

**Office of the United Nations High Commissioner  
for Human Rights**

**Report on the human rights situation in Ukraine  
16 May to 15 August 2015**

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## I. EXECUTIVE SUMMARY

1. This is the eleventh report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the situation of human rights in Ukraine, based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU)<sup>1</sup>. It covers the period from 16 May to 15 August 2015<sup>2</sup>.

2. During the reporting period, the situation in Ukraine continued to be marred by ongoing armed hostilities in some areas of Donetsk and Luhansk regions reportedly fuelled by the presence and continuing influx of foreign fighters and sophisticated weapons and ammunition from the Russian Federation. These hostilities continued to result in violations of international human rights law and international humanitarian law. Lack of accountability for such acts persisted, particularly in areas affected by the conflict, including territories controlled by the self-proclaimed ‘Donetsk people’s republic’<sup>3</sup> and self-proclaimed ‘Luhansk people’s republic’<sup>4</sup>, and other parts of Ukraine under the control of the Government.

3. Despite the absence of large-scale offensives since mid-February 2015, locally-contained escalations of fighting occurred in various places, notably in the Government-controlled town of Mariinka (Donetsk region) on 3 June, and near the Government-controlled village of Starohnativka and the village of Novolaspa controlled by the armed groups (both in Donetsk region), on 9 and 10 August. The withdrawal of heavy weapons from the contact line as foreseen in the Minsk Agreements remained partial with the armed groups and the Ukrainian military using mortars, canons, howitzers, tanks and multiple launch rocket systems in daily clashes and exchanges of fire along the contact line.

4. Shelling of populated areas on both sides of the contact line, especially of the cities of Donetsk and Horlivka (controlled by the armed groups) and of the Government-controlled towns of Avdiivka and Mariinka – all in Donetsk region – persisted and, together with explosive remnants of war (ERW) and improvised explosive devices (IEDs) continued to claim civilian lives. In total, since mid-April 2014 until 15 August 2015, at least 7,883 people (Ukrainian armed forces, civilians and members of the armed groups) have been killed, and 17,610 injured in the conflict area in the east of Ukraine<sup>5</sup>. HRMMU noted an increase in civilian casualties in this three month reporting period with 105 civilians killed and 308 injured compared to the previous three month reporting period when 60 civilians were killed and 102 civilians were injured. In the post-ceasefire period of 16 February to 15 August 2015, HRMMU recorded 165 civilian deaths and 410 civilians injured.

5. More centralized civilian ‘administrative structures’ and ‘procedures’ continued to develop in the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. These include the ‘legislature’, ‘judiciary system’, ‘ministries’ and ‘law enforcement’. ‘Donetsk people’s republic’ reportedly began issuing passports to residents of the territories under its control. Among other ‘laws’, ‘legislative bodies’ of ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ have adopted a number of ‘legislative acts’ governing criminal prosecution<sup>6</sup> in the territories under their control. The HRMMU notes that all these ‘structures’ and ‘procedures’ in neither way conform to international law and national legislation of Ukraine.

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<sup>1</sup> HRMMU was deployed on 14 March 2014 to monitor and report on the human rights situation throughout Ukraine and to propose recommendations to the Government and other actors to address emerging human rights issues. For more details, see paragraphs 7-8 of the report of the UN High Commissioner for Human Rights on the situation of human rights in Ukraine of 19 September 2014 (A/HRC/27/75).

<sup>2</sup> The report also updates with recent developments included on cases reported in previous reporting periods.

<sup>3</sup> Henceforth referred to as the ‘Donetsk people’s republic’.

<sup>4</sup> Henceforth referred to as the ‘Luhansk people’s republic’.

<sup>5</sup> This is a conservative estimate of HRMMU based on available data.

<sup>6</sup> See paragraphs 129-132 of the 10<sup>th</sup> HRMMU report on the human rights situation in Ukraine covering period 16 February – 15 May 2015.

6. HRMMU continued to receive and verify allegations of killings, abductions, torture and ill-treatment, sexual violence, forced labour, ransom demands and extortion of money on the territories controlled by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. It also received reports of isolated incidents where armed groups disrupted religious services and intimidated several religious communities. An estimated three million people continue to reside in the territories under control of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ without protection from the human rights violations and abuses of the armed groups and their supporters. The estimated hundreds of people held by the armed groups are at particular risk of being tortured, ill-treated or otherwise abused.

7. Very limited progress has been achieved so far into investigations of human rights violations committed by the armed groups in the east. Ukrainian law enforcement entities claim that investigations are impeded by the lack of due access to the sites and the difficulty in identifying suspects and weapons. Available court decisions sanctioning members of the armed groups are mainly linked to charges of trespassing and violating the territorial integrity of Ukraine as well as the illegal handling of weapons; most defendants have pleaded guilty and been handed down a prison sentence with a probation period. HRMMU has received testimonies of plea bargains being made by individuals under torture or duress.

8. HRMMU continued to observe a persistent pattern of arbitrary and incommunicado detention by Ukrainian law enforcement officials (mainly by the Security Service of Ukraine) and military and paramilitary units (primarily by former volunteer battalions now formally incorporated into the Ukrainian armed forces, National Guard and police), which is often accompanied by torture and ill-treatment of detainees, and violations of their procedural rights. HRMMU continues to advocate for proper and prompt investigation of every single reported case, and for prosecution of perpetrators.

9. Accountability continued to be sought for the killing and other human rights violations committed during the Maidan protests in Kyiv, and for the deaths which occurred on 2 May 2014 in Odesa. With regard to Maidan, the jury trial<sup>7</sup> in the case of the two Berkut (special riot police) officers accused of killing 39 protestors in Kyiv on 20 February 2014 during the Maidan protests, started on 6 July 2015. Seven other Berkut officers have been in pre-trial detention charged with killing of protestors on 18 and 20 February. Investigations into the involvement of other identified Berkut officers and former senior Government officials in the killing of protestors have been protracted. Likewise, limited progress has been observed in accountability into the 2 May 2014 violence in Odesa. OHCHR is concerned with the protracted investigation into the negligence of the police and fire brigade surrounding the violence in the city centre and fire at the Trade Unions building, which resulted in 48 deaths that day. To date, only ‘pro-federalism’ supporters have been charged with mass disorder in the city centre, which resulted in six deaths.

10. On 16 June, the Temporary Order<sup>8</sup> issued by the Government of Ukraine on 21 January 2015 to impose movement limitations for individuals and cargo between the Government-controlled territories and territories controlled by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’, was revised further following advocacy by national and international organizations. On 7 July, the Government launched a web-portal to

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<sup>7</sup> In the courts of first instance criminal proceedings into crimes for which a person can be sentenced to life imprisonment, upon request of accused, are tried by a bench of three juries and two professional judges, who take procedural decisions unanimously.

<sup>8</sup> The Temporary Order on control of the movement of people, transport vehicles and cargos along the contact line in Donetsk and Luhansk region was developed and approved by the ‘Operational Headquarters of the Anti-Terrorist Operation’, a joint entity of the Security Service, Ministry of Defence, Ministry of Internal Affairs, and the State Migration, Emergency and Fiscal Services. It required special permits for civilians to be able to cross the contact line in either direction.

obtain electronic permits required for crossing the contact line. The full enjoyment of the freedom of movement, however, has remained problematic. Civilians still spend hours, and even overnight, at check points located along one of the three transport corridors. With the cessation of bus services between the Government-controlled territories and territories under the control of the armed groups, those without private means of transport have to walk several kilometres. While waiting at check points over long periods of time, civilians are exposed to shelling as well as ERW and IEDs along the roads.

11. The regulations of the revised Temporary Order, particularly the prohibition of commercial cargo of food and medicine, taxation of humanitarian aid, and the availability of only one transport corridor for cargo, have complicated the delivery of food and medicine to the territories controlled by the armed groups. Furthermore, the process of ‘registration’ of humanitarian organisations introduced by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ in June 2015, has complicated the operation of external or externally supported humanitarian actors in the areas controlled by armed groups. Since mid-July, such humanitarian assistance has been severely curtailed as the armed groups consider registration as a pre-condition to operate. This lack of access and delivery of humanitarian assistance is of particular concern with the approach of winter. It is also of concern that the Russian Federation has continued to send white-truck convoys without the full consent or inspection of Ukraine, and their exact destination and content could not be verified.

