

# THE ROLE OF INTERNATIONAL ORGANIZATIONS IN THE PROTECTION OF HUMAN RIGHTS IN UKRAINE

**How to cite this article:** Voitsikhovskiyi Andrii, Oleksandr Bakumov, Olena Ustymenko, & Yevheniia Lohvynenko. "The Role of International Organizations in the Protection of Human Rights in Ukraine". *Novum Jus* 16, núm. 2 (2022): 305-340. <https://doi.org/10.14718/NovumJus.2022.16.2.12>

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### *Abstract*

State recognition of human rights and freedoms by enshrining them in the constitution and other legislative acts is the first and most urgent step towards their establishment and implementation. However, the role of the state should not be limited to this sole aspect. The state should make every effort to guarantee, protect, and defend both human and citizen rights and freedoms, which determines its main direction of humanization and humanitarian characteristics. Various international organizations, which constitute an international legal mechanism to protect human rights, play a significant role in the observance and protection of these rights and freedoms in Ukraine. The activity of these international organizations is primarily aimed at reforming the national system in this regard, rulemaking, and ensuring accountability, the rule of law, and dialogue between government and society. Consequently, these international organizations can be considered an additional guarantee for the observance and protection of human and civil rights and freedoms. This research aims to review the role and influence of international organizations such as the United Nations, the Council of Europe, the European Union, and the Organization for Security and Co-operation in Europe in the formation of the national mechanism to protect human rights and freedoms in Ukraine. For this purpose, international legal documents adopted within these organizations were analyzed to determine their specific features, role, and implementation in the country.

**Keywords:** human rights, international organizations, Ukraine, United Nations, Council of Europe, European Union, Organization for Security and Co-operation in Europe.

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**Received:** February 15, 2022; **evaluated:** March 10, 2022; **accepted:** March 29, 2022.

## EL PAPEL DE LAS ORGANIZACIONES INTERNACIONALES EN LA PROTECCIÓN DE LOS DERECHOS HUMANOS EN UCRANIA

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### **Resumen**

El reconocimiento estatal de los derechos humanos a nivel constitucional y legislativo es el primer paso, y el más urgente, hacia su establecimiento e implementación. Sin embargo, el papel del Estado en el campo de los derechos y libertades humanas no debe limitarse a este único aspecto. Debe hacer todos los esfuerzos posibles para garantizar, proteger y defender los derechos y libertades tanto del ser humano como del ciudadano, lo cual determina la humanización del Estado, con sus principales características humanitarias. Varias organizaciones internacionales, que constituyen un mecanismo legal internacional para proteger los derechos humanos, desempeñan un papel importante en la observancia y protección de los derechos humanos y las libertades en Ucrania. La actividad de estas organizaciones internacionales en este campo tiene como objetivo principal la reforma del sistema nacional correspondiente, la elaboración de normas, la garantía de la rendición de cuentas, el estado de derecho y el diálogo entre el gobierno y la sociedad. Debido a esto, estas organizaciones internacionales pueden considerarse como una garantía internacional adicional de la observancia y protección de los derechos y libertades humanos y civiles en Ucrania. El objetivo de la investigación es examinar el papel y la influencia de organizaciones internacionales como las Naciones Unidas, el Consejo de Europa, la Unión Europea, la Organización para la Seguridad y la Cooperación en Europa en la formación del mecanismo nacional de protección de los derechos humanos y las libertades en Ucrania. De acuerdo con este objetivo, se analizaron los documentos legales internacionales, adoptados dentro de estas organizaciones, para determinar sus características especiales, papel e implementación en Ucrania.

**Palabras clave:** derechos humanos, organizaciones internacionales, Ucrania, Naciones Unidas, Consejo de Europa, Unión Europea, Organización para la Seguridad y la Cooperación en Europa.

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**Recibido:** 15 de febrero de 2022; **evaluado:** 10 de marzo de 2022; **aceptado:** 29 de marzo de 2022.

## O PAPEL DAS ORGANIZAÇÕES INTERNACIONAIS NA PROTEÇÃO DOS DIREITOS HUMANOS NA UCRÂNIA

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### **Resumo**

O reconhecimento estatal dos direitos humanos no âmbito constitucional e legislativo é o primeiro passo, e o mais urgente, a seu estabelecimento e implementação. Contudo, o papel do Estado no campo dos direitos e liberdades humanos não deve estar limitado a esse único aspecto. Deve-se fazer todos os esforços possíveis para garantir, proteger e defender os direitos e liberdades tanto do ser humano quanto do cidadão, o que determina a humanização do Estado, com suas principais características humanitárias. Várias organizações internacionais, que constituem um mecanismo legal internacional para proteger os direitos humanos, desempenham um papel importante na observância e proteção dos direitos humanos e das liberdades na Ucrânia. A atividade dessas organizações internacionais nesse campo tem como objetivo principal a reforma do sistema nacional correspondente, a elaboração de leis, a garantia da prestação de contas, o Estado de direito e o diálogo entre governo e sociedade. Devido a isso, essas organizações internacionais podem ser consideradas como garantia internacional adicional da observância e proteção dos direitos e liberdades humanos e civis na Ucrânia. O objetivo desta pesquisa é analisar o papel e influência de organizações internacionais como as Nações Unidas, o Conselho Europeu, a União Europeia, a Organização para a Segurança e Cooperação na Europa na formação do mecanismo nacional de proteção dos direitos humanos e das liberdades na Ucrânia. De acordo com esse objetivo, foram analisados os documentos legais internacionais, adotados dentro dessas organizações, para determinar suas características especiais, papel e implementação na Ucrânia.

**Palavras-chave:** direitos humanos, organizações internacionais, Ucrânia, Nações Unidas, Conselho Europeu, União Europeia, Organização para a Segurança e Cooperação na Europa.

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**Recebido:** 15 de fevereiro de 2022; **avaliado:** 10 de março de 2022; **aceito:** 29 de março de 2022.



## INTRODUCTION

The development of Ukraine as a democratic, legal, and social state, by enshrining in its constitution the provision of the highest social value of a person—their life and health, honor, dignity, inviolability, and security—requires the formulation of new approaches to the protection of human rights.

In the context of the development of democracy, the observance of human rights and the creation of an appropriate and effective national system for their judicial protection constitute one of the major tasks of the state. Thus, human rights and freedoms and guarantees for their implementation have become the main concern and direction of activities in Ukraine. The Constitution of Ukraine entrusts the establishment and provision of these rights and freedoms to the state as its main duty. Consequently, in contrast to the previous emphasis of “A person for the State,” the 1996 Constitution (as amended and supplemented by the Law of Ukraine on December 8, 2004, No. 2222-IV) proclaimed the principle of “The State for the person.”<sup>1</sup> The state is accountable to its citizens for its activities among which affirming and ensuring human rights and freedoms is a principal commitment (Article 3 of the Constitution). The Constitution and the current national legislation assign to the state—represented by competent state bodies—the function of protecting the rights and freedoms of the country’s citizens, which guarantees everyone the right to seek protection of their violated rights. This model of protection is reflected in the Universal Declaration of Human Rights of 1948,<sup>2</sup> the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950,<sup>3</sup> and a number of other international legal instruments.

