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## EXPERIENCE OF UKRAINE IN THE NATIONAL HUMAN RIGHTS STRATEGY PREPARATION AND IMPLEMENTATION

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### ОПЫТ УКРАИНЫ В ПОДГОТОВКЕ И РЕАЛИЗАЦИИ НАЦИОНАЛЬНОЙ СТРАТЕГИИ В ОБЛАСТИ ПРАВ ЧЕЛОВЕКА

**Summary.** The article describes the prerequisites and process of adopting a National Human Rights Strategy in Ukraine. The role of civil society organizations in the process of adoption and implementation of the Strategy and Action Plan for its implementation, stages and methods of public monitoring of their implementation are revealed. Special attention was paid to the lack of clear indicators for the Strategy implementation and indicators for achieving the expected results. Analysis of the monitoring results for 4 years with conclusions was conducted. Ways to improve the approach to preparing and evaluating the implementation of the Human Rights Strategy are proposed.

**Резюме.** В статье описываются предпосылки и процесс принятия Национальной стратегии в области прав человека в Украине. Раскрыта роль организаций гражданского общества в процессе принятия и реализации Стратегии и Плана действий по ее реализации, этапы и методы общественного мониторинга их исполнения. Особое внимание было уделено отсутствию четких показателей реализации Стратегии и показателей достижения ожидаемых результатов. Проведен анализ результатов мониторинга за 4 года и сформулированы выводы. Предлагаются пути усовершенствования подхода к подготовке и оценке реализации Стратегии в области прав человека.

*Keywords: human rights, public policy, civil society organizations, National Human Rights Strategy*

*Ключевые слова: права человека, государственная политика, организации гражданского общества, Национальная стратегия в области прав человека.*

**Problem Statement.** The Constitution of Ukraine declares that an individual, his life and health, honour and dignity, inviolability and security shall be recognised in Ukraine as the highest social value.

Human rights and freedoms and their guarantees determine the essence and orientation of the activity of the State. The State is answerable to the individual for its activity. To affirm and ensure human rights and freedoms is the main duty of the State.

Analysis of recent research and publications. Most scholars explore specific areas and human rights, such as social security, health care, children's rights, and more. The genesis of human rights and freedoms as universal civilizational values is the subject of study of the theory of law, constitutional, international, and administrative laws. G. Khrystova studied the structure of the state's obligations in the field of human rights.

Various aspects of the institutionalization of human rights in the processes of European state-building and public administration, the conceptual principles of human rights research in public administration have already been considered in the works of L. Novak-Kalyaeva, P Petrovsky, L Prokopenko.

However, there is not enough scientific research to reveal the process of public policy making in the field of human rights and to evaluation of its implementation with CSO participation.

The purpose of the article is to identify the positive aspects and weaknesses in the formulation of public policy on human rights, through the National Strategy on Human Rights and on the basis of their proposals for strategic documents in this field, it may be: Civil Society Development Strategy, Gender Equality Strategy and, the Poverty Reduction Strategy and others.

Presenting main material. Ukraine ratified a number of international treaties on human rights. Such treaties are, in particular, the International Covenant on Civil and Political Rights, the International Covenant on Social, Economic and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, and others. Ukraine has also agreed to periodic reporting to the UN treaty bodies on treaties implementation. On the results of the reporting cycle UN Committees provides recommendations to improve the human rights situation.

In the framework of the mechanism of universal periodical review of (UPR

), conducted regular review of UN member states are obliged 'commitments in the field of human rights. The UPR assesses the States activities in the field of human rights and takes the necessary measures to address human rights violations worldwide.

The results of examination of UN member states provide the country a number of recommendations for improving opportunities in certain areas of human rights. On the results of the 2nd cycle in 2012 to Ukraine were given 145 recommendations, in 2017 - 190.

The signing in 2014 of the Association Agreement with the European Union, the European Atomic Energy Community and their Member States actualized the need of harmonization of national legislation with the European Union, including the field of human rights.