12. People living in the territories controlled by armed groups continued to face obstacles in exercising any type of rights: civil, political or economic, social and cultural. They experience particular problems in accessing quality medical services and social benefits. In order to receive their benefits, people have to either move or regularly travel across the contact line to the Government-controlled areas. Adults aged from 21 to 60 years old and families with one or two children in the territories controlled by the armed groups are becoming increasingly vulnerable due to their limited access and entitlement to social and humanitarian assistance. The quality of food and water available to the population affected by the conflict is also deteriorating, leading to a decreasing standard of living.

13. The situation for those residing on both sides of the contact line is especially dire, as their access to humanitarian and medical aid is impeded due to security reasons and the prohibition of the transportation of cargo. This has resulted in an increase in prices on the available goods. HRMMU notes that the National Human Rights Strategy<sup>9</sup> stresses the necessity of “ensuring the rights of persons living in the settlements of Donetsk and Luhansk regions where state authorities temporarily do not perform or partially perform their duties”.

14. The conflict aggravates the overall economic deterioration in the country causing further hardship for the population. Since the beginning of the year, real income dropped by 23.5 per cent, wage arrears reached UAH 1.9 billion (approximately USD 87 million), while prices for basic commodities have increased by 40.7 per cent. Deterioration of the economic situation makes it more difficult for the Government to progressively realize economic and social rights.

15. The growing number of internally displaced persons (over 1.4 million)<sup>10</sup> and of wounded civilians and soldiers, have created new challenges for the Government of Ukraine to ensure proper access to quality medical care. So far, Ukrainian and international volunteers, private donors and charity foundations have provided most of the rehabilitation services and necessary equipment.

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<sup>9</sup> Adopted on 25 August 2015.

<sup>10</sup> Ministry of Social Policy figures on registered IDPs.

16. In July and August, HRMMU observed two transfers<sup>11</sup> to the Government-controlled areas of convicts and pre-trial detainees, who due to the conflict had fallen within the ‘penitentiary system’ of the ‘Donetsk people’s republic’. Initiated by the Ombudsperson of Ukraine, the transfers resulted from her negotiations with the ‘ministry of justice’ and the ‘penitentiary administration’ of the ‘Donetsk people’s republic’. HRMMU facilitated the process, using its good offices to act as an initial intermediary between the parties, which enabled a group of foreign prisoners and detainees to be transferred to the Ukrainian penitentiary system and thus returned to the judicial system under which they were sentenced or were facing trial.

17. As reported previously<sup>12</sup>, on 5 June, the Government of Ukraine notified the United Nations and the Council of Europe about its decision to derogate from certain obligations under the International Covenant on Civil and Political Rights (ICCPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms. The derogation will have a negative impact on the enjoyment of human rights in certain areas of the Donetsk and Luhansk regions. A positive development was the signing on 6 July by President Poroshenko of a law enabling Ukraine to join the International Convention for the Protection of All Persons from Enforced Disappearance<sup>13</sup>.

18. On 31 July, the Constitutional Court approved a package of constitutional amendments on decentralization developed by the Constitutional Commission<sup>14</sup>, which is expected to be adopted by the Parliament before the local elections on 25 October 2015. Another package of constitutional amendments concerns the judiciary and is aimed, *inter alia*, at increasing its independence from the President and the Parliament. The package incorporates comments from the European Commission for Democracy through Law and is pending final approval by the Constitutional Commission. A package on human rights, which is to increase conformity of the Constitution with the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Charter of Fundamental Rights of the European Union and UN human rights instruments is under development.

19. On 14 July, the Parliament of Ukraine adopted a law on local elections which will govern nation-wide local elections scheduled for 25 October 2015 (except for the “territory of the Autonomous Republic of Crimea” and “certain territories<sup>15</sup> of Donetsk and Luhansk regions” where elections will not be held “because of temporary occupation and armed aggression of the Russian Federation and impossibility to ensure the observance of OSCE standards regarding elections”). The ‘Luhansk people’s republic’ announced its ‘local elections’ would be held on 1 November, while the ‘Donetsk people’s republic’ is still to determine a date; should these ‘elections’ be held, they would contravene the Constitution of Ukraine and the Minsk Agreements.

20. The situation in the Autonomous Republic of Crimea<sup>16</sup>, the status of which is prescribed by General Assembly resolution 68/262, continued to be characterized by human rights violations committed by the *de facto* authorities. Former Maidan activists resident in Crimea continued to be under scrutiny of the ‘investigative’ bodies. Dissenting voices continued to be effectively silenced and denied any public space, especially as regards to

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<sup>11</sup> They concerned nine and twenty people, accordingly.

<sup>12</sup> See paragraph 144 of the 10<sup>th</sup> HRMMU report on the human rights situation in Ukraine covering period 16 February – 15 May 2015.

<sup>13</sup> The Convention will enter in force for Ukraine on 13 September 2015.

<sup>14</sup> The package of constitutional amendments on decentralization stipulates, *inter alia*, that “special order of self-governance of certain districts of Donetsk and Luhansk regions shall be set forth in a separate law”. HRMMU participated in the work of the commission as an observer.

<sup>15</sup> These territories are enlisted in the Resolution of the Parliament of Ukraine of 17 April 2015.

<sup>16</sup> Henceforth referred to as Crimea.

those Crimean Tatars organizations which the *de facto* authorities consider non-loyal or claim to be extremist. HRMMU notes with concern that the increasingly restrictive conditions placed by the *de facto* authorities applying legislation of the Russian Federation on the activities of civil society organizations could lead to the impossibility for them to re-register and operate in Crimea, and, as a result, significantly infringe full enjoyment of freedoms of expression, peaceful assembly and association by local population. The right to the enjoyment of the highest attainable standard of physical and mental health continues to be affected by problems in obtaining medical treatment and delays in assisting patients.

21. OHCHR positively notes the efforts of the Government of Ukraine in bringing together the Ministries of Defence, Justice, Social Policy and Office of the Prosecutor General under the auspices of the Ministry of Foreign Affairs, to discuss and respond to the findings of the tenth OHCHR report. A number of actions are to be welcomed; in particular, OHCHR notes the decision to strengthen the human rights training of members of the Armed Forces of Ukraine and the Ministry of Internal Affairs of Ukraine.

## **II. RIGHTS TO LIFE, LIBERTY, SECURITY AND PHYSICAL INTEGRITY**

### **A. Casualties**

22. While within the reporting period there have been no large-scale offensives since mid-February 2015, a number of local escalations of armed hostilities occurred. The most notable incidents took place in the Government-controlled town of Mariinka (Donetsk region), on 3 June, and near the Government-controlled village of Starohnativka and the village of Novolaspa controlled by the armed groups (both in Donetsk region) on 9 and 10 August. Clashes and exchanges of fire along the contact line between the armed groups and the Ukrainian armed forces were reported daily. The major flashpoints were the cities of Donetsk and Horlivka, controlled by the armed groups, and the nearby Government-controlled towns of Avdiivka and Mariinka, the contested villages of Pisky and Shyrokyne (all in Donetsk region), as well as the Government-controlled towns of Shchastia and Stanychno Luhanske (Luhansk region).

23. The withdrawal of heavy weapons from the contact line stipulated by the Minsk Agreements remained partial with the armed groups and the Ukrainian military continuing to use mortars, canons, howitzers, tanks and multiple launch rocket systems<sup>17</sup>. They routinely did not comply with the international humanitarian law principles of distinction, proportionality and precautions, with numerous incidents of indiscriminate shelling of residential areas causing civilian casualties observed. Explosive remnants of war (ERW)<sup>18</sup> and improvised explosive devices (IEDs) continued to claim numerous civilian lives in Government-controlled areas and in territories controlled by the armed groups.

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<sup>17</sup> Such weapons may be classified as explosive weapons which are not explicitly defined by international law. Explosive weapons generally consist of a casing with a high explosive filling and whose destructive effects result mainly from the blast wave and fragmentation produced by detonation. The use of heavy weapons in and around residential and urban areas generally violates the international humanitarian law principles of distinction, proportionality and precautions and reduces civilian protection.

<sup>18</sup> Explosive remnants of war refer to unexploded ordnance (UXO) and abandoned explosive ordnance (AXO).