International legal mechanisms, including international organizations, play a significant role in the protection of human rights in Ukraine. In their human rights activities, they provide leadership and reform initiatives to strengthen national mechanism to protect these rights and freedoms in the country; provide information and advice on human rights issues; raise public awareness concerning these rights and freedoms; fund training programs and projects on important related issues, etc. In addition, international organizations are also important in the rulemaking process to ensure

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<sup>1</sup> Verkhovna Rada of Ukraine, “The Constitution of Ukraine.” <https://zakon.rada.gov.ua/laws/show/en/254%D0%BA/96-%D0%B2%D1%80#Text>.

<sup>2</sup> Verkhovna Rada of Ukraine, “The Constitution of Ukraine.”

<sup>3</sup> *Ibid.*

accountability and the rule of law, as well as dialogue between the government and society, and among different countries and international institutions, etc.

## **THE ROLE OF THE UNITED NATIONS IN THE FORMATION OF STATE POLICY**

An important agent in the protection of human rights and freedoms is the United Nations, which is a global international organization and whose main goal is to maintain and strengthen international peace, security, and the development of cooperation between countries. Within the structure of the UN, there are separate institutions and organizations involved in the direct protection of human rights and freedoms. Important international legal acts to protect human rights and freedoms have been adopted and implemented by the UN, which are held as international standards in this area. It should be noted that the principle of respect for human rights appeared after the Second World War and was first enshrined in Paragraph 3 of Article 1 of the UN Charter.<sup>4</sup> It sets forth the duty of states to promote and develop respect for human rights and fundamental freedoms for all, regardless of race, sex, language, or religion.

In September 2005, during the Summit of Heads of State and Government in New York (USA), a decision was made to create a new UN body in the field of human rights—the UN Human Rights Council. In accordance with Resolution A/RES/60/251, adopted in 2006 by the UN General Assembly,<sup>5</sup> the main goal of this Council is the protection of human rights and fundamental freedoms on a fair and equal basis, as well as the effective coordination and integration of activities related to human rights within the UN system.

To a large extent, the effectiveness of the UN Human Rights Council is determined by the functioning of the Universal Periodic Review (UPR) mechanism, which reviews all UN member states' compliance with their human rights obligations. During two cycles (2006-2011 and 2012-2017), the UPR proved its effectiveness as a fair and transparent mechanism based on the principle of equal treatment and criteria for all countries without exception. In May 2017, the third cycle of the UPR began.

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<sup>4</sup> United Nations, "United Nations Charter." June 26, 1945. <https://www.un.org/en/about-us/un-charter>.

<sup>5</sup> United Nations, "Resolution adopted by the General Assembly on 15 March 2006: 60/251. Human Rights Council." March 15, 2006. <https://undocs.org/en/A/RES/60/251>.

Actively cooperating with this mechanism of the UN Human Rights Council, Ukraine has already successfully passed three cycles of the UPR (2008, 2012, and 2017), and the reports on the country's completion of the 1st, 2nd, and 3rd cycles have been approved, as well as other materials. Ukraine gives priority to cooperation with the UN Human Rights Council in the field of human rights protection, considering this activity as an important contribution to strengthening international stability and security and spreading democratic standards in the world.

Ukraine became a member of the UN Human Rights Council in 2006. In 2008, the country was re-elected to the Council for a second term, until 2011. Since June 2011, Ukraine has actively cooperated with it as an observer, and in 2017 the country was again elected a member of the Council. The election and re-election of Ukraine to the UN Human Rights Council served as a recognition of the achievements of the country on the way of democratic development and strengthening its international authority.<sup>6</sup>

Participation of Ukraine in the work of the Council confirms its commitment to the fundamental principles enshrined in the Universal Declaration of Human Rights of 1948.<sup>7</sup> Moreover, it proves the country's readiness to play an active role in the international arena and establish effective international cooperation in this sphere, aimed primarily at adapting norms and standards in the field of human rights protection aligned with European ones as part of Ukraine's foreign policy towards European integration (joining the European Union in the future).

Within the UN Human Rights Council, Ukraine consistently and on a regular basis has highlighted the role of prevention of human rights violations. On June 27, 2014, during the 26th session of the UN Human Rights Council, a Ukrainian initiative was adopted as the resolution named "Cooperation with and assistance to Ukraine in the field of human rights." Based on the provisions of the reports of the UN Office of the High Commissioner for Human Rights, which contain assessments of the human rights situation in our country, especially in Crimea and eastern Ukraine, the resolution welcomes our cooperation with international human rights mechanisms and condemns human rights violations.<sup>8</sup>

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<sup>6</sup> Permanent Mission of Ukraine to the UN Office and other International Organizations in Geneva, "United Nations Human Rights Council (UNHRC)" (in Ukrainian). October 16, 2012. <https://geneva.mfa.gov.ua/posolstvo/2602-human-rights>.

<sup>7</sup> United Nations, "Universal Declaration of Human Rights." December 10, 1948. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

<sup>8</sup> Permanent Mission of Ukraine, "United Nations Human Rights Council (UNHRC)."

Ukraine is a party to almost all major UN international human rights instruments, the most important of which are the 1966 International Covenant on Civil and Political Rights,<sup>9</sup> the 1966 International Covenant on Economic, Social, and Cultural Rights,<sup>10</sup> the Optional Protocols thereto, the International Convention on the Elimination of All Forms of Racial Discrimination of 1965,<sup>11</sup> the 1989 Convention on the Rights of the Child,<sup>12</sup> the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,<sup>13</sup> the 1979 Convention on the Elimination of All Forms of Discrimination against Women,<sup>14</sup> the 2006 Convention on the Rights of Persons with Disabilities,<sup>15</sup> and the 2006 International Convention for the Protection of All Persons from Enforced Disappearance.<sup>16</sup>

Ukraine actively cooperates with the UN High Commissioner for Human Rights and the Office headed by him, which is responsible for coordinating all human rights activities within the UN. The country supports all measures aimed at strengthening the role of the High Commissioner and improving the coordination of UN bodies and mechanisms in the field of human rights.

At the invitation of the government of Ukraine and in response to the events in the country, in March 2014, the UN Secretary-General agreed to deploy the UN Human Rights Monitoring Mission in Ukraine (HRMMU). The Mission carries out monitoring, public reporting, and advocacy on the human rights situation in Ukraine. The mission has seven offices throughout the country: Kiev, Donetsk, Kharkiv, Kramatorsk, Luhansk, Mariupol, and Odessa.

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<sup>9</sup> United Nations, "International Covenant on Civil and Political Rights." December 16, 1966. [https://treaties.un.org/doc/treaties/1976/03/19760323%2006-17%20am/ch\\_iv\\_04.pdf](https://treaties.un.org/doc/treaties/1976/03/19760323%2006-17%20am/ch_iv_04.pdf).

<sup>10</sup> United Nations, "International Covenant on Economic, Social and Cultural Rights." December 16, 1966. [https://treaties.un.org/doc/treaties/1976/01/19760103%2009-57%20pm/ch\\_iv\\_03.pdf](https://treaties.un.org/doc/treaties/1976/01/19760103%2009-57%20pm/ch_iv_03.pdf).

