



REPORT

# Strategic Report

## Supporting Defence Counsel in Conflict-Related Criminal Cases in Ukraine



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## Introduction

As conflict-related cases continue to be brought and adjudicated in Ukrainian courts, the fairness of these trials is critical. In the face of national and international scrutiny, ensuring fairness demonstrates Ukraine's willingness to comply with domestic, regional and international legal obligations and conduct legitimate domestic trials, a factor influencing complementarity with international processes.

A cornerstone of any fair justice system is a strong and independent defence. Without robust defence representation, the principle of equality of arms is fundamentally compromised, jeopardising the legitimacy and (perceived) fairness of judicial outcomes. Since the outbreak of the armed conflict in Ukraine, criminal justice actors including investigators, prosecutors and the judiciary have been supported nationally and by international partners to enhance their capacity to effectively investigate, prosecute and adjudicate conflict-related crimes cases. Such support has included cross-institutional support, integrated structural support and educational programmes through centralised domestic training bodies such as the Prosecution Training Centre and the National School of Judges. However, despite the high motivation of certain defence counsel to build capacities to represent accused in conflict-related cases, and a strong network of national and international organisations working closely to support them, they continue to contend with systemic marginalisation, chronic under-resourcing, and exposure to considerable professional and personal risks.

In June 2023, the USAID Justice for All Activity published 'Defense Counsel in War Crimes Cases in Ukraine: A Needs Assessment Report' (2023 USAID Needs Assessment or 2023 Assessment), designed to support the Coordination Centre for Legal Aid Provision (CCLAP) and Ukrainian Bar Association (UBA) in identifying concrete steps that can be taken to help Ukrainian lawyers defend the accused in war crimes cases in their domestic courts. The 2023 USAID Needs Assessment was based on a survey of Ukrainian lawyers, individual interviews with lawyers who have defended war crimes cases in domestic courts, and focus groups of judges, prosecutors, human rights advocates, and international criminal defence practitioners. It found overall that Ukrainian defence lawyers, including those working in cooperation with the Free Legal Aid System, were 'ready and willing, at great personal sacrifice, to defend war crimes cases and to do so with professionalism and honor', but that they 'also need support and assistance to ensure they are well-equipped to face the novel challenges presented in these cases' (pp. 5-6). Based on those needs, the 2023 Assessment includes recommendations on how to meet these challenges through training, networking, and public education.



In 2024, the USAID Justice for All Activity published the first report documenting progress made in 2024 towards implementing the recommendations drawn from the 2023 Needs Assessment (2024 USAID Progress Report or 2024 Report). The 2024 Report concluded that only one recommendation was followed up, three were partially followed up and seven were not. It noted that there was ‘room for improvement for the next year for the national (UBA, CCLAP) and international partners (USAID, International Bar Association (IBA), the Organization of Security and Co-Operation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR), Asser Institute) in the area of strengthening capacity of the Ukrainian defence counsel to effectively handle war crimes cases to guarantee [...] fair trial rights’ (p. 10).

The Asser Institute has been working to strengthen the knowledge of defence counsel in Ukraine in conflict-related cases on international legal standards, including international criminal law and fair trial guarantees. As part of its [MATRA-Ukraine \(2020-2024\) project](#), the Institute created an educational series for defence and victims counsel, together with an assessment, in collaboration with the UBA, which is still available [online](#). In June 2025, the Institute released a [Handbook for Legal Professionals in Ukraine: Ensuring Fairness in Conflict-Related Trials](#), under its [Restoring Dignity and Justice in Ukraine project](#), also funded by the Netherlands Ministry of Foreign Affairs. Moreover, it held strategic meetings regarding the defence with international partners and ensured the participation of defence counsel in many of the Institute’s trainings, study visits and public events.

On 23 and 28 May 2025, the Asser Institute held two further strategic meetings with key stakeholders including key Ukrainian defence counsel, national and international partners working closely with defence counsel in Ukraine. The aim of the meetings was to take stock of achievements so far (including reflecting on progress monitored in the 2023 Assessment and 2024 Report), and discuss continuing needs and strategies in terms of education of defence counsel, institutional structure, support from international partners, and ethical, psychological and pressure-related challenges.

This Strategic Report builds upon the previous USAID Assessment and Report and the recent strategic meetings to pinpoint enduring challenges and propose forward-looking strategies, aiming to ensure that defence counsel are adequately equipped to navigate the complex legal and procedural landscape of conflict-related crimes cases in Ukraine. It is presented in four sections:

- (1) Roles, responsibilities and cross-institutional support;



- (2) Defining defence counsel: a specialised yet inclusive approach;
- (3) Resources and educational opportunities; and
- (4) Opportunities for dialogue.

The recommendations presented herein are specifically framed to guide the actions of the Ukrainian government, legal practitioners, and international partners. The report concludes with next steps for relevant stakeholders to leverage existing momentum and resources in a concerted effort to fortify this essential arm of justice.



## Section 1 - Roles, responsibilities and cross-institutional support

1. Implementation of a strategic approach to defence in conflict-related cases in Ukraine requires a multi-stakeholder effort led from a centralised coordinating entity, with roles and responsibilities clearly identified, and cross-institutional support to address disparities among the different arms of the criminal justice process.

**Recommendation 1 Establish a multi-stakeholder coordinating working group** with state bodies taking a central role in the delineation of roles and responsibilities, guided by the *de facto* working group of CCLAP, the UBA, and international partners, as well as other key stakeholders. The EU accession process offers a political lever to advocate for necessary reforms and resource allocation for the justice sector, including defence.