## **B. Civilian casualties<sup>19</sup>**

*Current reporting period: 16 May – 15 August*

24. During the current three-month reporting period, HRMMU recorded 413 civilian casualties in the conflict zone of eastern Ukraine with 105 civilians killed (30 women and two girls, 52 men and three boys), and 308 civilians injured (99 women and eight girls, 141 men and nine boys)<sup>20</sup>.

25. Of the 413 civilian casualties recorded, 156 (37 deaths and 119 injured) occurred in the Government-controlled territories of Donetsk and Luhansk regions. Two hundred and fifty-seven (257) civilian casualties (68 deaths and 189 injured) were recorded on territories controlled by the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’.<sup>21</sup>

26. The majority of these 413 casualties were caused by shelling with 342 casualties (81 deaths and 261 injuries) recorded. Fifty-two (52) casualties (16 killed and 36 injured) resulted from ERW and IEDs<sup>22</sup>. Compared to the previous reporting period of 16 February to 15 May, the number of civilians killed by shelling more than doubled (from 29 to 81) with a huge increase in injuries (from 38 to 261).

*Post-ceasefire reporting period: 16 February – 15 August 2015*

27. During the post-ceasefire six-month period of 16 February to 15 August, HRMMU recorded 575 civilian casualties in the conflict zone of eastern Ukraine: 165 civilians killed (37 women and four girls, 85 men and nine boys; three children whose gender is unknown)<sup>23</sup>, and 410 injured (127 women and nine girls, 195 men and 17 boys).

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<sup>19</sup> For this report, HRMMU investigated reports of civilian casualties by consulting a broad range of sources and types of information that are evaluated for their credibility and reliability. In undertaking documentation and analysis of each incident, HRMMU exercises due diligence to corroborate and cross-check information on casualties from as wide range of sources as possible including OSCE SMM public reports, accounts of witnesses, victims and directly affected persons, military actors, community leaders, medical professionals and other interlocutors. Where HRMMU is not satisfied with information concerning an incident, it is not reported. In some instances, investigations may take weeks or months before conclusions can be drawn. This may mean that conclusions on civilian casualties may be revised as more information becomes available. Where information is unclear, conclusions are not drawn until more satisfactory evidence is obtained. The increases in the numbers of casualties between different reporting dates do not necessarily mean that these casualties happened between these dates: they could have happened earlier, but were recorded by a certain reporting date. HRMMU does not claim that the statistics presented in this report are complete and may be under-reporting civilian casualties given limitations inherent in the operating environment including gaps in coverage of certain geographic areas and time periods.

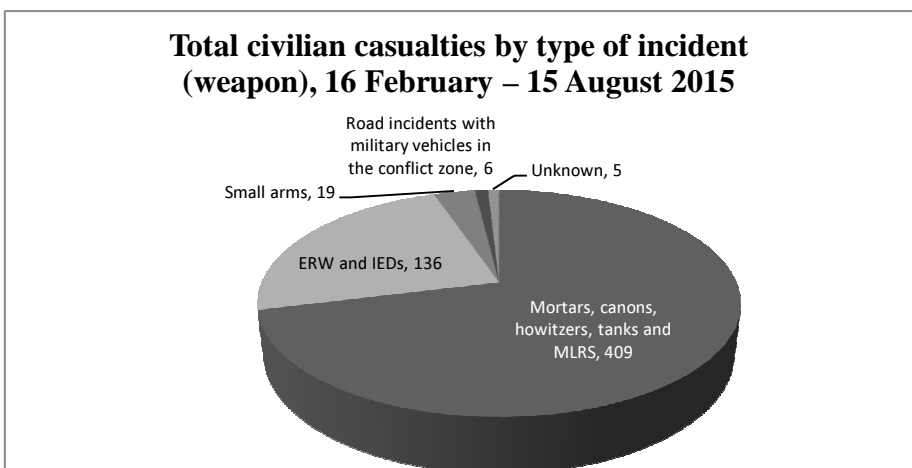
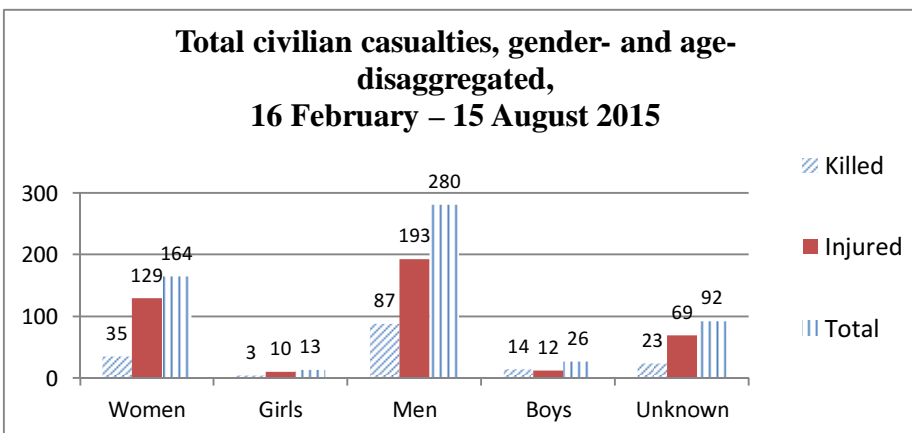
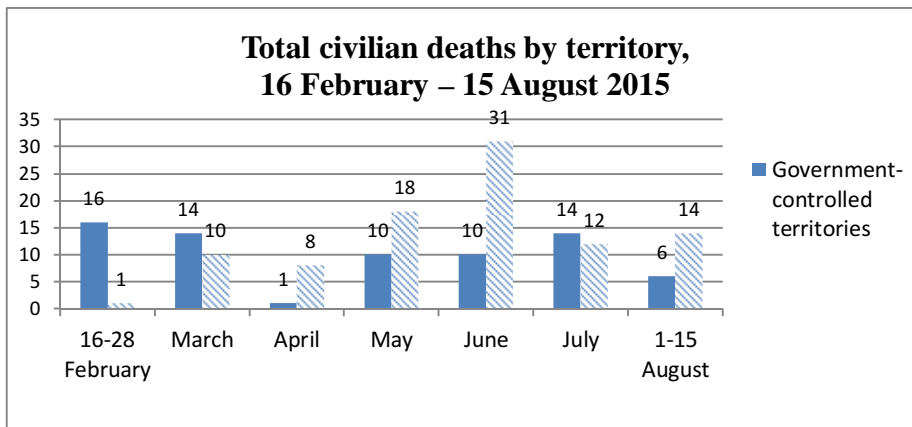
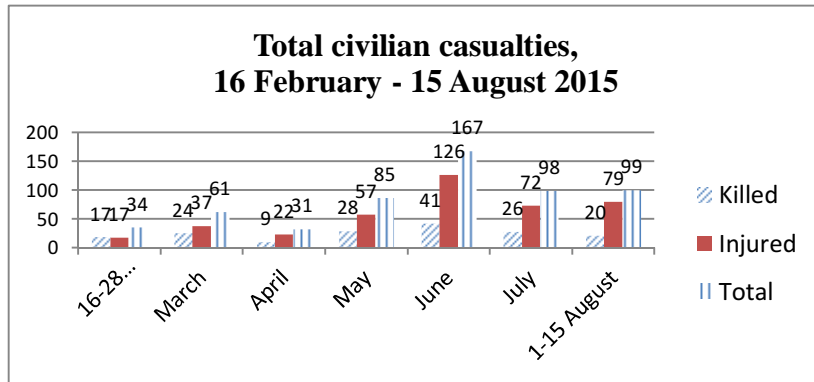
<sup>20</sup> The gender and age of 18 civilians killed and 51 civilians injured are unknown but it is believed they are adults as practice to date has shown that the Ukrainian authorities and the armed groups single out civilian casualties that are children.

<sup>21</sup> HRMMU is not in a position at this time to attribute specific civilian casualties recorded to the armed groups, Ukrainian armed forces or other parties. It is worth noting however that in the post ceasefire period of 16 February to 15 August, 71 percent of civilian casualties were caused by shelling from mortars, canons, howitzers, tanks and MLRS with the majority of these civilian casualties recorded in the territories controlled by the armed groups.

<sup>22</sup> In addition, four people were killed and seven were injured from small arms fire; three people were killed in a road incident with an armoured military vehicle; and the causes of death of one person and of injuries of four are unknown.