<sup>11</sup> United Nations, "International Convention on the Elimination of All Forms of Racial Discrimination." December 21, 1965. <https://www.ohchr.org/Documents/ProfessionalInterest/cerd.pdf>.

<sup>12</sup> United Nations, "Convention on the Rights of the Child." New York, November 20, 1989. [https://treaties.un.org/doc/Treaties/1990/09/19900902%2003-14%20AM/Ch\\_IV\\_11p.pdf](https://treaties.un.org/doc/Treaties/1990/09/19900902%2003-14%20AM/Ch_IV_11p.pdf).

<sup>13</sup> United Nations, "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment." New York, December 10, 1984. [https://treaties.un.org/doc/Treaties/1987/06/19870626%2002-38%20AM/Ch\\_IV\\_9p.pdf](https://treaties.un.org/doc/Treaties/1987/06/19870626%2002-38%20AM/Ch_IV_9p.pdf).

<sup>14</sup> UN Women, "Convention on the Elimination of All Forms of Discrimination against Women." December 18, 1979. <https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

<sup>15</sup> United Nations, "Convention on the Rights of Persons with Disabilities and Optional Protocol." December 13, 2006. <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>.

<sup>16</sup> United Nations, "International Convention for the Protection of All Persons from Enforced Disappearance." December 20, 2006. [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_47\\_133.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_47_133.pdf).

The HRMMU operates under an Agreement between the government of Ukraine and the Office of the United Nations High Commissioner for Human Rights (OHCHR), signed on July 31, 2014, and implements the OHCHR mandate to protect and promote human rights all around the world. It documents violations of human rights and international humanitarian law, prepares public reports on the human rights situation in Ukraine, provides advocacy for the protection of human rights with state and non-state entities, analyzes draft laws, and provides recommendations to the Ukrainian government on their compliance with international human rights law and international humanitarian law, provides technical assistance to national partners, including civil society, etc. Every day, human rights professionals meet with victims and witnesses of human rights violations.

As stipulated by paragraph 5 of Resolution A/RES/71/205 of 19 December 2016,<sup>17</sup> the UN General Assembly proposed to the OHCHR, in accordance with the current mandate and within the available resources of the HRMMU, to systematically prepare thematic reports on the human rights situation in the Autonomous Republic of Crimea and the city of Sevastopol.

The tasks of the HRMMU, in addition to monitoring and reporting, include supporting the efforts of the Ukrainian authorities to strengthen the national system for the protection of human rights, in the context of the development of the National Human Rights Strategy, and the relevant action plan in particular, by providing advisory services and technical assistance.<sup>18</sup>

Concerning the current pandemic of Covid-19 disease, the HRMMU pays considerable attention to human rights severely restricted by quarantine measures. Thus, in December 2020, the HRMMU published a report on the impact of Covid-19 measures to prevent and mitigate its consequences on the human rights situation of the country. The document focuses on the effect of the pandemic on economic and social rights, with special attention to vulnerable people and groups.<sup>19</sup>

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<sup>17</sup> United Nations, "Resolution adopted by the General Assembly on 19 December 2016: 71/205. Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)." December 19, 2016. <https://undocs.org/en/A/RES/71/205>.

<sup>18</sup> Permanent Mission of Ukraine, "United Nations Human Rights Council (UNHRC)."

<sup>19</sup> Tania Tesliuchenko, "UN Human Rights Office to release its new report on the impact of COVID-19 on human rights in Ukraine." December 15, 2020. <https://ukraine.un.org/en/105315-un-human-rights-office-release-its-new-report-impact-covid-19-human-rights-ukraine>

This study highlights that the processes to reform human rights protection systems can be traced both at the UN level (universal system for the protection of human rights) and at the level of regional international organizations, such the Council of Europe, the European Union, and the Organization for Security and Co-operation in Europe (regional human rights systems). Today, these two models do not constitute separate parts of a whole but are constantly interconnected, which is reflected in different methods of cooperation and mutual influence.

## **THE INFLUENCE OF THE COUNCIL OF EUROPE**

The development of civil society, the rule of law, and the democratization of all spheres of public life is the strategic goal of Ukraine, which is of particular importance in the country's progression into the European space, approaching European standards of democracy.

The prospects of Ukraine's accession into the European space (acquisition of membership of the European Union in the future) underscore the compelling role of human rights as a leading integral guideline for Ukrainian civil society and the development of the rule of law. They are a system-forming component and a normative form of expression of the degree of freedom of the individual in a society bound by the rule of law. By cooperating in this direction with such a regional international organization as the Council of Europe, Ukraine is able to significantly improve its legislation on human rights and get integrated under European standards, improving thus its position in the international space.

The principal statutory condition for Ukraine's accession to the Council of Europe is the acceptance by the candidate state of the rule of law and its obligation to ensure human rights and fundamental freedoms for all persons under its jurisdiction. The country's accession to the Council of Europe testifies to its democratic choice and commitment to protecting human rights and strengthening democratic institutions.<sup>20</sup>

The accession of Ukraine to the Council of Europe in 1995, on the one hand, was a significant step for the state in the process of European integration, and, on the other hand, it attested that Ukraine assumed several international legal obligations, primarily regarding respect for and protection of human rights. Among them was

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<sup>20</sup> Ministry of Foreign Affairs of Ukraine, "Ukraine's participation in the work of the Council of Europe" (in Ukrainian). October 25, 2019. <https://mfa.gov.ua/mizhnarodni-vidnosini/rada-yevropi/uchast-ukrayini-u-diyalnosti-radi-yevropi>.

the ratification of a regional international treaty in 1997—the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950,<sup>21</sup> recognizing the jurisdiction of the European Court of Human Rights (ECtHR).

The ECtHR is an international judicial body at the regional level, established by the Council of Europe in 1959. The Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 determined the conditions for its functioning, and its Rules of Court were adopted on September 18, 1959. The Court considers individual (mainly) and interstate (rarely) applications (cases) and makes decisions regarding violations of the rights guaranteed by the 1950 Convention. It makes its decisions guided by the norms of this Convention and based on the practice of applying its previous rulings.

The ECtHR has observed an increase in the number of complaints filed. According to its statistics, 70% of the currently pending cases concern four countries: the Russian Federation, Turkey, Ukraine, and Romania.<sup>22</sup>

Statistics on appeals to the Court show that Ukrainian citizens most often apply to the ECtHR because of 1) excessive length of civil and criminal cases in courts; 2) torture and inhumane conditions in places of pre-trial detention or in places of execution of sentences; 3) inefficiency of investigation by law enforcement agencies of complaints of ill-treatment by representatives of state bodies; 4) lack of proper medical care for persons who are in places of pre-trial detention or in penitentiary institutions; 5) inadequate conditions of detention; 6) violation of the right to a fair trial; 7) violation of the human right to freedom of expression and the right to peaceful assembly; and 8) violation of the right to peaceful possession of one's property, etc.<sup>23</sup>

The large number of complaints received against Ukraine in the ECtHR highlights the inefficient work of domestic state bodies, even though, upon receiving the decision of the Court, the country tries to fulfill them, by paying compensation to the applicant and amending the current legislation. Therefore, in general,

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<sup>21</sup> European Court of Human Rights, "Convention for the Protection of Human Rights and Fundamental Freedoms." Roma, November 4, 1950. [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf).