**Recommendation 2 Address educational, financial and institutional disparities:** The Ukrainian government should provide financial and institutional support to ensure the equality of arms and that there are adequate facilities for effective defence in proceedings. It should also implement protective measures to counter any negative attitudes or barriers put in place by prosecutors and judges towards defence counsel to avoid biases or violations of the presumption of innocence, so as to comply with domestic, international and European fair trial obligations. Parliamentary committees and the Ukrainian Parliament Commissioner for Human Rights (Ombudsman) can play a role in monitoring and advocacy to address disparities. In addition, criminal justice actors, including investigators, prosecutors and judges, must take action to understand each other's roles and address disparity.

### 1.1 Lack of a centralised coordinating entity

2. A recurring concern throughout both strategic meetings was the absence of a clear institutional 'home' or a centralised coordinating entity for initiatives aimed at supporting defence counsel. This lack of a focal point risks fragmented efforts, duplication of resources, and gaps in provision. The 2023 USAID Needs Assessment reflects the need for concerted efforts by multiple institutions, including the government, the Ukrainian National Bar Association (UNBA), CCLAP, the UBA and international partners. Centralisation and delineation of clear roles and responsibilities would not only provide clear points of contact but also facilitate the coordination of various initiatives, ranging from training programmes and resource development to advocacy efforts for legislative reform and professional protection. It would also allow



for a centralised collection of both qualitative and quantitative data on challenges faced by defence counsel in conflict-related cases to inform evidence-based policy advocacy and guide improved resource allocation from both national and international sources. This data could encompass issues such as caseloads, remuneration, access to resources, security incidents, and specific professional development needs, providing a robust basis for targeted interventions. Currently the governance of the legal profession and protection of lawyers rights in general is distinct from the operation of the Free Legal Aid system and the challenges faced by lawyers cooperating with it.

3. Development of a strategic approach to the defence of the accused in conflict-related cases has not been as yet specifically prioritised at government level. Its recently approved Rule of Law Roadmap with a view to EU accession notes that a transparent, accountable and professional bar is needed, which requires ‘improving the system of professional development of advocates to ensure lifelong learning’ (Judiciary, Section 1.8). This implies that the UNBA could play a central role. This also aligns with the [Shadow Report on Chapter III Justice and Fundamental Rights of the European Commission’s Report on Ukraine in 2023](#), which stresses that urgent bar reform is needed (at p. 148). Furthermore, the Roadmap lists several measures related to procedural rights for suspects and accused persons in criminal proceedings, planned to be implemented in 2027 (Fundamental Rights, Section 3.8). However, no explicit mention is made of support for counsel representing the accused. Instead, it appears that support for the rights of the accused is framed with a view to the investigatory bodies’ oversight and duties to carry out effective investigations into violations at pre-trial stages, since the Office of the Prosecutor General, State Bureau of Investigations, State Security Service and National Police are listed as responsible institutions when it comes to implementation of these measures, alongside the Ministries of Justice and Interior. While CCLAP is recognised as a responsible institution with regards to measures aimed at strengthening victim’s rights, it is not mentioned with regards to the above measures, most likely since they are formulated in general terms and no deficiencies have been identified with regards to how CCLAP operates with respect to other categories of accused persons. In the absence of a state-led approach to ensuring a robust defence function in conflict-related cases, certain institutions have been proposed as having a role, or have led the coordination of initiatives.
4. While the UNBA is indeed a key stakeholder in terms of broader rule of law and bar reform initiatives, it has not led initiatives taking into account the unique challenges of





representing the accused in conflict-related cases thus far. Instead, CCLAP has taken the initiative to coordinate efforts thus far to coordinate initiatives to strengthen the capacity of defence counsel appointed to represent the accused in conflict-related cases, even without specific government direction. This is carried out in partnership with a strong network of NGOs in Ukraine, and, in particular, the UBA.

5. As shown in the 2024 USAID Progress Report, CCLAP and the UBA have maintained collaborative working relationships with a range of international partners who have offered support. However, the absence of a specific policy directive or strategic prioritisation at the governmental level which recognises the importance of CCLAP and the UBA's coordinating roles in practice risks a dependency on funding and resources. This is evident in the number of initiatives stalled as a result of US funding cuts. Going forward, it will be important to move beyond individual training initiatives to encompass broader structural reforms that foster an enabling environment for defence counsel.
6. A sustainable approach to support defence counsel in Ukraine necessitates the delineation of roles and responsibilities, with realistic timeframes and resources for implementation. While options such as creating a dedicated section within the UNBA, CCLAP, or the UBA have been posited (see 2023 USAID Needs Assessment), no action has been taken on this thus far. One dedicated section may not be reflective of the multi-stakeholder strengths demonstrated already. **Instead, the T.M.C. Asser Institute recommends that a multi-stakeholder working group is created, with the state (Ministries of Justice and Interior) taking a central role in the delineation of roles and responsibilities, guided by the *de facto* working group of CCLAP, the UBA, and international partners, as well as other key stakeholders. The EU accession process offers a political lever to advocate for necessary reforms and resource allocation for the justice sector, including defence.**

## 1.2 Disparity between criminal justice actors

7. In the strategic meetings held, participants noted that the lack of institutional anchor and state-led support for defence counsel could have implications for the equality of arms in proceedings. Examples of disparity include:
  - (1) Prosecutors and judges benefit from educational activities coordinated through centralised training bodies such as the Prosecution Training Centre and National