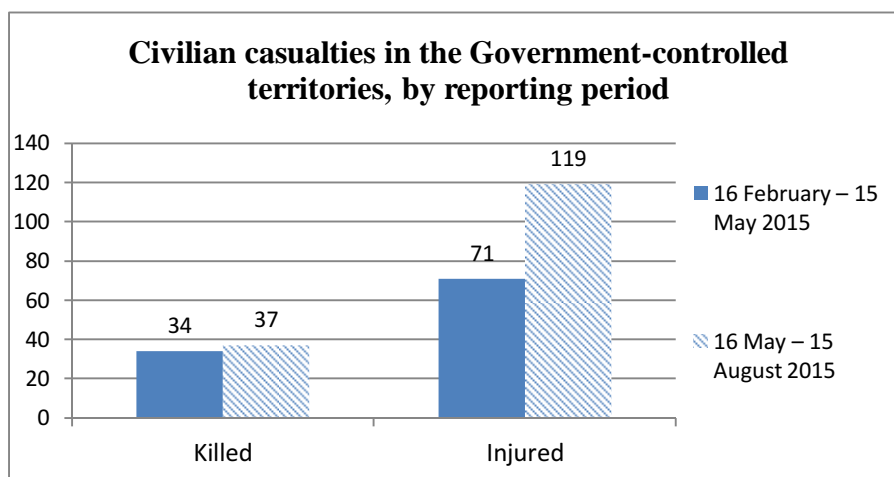
<sup>23</sup> The gender and age of 27 civilians killed and 62 injured are not known.



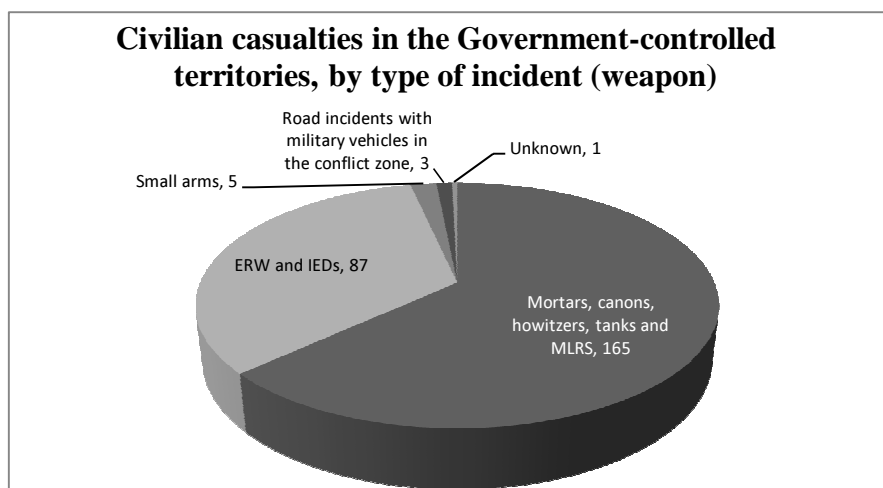


*Government-controlled territories of Donetsk and Luhansk regions*

28. Of the 575 civilian casualties, HRMMU documented 261 civilian deaths and injuries in the Government-controlled territories of Donetsk and Luhansk regions during this period. Seventy-one (71) civilians were killed (14 women and one girl, 49 men and three boys), and 190 injured (65 women and three girls, 117 men and 10 boys)<sup>24</sup>.



29. These 261 civilian casualties were caused mainly by shelling and ERW and IEDs with 165 civilian casualties (41 killed, 124 injured) from shelling, and 87 (28 killed, 59 injured)<sup>25</sup> from ERW and IEDs.



30. Of the 261 civilian deaths and injuries recorded in the Government-controlled areas of Donetsk and Luhansk regions, 221 (61 killed and 160 injured) occurred in the Donetsk region. Forty (40) civilian casualties (10 killed and 30 injured) were documented in the Luhansk region. The locations most affected by shelling<sup>26</sup> were the towns of Avdiivka (13

<sup>24</sup> The gender and age of four civilians killed and four injured are unknown.

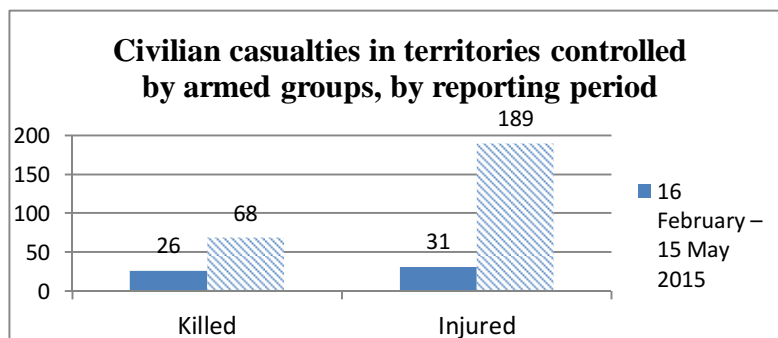
<sup>25</sup> In addition, five men were injured from small arms fire; one girl was killed and one woman and one girl were injured in a road incident with an armoured military vehicle; and the cause of death of one person is unknown.

<sup>26</sup> Casualties from ERW and IEDs in these locations are not included.

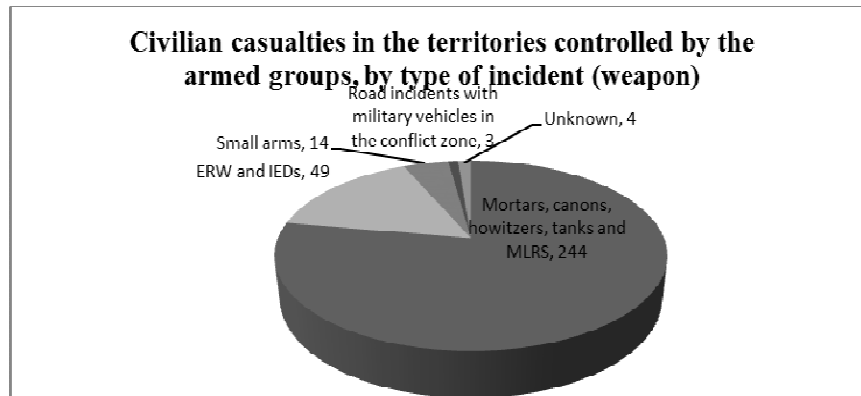
civilians killed and 28 injured), Mariinka (four killed and 15 injured) and Dzerzhynsk (four killed and 10 injured), all in the Donetsk region.

*Territories controlled by the armed groups*

31. HRMMU recorded 314 civilian casualties between 16 February and 15 August in these areas: 94 civilians were killed (23 women and three girls, 36 men and six boys), and 220 civilians were injured (62 women and six girls, 87 men and seven boys).



32. These 314 civilian casualties resulted mainly from shelling, ERW and IEDs, and small arms fire.<sup>27</sup> Shelling caused 244 civilian casualties (69 killed and 175 injured); ERW and IEDs caused 49 civilian deaths and injuries (16 killed and 33 injured) with 14 civilian casualties (six killed and eight injured) from small arms fire.



33. In the territories controlled by the ‘Donetsk people’s republic’, 286 civilian casualties (84 killed and 202 injured) were recorded. Twenty-eight (28) civilian casualties (10 killed and 18 injured) were documented in territories controlled by the ‘Luhansk people’s republic’. The locations most affected by shelling<sup>28</sup> were the cities of Horlivka (25 killed and 43 injured) and Donetsk (22 killed and 84 injured).

<sup>27</sup> In addition, three women were killed in a road incident with an armoured military vehicle and the cause of injuries of four civilians is not known.

<sup>28</sup> Casualties from ERW and IEDs in these locations are not included.

### C. Total casualties (civilian and military) from mid-April 2014 to 15 August 2015

34. In total, from mid-April 2014 to 15 August 2015, HRMMU recorded at least 25,493 casualties (Ukrainian armed forces, civilians and members of the armed groups) that include at least 7,883 people killed and at least 17,610 injured in the conflict area of eastern Ukraine<sup>29</sup>.

#### *Missing persons*

35. According to the representative of Ukraine to the Trilateral Contact Group, the Government estimated that as of 8 June 1,200 people were missing in the conflict zone. In her most recent regular update on missing persons, the ‘ombudsperson’ of the ‘Donetsk people’s republic’, estimated that as of 11 August, more than 400 people were missing on both Government-controlled territories and on territories controlled by the ‘Donetsk people’s republic’.

