

HUMAN RIGHTS COMPLIANT
CRIMINAL JUSTICE SYSTEM IN UKRAINE

PROJECT DIGEST

July - December 2022



“We strongly condemn the ongoing dreadful violations of human rights committed by Russia, some of the worst since World War II. We call on the entire international community to take common and decisive action to ensure accountability for all crimes committed in Ukraine in the context of Russia’s aggression.”

Joint statement of Marija Pejčinović Burić, CoE SG and Þórdís Kolbrún Reykfjörð Gylfadóttir, the Committee of Ministers Chair, for [the Human Rights Day](#)



ABBREVIATIONS

CCC	Criminal Cassation Court
CCPE	Consultative Council of European Prosecutors
CEPOL	European Union Agency for Law Enforcement Training
CoE	Council of Europe
CP	Council of Prosecutors of Ukraine
Disciplinary Body	Body in Charge of Disciplinary Proceedings
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
GRECO	Group of States against Corruption
HELP	European Programme for Human Rights Education for Legal Professionals
NSJU	National School of Judges of Ukraine
OPG	Office of the Prosecutor General
PACE	Parliamentary Assembly of the Council of Europe
PG	Prosecutor General of Ukraine
PTCU	Prosecutors' Training Centre of Ukraine
PPS	Public Prosecution Service
SG	Secretary General
SC	Supreme Court
ToT	Training of trainers

HIGHLIGHTS

- On 14-17 October 2022, the PG, Andrii Kostin, [visited the CoE in Strasbourg](#). PG Kostin first met with the Secretary General of the CoE, Marija Pejčinović Burić. He then had bilateral exchanges with the CoE Commissioner for Human Rights, Dunja Mijatovic, the President of the Venice Commission, Claire Bazy Malaurie, the Chair of the PACE Committee on Legal Affairs and Human Rights, Damien Cottier, and the Director General of Human Rights and Rule of Law, Christos Giakoumopoulos. A meeting was also held with the judge of the ECtHR elected in respect of Ukraine, Mykola Gnatovskyy.

Mr Kostin met with representatives of different entities of the Directorate General for Human Rights and Rule of Law, including the Department for the Implementation of Human Rights Standards, Justice and Legal Co-operation, the Department for the Execution of Judgments of the European Court of Human Rights, the Information Society Department, GRECO and CCPE. The discussions focused on cooperation in the field of human rights and criminal justice in the context of the ongoing war, the execution of the judgments of the ECtHR, and the current priorities of the reform of the prosecution service in Ukraine.

- The achievements of Ukraine in the implementation of the ECHR since its ratification in 1997, the impact of the ongoing war on the functioning of the judicial system of Ukraine and measures necessary to overcome its destructive influence, as well as the challenges faced by Ukraine in the execution of judgments of the ECtHR, were the key themes of [the round table “25 years of the implementation of the European Convention on Human Rights: achievements and future challenges”](#) organised online on 21 July 2022.
- The Project and its main partners summarised achievements of cooperation for the duration of the Project (2021-2022) at [the final Project Steering Committee meeting](#) held on 13 December 2022.

CRIMINAL JUSTICE LEGISLATION & PRACTICE

For the given period, the Project has continued its support to contribute to increased compliance of the Ukrainian criminal justice legislation and its implementation with the CoE standards and best practices as well as to strengthen professional and operational capacities of criminal justice actors. Since the start of the full-scale invasion of the Russian Federation against Ukraine, the Project has also contributed to the development of criminal justice documents, legislation and internal regulatory framework related to documenting gross human rights violations and grave crimes.