<sup>22</sup> Ukrinform, "Ukraine is among the top three Council of Europe countries in the number of lawsuits to the European Court of Human Rights" (in Ukrainian). January 28, 2021. <https://www.ukrinform.ua/rubric-society/3180287-ukraina-u-trijci-krain-radi-evropi-za-killistu-pozoviv-do-espl.html>.

<sup>23</sup> Ukrinform, "Ukraine is among the top three Council of Europe countries."

the ECtHR has a positive effect on respect for human rights in Ukraine and is an efficient mechanism for protecting citizens in many cases.<sup>24</sup>

A significant stage of Ukraine's cooperation within the Council of Europe is the country's presidency in the Committee of Ministers of the Council of Europe in May–November 2011, which took place for the first time during Ukraine's membership in the Organization.

The program of the Ukrainian presidency focused on three main priorities: the protection of children's rights and human rights, the rule of law in the context of democracy and stability in Europe, and the strengthening and development of local democracy.

The most active phase of the second stage of the Council of Europe's reform took place during the presidency of Ukraine. During this period, the main objective was to determine the strategic priorities of the Council for the current decade and their practical implementation based on new tools and methods for the Organization's activity. Since 2014, the platform of the Council has become an important place of political and legal dimensions.

Ukraine obtained support for the adoption of several decisions of the Committee of Ministers of the Council of Europe, condemning the occupation by the Russian Federation of part of the eastern territories of the country and Crimea. The Russian Federation was requested to comply with all its obligations under international humanitarian<sup>25</sup> and international human rights law, including the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950,<sup>26</sup> and the principles and standards of the Council of Europe. It was also requested to take all necessary measures to respect human rights and immediately stop all violations of these rights, including denial of freedom of expression, freedom of peaceful assembly, freedom of religion and belief, discriminatory measures and

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<sup>24</sup> Ukrainian National Bar Association, "Number of cases against Ukraine to the European Court of Human Rights testifies to inefficient work of state bodies" (in Ukrainian). January 30, 2020. <https://unba.org.ua/news/5141-kil-kist-skarg-proti-ukraini-do-espl-svidchit-pro-neefektivnu-robotu-derzhorganiv-vitalij-vlasyuk.html>.

<sup>25</sup> Mariia Maistrenko, Kira Gorelkina, and Yevdokiia Buzhdyhanchuk, "International and national mechanisms for the protection victim's rights of armed conflict in eastern Ukraine." *Novum Jus* 15, Special Issue (2021). <https://novumjus.ucatolica.edu.co/article/view/4317>

<sup>26</sup> European Court of Human Rights, "Convention for the Protection of Human Rights and Fundamental Freedoms."



practices, arbitrary detention, torture, and other cruel, inhuman, or degrading treatments, and reprisals against persons belonging to minorities and to different ethnic and religious groups.

The conclusions of the Venice Commission as an advisory body to the Council of Europe created the foundation for the development of Ukraine's clear and consolidated international legal position regarding the problematic status of the occupied territories and their subsequent liberation, which directly affects the provision of rights for all categories of people in these territories.

This refers, in particular, to the recognition of the decision of the Verkhovna Rada of the Autonomous Republic of Crimea regarding the holding of a so-called referendum on the issue of joining the Russian Federation on March 16, 2014, in violation of the constitutional principles of Ukraine. In addition, the Venice Commission undermined the draft federal constitutional law "On the procedure for admission to the Russian Federation and the formation of a new constituent entity of the Russian Federation," stating that it was inconsistent with international law. Both decisions were adopted during the 98th plenary session of the Venice Commission (Venice, March 21-22, 2014).

Along with the decisions of the statutory bodies of the Council of Europe and other international organizations, these conclusions formed the legal foundations for the restrictive measures (sanctions) currently applied to the Russian Federation.<sup>27</sup>

One of the areas of Ukraine's cooperation with the Council of Europe in the field of human rights is the activity of the Council of Europe Office in Ukraine, which officially started its work on October 6, 2006. Its status is defined in the Memorandum of Understanding between the Government of Ukraine and the Council of Europe on the establishment of the Council of Europe Office in Ukraine and its legal status.<sup>28</sup>

The Office promotes the Council of Europe's mission in Ukraine to protect human rights and support democracy and the rule of law. In addition, it coordinates and ensures the implementation of cooperation projects and programs. One of the key

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<sup>27</sup> Ministry of Foreign Affairs of Ukraine, "Ukraine's participation in the work of the Council of Europe" (in Ukrainian). October 25, 2019. <https://mfa.gov.ua/mizhnarodni-vidnosini/rada-yevropi/uchast-ukrayini-u-diyalnosti-radi-yevropi>.

<sup>28</sup> Verkhovna Rada of Ukraine, "Memorandum of Understanding between the Government of Ukraine and the Council of Europe on the establishment of the Council of Europe Office in Ukraine and its legal status" (in Ukrainian). November 6, 2006. [https://zakon.rada.gov.ua/laws/show/994\\_775](https://zakon.rada.gov.ua/laws/show/994_775).

tasks of the Office is to strengthen the role of the Council of Europe in supporting Ukraine's efforts to ensure the full and effective implementation of the Council of Europe Action Plan for Ukraine.

The Council of Europe Action Plan for Ukraine for 2018-2021 (extended until the end of 2022) is a strategic cooperation policy to promote Ukraine's efforts to harmonize its legislation, institutions, and practices with European standards in the field of human rights, the rule of law, and democracy, supporting thus the country in fulfilling its obligations as a member state of the Council of Europe. The implementation of these tasks under the Action Plan will also contribute to achieving the goals defined by the 2014 Association Agreement between Ukraine and the European Union.<sup>29</sup> The total budget of the Action Plan is 29.5 million euros.

Currently, the Office coordinates the implementation of 17 different thematic projects of the Council of Europe in Ukraine, including four projects implemented with the financial support of the European Union.

The development and implementation of measures is carried out in those areas where the Council of Europe has significant expertise and additional useful advantages, namely: protection of democracy, rule of law, freedoms, and human rights; increasing the transparency and efficiency of public administration at the central and local levels; increasing the transparency of the political process and raising the level of trust in electoral practice; improving the conditions of detention and preventing ill-treatment of detainees by the police in prisons and other closed institutions; increasing the capacity of the State Bureau of Investigation (a law enforcement body of Ukraine that investigates criminal proceedings involving law enforcement officers, judges, and senior officials) to investigate cases of ill-treatment, torture, and other serious human rights violations; strengthening the Ombudsman's capacity in the field of human rights protection; expanding media pluralism and ensuring the safety of journalists; strengthening media freedom, access to information, and the Public Broadcasting System in Ukraine; strengthening the protection of human rights of internally displaced persons; strengthening the protection of social rights in society; promoting gender equality and combating sexism; preventing and combating violence against women and domestic violence; improving local and regional democracy and promoting decentralization reform; strengthening the protection

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<sup>29</sup> Verkhovna Rada of Ukraine, "Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States, of the other part" (in Ukrainian). [https://zakon.rada.gov.ua/laws/show/984\\_011](https://zakon.rada.gov.ua/laws/show/984_011).

of national minorities, including Roma and minority languages; promoting equal opportunities for vulnerable groups, with a special focus on women, children, and youth in such groups; and strengthening the legal and institutional framework for combating money laundering and terrorist financing in Ukraine.

