



Organization for Security and
Co-operation in Europe
Project Co-ordinator in Ukraine



Global Affairs
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Ministry of Education and Science of Ukraine
Taras Shevchenko National University of Kyiv
Faculty of Law



Supreme
Court



Ukrainian
Catholic
University

ANNUAL INTER-UNIVERSITY SCHOOL ON TOPICAL ISSUES IN THEORY AND PRACTICE OF HUMAN RIGHTS LAW

**“The Right to a Fair Trial in International and European human rights law:
Main Concepts and Practice of Their Implementation””**

9 - 13 July 2018, Odesa, Ukraine,

*within the framework of the OSCE Project Co-ordinator in Ukraine's “Safeguarding Human Rights through Courts” Project
implemented with the financial support of the Government of Canada
in cooperation with the Supreme Court,
Taras Shevchenko National University of Kyiv and Ukrainian Catholic University*

DAY 1 – 08 July 2018 – SUNDAY

16.00 – 18.00 Working meeting of the Faculty and organizers
(discussion of agenda, hand-outs, practical exercises, group division, assigning facilitators and moderators for group work, etc.)

Day 2 – 09 July 2018 – MONDAY

General introduction to the School, methodology and topics

Moderator: TBC

09.30 – 09.45 **Opening of the School and introductory remarks**

- Mr. Jeff Erlich, Senior Project Manager, OSCE Project Co-ordinator in Ukraine
- TBC, Embassy of Canada in Ukraine
- Ms. Tetyana Antsupova, Judge of the Supreme Court
- Mr. Pavlo Pushkar, Head of Division, Department for the Execution of Judgments of the European Court of Human Rights, Council of Europe

Moderator: Mr. Hasan Bakirci, Deputy Registrar, Section 2, Registry of the European Court of Human Rights

09.45 – 10.15

- Presentation of the Faculty of the School
- Presentation of the students of the School

Expectations are to be voiced as well – 1 sentence per presenter

10.15 – 10.45 The background to the School, School methodology and the theme of the School
Speaker: Mr. Pavlo Pushkar

10.45 – 11.15 **Building bridges**
Each mini-group would have 10 minutes to find 3- 5 personal things that all of them have in common (e.g. coffee-drinkers, first time in Odesa, have cats/dogs/plants, specific music preferences etc.). These should be not work-related things and not obvious ones (like two legs, two hands, interested in human rights). Each mini-group then voices 3-5 things they have in common inside the group. Sometimes results of different mini-groups match, thus uniting mini-groups into one big group as well.
Facilitator: TBC

11.15 – 11.30 *Coffee break*

A letter to yourself (what do I expect from the School – my learning objectives) – small notes to be signed and put into a bowl
Facilitator: Mr. Pavlo Pushkar

- 11.30 – 11.45 **Setting up “home rules” together**
 (Silent mode of mobiles, hand up for questions, “no bad questions”, respect to agenda timeframes, speakers, interaction with facilitators, individual reading is a must, different presenters from groups etc.)
Facilitator: TBC
- 11.45 – 13.00 Work in mini-groups with facilitators “Defining what fairness is”
- 13.00 – 14.00 *Lunch*

The scope of the right to a fair hearing / trial

Moderator: Mr. Pavlo Pushkar

- 14.00 – 14.30 Presentation of group work results
- Concluding remarks as to constituent elements of fairness**
Facilitators: All Faculty as per mini-groups
- 14.30 – 15.00 The right to a fair hearing as assured by the European Convention on Human Rights (ECHR), case-law of the European Court of Human Rights (ECtHR), procedures before the ECtHR
Speaker: Mr. Costas Paraskeva, Advocate, Member of the European Committee for Prevention of Torture
- 15.00 – 15.15 Discussion
Speaker / facilitator: Mr. Costas Paraskeva
- 15.15– 15.45 The Role of the Supreme Court in Ensuring Fair Trial. Coherence of the Judicial Practice as an element of the right to a fair trial
Speaker: Ms. Tetyana Antsupova.
- 15.45 – 16.15 Interactive practical exercises / Discussion
Speaker / facilitator: Ms. Tetyana Antsupova
- 16.15 – 16.30 *Coffee break*
- 16.30 – 16.45 **Distribution of the moot court case (I am not 100% sure it is a good timing. They will not yet know which group they are in for submissions. To be discussed with Faculty)**
- 16.45 – 17.15 Reassessment of day by the students
 Faculty leaves the room. Project representative facilitates assessment and presents results to the Faculty
- 17.15 – 17.45 **Debriefing of the day for the Faculty based on assessment and briefing for next day, students’ groups mix**
- 18.00 *Welcoming dinner*

Day 3 – 10 July 2018 – TUESDAY

Constituent elements of fairness

Moderator: Mr. Todd Foglesong, Professor at Munk School of Global Affairs, University of Toronto