- To increase the awareness of judges of different instances on application of the ECHR in time of war, the SC and the CoE co-organised an [online conference](#) on 8 July 2022 on peculiarities of criminal proceedings in Ukraine during the martial law. The event brought together judges of the CCC of the SC, heads, deputy heads, secretaries, judges of criminal trial chambers of the appellate courts, as well as heads and judges of the first instance courts. The online conference included presentations from SC judges on addressing some of the identified issues of criminal proceedings during martial law. Mr Jeremy McBride, international consultant of CoE, contributed with a [presentation on the case-law of the ECtHR](#) regarding the procedural issues of interest to the participants.
- To improve the knowledge of judges on application of Articles 2, 3 and 5 of the ECHR in time of war, on 31 August 2022, in cooperation with the CoE project “Support for Judicial Institutions and Processes to Strengthen Access to Justice in Ukraine” and the SC the Project co-organised a [webinar](#) for judges of appellate and first instance courts and their assistants, focusing on the practice of the ECtHR under Articles 2, 3 and 5 of the ECHR in cases related to armed conflicts. During the event international and national experts discussed the application of the practice of the ECtHR and norms of international humanitarian law by national courts when considering cases related to Russian aggression against Ukraine.
- Judges of different court instances as well as prosecutors of the War Crimes Department of the OPG increased their awareness on issues of derogation from the obligations under the ECHR in the context of armed conflicts by participating in a webinar on 21 November 2022. The [webinar](#) was co-organised in cooperation with the NSJU.
- To increase awareness of judges, prosecutors, lawyers and other criminal justice professionals the [HELP course on Ethics for Judges, Prosecutors and Lawyers](#) was translated into Ukrainian and published on the HELP platform. The online course was developed in 2020-2021 by the CoE HELP Programme under the EU-CoE “HELP in the EU II” project, in cooperation with several CoE entities.
- To increase awareness of judges, prosecutors, lawyers and other criminal justice professionals, the [HELP course on Procedural Safeguards in Criminal Proceedings and Victims' Rights](#) was translated into Ukrainian and published on the HELP platform. The course was developed by the CoE HELP Programme with the EU support, using the HELP methodology and combines both the fundamental procedural rights of accused and suspected persons in criminal proceedings (focusing on EU Directive topics, notably the presumption of innocence) and the rights of victims of crime (emphasis on access to justice).



- To improve understanding of judges, prosecutors, lawyers, and other criminal justice professionals on application of the ECHR, [the Guide of the ECtHR on Article 3](#) of the ECHR was translated into Ukrainian and made publicly available.
- To improve knowledge of judges, prosecutors, lawyers, and expert community on application of Article 5 of the ECHR, in particular on issues related to execution of the ECtHR judgments in Ignatov group of cases, the Project presented the findings of [research on Application of the Pre-Trial Detention and House Arrest in Ukraine](#) on 14 December 2022. Government Agent before the ECtHR, judges, prosecutors, lawyers, representatives of NGOs took part in the discussion of the key findings of the research.
- To strengthen the dialogue between judges, prosecutors, lawyers, and expert community on novelties in the criminal justice field, the Project, together with CoE Project “Supporting institutions to Combat Ill-Treatment in



Ukraine” became a co-organiser of [JustConf 2022](#), the conference on ideas which bring positive changes in the area of criminal justice.

- To improve knowledge of judges and prosecutors on investigation and prosecution of conflict-related sexual violence, a [webinar](#) was organised where methodological recommendations for judges regarding consideration of cases on conflict-related sexual violence were discussed and presented.

