



Organization for Security and
Co-operation in Europe

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

XII INTERNATIONAL FORUM on the Case-Law of the European Court of Human Rights

“Implementation of the European Convention on Human Rights in Ukraine”

PROGRAMME

29 - 30 October 2024

Kyiv, Ukraine

(offline/online)

The event is co-organized by the OSCE Support Programme for Ukraine within the framework of the Projects “Safeguarding Human Rights through Courts, Phase II” and “Assisting Supreme Court and Higher Courts in Implementing Judicial Reform and War-related Justice” and Council of Europe Projects “Support to the functioning of justice in the war and post-war context in Ukraine”, “Fostering Human Rights in the Criminal Justice System in Ukraine”, “Strengthening judicial and non-judicial remedies for the human rights protection of the war-affected people in Ukraine” jointly with the Law Faculty of Ivan Franko National University of Lviv, Supreme Court, and the National School of Judges of Ukraine

Objectives of the Forum:

- Discuss main achievements and challenges of implementing the European Convention on Human Rights by Ukraine in criminal and civil cases;
- Provide information to the Ukrainian judiciary on application of the principle of subsidiarity, as understood by the European Court of Human Rights, and of the process-based approach to assessing restrictions of fundamental rights;
- Provide an opportunity for Ukrainian authorities to discuss issues related to the assessment of the integrity of judges and prosecutors, in particular, the standards of proof, assessment criteria, grounds for disciplinary action and proportionality of disciplinary sanctions;
- Create a platform for expert discussion on the application of the European Convention on Human Rights in the constitutional justice of Ukraine;
- Provide an opportunity for a comprehensive discussion of the domestic judicial practice as to the compensation for the war-related damage and the challenges faced during implementation of such court decisions;
- Highlight topical issues of gender equality in the context of the war of aggression against Ukraine;
- Discuss the issue of improvement of the quality of legal education as a key element to ensure the proper application of the Council of Europe standards.

Link for the connection:

Join Zoom Meeting

<https://osce-org.zoom.us/j/96541761833>

Meeting ID: 965 4176 1833 Passcode: 70560650

29 October (Tuesday)

Kyiv time

09:00 – 9:30 *Welcoming coffee*

Moderator: Marta Mochulska, Deputy Dean of the Faculty of Law of Ivan Franko National University of Lviv, Associate professor of the Department of Constitutional Law

9:30 – 10:30 *Opening remarks*

Stanislav Kravchenko, President of the Supreme Court

Volodymyr Melnyk, Rector of Ivan Franko National University of Lviv (online)

Volodymyr Burdin, Dean of the Faculty of Law, Ivan Franko National University (online)

Clare Ovey, Director of Human Rights, Directorate General for Human Rights and Rule of Law of the Council of Europe (tbc, online)

Maciej Janczak, Head of Office, Representative of the Secretary General of the Council of Europe on the coordination of cooperation programmes of the Council of Europe

Nataliia Stupnytska, Head of the Democratization, Good governance, Rule of law, and Human Rights component, OSCE Support Programme for Ukraine

10:30 – 14:00 **SESSION I Implementation of the European Convention on Human Rights in Ukraine**

Moderator: Iryna Kushnir, Manager of the project of the Council of Europe “Support to the functioning of justice in the war and post-war context in Ukraine”

10:30 – 11:00 ***Keynote speech: Subsidiarity and process-based review: changing the approach to analysing the application of the European Convention on Human Rights by national courts***

Mykola Gnatovskyy, Judge of the European Court of Human Rights (Ukraine)

Questions and answers

11:00 – 11:20 *Coffee break*

11:20 – 12:10 **Achievements and challenges of the implementation of the European Convention on Human Rights in Ukraine: civil aspect**

Moderated discussion

Moderator: Iryna Kushnir, Manager of the project of the Council of Europe “Support to the functioning of justice in the war and post-war context in Ukraine”

Participants

Topics

Dmytro Hudyma, Judge of the Civil Court of Cassation within the Supreme Court

Alienation of property by the state because of mistake or deliberate illegal actions: finding a balance of interests

Liudmyla Yeresko, Judge of the Administrative Court of Cassation within the Supreme Court

Restrictions on travelling abroad

Alla Hertz, Professor of the Department of Civil Law and Procedure, Ivan Franko National University of Lviv

Case-law of the European Court of Human Rights in cases on protection of property

Tamara Dudash, Associate professor of the Department of Theory and Philosophy of Law, Ivan Franko National University of Lviv

Quality of arguments from the European Court of Human Rights case-law in the practice of Ukrainian courts as a basis for the proper implementation of the European Convention on Human Rights in the legal system of Ukraine

Marharyta Sokorenko, Agent of Ukraine before the European Court of Human Rights

Challenges in implementing European Court of Human Rights judgments on child return to the state of habitual residence and contact arrangements in the context of martial law

12:10 – 12:40 ***Keynote speech: Implementation of judgments of the European Court of Human Rights by Ukraine: what kind of way forward?***

Pavlo Pushkar, Head of Division, Department for the Execution of Judgments of the European Court of Human Rights, Directorate General for Human Rights and Rule of Law of the Council of Europe

12:40 – 13:00 ***Coffee break***

13:00 – 14:00 **Achievements and challenges of the implementation of the European Convention on Human Rights in Ukraine: criminal aspect**

Moderated discussion

Moderator: Alisa Pietukhova, Manager of the project of the Council of Europe “Fostering Human Rights in the Criminal Justice System in Ukraine”

Participants

Topics

Mykola Gnatovskyy, Judge of the European Court of Human Rights

Prosecution for crimes against international law: issues of non-retroactivity of criminal law under Article 7 of the European Court of Human Rights