- 09.00 – 09.30 Reconnecting previous day
[Where are we now? Who are we still? Impressions of participants](#)
[Facilitator: Mr. Pavlo Pushkar](#)
- 09.30 – 10.00 Constituent elements of a fair hearing
Speaker: Mr. Pavlo Pushkar
- 10.00 – 10.30 The rights of the accused under Article 6 of the ECHR and the right to legal assistance under the case-law of the ECtHR
Speaker: Mr. Hasan Bakirci
- 10.30 – 11.15 Why is it important to assure independence and impartiality of the judiciary?
Why are issues of judicial discipline and careers important? (the Grand Chamber proceedings in the case of Denisov v. Ukraine)
Speaker: Mr. Jess Gavron
- 11.15 – 11.45 Case study: Why must trial be fair?
Speaker / facilitator: Mr. Todd Foglesong
- 11.45 – 12.00 *Coffee break*
- 12.00 – 12.45 The right to a fair hearing in context of international human rights law and the Article 14 of the ICCPR
Speaker: Ms. Carmen Cheung, Legal Director, Center for Justice and Accountability
- 12.45 – 13.00 Work in mini-groups: How do the provisions of the Article 14 of the ICCPR and Article 6-1 of the ECHR compete or complement one another?
Speaker / facilitator: Ms. Carmen Cheung
- 13.00 – 14.00 *Lunch*

Specific case studies – jury trials and the waiver of the right to a fair trial, international criminal law and the law of occupation

Moderator: Mr. Todd Foglesong

- 14.00 – 14.30 Presentation of group work results
[Facilitators: All Faculty as per mini-groups](#)
- 14.30 – 15.15 Right to a fair trial in context of international criminal law / international humanitarian law (the law of occupation) and its upholding by the international criminal courts / ECtHR / issues of transitional justice

Speaker: Mr. Mykola Gnatovskyy, President of the European Committee for Prevention of Torture

- 15.15 – 15.30 Discussion
Speaker / facilitator: Mr. Mykola Gnatovskyy
- 15.30 – 17.00 *Coffee break and **movie “12 angry men”***
- 17.00 – 17.30 Discussion:
Can only jury trials be fair in context of criminal law?
Why are jury trials perceived to be fair?
Can a right to a fair hearing in criminal cases be waived?
Why does one need a plea bargaining system and not a jury trial system?
Speakers / facilitators: Mr. Mykola Gnatovskyy, Mr. Pavlo Pushkar, Mr. Todd Foglesong
- 17.30 – 17.45 Reassessment of day by the students
Faculty leaves the room. Project representative facilitates assessment and presents results to the Faculty
- 17.45 – 18.00 *Debriefing of the day for the Faculty based on assessment and briefing for next day, students' groups mix*
- 18.00 *Dinner and Pub Quiz*
Participation of Faculty is obligatory – they join different teams for support

Day 4 – 11 July 2018 – WEDNESDAY

The right to a fair hearing in Ukrainian domestic law

Moderator: Mr. Costas Paraskeva

- 09.00 – 09.30 Reconnecting the previous days
Where are we now? Why am I still here? Impressions of participants and an energizer from Mr. Paraskeva
Facilitator: Mr. Costas Paraskeva
- 09.30 – 10.15 Why are remedies important?
Speaker: Ms. Olesya Otradnova, Deputy Dean of the Faculty of Law and Professor at the Taras Shevchenko National University of Kyiv
- 10.15 – 10.45 Interactive practical exercise
Speaker / facilitator: Ms. Olesya Otradnova
- 10.45 – 11.00 *Coffee break*
- 11.00 – 11.45 Fair trial standards in ensuring protection of criminal law in Ukraine
Speaker: Ms. Svitlana Khyliuk, Head of Master Programme on Human Rights and Professor at the Ukrainian Catholic University

- 11.45 – 12.00 Interactive practical exercise
Speaker / facilitator: Ms. Svitlana Khyliuk
- 12.00 – 12.40 Why is the free legal aid system important for ensuring the right to a fair hearing?
Building the free legal aid system in Ukraine
Speaker: Mr. Oleksiy Bonyuk, Head of Coordination Center of Free Legal Aid Provision
- 12.40 – 13.00 Interactive practical exercise
Speaker / facilitator: Mr. Oleksiy Bonyuk
- 13.00 – 14.00 *Lunch*

Alternative dispute resolution and the right to a fair hearing

Moderator: Ms. Olesya Otradnova

- 14.00 – 14:30 Alternative dispute resolution and the right to a fair hearing, mediation
Speaker: Mr. Pavlo Pushkar
- 14.30 – 15.00 Exercise on the issues of international arbitration
Speaker / facilitator: Mr. Pavlo Pushkar
- 15.00 – 15.30 Commercial arbitration as a waiver of a right to a fair hearing (focus on private dispute settlement)
Speaker / facilitator: Ms. Aminat Suleymanova, Managing Partner at AGA Partners
- 15.30 – 15.45 Interactive practical exercise
Speaker / facilitator: Ms. Aminat Suleymanova
- 15.45 – 16.00 *Coffee break*