36. HRMMU believes that many of those who are reported as missing are dead, with their bodies either not found or unidentified<sup>30</sup>. They are victims of the armed hostilities or of summary executions or of criminal killings. HRMMU is also confident that some people recorded as missing are alive<sup>31</sup>, either in the territories controlled by the armed groups – in their ‘official places of detention’ or in other places, or in detention (often secret or incommunicado) of the Security Service of Ukraine (SBU), or Ukrainian military or paramilitary units, especially in the security operation zone<sup>32</sup>.

37. A male pensioner was reported as missing by his wife on 14 August 2014, having been last seen leaving his house in the city of Horlivka (controlled by the armed groups; Donetsk region), with two armed men in camouflage who were pointing their rifle at him<sup>33</sup>. Another woman claimed that her husband went missing in May 2015 while driving his expensive car in the town of Debaltseve (controlled by the armed groups in Donetsk region). She informed all the ‘law enforcement institutions’ of the ‘Donetsk people’s republic’ about her husband’s disappearance and a ‘criminal case’ was initiated with no results so far. His whereabouts remain unknown<sup>34</sup>.

38. In the Government-controlled village of Velyka Novosilka (Donetsk region), several armed men dressed in camouflage and masked reportedly entered a house on 4 June, beat the male resident in front of his wife, and detained him. No further information was provided to his wife despite numerous requests filed to different law enforcement agencies. Following

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<sup>29</sup> This is a conservative estimate of HRMMU based on available data. These totals include: casualties of the Ukrainian forces as reported by the Ukrainian authorities; 298 people from flight MH-17; civilian casualties on the territories controlled by the Government of Ukraine as reported by local authorities and regional departments of internal affairs of Donetsk and Luhansk regions; and casualties among civilians and members of the armed groups on the territories controlled by the ‘Donetsk people’s republic’ and the ‘Luhansk people’s republic’ as reported by the armed groups, so-called ‘local authorities’ and local medical establishments. This data is incomplete because of lacunas in coverage of certain geographic areas and time periods and because of overall under reporting, especially of military casualties. The increases in the numbers of casualties between the different reporting dates do not necessarily mean that these casualties happened between these dates: they could have happened earlier, but were recorded by a certain reporting date.

<sup>30</sup> Hundreds of unidentified bodies remain in morgues or have been buried in either Government-controlled territories or in territories controlled by the armed groups.

<sup>31</sup> This HRMMU has observed a number of cases when people who went missing reappeared later either in detention of the Government, or in detention of the armed groups.

<sup>32</sup> This territory has not been defined by the Government in public documents; according to an internal regulation of the ‘Anti-Terrorist Operation’ Headquarters of 7 October 2014, it covers territories of Donetsk and Luhansk regions (those which are Government-controlled and those which are controlled by the armed groups).

<sup>33</sup> HRMMU interview, 2 June 2015.

<sup>34</sup> HRMMU interview, 1 June 2015.

HRMMU intervention, his whereabouts were established on 25 June, in Dnipropetrovsk pre-trial detention centre (SIZO), reportedly under SBU investigation<sup>35</sup>.

#### **D. Unlawful and arbitrary detention, summary executions, and torture and ill-treatment<sup>36</sup>**

##### *By the armed groups*

39. HRMMU continued to document cases of killings, abductions, torture and ill-treatment, sexual violence, forced labour, ransom demands and extortion of money, committed by the armed groups.

40. Estimates of the number of people held by the armed groups vary continuously, notably due to the fluctuating pattern of continued abductions, detentions and releases. According to SBU, as of 15 August, 172 people were held by the 'Donetsk people's republic' and 'Luhansk people's republic'. This figure, however, concerns those whose whereabouts have been established by the Government of Ukraine, and whose release has been sought.

41. A number of simultaneous releases (so-called 'exchanges') took place during the reporting period. This process lacked transparency and has not led to a tangible number of releases. OHCHR continues to advocate for the 'all for all' release of "hostages and unlawfully detained persons" as stipulated by the Package of Measures for the Implementation of the Minsk Agreements of 12 February 2015.

42. During the reporting period, HRMMU learned about two incidents of summary execution of civilians in the village of Peremozhne (controlled by the armed groups; Luhansk region) reportedly committed by members of the so-called separate special brigade *Odessa* operating in the area under the control of the 'Luhansk people's republic'. On 10 August 2014, eight armed men in camouflage without any signs of distinction stormed the house of local volunteers who were providing food to Ukrainian soldiers<sup>37</sup>. After searching and looting the house, the armed men took away a man and a woman. Over the following ten days the armed men returned three times to the house and looted it, holding the 75-year-old father of one of the abducted at gun point. The family had no information of the whereabouts of those who were abducted until January when their bodies were found near the village of Piatyhorivka; confirmed by forensic examinations only in June 2015. The forensic expertise showed that cause of death of the two victims to have been two to three fire gun shots to the head, with head injuries sustained by beating. In the same village, on 22 August 2014, four members of a family were executed outside their house for their alleged assistance to the Ukrainian armed forces, and their property then looted<sup>38</sup>.

43. There have been allegations of summary executions documented by HRMMU during the reporting period. An IDP from Luhansk region claimed that he witnessed the killing of a family of four and the torture of another civilian by the armed groups in August 2014<sup>39</sup>. A resident of Odesa region informed HRMMU that in September 2014, while he was a member of an armed group, he witnessed the execution of three captured Ukrainian soldiers<sup>40</sup>. A resident of the city of Cherkasy, who had spent more than three months in the captivity of the armed groups in the Luhansk region, claimed that on 20 September 2014, while being kept in

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<sup>35</sup> HRMMU interviews 5 June, 25 June and 1 July 2015.

<sup>36</sup> During the reporting period, a number of victims and witnesses reported allegations of human rights violations and abuses that had taken place in 2014 and beginning of 2015. These highlight how the human rights situation deteriorated in Ukraine, particularly in the eastern territories.

<sup>37</sup> HRMMU interview, 18 August 2015.

<sup>38</sup> HRMMU interview, 27 May 2015.

<sup>39</sup> HRMMU interview, 2 June 2015.

<sup>40</sup> HRMMU interview, 20 July 2015.

a basement in the town of Rovenky (Luhansk region), he witnessed the death of a detainee who had been beaten by the members of the armed groups<sup>41</sup>.

44. A former Ukrainian soldier reported about his detention in the conflict zone, in August 2014, allegedly by fighters from the Russian Federation who then handed him over to the armed groups<sup>42</sup>. He reportedly spent six months held by the armed groups on the territory of the ‘Donetsk people’s republic’ where he was subjected to beatings and forced labour. Another man claimed that he was deprived of his liberty for more than four months by the armed groups of ‘Luhansk people’s republic’ after being stopped at a check point in July 2014, near the city of Luhansk, on suspicion of ‘subversive activities’. During interrogations, armed men beat him with rifle butts and a rod, and employed electric shock. Between the ‘interrogations’, he was made to hang from parallel bars, to which he was tied with handcuffs. Four days later, he was transferred to the ‘military commandant’s office’, where he was kept in a 16 square metres room in a basement, with up to 40 other individuals. All were forced to work at the training ground and in various localities where they discharged munitions and dug trenches<sup>43</sup>.

45. In February 2015, an Orthodox priest who was delivering food to Ukrainian soldiers and civilians in the Government-controlled town of Artemivsk (Donetsk region), mistakenly drove to a check point controlled by armed groups. He was forced to lie on the ground, and several fighters started jumping on his body. They also shot at the asphalt near his head. He was then transferred to a nearby village for interrogation which lasted several hours and during which he was beaten. He was detained for 50 days in various places, along with approximately 70 other detainees<sup>44</sup>.