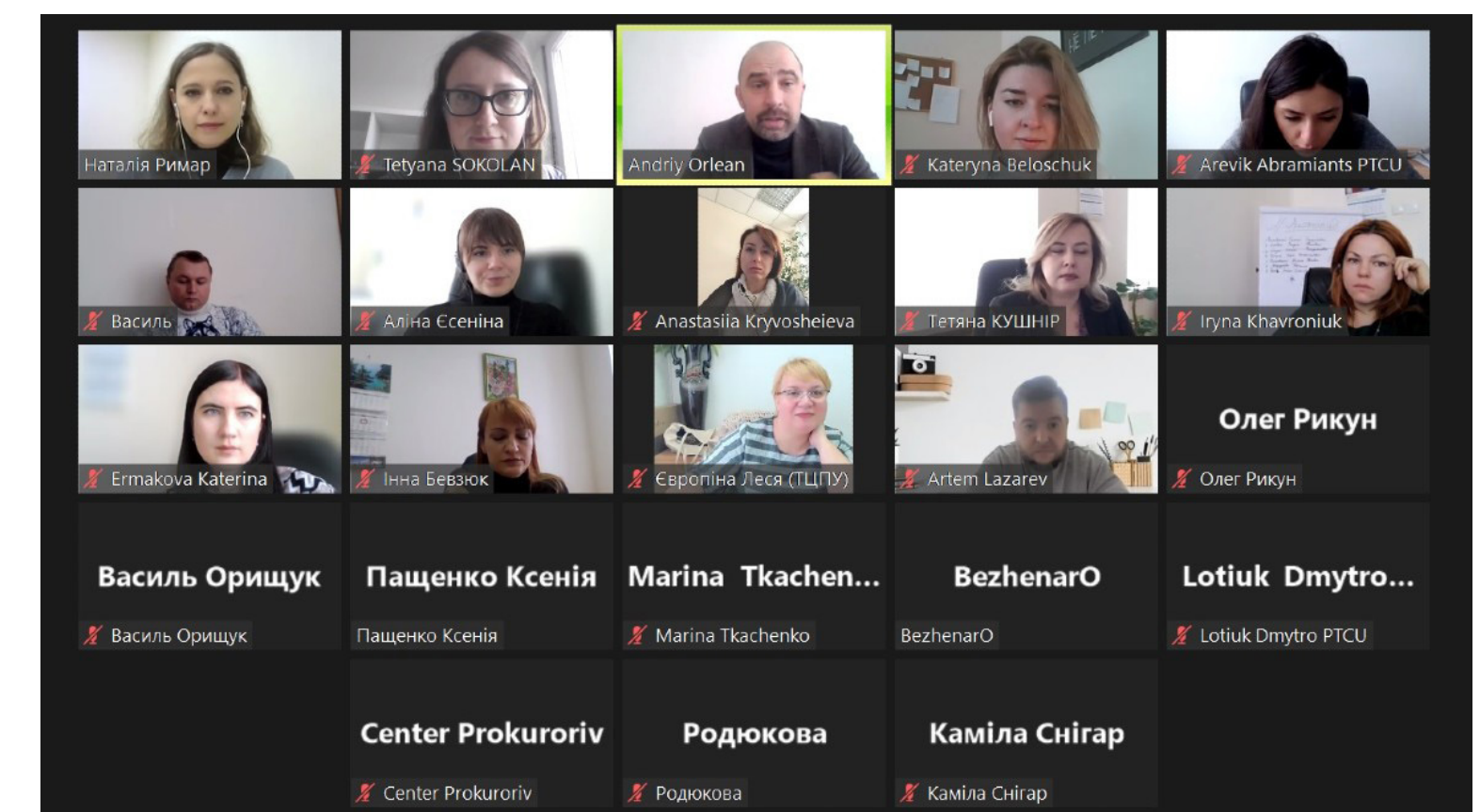
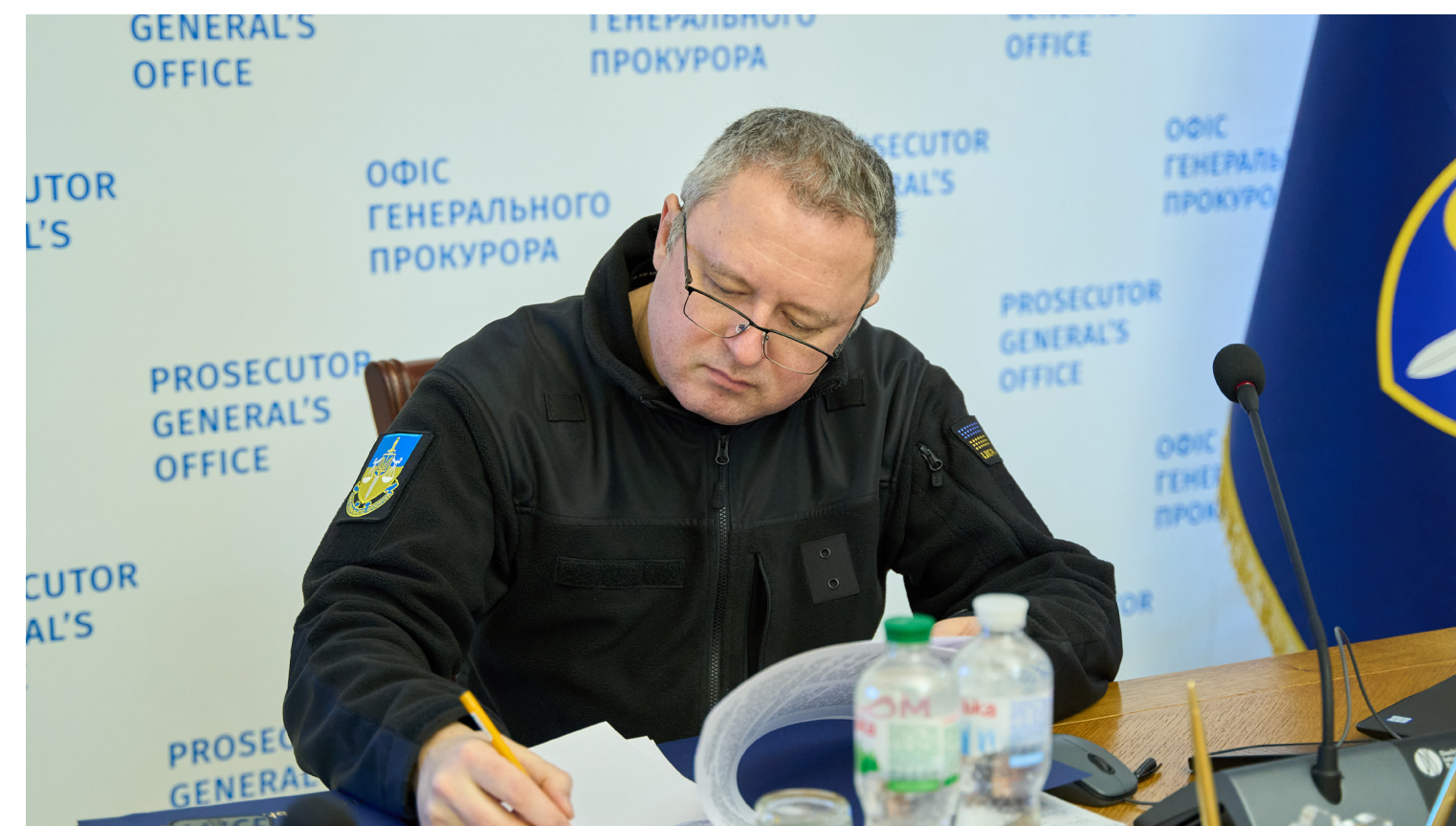
SUPPORT TO THE PUBLIC PROSECUTION SERVICE

