодженням співпраці з установами соціальної сфери та регіональними центрами з надання безоплатної правової допомоги.	НЕ ВИКОНАНО

180	Міністерству юстиції України забезпечити контроль за діяльністю Координаційного центру з надання правової допомоги щодо належного надання адвокатських послуг особам, які перебувають у місцях несвободи.	НЕ ВИКОНАНО
181	Координаційному центру з надання правової допомоги забезпечити контроль за належним наданням безоплатної первинної та вторинної допомоги затриманим особам та особам, які перебувають у місцях несвободи.	ВИКОНАНО
ЗАХИСТ ПРАВ І СВОБОД ГРОМАДЯН УКРАЇНИ НА МІЖНАРОДНОМУ РІВНІ		
Міністерству закордонних справ України:		
182	Започаткувати тренінги для посадових осіб, які відряджаються у довготермінові відрядження для роботи в дипломатичних та консульських установах України, щодо проведення моніторингу додержання прав і свобод громадян України, які перебувають за кордоном, зокрема в місцях позбавлення волі.	ВИКОНАНО
183	Забезпечити обов'язкове інформування Уповноваженого щодо усіх випадків порушення прав громадян України за кордоном, про заходи реагування дипломатичних та консульських посадових осіб у цьому контексті, про потреби щодо надання сприяння Уповноваженим з метою поновлення прав людини, громадян України.	У ПРОЦЕСІ ВИКОНАННЯ
184	Міністерству юстиції України ініціювати укладення Договору між Україною та Грецькою Республікою про передачу осіб, засуджених до позбавлення волі, для подальшого відбування покарання.	У ПРОЦЕСІ ВИКОНАННЯ
185	Міністерству освіти і науки України запровадити освітні програми з прав і свобод людини і громадянина на факультетах, відділеннях, кафедрах міжнародних відносин у вищих навчальних закладах, які підпорядковані МОН.	ВТРАТИЛА АКТУАЛЬНІСТЬ

ANNEXES

ANNEX 1: Structure of the Secretariat of the Ukrainian Parliament Commissioner for Human Rights

No.	Structural subdivisions and positions	headcount
1	Ukrainian Parliament Commissioner for Human Rights	1
2	Commissioner's representative for social and economic rights	1
3	Commissioner's representative for rights of citizens affected by the armed aggression against Ukraine	1
4	Commissioner's representative for rights in the defence sector and rights of veterans and the military, prisoners of war and their family members	1
5	Commissioner's representative in the judiciary for the right to a fair trial and representation in the Constitutional Court of Ukraine	1
6	Commissioner's representative for rights of children, family, the youth and sport	1
7	Commissioner's representative for equal rights and freedoms, rights of national minorities, political and religious beliefs	1
8	Commissioner's representative for information rights	1
9	Commissioner's representative for human rights at places of custody	1
10	Commissioner's representative for international cooperation and European integration	1
11	Commissioner's representative for rights of residents of the Autonomous Republic of Crimea and city of Sevastopol	1
12	Commissioner's representative in Vinnytsia Oblast	1
13	Commissioner's representative in Volyn Oblast	1
14	Commissioner's representative in Dnipropetrovsk Oblast	1
15	Commissioner's representative in Donetsk and Luhansk Oblasts	1
16	Commissioner's representative in Zhytomyr Oblast	1
17	Commissioner's representative in Zakarpattia Oblast	1
18	Commissioner's representative in Zaporizhzhia Oblast	1
19	Commissioner's representative in Ivano-Frankivsk Oblast	1
20	Commissioner's representative in Kyiv Oblast and city of Kyiv	1
21	Commissioner's representative in Kirovohrad Oblast	1
22	Commissioner's representative in Lviv Oblast	1
23	Commissioner's representative in Mykolaiv Oblast	1
24	Commissioner's representative in Odesa Oblast	1
25	Commissioner's representative in Poltava Oblast	1
26	Commissioner's representative in Rivne Oblast	1
27	Commissioner's representative in Sumy Oblast	1
28	Commissioner's representative in Ternopil Oblast	1
29	Commissioner's representative in Kharkiv Oblast	1
30	Commissioner's representative in Kherson Oblast	1
31	Commissioner's representative in Khmelnytskyi Oblast	1
32	Commissioner's representative in Cherkasy Oblast	1

33	Commissioner’s representative in Chernivtsi Oblast	1
34	Commissioner’s representative in Chernihiv Oblast	1
35	Commissioner’s advisor	12
36	Head of the Secretariat	1
37	First Deputy Head of the Secretariat	1
38	Deputy Head of the Secretariat	3
39	Department for monitoring of observance of social and economic rights	41
	Division for the right to social protection	7
	Division for the right to work	8
	Division for the right to healthcare, education and culture	8
	Division for property rights	8
	Division for consumer rights	5
	Division for the right to a safe environment	4
40	Department for monitoring of observance of rights of citizens affected by the aggression against Ukraine	20
	Division for rights of internally displaced person	5
	Division for rights of citizens affected by the aggression against Ukraine	5
	Division for rights of persons deported forcibly and displaced outside Ukraine	5
	Division for rights of citizens in the temporarily occupied territories	4
41	Department for monitoring of observance rights in the defence sector and rights of veterans and the military, prisoners of war and their family members	36
	Directorate for observance of rights of the persons deprived of their liberty as a result of the armed aggression against Ukraine and missing persons in the context of the armed conflict	1
	Division for rights of prisoners of war and monitoring of detention facilities for prisoners of war	8
	Division for procedural rights of Ukrainian citizens abroad and in the temporarily occupied territory	6
	Division for organisational and analytical support	4
	Directorate for observance of rights of the military, police officers, veterans and other persons	1
	Division for rights of citizens in the system of law-enforcement authorities and national security	4
	Division for rights of the military, police officers, veterans and missing persons	6
	Division for rights of veterans	5
42	Department for monitoring of observance of the right to a fair trial and representation in the Constitutional Court	20