In recent years, more than 14 projects and programs have been implemented that have helped Ukraine adopt a number of important legislative acts and carry out significant institutional reforms.

Since 2014, considerable progress has been made in harmonizing Ukrainian legislation and institutions with European standards, as evidenced by judicial reform, sectoral decentralization, community reunification, public service broadcasting, and the establishment of legal and institutional frameworks to combat corruption. Thus, in the framework of the implementation of the Action Plan for 2015-2017, there were significant positive changes in key areas, including the functioning of justice and criminal justice systems and the prosecutor's office; approximation of the country's criminal justice system to European standards; improving the training of lawyers on the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950<sup>30</sup> and the case law of the European Court of Human Rights; creation of public broadcasting, promotion of media pluralism and protection of freedom of speech; protection of the rights of internally displaced persons; improving the quality of free legal aid and facilitating access to it; development of education for democratic citizenship and human rights education; democratic governance and management of socio-cultural diversity; improving the effectiveness of the fight against corruption, money laundering, and cybercrime; strengthening the capacity of the Verkhovna Rada of Ukraine to monitor the implementation of the decisions of the European Court of Human Rights, as well as preparing a package of laws for the ratification of the Convention on Preventing and Combating Violence against Women and Domestic Violence of 2011 (Istanbul Convention)<sup>31</sup>; developing interagency cooperation to respond to cases of violence against women and children, as well as increasing the capacity of law enforcement agencies to combat abuse; decentralization reform and development of local self-government; promoting gender equality and women's empowerment; and promoting the active involvement of civil society in reforms.

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<sup>30</sup> European Court of Human Rights, "Convention for the Protection of Human Rights and Fundamental Freedoms."

<sup>31</sup> Council of Europe, "Council of Europe Convention on Preventing and Combating of Violence against Women and Domestic Violence." Istanbul, May 11, 2011. <https://rm.coe.int/168008482e>.

Thus, the Council of Europe Office in Ukraine plays a leading coordinating role in adopting measures to implement the Action Plan, as well as programs and projects aimed at supporting the country in fulfilling its statutory and specific obligations as a member state of the Council of Europe.

To date, the Council of Europe Office in Ukraine is the largest Council of Europe office among the countries of presence, employing 53 professionals. In close cooperation with the Ukrainian authorities and civil society, it is helping carry out the necessary reforms in the fundamental areas of the Council of Europe's competence—human rights, the rule of law and democracy.<sup>32</sup>

## THE ROLE OF THE EUROPEAN UNION

Respect for and protection of human rights are one of the guiding directions of the European Union (EU) in accordance with the goals and principles of the Organization, enshrined in the founding treaties. Any European country that adheres to the principles of freedom, democracy, respect for human rights and fundamental freedoms, and the rule of law may apply to the EU for membership, as provided for in Articles 6 and 49 of the Treaty on European Union of 1992.<sup>33</sup> The criteria that candidate states must meet for accession to the European Union were approved at a meeting of the European Council in Copenhagen (Denmark) in June 1993. According to the Copenhagen criteria, EU membership, in terms of political standards, requires the candidate state to have stability of institutions guaranteeing democracy, rule of law, respect for human rights, and protection of minorities.

Although respect for human rights and freedoms is a fundamental principle underlying the functioning of the European Union, there is no integral mechanism for the protection of human rights in the EU. The national systems functioning in the Member States are complemented by a system of protection at the level of the European Union. In addition, the protection of human rights and freedoms is carried out within the Council of Europe, to which all EU Member States are members. The formation of a system of legal norms at the level of the European

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<sup>32</sup> Council of Europe Office in Ukraine, "About the Council of Europe Office in Ukraine." [https://www.coe.int/uk/web/kyiv#{%227074895%22:\[0\]}](https://www.coe.int/uk/web/kyiv#{%227074895%22:[0]}).

<sup>33</sup> Verkhovna Rada of Ukraine, "Treaty on European Union" (in Ukrainian). February 7, 1992. [https://zakon.rada.gov.ua/laws/show/994\\_029](https://zakon.rada.gov.ua/laws/show/994_029).

Union in this regard took place gradually and has significant potential for further development.<sup>34</sup>

States wishing to become members of the EU must not only enshrine the principles of democracy and the rule of law in their constitutions, but also put them into practice. The constitutions of the applicant states must guarantee democratic freedoms, including political pluralism, freedom of speech, and freedom of conscience. They must establish democratic institutions and independent judiciaries, bodies of constitutional jurisdiction, which creates the necessary conditions for the proper functioning of state institutions, free and fair elections, periodic changes in the parliamentary majority, and recognition of the role of the opposition in political life.

The effective provision and protection of human rights and freedoms is of paramount importance for Ukraine, which is striving to be a democratic, legal, and social state. The study of improving the existing mechanism to protect human rights and freedoms becomes especially relevant in connection with the desire of the country to join the European Union, in particular, in the context of the Association Agreement between Ukraine and the European Union.<sup>35</sup>

Article 2 of the Association Agreement stipulates that respect for democratic principles, human rights, and fundamental freedoms, as well as respect for the rule of law, must form the basis of the domestic and foreign policies of the Parties and are essential elements of this Agreement. According to Article 4, political dialogue in all areas of mutual interest shall be further developed and strengthened between the Parties. Such dialogues aim, *inter alia*, to strengthen respect for democratic principles, the rule of law, human rights, and fundamental freedoms, including the rights of persons belonging to national minorities, non-discrimination against persons belonging to minorities and respect for diversity, and contribution to the consolidation of domestic political reforms.<sup>36</sup>

Reforms of the mechanism for the protection of human rights and freedoms in Ukraine are also happening in the context of the implementation of the EU Visa Liberalization

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<sup>34</sup> A.V. Voitsikhovskiy, *Human rights in international law: A textbook*. Kharkiv: Planeta-Print LLC, 2021.

<sup>35</sup> Verkhovna Rada of Ukraine, "Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States, of the other part" (in Ukrainian). June 27, 2014. [https://zakon.rada.gov.ua/laws/show/984\\_011](https://zakon.rada.gov.ua/laws/show/984_011)

<sup>36</sup> Verkhovna Rada of Ukraine, "Association Agreement."

Plan for Ukraine,<sup>37</sup> which launched a visa dialogue to develop appropriate conditions for the introduction of a visa-free regime between the the country and the EU.

In pursuance of these acts, Decree No. 501/2015 of the President of Ukraine on August 25, 2015, approved the National Strategy for Human Rights, which aims to ensure the priority of human rights and freedoms as a decisive factor in determining public policy and decision-making by state authorities and local self-government bodies.<sup>38</sup>

Among the challenges facing the Ukrainian state, which has chosen the European vector of development, the approximation of Ukrainian legislation in the field of human rights protection to universally recognized European standards is of paramount importance. At the same time, in our opinion, directions of a promising reformation of the legislation in the field of human rights protection in the context of European integration consist of improving the legislation of Ukraine in terms of ensuring the principle of equality and non-discrimination; the functioning of human rights institutions such as the Commissioner for Human Rights of the Verkhovna Rada of Ukraine, the court, and the prosecutor's office; and the mechanism for protecting the rights of national minorities and the rights of internally displaced people.