Civil society organizations and the Commissioner Parliament on human rights were initiated development of a National Human Rights Strategy in order to properly implement the recommendations of UN agencies, harmonization of national legislation with EU legislation, addressing systemic problems, including those identified in the judgments of the European Court of Human Rights against Ukraine, civil society organizations and the Commissioner Parliament on human rights were initiated development of a National Human Rights Strategy.

National strategy (or plans) in the field of human rights is one of the common tools enforce countries international obligations on human rights. Also, in the praise of such strategic documents it is recommended by the structures of the UN [10] and the European Union.

The first comprehensive National Human Rights Strategy (Strategy) was adopted by the Presidential Decree No.501/ 2015 of 25 August 2015 [ 6 ]. the Action Plan for the implementation of the National Human Rights Strategy for the period up to 2020 (the Human Rights Action Plan) was approved by the decree of the Cabinet of Ministers of Ukraine No. 1393- p of 23 November 2015 [ 7 ]. Ukraine's international commitments, the recommendations of the UN human rights treaty bodies, as well as the European integration areas took into account during the preparation of the Strategy.

The documents (both the Strategy and the Human Rights Action Plan) are the result of a compromise reached during the dialogue between government officials, the civil society organizations and with the assistance of international organizations.

The purpose of the Strategy implementation is to ensure the priority of human rights and freedoms as a determining factor in the definition of state policy, decision-making by public authorities and local self-government bodies [ 6 ].

Since 2016 in order to encourage the authorities to implement appropriate strategies used many different ways. In 2016, a Memorandum of Cooperation with the Ombudsman was prepared in the framework of the public work on monitoring the Strategy. There

were about one hundred participants in the Public Monitoring Platform: CSOs, indigenous representatives, international organizations and experts [ 4 ].

The process of monitoring the National Strategy and Action Plan implementation includes, in accordance with the Memorandum, the following provisions [ 4 ]:

The sections of the Action Plan are monitored by relevant CSOs in accordance with their field of activity.

Collection and processing of public information:

- periodic collection: receiving quarterly reports from the authorities on the Action Plan implementation;

- current collection: in the process of interaction in working groups, participation in meetings, through submission of requests to the authorities;

The information resources of the interested organizations are used, as well as the social networks on which they are located, in particular:

- Action plan with information on the progress of its implementation, contact details of the responsible central executive bodies and civil society organizations;

- monitoring reports of CSOs;

- evaluation and recommendations of international organizations;

- other information that demonstrates the progress or regression of Ukraine in the field of human rights.

Determining the implementation status of the Action Plan: not completed, partially implemented, in progress, completed.

The achievement of the expected results of the National Human Rights Strategy is monitored in accordance with the indicators developed.

Thematic reports on the state of implementation of the National Strategy on Human Rights are prepared and published at the request of the monitoring participants.

Every year by December 10 the Ministry of Justice of Ukraine conducts a public discussion on the state of the National Human Rights Strategy implementation. At which the monitoring participants present the results of their work and discuss them with the government executors.

As part of the public monitoring as of July 1, 2016, representatives of civil society organizations analyzed the status of implementation of 204 measures of the Action Plan, which were planned to be implemented in the relevant reporting period [ 1 ].

These reports were sent to the Cabinet of Ministers of Ukraine, the Administration of the President of Ukraine, the executors of the Human Rights Action Plan from the key central executive bodies.

From the very beginning of the public monitoring, it was determined that the main reasons for non-implementation of the Action Plan are:

- lack of understanding of the content of the Action Plan measures by the executors of the central executive bodies and low qualification of the employees;

- unwillingness to use the expert potential of the human rights organizations;
- detachment (autonomy) of the Action Plan from other plans and programs that exist in parallel;
- during the development of the Action Plan didn't take into account decentralization processes;
- monitoring of the Strategy and Action Plan implementation is based on indicators developed for the Action Plan and not for the Strategy;
- lack of knowledge of the citizens and officials of the government of the Strategy and Plan of action and a general low level of awareness about the human rights, the dominant role of negative stereotypes in society [ 2, c. 34 - 35].