Oleksandra Yanovska, Judge of the Criminal Court of Cassation within the Supreme Court

Marharyta Sokorenko, Agent of Ukraine before the European Court of Human Rights

Excessive pretrial detention: trends, challenges, and the impact of martial law on the lack of alternatives

Olesia Otradnova, Head of the Prosecutor’s training centre of Ukraine

Yurii Pikh, Assistant of the Department of Criminal Procedure and Forensics, Faculty of Law of Ivan Franko National University of Lviv

Evidence and proof in the application of a preventive measure in the form of detention: conventional standards and practical challenges

14:00 – 15:00 ***Lunch***

15:00 – 16:40 **SESSION II Integrity of the judiciary: in search of the criteria for evaluation**

Moderator: Vitalii Gatseliuk, Member of the High Qualification Commission of Judges of Ukraine

15:00 – 15:30 **Keynote speech: Integrity of the judiciary**

Philip Dimitrov, Member of the Venice Commission in respect of Bulgaria, Chair of the Sub-Commission on Democratic Institutions (online)

Questions and answers

15:30 – 16:40 *Moderated discussion*

15:30 – 16:00 *Presentation: Criteria for distinguishing between ethical and unethical behaviour of a judge and prosecutor*

Lorena Bachmaier Winter, International consultant of the Council of Europe, Full Professor of Law at the Complutense University in Madrid

16:00 – 16:40

Participants

Topics

Pavlo Pushkar, Head of Division, Department for the Execution of Judgments of the European Court of Human Rights, Directorate General for Human Rights and Rule of Law of the Council of Europe

Independence of the judiciary and prosecution service in the context of obligations to comply with the European Court of Human Rights judgments concerning Ukraine

Volodymyr Petrakovskyy, Consultant of the Council of Europe, expert of the Council of Europe, Lecturer, National University “Kyiv-Mohyla Academy”

Integrity as a part of the Public Prosecution Service reform on the way ensure its independence

Serhiy Burlakov, Member of the High Council of Justice

Unified indicators for assessing judicial integrity and professional ethics: between law and morality

Oleh Koliush, Member of the High Qualification Commission of Judges of Ukraine

16:40 – 17:00 *Coffee break*

17:00 – 18:00 **SESSION III The rule of law in the state begins with quality legal education**

Moderated discussion

Moderator: Rasim Babanly, First Deputy Chief of the Staff of the Supreme Court

Participants

Mykola Stefanchuk, Member of the Parliamentary Committee on Legal policy

Marta Mochulska, Deputy Dean of the Faculty of Law, Associate Professor of the Department of Constitutional Law, Member of the Industry Expert Council of the National Agency for Quality Assurance of Higher Education, Ivan Franko National University of Lviv

Oksana Vasylchenko, Professor of the constitutional law department at Taras Shevchenko National University of Kyiv, Director of the Educational and Scientific Institute of Law of the Taras Shevchenko National University of Kyiv

Volodymyr Venher, Dean of the Faculty of law of the National University “Kyiv-Mohyla Academy” (online)

Svitlana Khyliuk, Director of Law School, the Ukrainian Catholic University (online)

Yurii Barabash, Vice-Rector for Research and Academic Affairs and Strategic Development, Yaroslav Mudryi National Law University (online)

18:00 **Wrap-up of the first day of the Forum**

Dinner

30 October (Wednesday)

9:00 – 9:30 *Welcoming coffee*

9:30 – 11:00 **SESSION IV Between Strasbourg and Luxembourg: Scylla and Charybdis or two pillars of the European human rights protection system**

Moderated discussion

Moderator: Oleksandr Vodyannikov, Senior Project Associate, OSCE Support Programme for Ukraine

Participants:

Mykola Gnatovskyy, Judge of the European Court of Human Rights (Ukraine)

Stanislav Kravchenko, President of the Supreme Court

Viktor Horodovenko, Judge of the Constitutional Court of Ukraine

11:00 – 13:00 **SESSION V Compensation for damage caused by war of aggression against Ukraine: judicial aspect**

Moderator: Vitalii Chornenkyi, Deputy Dean of the Faculty of Law, Ivan Franko National University of Lviv, associate professor of the Department of Constitutional Law, lawyer

11:00 – 11:30 **Keynote speech: Serhiy Pohribnyi**, Judge of the Grand Chamber of the Supreme Court

Questions and answers

11:30 – 12:00 *Coffee break*

12:00 – 13:30 *Moderated discussion*

Participants

Topics

Representative of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine

The Register of Damage Caused by the Aggression of the Russian Federation against Ukraine: current state

Volodymyr Yavorskyi , NGO “Centre for Civil Liberties”	Overview of national judicial practice on compensation for damage caused by war of aggression against Ukraine
Serhiy Hryshko , Chair of Procedural Law Committee, Ukrainian Bar Association	Enforcement of court decisions on compensation for war-related damage against russia: the current state of play and outlook
Lilian Apostol , International consultant of the Council of Europe projects (online)	

Questions and answers

13:30 – 14:30 **Lunch**

14:30 – 15:00 **SESSION VI Gender sensitive justice during wartime: towards people-centered approach**

Keynote speech: Tetyana Fuley, Head of the Department of Scientific Research on Judicial Proceedings and Scientific and Methodological Support of Judicial Education, National School of Judges of Ukraine

Questions and answers

15:00 – 16:00 **SESSION VII The concept of judicial gross negligence, its interpretation by the European Court of Human Rights**

Keynote speech: Mykola Gnatovskyy, Judge of the European Court of Human Rights (Ukraine)

Questions of the participants

Open microphone

Moderator: Rasim Babanly, First Deputy Chief of the Staff of the Supreme Court

16:00 - 16:20 **Closure of the Forum**

16:20-18:00 **Dinner**