School of Judges. However, although the UNBA's High School of Advocacy exists as an institutional body which could coordinate educational activities for defence counsel, it currently does not have the capacity to focus on these endeavours;

- (2) Defence counsel (specifically those who are male) do not receive the same permissions and/or exemptions as prosecution, judges or CSO representatives to leave Ukraine to attend trainings or study visits held abroad;
- (3) Defence counsel do not receive adequate remuneration and resources for acting in complex conflict-related cases (especially since the Cabinet of Ministers Resolution No. 465, which establishes payment procedures, includes a very low base rate where one hour of a lawyer's work is valued at around 150 UAH (~€3.5)), whereas martial law has taken into account the challenges faced by investigators and prosecutors in investigations;
- (4) Legislative developments aimed at the protection of lawyers have not been given priority by the government, since broader reform of the legal profession is only in discussion. For example, Ukraine has not signed the Council of Europe's recently adopted Convention for the Protection of the Profession of Lawyer;
- (5) Given the disproportionate security concerns facing defence counsel, no legislative or practical initiatives have provided legal protection for defence lawyers handling war crimes and other sensitive cases, safeguarding them against intimidation, harassment, and undue pressure from any source;
- (6) The government has not addressed ongoing negative attitudes towards defence counsel by society (including other criminal justice counterparts in conflict-related cases such as prosecutors and judges) through a centralised outreach campaign to highlight to the general public and media the importance of the defence function;
- (7) Defence counsel are dependent on law enforcement and prosecutorial bodies' action to ensure timely and full access for the defence to all relevant case materials, which is not always readily undertaken;
- (8) Whereas defence counsel are often appointed individually according to Ukrainian law and/or due to the financial constraints of the Free Legal Aid System which cannot support additional counsel or support staff, the prosecution normally consists of multi-lawyer teams; and



- (9) Unlike their counterparts, defence counsel do not have access to essential services such as independent expert witnesses, forensic analysis, and investigators.
8. It was highlighted in the meetings that an effective defence does not only depend on the actions of counsel themselves, but on the government, parliamentary committees and other criminal justice actors and society at large placing defence counsel on an equal footing to their professional counterparts. **The Asser Institute recommends that the Ukrainian government provides financial and institutional support to ensure the equality of arms and that there are adequate facilities for an effective defence in proceedings. It should also implement protective measures to counter any negative attitudes or barriers put in place by prosecutors and judges towards defence counsel to avoid biases or violations of the presumption of innocence, so as to comply with domestic and international and European fair trial obligations** (see Asser Institute, ['Handbook for Legal Professionals in Ukraine: Ensuring the Fairness of Conflict- Related Trials'](#), 2025). It can do so through addressing some of the disparities noted above, and demonstrating the importance of the protection of defence counsel. **Parliamentary committees and the Ukrainian Parliament Commissioner for Human Rights (Ombudsman) can play a role in monitoring and advocacy to address disparities. In addition, criminal justice actors, including prosecutors and judges, must take action to understand each other's roles and address disparity.** It was mentioned by participants in the strategic meetings that in addition to targeted training initiatives for defence counsel, joint initiatives and exercises involving prosecutors, defence and judges can allow for further understanding of the different roles involved and encourage parity.

## Section 2 - Defining defence counsel: a specialised yet inclusive approach

9. The providers of secondary free legal aid in Ukraine are Free Legal Aid Centers and lawyers included in the Register of Lawyers Providing Free Secondary Legal Aid. As of 2025, the register includes more than 9,000 lawyers. Approximately 3,000 of them annually conclude contracts with the Free Legal Aid system and receive assignments to provide defence in criminal proceedings as well as representation in civil, administrative, and criminal cases. After the decision to provide secondary free legal aid is made, the free legal aid center appoints a lawyer who is included in the Register



of Lawyers Providing Free Secondary Legal Aid and has concluded a contract with the Free Legal Aid Center for the provision of such aid.

10. In the majority of conflict-related cases in Ukraine, the accused do not have privately retained defence lawyers. Since legal representation is mandatory in this category of cases, defence is provided through appointment. As a result, defence counsel are most often appointed by the Free Legal Aid system. CCLAP has recorded that, since 2022, the Free Legal Aid system has appointed over 340 defence counsel in conflict-related cases, including 192 appointments in 2024 alone. The relatively small number of defence counsel involved in this category of cases (in comparison to the total number included in the register) can be explained by two key factors: (1) such cases are not heard across the entire territory of Ukraine, but only in specific regions and in the city of Kyiv; and (2) not all lawyers in those regions are willing to take on these types of cases.
11. These lawyers are not only criminal defence practitioners, but rather represent accused in a range of cases, which could include representation of victims in compensation claims or criminal proceedings. In the strategic defence meetings held, Ukrainian practitioners noted that it would neither be financially nor practically feasible for lawyers to only act as defence counsel for the accused in conflict-related cases, rather these cases will form part of a broader portfolio of work.
12. A challenge with this system is that the concept of 'defence lawyer' in practice in Ukraine in conflict-related cases can be confused with defence of victim's rights, as opposed to solely defence of the accused in criminal proceedings. Further, it is rare private firms conclude contracts to act for an accused in conflict-related cases, largely due to the fact that many cases are held *in absentia*, the accused being incommunicado, or financial constraints of accused persons. The 2023 USAID Needs Assessment concluded that there was little interest among lawyers in Ukraine to form a pool of specialised defence counsel at present, and the 2024 USAID Progress Report demonstrated that examination of the need for specialisation had still not been conducted.
13. If one is discussing support for defence counsel in conflict-related criminal cases, the question of who can be considered as 'defence counsel' must obviously be more clearly defined. The definition of defence counsel for the purpose of creating a community through which educational opportunities and peer-to-peer support can be channelled



does not need to be synonymous with criteria required for appointment of lawyers through the Free Legal Aid System to defend the accused in conflict-related cases.