Within the framework of Ukraine's cooperation with the European Union towards European integration, on December 1, 2014, the European Union Advisory Mission (EUAM) officially started its work in our country. The legal basis for this EUAM activity is the Agreement between the EU and Ukraine on the status of the European Union Advisory Mission for Civilian Security Sector Reform in Ukraine (EUAM in Ukraine) of 2014.<sup>39</sup>

The EUAM in Ukraine is a civilian mission of the European Union Common Security and Defense Policy (CSDP). The mission supports Ukrainian authorities in a consistent reform of the civilian security sector through strategic consultations

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<sup>37</sup> Verkhovna Rada of Ukraine, "European Union Visa Liberalization Action Plan for Ukraine" (in Ukrainian). November 22, 2010. [https://zakon.rada.gov.ua/laws/show/984\\_001](https://zakon.rada.gov.ua/laws/show/984_001)

<sup>38</sup> President of Ukraine, "National strategy in the field of human rights: approved by the Decree of the President of Ukraine No. 501/2015" (in Ukrainian). August 25, 2015. <https://www.president.gov.ua/documents/5012015-19364>.

<sup>39</sup> Verkhovna Rada of Ukraine. "Agreement between the European Union and Ukraine on the status of the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine)" (in Ukrainian). [https://zakon.rada.gov.ua/laws/show/984\\_012](https://zakon.rada.gov.ua/laws/show/984_012)

and practical support for reform measures in accordance with EU standards and international principles of good governance and respect for human rights.

The EUAM team consists of more than 260 Ukrainian and international specialists, located mainly in Kyiv, and with offices in other cities such as Lviv, Odessa, and Kharkiv. They implement the mandate of the EUAM in accordance with three principles: 1) strategic consultations on reforming the civilian security sector and developing strategies for this sector; 2) support for the implementation of reforms by providing practical advice, training, and project implementation; and 3) cooperation to ensure the coordination of reforms between Ukrainian and international partners.

The civilian security sector covers the activity of institutions responsible for law enforcement and the rule of law: the Ministry of Internal Affairs of Ukraine, the National Police, the Security Service, the State Border Guard Service of Ukraine, the Prosecutor General's Office, local courts and anti-corruption bodies with the active participation of civil society and parliament.

The EUAM team of international consultants consists mainly of representatives of the European Union. Experienced experts in the field of security, policing, the judiciary, combating corruption, respect for human rights, and public relations share their experience with the Mission's Ukrainian partners as part of a joint effort to accelerate the process of reforming civilian security.<sup>40</sup>

The priorities of the Mission in Ukraine include:

- *National and state security.* The EUAM promotes the reform of security and intelligence agencies, as well as the introduction of effective and efficient mechanisms for democratic supervision of their activity.
- *Organized and cross-border crime.* The EUAM contributes to the expansion of the country's capabilities in the field of combating crime and further development of the integrated border management system.
- *Community security and police management system.* The EUAM helps develop trusting relationships between police and communities by establishing dialogue and providing quality policing services.

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<sup>40</sup> EUAM Ukraine, "About us." <https://www.euam-ukraine.eu/ua/our-mission/about-us/>.

- *Criminal justice.* The EUAM promotes the efficiency of the investigative bodies, the prosecutor's office, and the judiciary to ensure the administration of justice and the protection of citizens' rights.
- *Digital transformation and innovation.* The EUAM promotes the implementation of innovative digital solutions in the system of public administration and personnel management in Ukraine.

Having determined these five priorities in varying degrees, the EUAM in Ukraine has identified three “cross-cutting issues” that are reflected in each of the five priorities and apply to all agencies in the civilian security sector of the country. These “cross-cutting issues” include:

- *Respect for human rights and gender equality.* This is a key component of the consultations provided by the EUAM to partners in the civilian security sector, in particular, the police.
- *Ensuring good governance.* The purpose of the Mission is to ensure that the principles of proper EU governance (openness, participation, accountability, efficiency, and clarity) are reflected in the consultations and support provided by the EUAM in Ukraine.
- *Combating corruption.* As corruption is considered to be the greatest obstacle to the promotion and protection of human rights and the implementation of relevant reforms in Ukraine, the EUAM makes efforts to strengthen the capacity of national law enforcement agencies and the judiciary to combat and prevent corruption. Thus, the EUAM assists the newly established anti-corruption bodies in the country (National Anti-Corruption Bureau, Specialized Anti-Corruption Prosecutor's Office, and National Agency on Corruption Prevention).

Among the key achievements of the EUAM in Ukraine in reforming the civilian security sector are the following: participation in the development of a number of strategic documents, including the Law of Ukraine “On National Security” in 2018<sup>41</sup>; development strategy of the Ministry of Internal Affairs<sup>42</sup>; witness protection

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<sup>41</sup> Verkhovna Rada of Ukraine, “On National Security” (in Ukrainian). <https://zakon.rada.gov.ua/laws/show/2469-19#Text>.

<sup>42</sup> Ministry of Internal Affairs of Ukraine, “Strategy of the development of the Ministry of Internal Affairs 2020” (in Ukrainian). December 24, 2020. <https://mvs.gov.ua/en/press-center/infographics/strategiya-rozvitku-mvs-do-2020-roku>.



program, concept of reforming the Security Service of Ukraine, and the corresponding action plan; introduction of the concept of police interaction with the community (community policing)<sup>43</sup>; introduction and promotion of a new approach to ensuring public order through police dialogue; assistance in the development of the program “Serious and Organized Crime Threat Assessment (SOCTA)”<sup>44</sup>; improvement of the work of police criminal investigation departments by combining the functions of investigators and operatives,<sup>45</sup> etc.

## **THE STANDARDS OF THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE**

Since the mid-1970s, in the international legal documents adopted within the framework of the Conference on Security and Cooperation in Europe (CSCE) (since 2005 renamed the Organization for Security and Co-operation in Europe - OSCE), there is a clear tendency to define the functions of international and domestic law in the field of human rights. The OSCE, today, is the largest regional international intergovernmental organization uniting 57 countries in North America, Europe, and Central Asia.<sup>46</sup>

The first document of the CSCE, the Final Act of the Conference on Security and Cooperation in Europe of 1975<sup>47</sup> enshrined the principle of respect for human rights and fundamental freedoms as a principle of international law, and established a balance of equal interaction between international legal and national regulation of human rights. The document established that the participating states should “promote and encourage the effective exercise of civil, political, economic, social, cultural, and other rights and freedoms... Act jointly and independently in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights.” Similarly, the participating

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<sup>43</sup> EUAM Ukraine, “EUAM’s Community Policing curriculum complements educational programme for Ukraine’s universities.” November 25, 2021. <https://www.euam-ukraine.eu/news/euam-s-community-policing-curriculum-complements-educational-programme-for-ukraine-s-universities/>.