46. A young woman with a disability was taken from her home in Donetsk city, in June 2015 by three armed men in civilian clothes from the ‘ministry of state security’ of the ‘Donetsk people’s republic’. She was accused of being a “sniper of the Right Sector” and kept incommunicado for over a month in the former premises of a cultural centre in Donetsk. The woman, who was three months pregnant, claimed she was subjected to beatings. She was also forced to give a press conference issuing false statements to the media, and to testify against ‘pro-unity’ activists<sup>45</sup>. Following HRMMU advocacy with the ‘Donetsk people’s republic’, she was released in July 2015. HRMMU also facilitated her evacuation to the Government-controlled territory. Another Donetsk resident detained by the armed groups in the ‘Donetsk people’s republic’ in May 2015 claimed that she was kept for four days in a one-by-two metres cell. She reported that male detainees kept in adjacent cells were forced to work. She was transferred after four days to an ‘official’ detention facility and released a month and a half later<sup>46</sup>.

47. A woman from the town of Debaltseve (Donetsk region) informed HRMMU that on 2 June 2014, several masked men stormed her house and abducted her son-in-law who has a disability status due to impaired vision. In August 2015, his whereabouts still remained unknown. Allegedly, on the same day, seven other young men were kidnapped from the same residential building. She also claimed that on 5 September 2014, her husband (a police officer) was executed (shot dead) by members of the armed groups in front of the police station, allegedly for his ‘pro-unity’ position<sup>47</sup>.

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<sup>41</sup> HRMMU interview, 4 August 2015.

<sup>42</sup> HRMMU interview, 26 June 2015.

<sup>43</sup> HRMMU interview, 11 August 2015

<sup>44</sup> HRMMU interview, 10 July 2015.

<sup>45</sup> HRMMU interview, 13 July 2015.

<sup>46</sup> HRMMU interview, 11 August 2015.

<sup>47</sup> HRMMU interview, 2 July 2015.

48. HRMMU also interviewed a woman who had been held twice by the armed groups of the ‘Luhansk people’s republic’, from July to October 2014 and from February to July 2015. In July 2014, she was detained with three men at a check point manned by the ‘Cossacks’ Union’ of the ‘All-Great Don Army’. During her first two weeks of detention, she and others were interrogated and tortured. The woman was severely beaten with rifle butts and bullet proof vests until she lost consciousness. As a result, four ribs were fractured, and her nose and most of her teeth were broken. During interrogation, perpetrators were reportedly extinguishing cigarette butts against her wrist, and threatening the life of her child and mother. She also reportedly survived an attempted gang rape. She witnessed the summary execution of two Ukrainian soldiers – one was shot, a second was beaten to death on the head. During the first two weeks of captivity, she and other detainees received no food and almost no water. She received medical care and food after being transferred to the ‘military commandant’s office’ in Luhansk city. There, she was not ill-treated but witnessed the beatings of male detainees<sup>48</sup>.

*By Ukrainian law enforcement and security entities*

49. HRMMU continued to observe a persistent pattern of arbitrary and incommunicado detention by the Ukrainian law enforcement (mainly by the Security Service of Ukraine) and by military and paramilitary units (first and foremost by the former volunteer battalions now formally incorporated into the Armed Forces of Ukraine, the National Guard and the police). These cases were often accompanied by torture and ill-treatment, and violations of procedural rights. HRMMU continues to advocate for proper and prompt investigation of every single reported case, and for prosecution of perpetrators. HRMMU also urges the Security Service of Ukraine, the Ministry of Internal Affairs and the Ministry of Defence to put an end to such practices, and to strengthen human rights training of their staff.

50. HRMMU interviewed a woman reportedly working for the newspaper of the ‘Donetsk people’s republic’ *Novorossia*. She claimed to have been detained following her arrest at a check point of the Ukrainian armed forces on 24 August 2014, until her exchange on 21 September. She was subjected to torture, ill-treatment, a mock execution and an attempted rape.<sup>49</sup> A former member of the armed groups detained by Ukrainian armed forces in August 2014 claimed that he had been tortured and ill-treated while in official custody on charges of terrorism. After being convicted to five years of imprisonment, with a suspended sentence of three years, he was reportedly kept in the SBU premises in Kharkiv<sup>50</sup> for over two months, and released (as part of an ‘exchange’) in May 2015<sup>51</sup>.

51. A man, who had been detained by the Ukrainian military in November 2014, in the Government-controlled village of Soloviove (Donetsk region), claimed to have been brought to the village of Pisky, where he was kept in a basement for two days. Four masked men kicked him and beat him with a wooden board, cut with electro shocks and pointed a gun to his head. He was also allegedly threatened with sexual violence<sup>52</sup>. A man, who had been arrested by unidentified Ukrainian servicemen in the Government-controlled city of Mariupol on 24 November 2014, claimed that for 11 days, he was subjected to torture and mock executions at Mariupol airport. He was later charged with terrorism and illegal possession of weapons, and detained in the Mariupol SIZO. In March 2014, he signed a plea bargain and

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<sup>48</sup> HRMMU interview, 10 August 2015.

<sup>49</sup> HRMMU interview, 1 June 2015.

<sup>50</sup> HRMMU has regularly attempted to check the information on detainees kept in SBU premises in Kharkiv. Various SBU officials repeatedly denied presence of detainees in this building, though HRMMU has credible information from people who had been previously kept in this unofficial detention facility for periods of time varying from several days to several months.

<sup>51</sup> HRMMU interview, 3 June 2015.

<sup>52</sup> HRMMU interview, 4 June 2015.

was kept in SBU premises in Kharkiv from 13 March until released as part of an ‘exchange’ on 27 May 2015<sup>53</sup>. A man, who had been arrested in September 2014 in the city of Ternopil, informed the HRMMU that he was kept incommunicado for a day, severely beaten and forced to confess that he belonged to a “separatist and terrorist organization”. He was then formally detained by SBU and released within an ‘exchange’ in November 2014<sup>54</sup>.

52. A man interviewed by HRMMU claimed that in October 2014, 10 to 12 masked men entered his house in the Government-controlled town of Avdiivka (Donetsk region), threw him to the table and stepped on his spine, ordering him to be quiet if he did not want his children to see his brain all over the table. For approximately a week he was kept in a place that he could not identify, apparently in a very confined place, with a bag on his head, and most of the time hung up, handcuffed, and beaten randomly by those passing by. He was interrogated and videotaped. During interrogation, the masked men would be sitting in front of him or behind him, forcing him to confess that he had killed and tortured civilians, looted their homes, and burnt a column of Ukrainian soldiers. He was reportedly beaten, subjected to electroshocks (with wires put to his fingers and genitals), and twice to a mock execution. Then he was taken to Mariupol and afterwards transferred to Kharkiv, where he was kept in SBU premises for about three months. In May, he was released within an ‘exchange’ with the ‘Donetsk people’s republic’<sup>55</sup>.

53. A woman, who had been arrested by SBU in Kyiv in December 2014 for allegedly carrying an explosive, claimed that after the apprehension, she was held incommunicado for 24 hours, beaten, dragged by the hair on her knees across a corridor and threatened with sexual violence. She was also forced to read a ‘confession’ on camera. In the evening of 18 December, over 24 hours after her arrest, she was notified as a suspect under article 258-2 (attempt to commit a terrorist act by a group of persons upon prior conspiracy) of the Criminal Code. On 27 February 2015, the pre-trial investigation was completed and the case was sent to court<sup>56</sup>.

54. Seven people held in the Odesa SIZO on charges under article 258 (terrorism) of the Criminal Code informed HRMMU that they were arrested on 7 July 2015 with excessive use of force by SBU special unit Alpha<sup>57</sup>. Four of them claimed that they were tortured and ill-treated while in custody: handcuffed, with a bag on the head, forced to stand against a wall, beaten with sticks and subjected to verbal assaults and threats. The detainees were not informed about their rights and were not provided with legal aid during the first day of detention. One of the detainees was forced to sign a confession dictated to him (regarding his involvement in possible explosions in the city of Mykolaiv), as well as a document stating that he had not been ill-treated or threatened at SBU. Another detainee was forced into confessing that he had placed explosions at Odesa railway station. HRMMU has been informed that since the beginning of 2015, the Prosecutor’s Office of Odesa region has received 68 reports from the Odesa SIZO regarding detected traces of bodily injuries on detainees<sup>58</sup>. 56 criminal investigations were initiated in this regard.

55. A woman residing in the Government-controlled Krasnoarmiisk district (Donetsk region) claimed that on 23 December 2014, unidentified armed people burst into her house and took her to the Government-controlled city of Kramatorsk (Donetsk region) where she was

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<sup>53</sup> HRMMU interview, 5 June 2015.

<sup>54</sup> HRMMU interview, 22 June 2015.