**Recommendation 3 Defence counsel should include those motivated to defend the accused in conflict-related cases:** monitoring of counsel who readily accept appointment to defend the accused in conflict-related cases and implement an active defence strategy which applies relevant international and European standards should be conducted to develop a list of those demonstrating motivation to actively defend organically over time. In the meantime, written expression of such motivation should at the very least be required for Training of Trainers (ToTs) and specific educational opportunities beyond foundational knowledge development.

**Recommendation 4 Explore potential conflicts of interest:** specific guidance on navigating conflicts of interest in conflict-related cases and where counsel may represent victims and accused simultaneously but in different proceedings, should be provided (practical application of [Rules of Professional Conduct](#), Article 9).

**Recommendation 5 Make it mandatory for counsel appointed via legal aid to be competent to defend the accused in conflict-related cases for effective defence:** they should have completed either certain already existing training programmes developed by national or international partners or a centralised training curriculum (if developed in the future) and/or have relevant practice in such cases (practical application of Rules 11 and 17 of the Rules of Professional Conduct to conflict-related cases).

**Recommendation 6 Private firms should be included as defence counsel: for a more inclusive and flexible approach that can complement the Free Legal Aid System, especially in cases where defendants stand trial in person (e.g. cases related to collaboration/treason).**

**Recommendation 7 Create a community of defence counsel:** consisting of pioneers who have initial experience in conflict-related cases, who are trainers completing training of their own, and with the motivation to act as advocates for the community. Since motivation should also be a critical factor, less experienced lawyers and private firms could also be included as participants, and the community and network could grow over time. A list and moderation of those in the community could be created and carried out by a coordinating entity.

## 2.1 Motivation as a key component

14. During the strategic meetings, it was put forward that whilst a dedicated section or a specialised track within the legal profession might appear intuitively appealing for defence in conflict-related cases, such a structure could, in fact, prove counterproductive, particularly if practitioner interest is limited. This mirrors the findings of the 2023 USAID Needs Assessment, in which a ‘willingness of desire’ was deemed a necessary criterion to be assigned as a defence lawyer. Practitioners in consultations throughout the Asser Institute’s Restoring Dignity and Justice in Ukraine



project and in strategic meetings emphasised that defence counsel in conflict-related cases in Ukraine are highly motivated, since they are building their knowledge of law and practice in conflict-related cases above and beyond their day-to-day practice and without incentive.

15. A question arises as to whether the motivation being referred to is motivation to build the foundational knowledge required for representation (in any form) in conflict-related cases or to actively defend an accused in such cases. The former may be sufficient for certain educational opportunities offered, since theoretical knowledge of the applicability of international law, approaches to evidence and upholding fair trial guarantees are universal and transcend the specific domain of defence, victims' representation, or prosecution. However, both the former and the latter motivation would be required for assignment in order to ensure effective defence and protection of fair trial guarantees of an accused. It also appears that the latter would be necessary for effective ToT or mentoring initiatives. It may also be futile if this motivation is missing on the part of participants in specific education opportunities beyond foundational knowledge and covering defence strategies, including case theory, investigations and cross-examination techniques. This will ensure that this education will never be implemented in practice.
16. The latter form of motivation will only be most clearly measured through evaluation after counsel have been assigned to a conflict-related case and performed their duties. **The Asser Institute recommends that monitoring of counsel who readily accept appointment to defend the accused in conflict-related cases and implement an active defence strategy that applies relevant international and European standards should be conducted to develop a list of those demonstrating motivation to actively defend accused organically over time. In the meantime, written expression of such motivation should at the very least be required for ToTs and specific educational opportunities beyond foundational knowledge development.**

## 2.2 Conflicts of interest

17. **One aspect that warrants further exploration is whether conflicts of interest arise where counsel appointed via the legal aid system act for both victims and the accused (in different proceedings) in their day-to-day practice.** In the strategic meetings held, it was noted by lawyers that they must be flexible and do not consider this to present conflicts of interest. It is interesting to note that the issue of conflicts of interest seems



to play a much more important role with judges, where one can discern high rates of recusal and self-recusal. The grounds for recusal are contained in Article 75 of the Criminal Procedure Code of Ukraine, and include ‘where he/she personally, his/her close relatives or family members are concerned with the outcome of the proceeding’, or where there are ‘other circumstances which cast doubt on the judge’s impartiality’. However, since the majority of judges in Ukraine working on conflict-related cases may be personally affected by similar conduct to what has occurred in a case before them, or may have connections within the local area to people affected by the case before them, the question of impartiality is complex. In Donetsk and Luhansk, for example, often recusal or self-recusal applications are due to family, friendly or personal relations with one of the participants in the case or previous participation in the consideration of the case (including related cases), though not all applications are granted and practice is inconsistent (see Handbook for Legal Professionals: Ensuring the Fairness of Conflict-Related Trials in Ukraine, para 97).