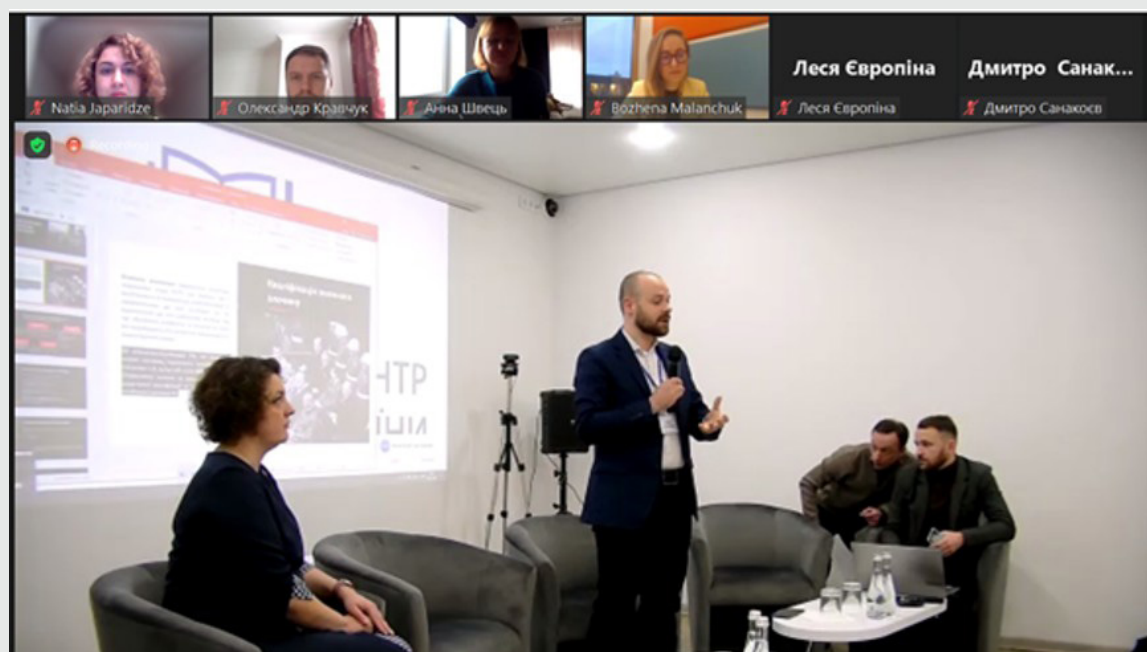
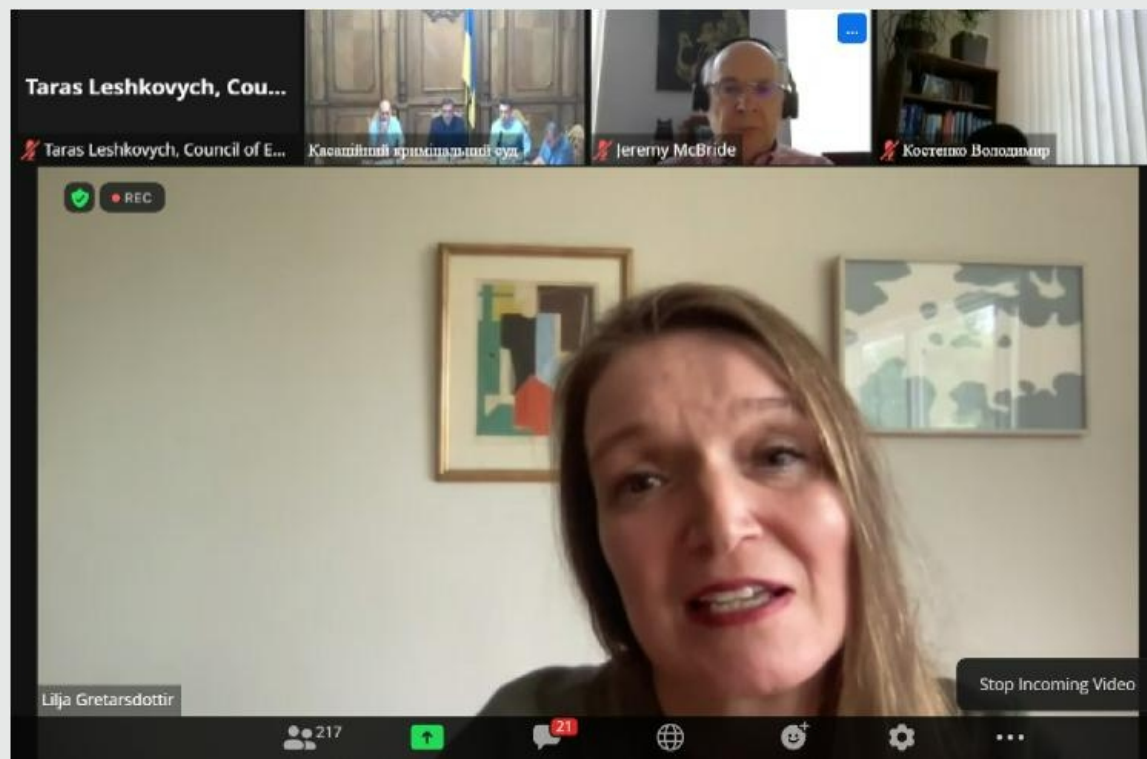
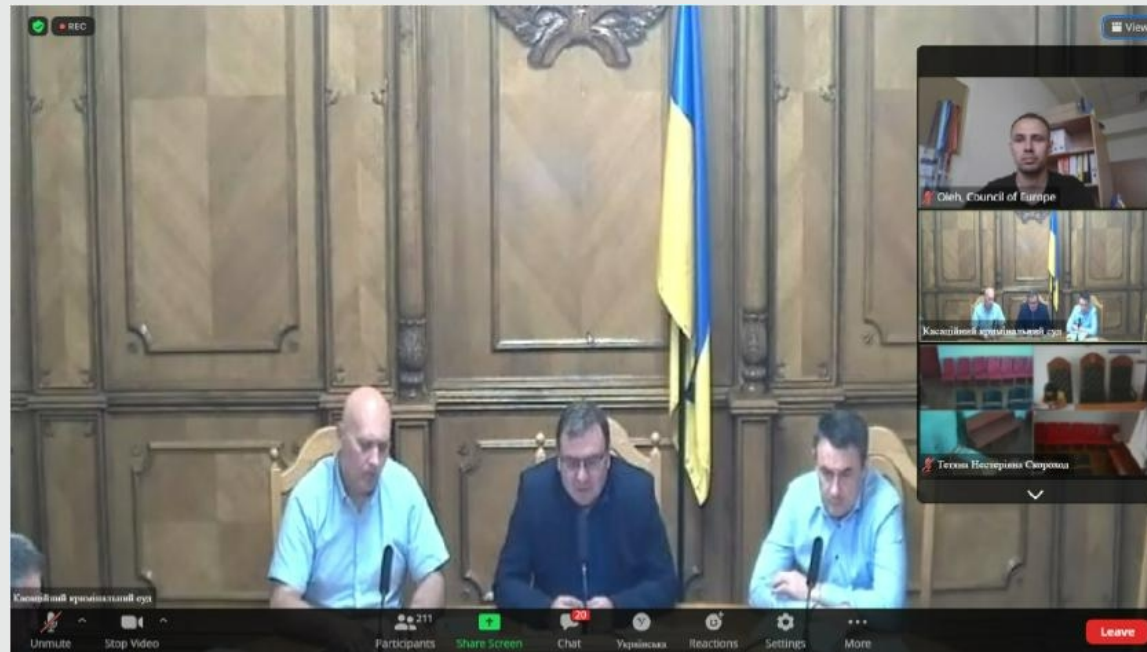
The cooperation has continued in the field of PPS. In particular, to support institutional independence, operational efficiency, and professionalism of the PPS as well as to raise the awareness of prosecutorial community and public on the developments in the PPS reforms. Since the start of the full-scale invasion of the Russian Federation against Ukraine, the Project has also provided expert support to the OPG and key criminal justice actors in documenting gross human rights violations. Thus, the Project, inter alia, achieved the following outcomes:

- To enhance understanding of prosecutors on application of Articles 2, 3 and 5 of the ECHR during investigation of cases on enforced disappearance in the context of an armed conflict, an overview of the applicable standards related to this topic was finalised and shared with the OPG.
- To increase awareness of prosecutors on the application of the provisions of the ECHR during the armed conflict, the CoE Expert Advisory Group shared with the OPG the Information Notes on the ECHR standards applicable to [trials in absentia](#) and [application of Article 5 ECHR](#) in time of war.
- Trainers of the PTCU, which included prosecutors, detectives of the Anti-Corruption Bureau of Ukraine, police officers, and employees of the PTCU (12

trainers: 3 female and 9 male) [increased their knowledge on Open-Source Intelligence \(OSINT\) tools by participating in a five-day online ToT](#) during 29 August – 2 September 2022. The ToT was co-organised by the PTCU and the CoE in cooperation with CEPOL. The ToT was aimed at improving the practical skills of the participants to use OSINT tools and understanding the methodological process behind any use of such tools.

- 17 employees (10 female and 7 male) of the PTCU improved their skills regarding organisation of trainings during [a three-day session](#) on the process of designing and implementation of trainings which was conducted on 29-30 September and 17 October 2022. As a result of this event, the participants generated ideas for quality assurance and developed a checklist





for the training moderator. Implementation of these new approaches in practice will contribute to improved planning and conducting of trainings particularly in the context of the ongoing war in Ukraine.

- Prosecutors of the War Crimes Department of the OPG and employees of the PTCU (10 participants: 3 female and 7 male) increased their knowledge on OSINT tools by participating in an [online information session](#) on 28 October 2022. The session was co-organised by the OPG and the CoE and delivered by the experts of the NGO Truth Hounds.
- To raise awareness of the members of the BCDP on best practices regarding consideration of disciplinary cases **Expert Analysis of the Disciplinary Practice of the Body in Charge of Disciplinary Proceedings**, within 9 Months of Work (2021-2022) was prepared and presented on 3 November 2022.
- To improve understanding of the members of the Council of Prosecutors of Ukraine on European standards and best practices regarding consideration of cases on prosecutorial independence, draft report regarding analysis of cases on independence issues considered by the former and present compositions of the Council of Prosecutors was prepared.
- 21 employees (14 female and 7 male) of the PTCU improved their communication skills during [a two-day facilitation session on effective business communication](#) which was conducted on 8-9 December 2022. As a result of this event, participants generated ideas and elaborated recommendations for ensuring effective external and internal communication, which will contribute to overall improved operation of the PTCU particularly in the context of the ongoing war in Ukraine.

- To facilitate the dialogue between criminal justice professionals on documentation and investigation of gross human rights violations, [the Conference on the training as an element for introducing unified approaches in investigation of war crimes](#) was co-organised with the PTCU along with the JustGroup on 6 December 2022.
- To increase awareness of prosecutors and investigators on promotion of non-coercive interview standards, the Project allocated the Grant to the NGO “JustGroup” for finalisation of respective methodological guidelines and conducting ToTs in cooperation with the PTCU.
- To strengthen the operational capacities of prosecutors to investigate conflict-related gross human rights violations, [office IT equipment](#) was purchased for the prosecutors of the War Crimes Department of the OPG.

HUMAN RIGHTS COMPLIANT CRIMINAL JUSTICE SYSTEM IN UKRAINE

The Project is implemented
by the Council of Europe
within the Council of Europe
Action Plan for Ukraine
2018-2022