The response to the recommendations was a formal instruction from the Cabinet of Ministers of Ukraine to the central executive bodies "to ensure the proper fulfillment of the Action Plan for the implementation of the National Human Rights Strategy" There was no real control over the implementation of the Action Plan by the Cabinet of Ministers of Ukraine.

Instead, coordinate the authorities, as well as form, publish and ensure annually by December 10 a public discussion of the report on the Action Plan implementation with the participation of government officials, local governments, civil society, international organizations and, if necessary, amend the Action Plan taking into account the results of such discussion is entrusted to the Ministry of Justice of Ukraine.

In 2017, the Civic Platform carried out a thematic monitoring of the Human Rights Action Plan implementation. Several areas were identified in which the analytical report "Human Rights as an Iceberg in the Ocean of Reforms" [9] was prepared and discussed with the authorities.

According to public monitoring, the state of Plan of Action implementation increased gradually 2016 - 21%, 2017 - 24%, 2018 - 29%, 2019 - 33%. The data differed significantly from the Ministry of Justice information. This was explained by the fact that the calculations of public organizations made after a deep analysis of the compliance of the results of the measures taken by the government.

Working Group on Monitoring the National Human Rights Strategy implementation was established in the Verkhovna Rada Committee on Human Rights, National Minorities and International Relations to strengthen the control over the Strategy implementation. In 2017, 2018, 2019, thematic Committee hearings were held on the implementation of some areas of the National Strategy. Also a "Draft Laws Roadmap" was formed for the parliament, which needs to be adopted for the proper National Strategy implementation.

In 2018, at the initiative of civil society organizations, the Prime Minister of Ukraine decided to develop amendments to the Human Rights Action Plan. The process of joint elaboration of the proposal by public authorities and public organizations showed the possibility of reaching a consensus between the

authorities and representatives of civil society, as well as within the civil society itself.

From the first year of monitoring the implementation of the Human Rights Action Plan, it was clear that formal implementation of the measures was not a real indicator of an assessment of the human rights situation, From the first year of monitoring the implementation of the Human Rights Action Plan, it was clear that formal implementation of the measures was not a real indicator of an assessment of the human rights situation. For examples such indicators as trainings or draft law act are not the result.

The Ministry of Justice attempted to improve the monitoring situation of the Plan and the Strategy. In November 2018, the methodology and methodology for monitoring the implementation of the National Human Rights Strategy until 2020 and the action plan for its implementation were approved. In fact, it is an operational document that standardizes the procedure for collecting data by the coordinating body. However, this document is not a system of indicators that meet international best practices and showed the state to achieve the intended result, the document addresses the issue of impact assessment, but does not establish any procedures or methodologies for doing so [ 5 ].

There are different types of public policy evaluations, as well as the actions of participants involved in this process, at all stages of its implementation. The main types of public policy evaluations include: evaluation of the implementation process; evaluation of the result; impact assessment; evaluation of economic efficiency. Here we can agree with Kravchuk Irina that in general most of the strategic documents have indicators for evaluating the results of their implementation. Selected documents are based on the final evaluation of the previous document implementation period and the analysis of the current state of affairs [3; p. 73]. However, the Action Plan does not have such indicators, only performance indicators in terms of the powers of the Cabinet of Ministers of Ukraine.

Human rights indicators play an important role in the implementation of human rights standards and commitments to support policy making, impact assessment and transparency.

The Office of the United Nations High Commissioner for Human Rights has developed a framework of indicators to respond to the long-standing demand for the development and deployment of relevant statistics in the promotion of human rights [10].

One of the recommendations of the World Conference on Human Rights in Vienna was to use and analyze indicators to help measure progress in the field of human rights. This system is already in use by national governments, national human rights institutions and non-governmental organizations around the world.

It is necessary to develop indicators for evaluation the effectiveness of public policy in the field of human

rights together with public authorities and civil society organizations Based on existing international instruments and mechanisms for a unified approach to assessing. They must, in turn, be based on the following indicators: structural, procedural, result.

In our opinion, there are two ways to evaluate the effectiveness of implementing human rights policy in Ukraine:

1) assessment by public authorities, by strengthening the institutional capacity for central-level evaluation, defining the powers of such bodies;

2) assessing by the civil society organizations that are directly engaged in monitoring.