18. General rules regarding conflicts of interest for counsel in Ukraine are provided for in Article 9 of the Rules of Professional Conduct. However, the **Asser Institute recommends that specific guidance on navigating conflicts of interest in conflict-related cases, and where counsel may represent victims and accused simultaneously but in different proceedings, should be provided.**

## 2.3 Mandatory specialisation

19. The 2023 USAID Needs Assessment concluded that there was no consensus on mandatory specialisation for counsel to be appointed in war crimes cases. Those included within CCLAP’s list may have undergone training by national and/or international organisations, but the substance and level of this training varies. Not all those appointed will have received training on international and European law relevant to conflict-related cases or strategies for defence therein, but it is not possible to measure self-study. It is not mandatory for counsel to be appointed from the CCLAP list. The list is mainly currently prepared with a view to assisting in the selection of participants for further educational initiatives.
20. The fact that specialisation is not mandatory for appointment is reflective of a more inclusive approach that prioritises motivation and the right to choose counsel. An observation highlighted by counsel in the 2023 USAID Needs Assessment and in the strategic meetings held was that making it mandatory to choose from a specific list of



specialised counsel may interfere with an accused's right to a lawyer of their choosing provided for as a fair trial guarantee under domestic and international and European law. However, in practice, the accused's right to a lawyer of their choosing is practically limited in conflict-related cases in Ukraine. Where counsel is appointed via the Free Legal Aid System, an accused may request their replacement in accordance with the law, but they are not permitted to choose a specific lawyer at the outset. As noted above, it is also rare that an accused concludes a contract with a private firm for representation.

21. A rigid list may also not be beneficial given that the conflict is still ongoing, and certain counsel may not renew their legal aid registration from year to year for various reasons. However, for an effective defence, a certain level of competence should be mandatory. Due to the unique nature of conflict-related crimes cases, this should go beyond the foundational skills required to act as a lawyer to encompass aspects of international criminal law (ICL) applicable domestically in Ukraine. At the International Criminal Court (ICC), to be added to the list of counsel, a minimum level of experience is required, specifically competence in international criminal law and procedure, and the necessary relevant experience in criminal proceedings, whether as a judge, prosecutor, advocate, or in another similar capacity. This experience must amount to at least ten years for Lead Counsel and eight years for Associate Counsel.
22. While these levels of experience may not be possible in the domestic Ukrainian context, **the Asser Institute recommends that where counsel are appointed through the Free Legal Aid System in conflict-related cases, they should have completed either certain already existing training programmes developed by national or international partners or a centralised training curriculum (if developed in the future) and/or have relevant practice in such cases.**

## 2.4 The role of private firms

23. As noted above, private firms in Ukraine rarely conclude contracts directly to represent an accused in a conflict-related case in Ukraine due to the nature of the cases and central role of the legal aid system. In terms of the provision of legal aid, lawyers can operate as self-employed individuals, through a legal bureau (with one founder), or as part of a legal entity such as an "Advocates' Association" (Advokatske Obiednannia – AO). The contract for legal aid is signed with the lawyer directly; if they work within an AO, the contract is with the AO represented by the lawyer.





24. It appears that there is also challenges with lawyers acting privately due to issues such as sanctions (and restrictions on transactions with the Russian Federation), lack of resources or knowledge on these specific crimes. However, in the strategic meetings held, it was suggested that private firms should not be overlooked in determining who could be considered as 'defence counsel' in Ukraine with a view to a strategic approach.
25. A direct parallel was made to the Netherlands, where only a select few law firms handle a significant volume of complex international crimes cases. The inherent benefit of such concentrated expertise, it was argued, stems from the daily, organic exchange of experience, strategic insights, and innovative ideas amongst experienced lawyers. This continuous peer interaction is considered indispensable for developing and refining effective defence strategies, particularly in the face of the unique complexities and evolving jurisprudence characteristic of international criminal law cases.
26. This observation suggests that rather than solely focusing on individual lawyer specialisation, fostering an ecosystem conducive to the emergence and growth of such specialised defence firms in Ukraine could be a highly effective long-term strategy for enhancing collective expertise and capacity. Such specialised firms could cultivate an institutional memory and a collective body of knowledge that transcends individual practitioners. **The Asser Institute recommends recognising (or including) lawyers from private/specialised firms as defence counsel in conflict-related cases. This approach is more inclusive and flexible and can complement the Free Legal Aid System, especially in cases where defendants stand trial in person (e.g. cases related to collaboration/treason).**

## 2.5 A growing community

27. While specialisation solely as defence counsel in conflict-related cases may neither be currently possible nor desirable, the creation of a community among counsel representing the accused in Ukraine has been recognised as fundamental in the 2023 USAID Needs Assessment. **The Asser Institute recommends that a community of defence counsel should consist of pioneers who have initial experience in conflict-related cases, who train after completing training of their own, and with the motivation to act as advocates for the community. Since motivation should also be a critical factor, less experienced lawyers and private firms could also be included as participants, and the community and network could grow over time. Such a community could be the most strategic approach to establishing a collective of**



knowledge, encouraging peer-to-peer support, and coordinating and channeling future educational opportunities. Defence counsel could then be defined with reference to this community, which would promote the equality of arms, as well as public recognition of the defence role. A coordinating entity (such as CCLAP, the UBA or another entity) could maintain and moderate a list of those in the community or interested in joining.

## Section 3 – Resources and Educational Opportunities

28. Providing defence counsel with adequate resources and educational opportunities requires coordination and centralisation of educational opportunities, consideration of different educational formats, utilising existing resources and avoiding duplication. Resources must be widely disseminated and translated, and defence counsel must have access to resources to place them on an equal footing to their counterparts.