<sup>44</sup> EUAM Ukraine, “Modern threat assessment system will enhance fight against serious and organised crime in Ukraine.” January 28, 2022. <https://www.euam-ukraine.eu/news/modern-threat-assessment-system-will-enhance-fight-against-serious-and-organized-crime-in-ukraine/>.

<sup>45</sup> EUAM Ukraine, “EUAM calls for radical improvement in criminal investigations in Ukraine.” June 14, 2017. <https://www.euam-ukraine.eu/news/euam-calls-for-radical-improvement-in-criminal-investigations-in-ukraine/>.

<sup>46</sup> Voitsikhovskiy, *Human rights in international law*.

<sup>47</sup> Organization for Security and Co-operation in Europe (OSCE), “Conference on Security and Co-operation in Europe. Final Act.” Helsinki, 1975. <https://www.osce.org/files/l/documents/5/c/39501.pdf>.

states formulated the concept of comprehensive security, which is based on the three dimensions or so-called “three baskets” of OSCE security.

The first two dimensions are military and political, and economic and environmental. The human dimension refers to the commitments undertaken by the participating states within the OSCE, namely: ensuring full respect for human rights and fundamental freedoms, recognizing the rule of law, contributing to the strengthening of the principles of democracy, and, in accordance with this, establishing, strengthening, and protecting democratic institutions, as well as promoting tolerance in the OSCE region.

A special section of the 1975 Final Act, covering a wide range of issues of interaction in the field of human rights, is devoted to the sphere of humanitarian cooperation.<sup>48</sup> The participating states set the goal of ensuring free movement and contacts, on an individual and collective, formal and informal basis, among their people, institutions, and organizations, as well as contributing to the solution of humanitarian issues arising in this area.

The participating states committ themselves to respect human rights and freedoms, including freedom of thought, conscience, religion, or belief, for all people regardless of race, sex, language, or religion; to encourage and develop the effective exercise of civil, political, economic, social, cultural, and other rights and freedoms that arise from the inherent dignity of the human person and are essential for their free and full development. Within this framework, the participating states agree to recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of their own conscience.

The participating states recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice, and wellbeing necessary to ensure the development of friendly relations and co-operation among themselves as among all states. They must constantly respect these rights and freedoms in their mutual relations and endeavour jointly and separately, including in co-operation with the United Nations, to promote universal and effective respect for them.

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<sup>48</sup> Organization for Security and Co-operation in Europe (OSCE), “Conference on Security and Co-operation in Europe.”

The participating states of the CSCE Final Act<sup>49</sup> confirm the right of the individual to know and act upon his rights and duties. In the field of human rights and fundamental freedoms, the participating states must act in conformity with the purposes and principles of the Charter of the United Nations<sup>50</sup> and with the Universal Declaration of Human Rights of 1948.<sup>51</sup> They must fulfil their obligations as set forth in the international declarations and agreements in this field, including, *inter alia*, the International Covenants on Human Rights, by which they may be bound.<sup>52</sup>

Ukraine has been a member of the OSCE since January 30, 1992. This membership ensures the equal participation of our state in discussing and resolving urgent problems of international security and cooperation in the region of the Organization, such as settling “frozen” conflicts, developing mechanisms for control over weapons, countering transnational threats, protecting the environment in the context of energy, and implementing OSCE human dimension commitments with a focus on media freedom and youth education.

As a result of the Ukrainian Presidency, at the meeting of the OSCE Council of Foreign Ministers in Kiev (Ukraine) on December 5-6, 2013, a number of important decisions and declarations were adopted in all three dimensions of the Organization and within the Forum for Security and Cooperation.

Among the priorities of Ukraine’s activity in the OSCE in the field of human rights protection, the following should be singled out:

1. Deepening cooperation with OSCE institutions and participating states to strengthen the OSCE Special Monitoring Mission to Ukraine, as well as expanding the mandate of OSCE observers and ensuring the monitoring of the OSCE Office for Democratic Institutions and Human Rights.
2. Ensuring the presence of the following priority issues on the OSCE agenda: ending violations of fundamental principles and commitments within the Organization, restoring confidence and the need for peaceful settlement of international disputes, strengthening organizational tools in the field of conflict

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<sup>49</sup> Organization for Security and Co-operation in Europe (OSCE), “Conference on Security and Co-operation in Europe.”

<sup>50</sup> United Nations, “United Nations Charter.”

<sup>51</sup> United Nations, “Universal Declaration of Human Rights.” December 10, 1948. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

<sup>52</sup> Voitsikhovskiy, *Human rights in international law*.

prevention, updating the means of strengthening trust and security, ensuring freedom of speech in the media, combating propaganda, strengthening the protection of human rights, preventing the abuse of the consensus rule, etc.

3. Involving OSCE expertise by expanding projects of practical assistance in the implementation of the internal reform program in Ukraine (in the military and law enforcement spheres).

In this context, Ukraine advocates, in particular, for balancing the three dimensions of the OSCE, improving field operations and OSCE peacekeeping, and ensuring compliance with the principle of geographical equality in personnel policy.<sup>53</sup>

On March 21, 2014, the participating states decided to send the OSCE Special Monitoring Mission (SMM) to Ukraine. According to the decision taken, the SMM collects information and reports to the participating states on the security situation in the area of responsibility, identifies and informs about incidents regarding violations of basic principles and commitments within the OSCE, monitors the situation of respect for human rights and fundamental freedoms, and promotes dialogues seeking to reduce tension and normalize the situation.

To create proper conditions for the work of the OSCE SMM in Ukraine, on April 14, 2014, a Memorandum of Understanding was signed between the Government of Ukraine and the OSCE on the deployment of this Mission.<sup>54</sup>

After signing the Minsk Protocol of September 5, 2014 (Agreement on temporary truce in the war in Eastern Ukraine) and the Minsk Memorandum of September 19, 2014 (Agreement on bilateral cessation of weapons), an important phase of the SMM began in Ukraine by providing assistance in implementing the provisions of these documents. The SMM also played a leading role in monitoring the implementation of the measures established in the Minsk Agreements reached during the meeting of the presidents of Ukraine, Germany, France, and Russia on February 12, 2015. The main task of the SMM in this regard consisted of monitoring the observance of ceasefire, the withdrawal of heavy weapons, and the establishment of sustainable monitoring of the Ukrainian-Russian state border, which was temporarily not

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<sup>53</sup> Ministry of Foreign Affairs of Ukraine, "Organization for Security and Cooperation in Europe (OSCE)" (in Ukrainian). <https://mfa.gov.ua/mizhnarodni-vidnosini/organizaciya-z-bezpeki-i-spivrobitnictva-v-yevropi>.