Compliance with the judicial decisions: execution of judgments as an element of rule of law and access to justice

Moderator: Ms. Carmen Cheung

- 16.00 – 16.30 Enforcement of domestic judgments as a constituent element of ensuring rule of law. The Grand Chamber judgment in the case of Burmych and Others v. Ukraine
Speaker: Mr. Hasan Bakirci
- 16.30 – 17.00 Execution of judgments of the ECtHR. Special focus on reform of the judiciary. Cases of Burmych and Others and Volkov and Salov group of cases
Speaker: Mr. Pavlo Pushkar
- 17.00 – 17.30 Exercise: How to execute a judgment of the ECtHR
Speakers / facilitators: Mr. Anatoliy Miroshnychenko, Member of the Higher Council of Justice and Mr. Oleksiy Bonyuk

17.30 – 17.45	Reassessment of day by the students Faculty leaves the room. Project representative facilitates assessment and presents results to the Faculty
17.45 – 18.00	Debriefing of the day for the Faculty based on assessment and briefing for next day, assigning groups and facilitators for the moot court
18.00	<i>Barbeque dinner</i>

Day 5 – 12 July 2018 – THURSDAY

Independence and impartiality of the judiciary – how to ensure it?

Moderator: Mr. Mykola Gnatovskyy

09.30 – 10.00	Reconnecting previous days (Where are we now? Do I still exist? Do I still believe in human rights? Why do I need this?) Facilitator: Mr. Mykola Gnatovskyy
10.00 – 10.45	How to assure independence and impartiality of the judiciary – are disciplinary proceedings against judges a mean to assure fairness? Speaker: Mr. Anatoliy Miroshnychenko
10.45 – 11.30	Issues of judicial independence and anti-corruption measures Speaker: Mr. Przemyslaw Musialkowski,
11.30 – 11.45	<i>Coffee break</i>
11.45 – 13.00	Exercise: How to draw a line in disciplinary procedure between issues of judicial discipline and interference with the judicial decision-making? Speakers / facilitators: Mr. Anatoliy Miroshnychenko, Mr. Andriy Boyko, Member of the Higher Council of Justice
13.00 – 14.00	<i>Lunch</i>
14.00 – 14.30	The Right to a fair hearing in the EU law: importance for Ukraine Speaker: Mr. Mykhaylo Mykiyevych, Dean of the Faculty of International Relations at the Ivan Franko National University of Lviv
14.30 – 15.00	Exercise / Discussion on a European Court of Justice case Speaker / facilitator: Mr. Mykhaylo Mykiyevych

Getting ready to the moot court (Part I)

Moderator: Mr. Hasan Bakirci

15.00 – 15.30	Discussion of the rules to be applied
15.30 – 16.00	Rules of admissibility and procedure before the ECtHR Facilitator: Mr. Costas Paraskeva
16.00 – 16.15	<i>Coffee break</i>
16.15 – 16.45	How the moot court would be organised Facilitator: Mr. Hasan Bakirci
16.45 – 18.00	Work in groups on the moot court case with the help of facilitators (part I)
18.00	<i>Dinner</i>

Day 6 – 13 July 2018 – FRIDAY

Getting ready to the moot court (Part II)

Moderators of the moot court: Mr. Mykola Gnatovskyy, Mr. Hasan Bakirci, Mr. Pavlo Pushkar

09.00	Departure to the Odesa Regional Commercial Court of Appeals (venue for the moot court)
09.30 – 10.00	Meeting with the panel of honorary judges of the moot court and welcoming remarks: <ul style="list-style-type: none"> - Ms. Nataliia Bogatska, President of the Odesa Regional Commercial Court of Appeals - Mr. Denys Chernyshov, Deputy Minister of Justice of Ukraine - Mr. Andriy Boyko, Member of the Higher Council of Justice of Ukraine
10.00 – 10.30	Questions and answers – discussion and interaction with the Faculty on the moot court, reiteration of the order of submissions
10.30 – 11.00	<i>Coffee break</i>
11.00 – 13.00	Work in groups on the moot court case with the help of facilitators (part II)
13.00 – 14.00	<i>Lunch</i>

THE MOOT COURT

14.00 – 16.00	Presentations of the parties / pleadings in the case
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16.00 – 16.15	<i>Coffee break</i>
16.15 – 17.00	<p>For students: Discussion of letters to yourself (although would be good to do that jointly with the Faculty)</p> <p>For the Faculty: Assessment of the results of the competition and identifying best students who will get Faculty reference letters. The Faculty reference letters will be issued to three best students only, based on evaluation checklists that will have been filled in by every Faculty member</p>
17.00 – 17.30	<p>Announcing moot court results</p> <p>Closing remarks by the Faculty and organizers of the School</p> <p>Issuance of Faculty reference letters and ceremony of award of the certificates Group photo Closure of the School</p>
17.30 - 19.30	<i>Farewell dinner at the Odesa Regional Commercial Court of Appeals and transfer to the hotel</i>