**Recommendation 8 Create a centralised curriculum:** a consistent, comprehensive, and accredited curriculum in ICL, international humanitarian law (IHL), international human rights law (IHRL) including fair trial guarantees, and practical defence skills for conflict-related cases needs to be developed. Existing resources can be consolidated, pooled and built upon by a working group (such as that mentioned in Section 1) to develop such a curriculum.

**Recommendation 9 Provide financial and institutional support for the establishment and operation of a sustainable training and resource hub for defence counsel:** the Ukrainian government and international donors should prioritise this potentially through strengthening existing UBA/CCLAP platforms, through the UNBA or a new collaborative entity.

**Recommendation 10 Consider diverse educational formats:** including foundational training, specific skills, mock trial exercises, and ToTs online and in Ukraine (to overcome travel restrictions), based on best practice from international and other domestic training hubs.

**Recommendation 11 Disseminate and translate resources:** the government and international donors should pool and allocate funding for translation and facilitation of translation should be a key priority for a working group centralising resources. A working group centralising resources should also develop robust and effective dissemination strategies for existing resources.

**Recommendation 12 Explore adequacy of defence facilities:** a working group centralising resources should explore and survey the needs of defence counsel in terms of relevant facilities, so as develop coordinated advocacy strategies towards legislative amendment, or expansion of resources available for defence facilities. The Ukrainian government should issue directives to all law enforcement agencies and prosecutors to cooperate fully with defence counsel (and they should also take action to cooperate).



### 3.1 Coordination and centralisation of educational opportunities

29. The 2024 USAID Progress Report and the strategic meetings held highlighted that multiple national and international actors are involved in supporting defence counsel through provision of educational opportunities and resources, but efforts can be fragmented, leading to duplication or gaps. Actors including the Asser Institute, IBA, ODIHR, USAID, the European Union Advisory Mission to Ukraine (EUAM), the Council of Europe (including its HELP initiative), Pravo Justice, and Ukrainian CSOs are actively involved. Opportunities already provided, among others, include:

- IBA and UBA online [seminars](#) for defence lawyers, 2022;
- ODIHR and CCLAP webinar for defence counsel, 2023;
- UBA, CCLAP, Ministry of Justice (MoJ), IBA and USAID Justice for All Activity series of video-lectures for defence counsel, [available](#) at the CCLAP YouTube channel;
- The [Defence Counsel Handbook](#), co-authored by Marie O'Leary, Colleen Rohan and Andrii Yakovlev with USAID Justice for All Activity 2024 (Ukrainian version [here](#));
- Asser Institute and UBA training for defence and victims' counsel (available [online](#));
- Study visits to The Hague (held by the Asser Institute or co-organised by the Asser Institute, UBA and IBA, 2024 and 2025);
- Asser Institute, [Handbook for Legal Professionals in Ukraine: Ensuring Fairness in Conflict-Related Trials](#), 2025 (Ukrainian translation available in July 2025); and
- A mock trial exercise including defence counsel and judges held by the Asser Institute as part of a study visit to The Hague in 2025;
- HELP course [International Humanitarian Law and Human Rights](#)
- [Legal Aid During Martial Law](#) with courses: Features of Enforcement Proceedings During Martial Law, Procedure for Military Service, Procedure for Receiving Compensation for Damaged or Destroyed Property, Protection of Children's Rights During Martial Law, Legal Protection of Persons Missing Under Special Circumstances, Protection of Civilian Rights Affected by Armed Aggression Against Ukraine, Online Course on International Humanitarian Law, Online Course on the Compensation Procedure for Destroyed Property, Establishing Legal Facts in Temporarily Occupied Territories, Features of Family Legal Relations During Wartime, Compensation for Damages Caused by Russian Aggression, Documentation of War Crimes.
- A4ID trainings for defence lawyers



- PRAVO-Justice ToT; and
- PRAVO-Justice webinars.

30. Other resources that have also been developed (or are being developed) for other justice actors but that could be reference points for counsel in Ukraine include, among others:

- UBA's [International Criminal Practice Course](#);
- USAID Justice for All Activity, Global Rights Compliance and UpRights, [The Benchbook for the Adjudication of International Crimes](#), 2023 (prepared for judges but containing a detailed summary of domestic and international and European standards of relevance in war crimes cases, Ukrainian version [here](#));
- Asser Institute, Strategic Recommendations for the Judiciary: A review of war crimes judgements in Ukraine, 2025 (containing an analysis of over 50 Article 438 of the Criminal Code of Ukraine cases held domestically in Ukraine) (not yet available in Ukrainian);
- A database providing analysis of domestic conflict-related cases in Ukraine (in discussion to be developed between Chemonics (formerly USAID) and the High Council of Justice);
- Asser Institute, [International Crimes Database](#), which provides summaries of international crimes cases adjudicated by national, international and internationalised courts and tribunals (not yet available in Ukrainian); and
- A translated (Ukrainian) version of Cassese's book *International Criminal Law*, 2025.

31. CCLAP and the UBA are currently playing a role in coordinating opportunities and identifying gaps, but this is a role performed without formal endorsement or financing. The UBA has launched a special online [platform](#) for continued education of lawyers, and CCLAP operated [distance learning platform](#) has created an online [library](#) with resources for lawyers. However, these are available for legal practitioners more broadly than 'defence counsel' as encapsulated in Section 2.