<sup>55</sup> HRMMU interview, 22 June 2015.

<sup>56</sup> HRMMU interview, 17 July 2015.

<sup>57</sup> HRMMU interview, 20 July 2015.

<sup>58</sup> According to the order of the Ministry of Justice and Ministry of Health of Ukraine No 239/5/104 of 10 February 2012, “within 24 hours the management of the SIZO shall inform in writing the public prosecutor about the detected bodily injuries of a person taken into custody”.



kept for two days in a basement. She was allegedly threatened with sexual violence and forced to sign a confession, which was video-recorded, stating that her sons were members of the armed groups and that she had transmitted information to them about Ukrainian military vehicles. She then was transferred to the Kharkiv SBU where she spent almost two months, without going outdoors and unable to contact any relatives. No official charges were ever brought against her and she was never presented in court. In February 2015, she was released as part of an 'exchange'<sup>59</sup>.

56. A resident of a village located near the town of Debaltseve (Donetsk region) claimed that on 20 November 2014, while the area was still under the Government's control, she was taken to the police station in Debaltseve where she was interrogated, threatened and beaten, allegedly by SBU officers from Kyiv. She was accused of cooperating with the armed groups and manning a check point. She was officially charged only eight days after her apprehension. Soon after, the court decided to place her in pre-trial detention in Kharkiv for two months. It is only at that stage that her relatives were able to find out about her whereabouts. A week after the court decision, the detention was extended by another 30 days. She was taken to the investigator in the town of Iziium and informed that the criminal case against her had been closed and that she would be released. The investigators offered to take her to Kharkiv to collect her belongings but she was taken to a basement in Iziium where she was kept incommunicado for 15 days before being released within an 'exchange' in February 2015<sup>60</sup>.

#### *Arbitrary detention in the context of mobilization*

57. HRMMU documented several cases of arbitrary detention in relation to continuing mobilization into the Ukrainian armed forces (in particular, in Kharkiv, Mykolaiv and Odesa). For instance, on 24 June, it interviewed a man who had been apprehended by people in military uniform in Derhachi, a suburb of Kharkiv. They took him to the Kharkiv military collecting point and requested his passport and other documents they needed to draft him. The man was forbidden to leave. Officers later forced him to sign a document stating that he had volunteered to serve in the army. According to the witness, there were then more than a hundred young men at the point. His relatives reported to the police that he had been kidnapped. The case was filed but no action was taken. Having spent two days in detention, the man managed to escape and has since been hiding.

#### *Other cases*

58. On 22 May 2015, the Shevchenkivskyi District Court of Kyiv sanctioned pre-trial detention of two servicemen of the Armed Forces of the Russian Federation on suspicion under article 258-3 (creation of a terrorist group or terrorist organization) of the Criminal Code (in July, their pre-trial detention was extended until September). They had been detained by the Ukrainian military in a skirmish near the town of Shchastia (Luhansk region), in which one Ukrainian serviceman was killed. Both of them were wounded and have been undergoing medical treatment in Kyiv.

59. On 29 July, SBU announced the arrest, on charges under article 258 (terrorism) of the Criminal Code, of an officer of the Armed Forces of the Russian Federation who was apprehended in Donetsk region on 25 July. According to the State Border Guard Service of Ukraine, he holds the rank of major. He was arrested together with a member of the armed groups as they were approaching the check point in Berezove, in the direction of the territory controlled by the armed groups. Reportedly, the truck in which they were travelling was carrying 192 boxes of grenades, cartridges and rocket-propelled grenades.

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<sup>59</sup> HRMMU interview, 22 July 2015.

<sup>60</sup> HRMMU interview, 26 July 2015.

60. Following the announcement of the completion of the investigation into the case of Nadiia Savchenko on 28 May, the Investigative Committee of the Russian Federation reported on 7 July that it had amended the charges against her from involvement in the killing, to the killing of two Russian journalists on 17 June 2014, in the village of Metalist in Luhansk region. On 25 July, she was transferred to the Novocherkassk SIZO (Rostov region of the Russian Federation), where she was visited by the Ombudsperson of the region who stated that she had reported of no complaints regarding her conditions of detention. On 10 June, the Basmannyi District Court of Moscow extended her detention until 10 September.

### **III. FUNDAMENTAL FREEDOMS**

#### **A. Freedom of movement**

61. The restrictions on freedom of movement imposed by the Temporary Order of 21 January 2015<sup>61</sup> continued to separate people living in the areas controlled by armed groups from the Government-controlled territories, and to impede the delivery of humanitarian aid<sup>62</sup>.

62. With the de-escalation of armed hostilities, civilians have shown an increased intent to move back and forth across the contact line, including to check on their property and to visit relatives in the areas controlled by armed groups. Many travel regularly to the Government-controlled territory to collect their social benefits, withdraw cash, to seek medical care and purchase food and medicine.

63. Further to advocacy by national and international organisations, a revised version of the Temporary Order entered into force on 16 June. Although it waived the requirement to obtain a permit for emergency situations, crossing the contact line in such situations essentially remained at the discretion of officers at checkpoints, while international human rights law requires using precise criteria<sup>63</sup>. In all other cases civilians still need to apply for permits in advance. The web-portal for applying and receiving permits online, launched by the Government of Ukraine on 7 July, has significantly simplified this procedure for civilians.

64. The revised Temporary Order facilitated movement of children from the areas controlled by armed groups who still have not obtained their identification documents. However, for a child to cross the contact line from the Government-controlled area, a notarized power of attorney issued by both parents is required, and it is impossible to obtain one if one parent lives in the areas controlled by armed groups<sup>64</sup>. Crossing to the Government controlled areas was also simplified for people having completed their prison sentence<sup>65</sup>.

65. Overall, the crossing of the contact line remained arduous. As of 15 August, three out of the six transport corridors were operational – all in Donetsk region<sup>66</sup>. In Luhansk region,

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<sup>61</sup> For more information, see OHCHR reports on the human rights situation in Ukraine covering 1 December 2014 to 15 February 2015 (paragraphs 42-43) and 16 February to 15 May 2015 (paragraphs 58-64).

<sup>62</sup> For the effects of the Temporary Order on the humanitarian situation, See chapter IV of this report.

<sup>63</sup> General Comment 27 to article 12 of the Human Rights Committee, paragraph 13, states: “the laws authorizing restrictions should use precise criteria and may not confer unfettered discretion on those charged with their execution”.

<sup>64</sup> Order Nr.1351/5 of the Ministry of Justice of Ukraine issued on 28 July completely blocked access to the notary registries for citizens of Ukraine living in the areas controlled by armed groups.

<sup>65</sup> On 14 July, further to the revised Temporary Order, and with the facilitation of the National Preventive Mechanism, a special Inter-Agency Order No 53okv\1539\310\185\20\62 was issued regulating the crossing of the contact line by people who served their prison sentence and were released from the penitentiary institutions controlled by the ‘Donetsk people’s republic’.

<sup>66</sup> Two corridors in Luhansk region closed down in March 2015 as the main bridges were destroyed. The Cargo and passenger corridor of Kurakhove (Donetsk region) was closed in early June. Despite advocacy by international organizations and lengthy negotiations with the Government, no alternative routes have been proposed to date.

residents have no other choice but to use the destroyed bridge in the town of Stanychno Luhanske to cross the contact line by foot, or if travelling by vehicle, to go through the Donetsk region, which takes more time and resources.

66. On 16 June, the Government of Ukraine prohibited the movement of all public transport across the contact line. Since then, civilians who do not possess a private vehicle have had to walk for up to 15 kilometres between the public transport stops on both sides of the contact line. People generally spent several hours in the heat, with no drinking water and no sanitation facilities. On 5 August, obligatory checks of ID documents and vehicles were also introduced at checkpoints controlled by the ‘Donetsk people’s republic’ – this has further slowed down the crossing of the contact line. Lines of between 200 to 1,000 personal vehicles have been observed at all checkpoints, often in both directions. With such queues, civilians are exposed to the risk of shelling, as the checkpoints are often targeted. Therefore, the idea of the Government of Ukraine to establish logistical centres/markets near the contact line raises grave protection concerns. On 13 August, the head of the civil-military administration of Luhansk region stated that the construction sites of the prospective logistic centres had been actively shelled over the last days.