	Division for rights in civil and administrative proceedings	4
	Division for rights in criminal proceedings	6
	Division for legal expert examination of procedural legislation	4
	Division for human rights at places of custody	5
43	Department for monitoring of observance of rights of children and families, youth and sports	20
	Division for rights of children and families, youth and sports	6
	Division for rights of children during martial law	5
	Division for regulatory and legal support	4
	Division for monitoring of objects	4
44	Department for monitoring of observance of equal rights and freedoms, rights of national minorities, political and religious beliefs	22
	Division for matters of citizenship, political rights and religious beliefs	6
	Division for rights of national minorities and indigenous peoples	5
	Division for observance of equal rights and prevention of discrimination	5
	Division for counteraction to domestic violence and trafficking in human beings	5
45	Department for monitoring of observance of information rights	26
	Division for regulatory and legal work and monitoring of international standards in the field of personal data protection	5
	Division for consideration of petitions and interaction with personal data processing subjects	6
	Division for rights to access information	7
	Division for rights to petitions of citizens	7
46	Department for implementation of the national preventive mechanism	24
	Division for inspection of control objects in law enforcement, judicial authorities and military formations	8
	Division for implementation of the national preventive mechanism in social protection and education institutions	5
	Division for implementation of the national preventive mechanism in the field of healthcare	4
	Division for analytics and public relations	6
47	Department for international cooperation and European integration	18
	Division for cooperation with international organisations	5
	Division for rights of Ukrainian citizens abroad	4
	Division for cooperation with national human rights institutions	4
	Division for protocol and translation and coordination of development of the international contractual base	4
48	Supply department	28
	Resource division	8

Building maintenance division	11
Logistics division	4
Division for organisational and planning work	4
49 Department for documental support and work with petitions	34
Division for documental support	6
Division for preliminary consideration of petitions and personal reception of citizens	6
Control division	5
Division for registration of divisions	6
Hot line operations division	10
50 Directorate for accounting and financial support	15
Accounting and reporting division	7
Planning and financial support division	4
Sector of interaction with international organisations	3
51 HR directorate	11
HR management division	4
Division for staff evaluation and professional development	4
Recruitment organisation sector	2
52 Department for information policy, communication and protocol activities	23
Division for information policy	5
Communication division	5
Division for organisational support	4
Division for protocol events	4
Planning and analytical division	4
53 Division for supporting operations of regional offices	46
54 Division for information technology	8
55 Legal division	8
57 Corruption prevention and detection sector	3
58 Health and safety sector	2
56 Chief specialist for internal audit	1
57 Chief specialist for internal control	1
	458

ANNEX 2: Regional Offices of the Commissioner

Oblast	Telephone number and e-mail	Address of the office
Vinnytsia Oblast	+380980379756, oliinykiv@ombudsman.gov.ua +380677274670, coord.vin.ombudsman@gmail.com	15 Teatralna Street, Vinnytsia, 21009; 181 K. Koriatovychiv Street, Vinnytsia, 21009

Volyn Oblast	+380506664579, coord.lutsk.ombudsman@gmail.com	9 Kyivskyi Square, Suite 106, Lutsk, 43000
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Dnipropetrovsk Oblast	+380984315100, +380567222940, onyshenko@ombudsman.gov.ua +380975413855, krupiydndz@gmail.com	52 Starokozatska Street, Suite 136, Dnipro, 49000
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Donetsk Oblast

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Zhytomyr Oblast

+380682760196,
+380981782671,
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Zakarpattia Oblast

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Zaporizhzhia Oblast	+380662452673 +380975850110, +380617641019, karpenko@ombudsman.gov.ua +380506596884, s.bizdenezhneyi@gmail.com	26 Oleksandrivska Street, Room 54, Zaporizhzhia, 69107
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Ivano-Frankivsk Oblast	+380506775415 +380967807607, +380342556357, pred.ivanofrankivsk@ombudsman.gov.ua +30932552856, coord.dem@gmail.com	21 Hrushevskoho Street, Room 619, Ivano- Frankivsk, 76000
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Kirovohrad Oblast	+380984065844, +380522321746, hryhorenko@ombudsman.gov.ua +380675205658, juchenyav@gmail.com	84 Tarasa Karpy Street, Rooms 57, 58, Kropyvnytskyi, 25006
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Cherkasy Oblast

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Chernivtsi Oblast	+380502223998, +380372517390, <u>pitei- malliar@ombudsman.gov.ua</u> +380502386501	176 Heroiv Maidanu Street, Room 26, Chernivtsi, 58029
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Chernihiv Oblast	+380667952524, +380462674283 <u>pred.chernihiv@ombudsman.gov.ua</u> +380935834683, <u>korenkova@ombudsman.gov.ua</u> +380673162742, <u>cwrc.lepeha@gmail.com</u>	49-A Myru Avenue, Room 502, Chernihiv, 14005
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Autonomous Republic of Crimea and the city of Sevastopol	+380738227000 <u>kadyrov@ombudsman.gov.ua</u>	21/8 Instytutska Street, Kyiv, 01001
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