32. Despite the volume of initiatives that have been provided or are in development, a consistent, comprehensive, and accredited curriculum in ICL, IHL, IHRL including fair trial guarantees, and practical defence skills for conflict-related cases has not yet been developed. **The Asser Institute recommends that existing resources are consolidated, pooled and built upon by a working group (such as that mentioned in Section 1) to develop such a curriculum.** In the strategic meetings held, it was highlighted that a



centralised curriculum may be challenging due to difficulties in retaining lawyers for long-term, specialised training courses due to lack of professional credits or competing urgent case demands. However, **a centralised curriculum could be regularly updated to reflect new legal developments and be publicly accessible, forming the authoritative basis for comprehensive legal education in this specialised field.** Such a curriculum would also allow for consistency and a simpler approach to identifying the competence of appointed counsel and selection of participants for future educational initiatives.

33. Even if a centralised curriculum is not preferred, but rather collaboration among national and international partners, **the Ukrainian government and international donors should provide financial and institutional support for the establishment and operation of a sustainable training and resource hub for defence counsel, potentially through strengthening existing UBA/CCLAP platforms, through the UNBA or a new collaborative entity. The set-up of such a hub should be a priority for a multi-stakeholder working group as recommended in Section 1.**

### 3.2 Educational formats

34. In the strategic meetings held, it was concluded that a mix of training modalities is needed: online (including audio/pre-recorded lectures for accessibility), in-person, and practical exercises like mock trials/simulations involving judges, prosecutors, and defence counsel. Travel restrictions for male defence counsel severely limit participation in international study visits, making domestic or online options more viable currently.
35. Cross-institutional (or multi-actor) training is valuable for foundational procedural aspects and general ICL/IHL theory, but the **Asser Institute recommends specific strategy training for defence due to differing skills and objectives from counterparts such as victims' counsel.** A hands-on approach will profoundly enhance the application of knowledge and the development of critical thinking skills crucial for effective defence. Once a basic knowledge of these skills has been developed initially among defence counsel, **the Asser Institute recommends that they are practically applied in mock exercises with other actors such as prosecutors and judges, to reinforce skills learnt.** Since the 2024 USAID Progress Report noted that psychological impact awareness programmes and stress resilience training for defence lawyers in war



**crimes cases were not implemented, these forms of training should be added to any curriculum developed.**

36. A ToT approach could be beneficial to promote sustainability. A ToT approach ensures that capacity building is not a one-off event but rather an ongoing process that is internalised within the Ukrainian legal system, fostering long-term resilience and a degree of self-sufficiency. These trained trainers can then disseminate knowledge more widely, crucially adapting training content to specific local contexts and emergent needs, thereby maximising its relevance and impact. **The Asser Institute recommends that ToTs follow the identification of the ‘pioneering’ defence counsel as mentioned in Section 2, who could participate in these programmes and become trainers.** It is important to note that being a trainer requires specific skills such as the ability to clearly communicate complex ideas, facilitate learning, and adapt to different learners’ needs. Therefore, it would not be appropriate to assume that all defence counsel should automatically become trainers, only those who are aware of and ready to take on this role. However, providing more training opportunities overall will allow for training providers to identify individuals who may become trainers themselves, in order to carry out ToTs with them.

37. Those operating a ‘hub’ for educational opportunities and resources for defence counsel should liaise with educational providers to other arms of the criminal justice chain including the Prosecution Training Centre and the National School of Judges to consider lessons learnt from their approaches and encourage cooperation where appropriate. Lessons can also be learnt from those operating on the international level, such as the Association of Defence Counsel practising before the International Courts and Tribunals (ADC-ICT).

### 3.3 Dissemination and Translation of Resources

38. As noted above, many of the available resources are not yet translated into Ukrainian, creating a practical yet solvable barrier to enhancing knowledge. The 2023 USAID Needs Assessment, 2024 USAID Progress Report and strategic meetings held also highlighted the importance of translating existing resources, international legal texts, and judgements into Ukrainian. **The Asser Institute recommends the Ukrainian government and international donors should pool and allocate funding for translation and facilitation of translation should be a key priority for a working group centralising resources.**



39. A working group centralising resources should also develop robust and effective dissemination strategies for existing resources, including accessible online versions, available printed copies, targeted events and workshops, and use in a centralised curriculum, to ensure these invaluable resources reach all relevant practitioners and are actively utilised.

### 3.4 Access to relevant facilities

40. The strategic meetings highlighted that collecting evidence, especially from inaccessible territories or due to state policy, is a major hurdle for defence counsel in conflict-related cases. Defence counsel also face hurdles in accessing independent expert witnesses, due to insufficient resources and the requirement for experts to be Ministry of Justice approved. Further, defence counsel act independently without multi-lawyer teams or investigation teams. While in many international and domestic jurisdictions, similar challenges are faced by defence counsel, access to relevant facilities remains crucial to build a defence case, and therefore ensure an effective defence. **The Asser Institute recommends that a working group centralising resources should explore and survey the needs of defence counsel in terms of relevant facilities, so as to develop coordinated advocacy strategies towards legislative amendment, or expansion of resources available for defence facilities.**
41. Access to relevant facilities also depends on cooperation with law enforcement agencies. **The Ukrainian government should therefore issue directives to all law enforcement agencies (National Police, Security Service, State Bureau of Investigation) and the Office of the Prosecutor General to cooperate fully with defence counsel, ensuring timely access to clients, case materials, and unhindered ability to conduct defence investigations. These actors must also take action themselves to cooperate fully.**



## Section 4 – Opportunities for dialogue

42. The demanding and often isolating nature of defending individuals accused of war crimes, particularly in a conflict-affected environment, profoundly underscores the importance of robust peer-to-peer support and mentorship mechanisms between Ukrainian defence counsel and with international colleagues. Such networks offer invaluable opportunities for knowledge exchange, strategic consultation, emotional resilience, and continuous professional development. **The Asser Institute recommends that platforms and opportunities for dialogue are created**, a need which was also highlighted in the 2023 USAID Needs Assessment and strategic meetings held.