<sup>54</sup> Verkhovna Rada of Ukraine, "Memorandum of Understanding between the Government of Ukraine and the Organization for Security and Cooperation in Europe (OSCE)."

controlled by the Government of Ukraine, as well as the withdrawal from the country's territory of all foreign armed formations, military equipment, and mercenaries, including the disarmament of all illegal groups. The SMM's mandate extended to the entire territory of Ukraine, including Crimea,<sup>55</sup> and it included daily reports on the development of the situation in Ukraine, sent to the participating states through the OSCE Secretariat.<sup>56</sup>

As a new form of cooperation between Ukraine and the OSCE, the OSCE Project Co-ordinator in Ukraine was established in June 1999. The Co-ordinator's legal framework consists of its Mandate, approved by the OSCE Permanent Council and renewed every six months, and the Memorandum of Understanding between the Government of Ukraine and the OSCE of July 13, 1999.<sup>57</sup>

The Project Co-ordinator plans, implements, and monitors projects that seek to help Ukraine strengthen its security and improve its legislation, institutions, and practices in accordance with democratic standards. The purpose of this activity is to support the country's efforts to ensure that its laws, structures, and processes meet the requirements and characteristics of a modern democratic state, and create a safer environment for its citizens.<sup>58</sup>

The main areas of the activity of the OSCE Project Co-ordinator in Ukraine include:

- Democratization and good governance: Civil society development, assistance in strengthening electoral processes, and promoting national dialogue in Ukraine.
- Rule of law and human rights: Further strengthening the rule of law in Ukraine; strengthening the capacity of state bodies and public organizations in the field of combating human trafficking; ensuring gender equality and combating domestic violence; supporting the development of administrative justice; improving the quality of legal education in the country; supporting the unity of judicial practice in the field of human rights; guaranteeing human rights

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<sup>55</sup> Ministry of Foreign Affairs of Ukraine, "Organization for Security and Cooperation in Europe (OSCE)."

<sup>56</sup> N.I. Karpachova, "The role of international human rights organisations in the context of the conflict in Eastern Ukraine." *Journal of the National Academy of Legal Sciences of Ukraine* 28, no. 1 (2021): 24-31.

<sup>57</sup> Verkhovna Rada of Ukraine, "Memorandum of Understanding between the Government of Ukraine and the Organization for Security and Cooperation in Europe (OSCE)."

<sup>58</sup> Organization for Security and Co-operation in Europe (OSCE), "OSCE Project Co-ordinator in Ukraine: Mandate." <https://www.osce.org/project-coordinator-in-ukraine/mandate>.

in the administration of justice; supporting the reform of the National Police bodies; and supporting national dialogue for reform, justice, and development.

- Human security: Strengthening the legal framework in the field of combating human trafficking, cybercrime, and gender inequality, including domestic violence, as well as the prosecution of such crimes.
- Economic-environmental and political-military sphere: Development of national capacity in the field of humanitarian demining; improving national environmental security standards and response capabilities to environmental threats, including assistance in chemical and biological security, and cleaning up contamination from explosive remnants of war; and supporting projects in the field of combating money laundering.<sup>59</sup>

Ukraine also actively cooperates with other OSCE institutions in the field of observance and protection of human rights, in particular with the OSCE High Commissioner on National Minorities, the OSCE Office for Democratic Institutions and Human Rights, and the OSCE Representative on Freedom of the Media.

Cooperation with the OSCE High Commissioner on National Minorities is related to drafting Ukrainian legislation in the field of protection of the rights of former deportees and language policy, as well as national minorities in Ukraine's bilateral relations with other states.

The OSCE Office for Democratic Institutions and Human Rights, in addition to issues of human rights and freedoms, democracy, the rule of law, and non-discrimination, is engaged in election observation in the participating states, and has been monitoring electoral processes in Ukraine since 1998.

The Ukrainian party also pays great attention to the development of a constructive dialogue with the OSCE Representative on Freedom of the Media, who assists the Member States in creating free and independent media as one of the principal elements for the functioning of a pluralistic democracy.<sup>60</sup>

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<sup>59</sup> Ministry of Foreign Affairs of Ukraine, "Organization for Security and Cooperation in Europe (OSCE)."

<sup>60</sup> Ministry of Foreign Affairs of Ukraine, "Organization for Security and Cooperation in Europe (OSCE)"; Voitsikhovskiy, *Human rights in international law*.

## CONCLUSIONS

In summary, in the current context of international relations, the level of human rights protection in any country is determined not only by the effectiveness of its national judicial system, but also its integration into the international human rights system. International protection of human rights is an integral and defining component of the contemporary legal order. International organizations play an important practical role in all spheres of public life and their importance is crucial for all categories of persons, as they act as an effective international legal mechanism for ensuring human rights and freedoms.

As one of the founding members of the United Nations, Ukraine has been a member of this universal system of human rights protection since 1945, participating in the development of international legal acts on human rights and in the work of the UN control and human rights bodies. However, it is possible to identify a real, independent stage of this participation starting from 1991, when Ukraine, as a result of the declaration of its independence<sup>61</sup> became an independent subject of international law.

The term of stay of Ukraine in the European system of human rights protection is much shorter and begins in November 1995, when the country became a member of the Council of Europe. A little earlier, in January 1992, Ukraine was officially recognized as one of the full member states of the Conference on Security and Cooperation in Europe (now OSCE). In addition, the influence of the European human rights system on the reform of the national human rights system in Ukraine has been strengthened by European integration and the intention of our country to become a member of the European Union, as enshrined in the Constitution of Ukraine<sup>62</sup> on February 7, 2019.

Despite the short time spent in the European system of human rights protection (within the Council of Europe and the OSCE), its effectiveness is obvious. It was during this short period that the country achieved concrete results in the field of ensuring human rights, including the recognition of the jurisdiction of the European Court of Human Rights as an additional guarantee of the real exercise by citizens

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<sup>61</sup> Verkhovna Rada of Ukraine, "On Declaration of Independence of Ukraine." <https://zakon.rada.gov.ua/laws/show/en/1427-12#Text>.

<sup>62</sup> Verkhovna Rada of Ukraine, "The Constitution of Ukraine."

of Ukraine of their right to international protection, abolition of the death penalty (as a condition for membership in the Council of Europe), etc.

The participation of Ukraine in the international human rights protection system (universal and European) testifies to the implementation of the norms of international legal acts in the field of human rights in its national legislation. As a result, guaranteed by the 1996 Constitution,<sup>63</sup> human rights are clearly formulated and comply with international legal standards.

At the same time, the country faces serious problems in putting into effect some of the human rights enshrined in its Constitution, especially social and economic ones, which have been ratified by international legal instruments. However, undoubtedly, these human rights can be implemented in the future, provided that external and internal factors contribute to this, or at least do not prevent our country from freely developing on the way to a democratic society and the rule of law.

Human rights violations in the context of military conflicts have become a relevant issue for the country. The occupation of some territories in eastern Ukraine and the annexation of Crimea in 2014 and the military aggression of the Russian Federation in 2022 caused significant violations in the field of international humanitarian law (intentional destruction of civilian objects and civilian critical infrastructure; murder, theft, and civilian abduction; usage of prohibited weapons, etc.).

The international organizations whose activity has been the subject of this study play a significant role in resolving military conflicts. The mechanism for this is usually considered as political, but it is, of course, based on modern international law. In addition, most international organizations have bodies specifically designed to resolve conflicts. Thus, the final thesis of this study is that according to the Charter of the United Nations, conflict resolution should be carried out “in conformity with the principles of justice and international law” (Article 1).<sup>64</sup>

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<sup>63</sup> Verkhovna Rada of Ukraine, “The Constitution of Ukraine.”

<sup>64</sup> United Nations, “United Nations Charter.”



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