This approach will give an objective picture consideration of public authorities in the exercise of their powers taking into account the basic principles of their activity – human rights.

Some general conclusions from the Strategy monitoring:

- The different way of the formulation of strategic directions leads to different monitoring approaches: from general (to assess overall progress) to cross-cutting for the purposes of certain social groups.

- Taking into account existing plans / strategies, as at least 50 thematic and general strategic documents intersect with the Strategy and Plan.

- Nonsystematic evaluation of strategic documents as a common problem

- Implementation of the evaluation and monitoring system already at the stage of plan development (clear definition of the baseline and measured expected results).

- Lack of disaggregated data, in particular statistics by gender, age, location.

- Realistic timing and tasks: moving from ambitious (strategic) to practical (implementation) measures designed for a shorter period (two or three years).

In order to properly implement the Strategy and implement the Action Plan, it is necessary to strengthen the coordination mechanism through:

- a higher political level of coordination at government level,

- coordination with Parliament (the creation of appropriate working tools to establish appropriate planning drafting committees) because without adoption of necessary laws sometimes impossible to implement measures

- taking into account the regional context and involvement of the regions in the process of implementation, evaluation of progress and results.

### References

1. Report on the Monitoring Results of the Implementation of the National Human Rights Strategy

(Q2 2016) / Ed. count: Semyorkina K., Blaga A., Moysa B. and others; for the total. ed. A. Bushchenko, B. Kryklyvenko. - Kyiv, 2016. - 47 p.

2. Report on the results of monitoring the implementation of the National Human Rights Strategy. Prepared by the participants of the Memorandum on Cooperation between Representatives of Civil Society and the Commissioner for Human Rights of the Verkhovna Rada of Ukraine / Ed. count: Semyorkina K., Blaga A., Moysa B. and others; for the total. ed. A. Bushchenko, B. Kryklyvenko. - K., 2017. - 17s.

3. Kravchuk I. Evaluation of State Policy in Ukraine / I. Kravchuk // Bulletin of the National Academy of Public Administration under the President of Ukraine.– 2010. - № 4. - P. 72-79.

4. Memorandum on Cooperation between Representatives of Civil Society and the Commissioner of the Verkhovna Rada of Ukraine for Human Rights [Electronic resource] // Public Monitoring Platform. - Access mode: <http://hro.org.ua/index.php?r=3.1>.

5. On Approval of the Methodology and Methods of Monitoring the Implementation of the National Human Rights Strategy for 2020 and the Action Plan for its Implementation Order of the Ministry of Justice of Ukraine dated November 28, 2018 No. 1353/32805 [Electronic resource]: Access mode: <https://law.rada.gov.ua/laws/show/z1353-18>

6. On Approval of the National Human Rights Strategy [Electronic resource]: Presidential Decree No. 501/2015 of August 25, 2015 - Access Mode: <http://zakon3.rada.gov.ua/laws/show/501/2015>.

7. On Approval of the Action Plan for the Implementation of the National Human Rights Strategy for the Period to 2020 [Electronic resource]: Order of the Cabinet of Ministers of Ukraine No. 1393-r of 23 November 2015 - Access mode: <http://www.kmu.gov.ua/control/uk/cardnp?docid=248740679>

8. On the Principles of State Policy of Ukraine in the Field of Human Rights [Electronic resource]: resolution of the Verkhovna Rada of Ukraine No. 757-XIV, dated 17.06.1999 - Access mode: <https://zakon.rada.gov.ua/laws/show/757-14>

9. Human rights as an iceberg in an ocean of reform. Thematic report on the results of monitoring the implementation of the National Human Rights Strategy <http://hro.org.ua/index.php?id=1504718666>

10. Handbook on National Human Rights Plans of Action. Professional training series no. 10. EN / P / PT / 10 - United Nations New York and Geneva 2002. - 108 c.

11. Human Rights Indicators A Guide to Measurement and Implementation HR / PUB / 12/5 - United Nations New York and Geneva 2012 - 174 c.