**Recommendation 13 Create a peer-to-peer network:** utilising existing networks or develop new ones based on good models from other jurisdictions, so that defence lawyers can receive real-time assistance from peers or international experts.

**Recommendation 14 Organise a public conference:** dedicated to defence counsel in Ukraine.

43. To date, no formal peer-to-peer online network has been established, although the UBA has this on their radar for development. In the strategic meetings held, it was also highlighted that there are hubs within the legal aid system that could serve as platforms for peer-to-peer exchanges. The 2023 USAID Needs Assessment noted that establishing such a peer-to-peer network can be done easily and without significant financial investment. **The Asser Institute agrees that professional legal organisations in other jurisdictions, which have established networks that are used daily by their members, could serve as good models for development for Ukrainian lawyers in conflict-related cases to receive pinpoint, real-time assistance.** Digital platforms could effectively overcome geographical barriers and facilitate continuous interaction amongst practitioners, including on issues such as well-being and psychological support.

44. Peer-to-peer networks could involve secure online forums for discussions or virtual meeting spaces for regular live exchanges. Such platforms could host active discussion forums, allow for direct and secure messaging between peers and mentors, and facilitate the sharing of resources. Where requests or questions are made or asked through a peer-to-peer network from Ukrainian counsel to international counterparts in Ukrainian, the platform could make use of AI software to enable accurate translation. Certain aspects relating to confidentiality would need to be considered where requests related to specific cases, beyond general enquiries.





These platforms could serve as an invaluable repository for aggregated data on challenges encountered and successes achieved, providing crucial insights for future, targeted support for defence counsel.

45. In addition to peer-to-peer platforms, participants in the strategic meetings held also recommended that public platforms are considered to discuss challenges facing the defence, exchange experiences with other international and national experts and highlight the role of the defence in conflict-related cases (especially since such public dialogues have been prevalent with respect to the prosecution and judiciary in Ukraine). **The Asser Institute recommends the organisation of a public conference dedicated to defence counsel in Ukraine as a useful starting point.**

## Conclusion and Next Steps

The defence function remains an undeniably critical, though frequently overlooked, component of Ukraine's criminal justice landscape. The strategic consultations convened in May 2025 provided a forum for taking stock of progress since the 2023 USAID Needs Assessment and 2024 Progress Report. They underscored the complex interplay of challenges and opportunities continuing to confront defence counsel in conflict-related proceedings in Ukraine. A consensus has emerged: whilst tangible progress has been made in certain areas, substantial work unequivocally lies ahead to coordinate activities and provide cross-institutional support, establish institutional parity, guarantee adequate resourcing, provide coordinated educational opportunities and resources as well as platforms for dialogue for defence counsel in Ukraine. A strategic approach will need to be phased. The Asser Institute recommends the following initial steps:

- (1) A multi-stakeholder working group should be established, with state bodies taking a central role in the delineation of roles and responsibilities, guided by the *de facto* working group of CCLAP, the UBA, and international partners, as well as other key stakeholders.
- (2) The working group should seek to clearly define 'defence counsel in conflict-related cases' with a view to creating a community of defence counsel including specialised pioneers but remaining inclusive.
- (3) With a clear community delineated, an updated needs and security assessment should be conducted.



- (4) The working group should pool funding and identify funding gaps to secure funding for core activities.
- (5) The working group should seek to centralise existing educational activities and resources through a 'hub' and encourage wide dissemination among the community of defence counsel.
- (6) The working group should start by allocating funding to and facilitating translation of existing resources where required.

Further to these initial steps, the next phase could entail the following steps:

- (7) Based on existing resources, and an updated needs assessment, the working group should develop an accredited and centralised training curriculum, encompassing varied modalities, and theoretical, practical and psychological support components.
- (8) The working group should begin to design and develop peer-to-peer support and mentorship initiatives, and scale these up.
- (9) The working group should begin to design and develop a pilot outreach and public awareness campaign to highlight the role of the defence.
- (10) The working group should identify key actions required by the Ukrainian government, such as legislative amendments, practical guidance or institutional support, working directly with the government or advocating for their implementation.

Overall, developing a strategic approach to defence in conflict-related cases, amid ongoing conflict and the EU accession processes, will require flexibility, adaptability, inclusivity and local ownership.



## About this project

This brief is part of the 'Restoring Dignity and Justice in Ukraine' consortium programme, focusing on advancing accountability for international crimes committed in Ukraine. The programme is funded by the Dutch Ministry of Foreign Affairs and is implemented by the International Development Law Organisation (IDLO), in partnership with the T.M.C. Asser Instituut, the Center for International Legal Cooperation (CILC), and the Netherlands Helsinki Committee (NHC).

The project aims at institutional strengthening and capacity development needs of the key parties in Ukraine dealing with international crimes: prosecutors, police, judges, as well as journalists and civil society organisations. We believe that with the support of the international community, Ukraine can advance accountability for these crimes.



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The Asser Institute's mission is to contribute to the development of international and European public and private law. We achieve this by:

- **Independent legal research:** We conduct fundamental, policy-oriented, and applied legal research in international and European public and private law.
- **Knowledge dissemination:** We initiate and facilitate academic and expert meetings, (professional) education, and public events aimed at disseminating knowledge of international and European public and private law. We further share our legal knowledge by adding to the public debate.

