

Crimes against humanity and the application of relevant international law in domestic courts



A seminar and mock trial activity for Ukrainian judges, prosecutors, and defence counsel

Venue: Office of Democratic Institutions and Human Rights / 10 Miodowa / Warsaw, Poland / 11-12 May

To advance accountability for international crimes in Ukraine through the review of emerging topics in international humanitarian law, international criminal law, and international human rights law, the OSCE Office for Democratic Institutions and Human Rights (ODIHR), assembles Ukrainian practitioners and experts from across the OSCE region for a spring 2026 seminar.

This seminar, the first in series of 2026 seminars on accountability for atrocity crimes, will consider the qualification of various crimes against humanity—including the sufficiency standards for establishing “widespread or systematic” element—along with modes of liability, and select fair trial issues. The war crime and crimes against humanity of torture will be considered, along with relevant modes of liability and evidentiary considerations. The format of the seminar will also include practical activities and discussions, promoting legal application against hypothetical fact patterns. This will allow groups of Ukrainian defence attorneys, prosecutors, and judges to represent their respective sides and debate pertinent substantive and procedural issues they could encounter before Ukrainian domestic courts. Experienced judges and prosecutors from the OSCE region will discuss the application of jurisprudence from their international courts, addressing both relevant substantive and procedural issues facing Ukrainian practitioners.

The overall objective of the seminar is to support Ukraine in meeting its OSCE commitments in holding “[i]ndividuals... personally accountable for war crimes and acts in violation of international humanitarian law” (Stockholm, 1992), ensuring the independence of the judiciary as a requisite of the rule of law, acting as a fundamental guarantee of a fair trial (Brussels, 2006); and recognizing “defence lawyers play a critical role in ensuring the right to a fair trial and in the furtherance and protection of other human rights in the criminal justice system” (Ljubljana, 2005).

The seminar will also foster cooperation between Ukrainian legal professionals and international experts to support training needs, thereby enhancing their capacity to uphold the rule of law and fair trial rights in alignment with international legal standards. More specifically, the seminar aims to enhance the skills of Ukrainian judges, prosecutors, and defence counsel in:

1. Trial and litigation skills through simulated court-style debates, based on fact patterns presenting practical relevant legal issues, and through good practices shared by experienced practitioners from international courts.

2. Select substantive and procedural topics applicable within the context of Ukraine’s adjudication of crimes against national security from bodies of international criminal law, international humanitarian law, and international human rights law.
3. Qualification of crimes against humanity, including the crime of torture.
4. Application of international law within the context of Ukraine's recent legal legislative developments, including the ratification of the Rome Statute and codification of crimes against humanity and command responsibility.

The seminar is supported by the “Ensuring Accountability for Violations of International Law” activity of ODIHR’s Ukraine Project.

AGENDA

Monday, 11 May 2026

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|----------------------|---|
| 9:00 – 9:30 | Arriving to ODIHR, security clearance, and coffee |
| 9:30 – 9:40 | <p>Opening remarks
 Judge Konstantine Vardzelashvili, Head of Democratization, ODIHR</p> <p>ODIHR overview on “Support to Ukraine” program
 Iryna Sukhinina, Project Officer, Ukraine Project, ODIHR</p> |
| 9:40 – 9:55 | <p>Introductions – tour de table
 Moderator: Christopher Russell, Rule of Law Officer, ODIHR</p> |
| 9:50 – 10:30 | <p>Elements of crimes against humanity</p> <p>Speaker: Dr. Nobuo Hayashi, Associate Professor, Department of International and Operational Law, Swedish Defence University</p> <ul style="list-style-type: none"> • The “widespread or systematic” element of crimes against humanity (per the Rome Statute and customary international law) • Examples of crimes against humanity (i.e. murder, torture, persecution) • The <i>Čelebići</i> test |
| 10:30 – 10:50 | Practical discussion: crimes against humanity |
| 10:50 – 11:00 | Coffee break |
| 11:00 – 11:35 | <p>Key judgements of the ICC in crimes against humanity cases
 Speaker: Hon. Judge Joanna Korner, CMG KC,</p> |

International Criminal Court

- Key ICC caselaw on crimes against humanity
- What constitutes a “widespread or systematic” attack in the eyes of the ICC?
- Questions and answers

11:35 – 12:05

Challenges in qualification of crimes against humanity

Speaker: Mr. Pubudu Sachithanandan, Head of Unified Team at the Office of the Prosecutor, International Criminal Court

- Experience and strategies in building a crime against humanity case
- Evidence establishing a “widespread or systematic” element (i.e. crimes of murder, torture, or persecution)
- Questions and answers

12:10 – 13:40

Lunch – Bellotto Hotel

Senatorska 13/15, Blue Room (located 250 metres from ODIHR)

13:45 – 14:30

Fair trial issues and jurisprudence from the European Court of Human Rights

Speaker(s): Hon. Judge Anna Adamska-Gallant, European Court of Human Rights; Hon. Judge Phillip Weiner, Former Judge and Prosecutor of the Court of Bosnia and Herzegovina

- ECtHR developments and Article 6 issues
- In absentia cases and “reasonable measures” for notifying defendants
- Evidentiary considerations in the absence of witnesses or victims: *Schatschaschwili* criteria on right to confrontation

14:30 – 14:40

Introduction to the hypothetical case study and materials

Speaker Anna Stakhanova, ODIHR Consultant and Key Expert on International Crimes

14:40 – 16:15

Breakout work in groups

16:15 – 16:30

Coffee break

16:30 – 17:45

Practical exercise: issue #1

17:45 – 18:00

Day 1 closure: reflections, comments, or questions

Tuesday, 12 May 2026

- 9:00 – 9:30** **Arrival to ODIHR, security clearance, and coffee**
- 9:30 – 10:10** **Torture as a crime against humanity**
Speaker: Mr. Pubudu Sachithanandan
- Elements of the crime of torture
 - Jurisprudence of torture against civilians and prisoners
- 10:10 – 10:50** **Command and superior responsibility and torture**
Speaker: Dr. Nobuo Hayashi
- Reflections on definitions and caselaw addressing “duty to prevent,” “knew or had reason to know,” and “causality”
- 10:50 – 11:15** **Practical discussion: torture**
- 11:15 – 11:30** **Coffee break**
- 11:30 – 12:30** **Trial advocacy perspectives from the bench in atrocity crimes and torture cases**
Speaker(s): Hon. Judge Joanna Korner & Hon. Judge Phillip Weiner
- Judicial practice on admission of evidence
 - Common objections
 - In absentia considerations
- 12:30 – 13:30** **Lite lunch and break**
Provided at ODIHR office
- 13:35 – 13:45** **Hypothetical case study and materials, issues 2-3**
Speaker: Anna Stakhanova
- 13:45 – 15:30** **Breakout work in groups**
- 15:30 – 15:45** **Coffee break**
- 15:45 – 16:45** **Practical exercise: issue #2**
- 16:45 – 17:45** **Practical exercise: issue #3**
- 17:45 – 18:00** **Conclusion of seminar**
- Closing comments, questions, reflections
 - Remarks
 - Participant evaluation of seminar