

PROBLEMS OF TRANSITIONAL JUSTICE IN UKRAINE

Ensuring the sustainable development of the state in the post-conflict and post-authoritarian periods is possible only if the model of transitional justice is applied. Most of the problems with the implementation of the transitional justice model in Ukraine are directly related to Russia's rejection of all efforts to build up political dialogue, as well as attempts to hold it accountable for inciting hostility and armed aggression. However, there is also a domestic context that complicates the process the transitional justice model implementing in Ukraine. First of all, it has a complex ideological and legal nature and is associated with the existence of a number of systemic problems of social and economic nature in Ukraine. Finally, the key issues in the implementation of transitional justice in Ukraine include the following:

1. Ideological immaturity of Ukrainian society by a regional feature. There is a rejection of European integration policy, and some reforms within the state, including judicial reform in several regions of Ukraine, especially in the East. It is mainly about Donetsk, Luhans'k, Kharkiv regions and partly Odesa. This is stipulated by pro-Russian sentiment in these regions. The problem is complicated by the fact that local elections have not been held in some inhabited localities of Donetsk and Luhans'k regions since the beginning of the conflict. As a result, officials with clear separatist sentiments have remained in office. Some of them even supported the militants at the beginning of the conflict.

2. Political stratification in the Ukrainian Parliament. First of all, it is about the presence of pro-Russian political forces in the Verkhovna Rada of Ukraine that have the possibility to influence political decisions (for example, "Oppositional Platform – For Life"). The fundamental problem is that these forces insist upon the statement that there is a civil war in Donbas. Russia enjoys this position and constantly refers to it at the international level. The leaders of these political parties are usually oligarchs who have business and individual economic ties in Russia.

3. Insufficient level of international humanitarian law implementation in Ukraine. Until 2014, Ukraine's national security policy was mostly declarative and could not ensure the practicable state of national interests' protection. The state was completely unprepared for an armed conflict, as a result of which both military and civilians were affected. One of the reasons for this situation is the underdeveloped mechanisms for the international humanitarian law application in Ukraine. As a result, victims of the armed conflict found themselves almost outside legal framework. The legislation on the status of missing persons in the zone of an armed conflict is also imperfect. The inadequate level of international humanitarian law implementation in Ukraine has led to the fact that the progress of transitional justice

¹ Viktor Filatov, Candidate of Law, Associate Professor of Civil, Commercial and Environmental Law Department, University of Customs and Finance, internally displaced person, analyst of the NGO "Human Rights Group Sich", Ukraine. E-mail: filatov_viktor@ukr.net.

is very slow, as national legislation should be adapted to generally accepted world standards.

4. Lack of a holistic vision of the transitional justice concept in the national space. This problem is related to that there is no single concept of transitional justice at the state level in the seventh year of armed aggression by Russia. Therefore, in fact, no issue of transitional justice's directions and principles implementation is formalized at the legislative level in Ukraine. The concept pipeline work, which is carried out by both the authorities and scientists and lawyers and public (mostly by human rights organizations, whose target audience is victims of armed conflict), is being continued at present.

All these problems together deepen the conflict and lead to the fact that the state can not reach the stage of sustainable development. This entails other problems such as growing distrust to the authorities, estrangement of the population of the occupied territories from Ukraine, image losses at the European scene, and protracted institutional reforms. Emphasis should also be placed on wasting time, which allows the aggressor state to destroy evidence and witnesses of its war crimes. There is also no harmonization of all spheres of public life with the transitional justice realities, which require the implementation of non-standard solutions to establish peace and historical truth. It is obvious that the existing problems by their nature are political and legal and should be solved at the level of the public administration system reforming and lawmaking intensifying in the field of transitional justice, which should begin with the adoption of an appropriate strategy. Another consequence of the existing problems is the lack of vision of the final results of the transitional justice model implementation. This leads to the situationality of government's actions that do not meet the public interests, as well as the interests of those categories of citizens who have suffered from the armed conflict and the annexation of Crimea.