67. Due to the long queues, people often seek by-pass roads, which may not be cleared from mines and explosive remnants. For instance, on 22 July, a woman was wounded by a mine while trying to by-pass the checkpoint near the town of Volnovakha (Donetsk region).

68. The situation of people living in the so-called ‘grey area’<sup>67</sup> is particularly difficult. Due to the location of roads and checkpoints, residents of such Government-controlled settlements as Kominternove, Lebedynske and Vodiane can only reach other Government-controlled settlements via the territory controlled by the ‘Donetsk people’s republic’, and crossing the contact line. There is no special simplified crossing procedure for local residents.

## **B. Freedom of expression**

### *In the territories controlled by armed groups*

69. The safety and conditions of work of media professionals in the Donetsk and Luhansk regions remain difficult due to the overall security situation and continuing human rights abuses by the armed groups. On 14 June, a local reporter working for *Agence France-Presse*, covering the conflict in eastern Ukraine, was injured in the leg by shrapnel during shelling in Donetsk. On 16 June, a journalist of the Russian newspaper *Novaia Gazeta* was captured in Donetsk by the ‘ministry of state security’ of the ‘Donetsk people’s republic’. He was interrogated, beaten and then released at the border with the Russian Federation. A Ukrainian freelance journalist, Mariia Varfolomieieva, is being held by the armed groups of the ‘Luhansk people’s republic’ since 9 January 2015<sup>68</sup>.

70. On 9 June, the company *Donetsk Cable Television* confirmed that it had blocked access to 39 Internet-based media outlets, upon an ‘order’ from the ‘ministry of information’ of the ‘Donetsk people’s republic’ issued on 3 June 2015.

### *In the territories controlled by the Government*

71. HRMMU continued to follow the case of journalist Ruslan Kotsaba, charged with high treason for publishing an anti-mobilisation video on 17 January<sup>69</sup>. The Ivano-Frankivsk General City Court authorized the prolongation of his detention until 28 August. During the

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<sup>67</sup> Areas along the contact line where no local authorities are present although nominally controlled by the Government of Ukraine.

<sup>68</sup> For more information, see OHCHR report on the human rights situation in Ukraine covering 16 February to 15 May 2015 (paragraph 132).

<sup>69</sup> For more information, see OHCHR report on the human rights situation in Ukraine covering 16 February to 15 May 2015 (paragraph 72).

reporting period, four court hearings took place. On 3 and 4 June, activists of the *Right Sector* party present in the court room brandished posters “No getting away with separatism”, “Kotsaba to jail, Montian [one of his lawyers] as well”, which may amount to pressure on judges. During a hearing on 17 July, one witness threatened to shoot Kotsaba for being a “traitor to the country”.

### **C. Freedom of peaceful assembly**

#### *In the territories controlled by the armed groups*

72. On 15 and 16 June, hundreds of residents of Donetsk gathered in the city centre demanding that the ‘Donetsk people’s republic’ pay pensions and stop its armed groups from placing their weapons in residential areas so as to prevent counter fire from the Ukrainian military. On 16 June, a rally was dispersed by the ‘police’ of the ‘Donetsk people’s republic’ who urged the protestors “not to violate public order”.

#### *In other parts of Ukraine*

73. During the reporting period, a number of rallies were held throughout Ukraine with participants demanding to lower utility prices and to increase salaries. The ‘Finance Maidan’ movement held rallies in Kyiv, urging the Parliament to adopt a law allowing payment of loans taken in foreign currencies in UAH at lower exchange rates.

74. A number of rallies were organized by the Right Sector party to express distrust to the Government, demanding to “stop persecution of members of volunteer battalions”, to put an end to corruption and to call for the introduction of martial law. The biggest rally of 3 July (over a thousand of participants) called for the annulment of the Minsk Agreements, cessation of all relations with the Russian Federation and “punishment of all the criminals of Yanukovich’s regime”. A series of Right Sector rallies also took place across the country (in Cherkasy, Dnipropetrovsk, Ivano-Frankivsk, Kherson, Khmelnytskyi, Kramatorsk, Kyiv, Lviv, Mariupol, Odesa, Poltava, Rivne, Sumy, Ternopil and Zaporizhzhia) following an incident in Mukacheve<sup>70</sup>. Participants of these rallies demanded to stop “persecution of patriots”.

75. On the night of 7 June, several dozens of persons joined Rustam Tashbaiev who, since mid-May, had been protesting at Maidan square in Kyiv against the lack of investigation into the 2014 Maidan events. They also demanded the indexation of social payments and a decrease of utility payments. In the night, the tents of the protestors were forcefully dismantled by a group of unidentified persons in masks. The police arrived to the scene and detained Tashbaiev, claiming that the protestors had not informed the local authorities about the rally. He was released the next day and claimed that he had been ill-treated and tortured by SBU.

76. Several local councils have adopted regulations limiting freedom of assembly, in contradiction with the Constitution of Ukraine and ICCPR which allow limitations of rights and freedoms only by law. As of mid-June, such regulations were put in place in 33 cities and towns of Ukraine, according to a research by the Ukrainian Independent Centre for Political Studies. During the reporting period, this NGO managed to obtain the annulment of such regulations through court litigation in the towns of Krasnohrad (Kharkiv region) and Novi Petrivtsi (Kyiv region). It also filed four other cases in Bucha (Kyiv region), Kharkiv, Korosten (Zhytomyr region) and Poltava.

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<sup>70</sup> On 11 July, 20 armed members of the Right Sector shot a man on the premises of ‘Antares’ sport complex, in the town of Mukacheve (Zakarpattia region). They destroyed three police cars with machine guns and grenade launchers, blocked the Kyiv-Chop highway. The Governor of the region reported that 11 people were wounded, including six police officers and two members of the Right Sector. Two members of the Right Sector surrendered to the police and remain under investigation, while location of the others remains unknown. Right Sector claims that the confrontation occurred as they were attempting to stop illicit trafficking in the region that allegedly involves a deputy and ‘Antares’ owner, whom they demanded to detain.

77. On 6 June, the March of Equality in Kyiv which brought together representatives of the LGBTI community and civil society activists was attacked by a group of people who threw firecrackers and smoke grenades filled with shrapnel. Ten participants and nine police officers were injured. Seven attackers were charged under article 296 (hooliganism) of the Criminal Code. On 13 August, the Odesa Circuit Administrative Court prohibited an Equality March, which was planned by the local LGBTI community within the Equality Festival, motivating its decision by security concerns and the inability of the police to ensure the security of participants. On 15 August, activists of the political party *Svoboda* wearing masks attacked a local LGBTI community center with fire crackers. The police intervened and detained ten activists who were charged under article 173 (minor hooliganism) of the Code of Administrative Offences.

78. On 22 July, a peaceful rally organised by the NGO *Syla Natsii* demanded the resignation of the Prosecutor of Zaporizhzhia region for failure to perform his duties and corruption. The gathering was forcefully dispersed by a group of men, some of whom wore camouflage and balaclavas. Police did not interfere and the Prosecutor of Zaporizhzhia region later stated that the attackers were “patriots”. Some attackers bore insignia of the right-wing *UNA-UNSO* and Right Sector parties; the head of the local branch of the latter, however, denied the party’s involvement in the incident. HRMMU notes that the State should protect the exercise of freedom of assembly even if attacks come from private individuals.

79. In Odesa, ‘pro-federalism’ supporters continued to be prevented from conducting their weekly rallies near the Trade Unions building (where 42 people died on 2 May 2014). The police claimed either that the square was under a bomb threat, or that drill training was taking place at the exact day and time of the announced rally. The rallies were thus conducted at the bus stop near the square, with participants being routinely confronted by ‘pro-unity’ activists. On 2 August, following a ‘pro-unity’ attack, one ‘pro-federalism’ activist used tear gas and was apprehended by the police, whereas actions of ‘pro-unity’ supporters remained unchallenged.

80. On 3 August, clashes were reported in Kharkiv, where some 100 people (mostly women) demanded that local authorities register the local branch of the political party *Opposition Bloc* (whose members are associated with the former President’s regime) for the local elections scheduled for 25 October. ‘Pro-unity’ activists, including members of the Right Sector party, attacked the rally using batons and gas guns. The police did not interfere. As some protestors hid in the office of the *Opposition Bloc* party, the attackers threw stones and smoke grenades into the office. The police then cordoned off the building and arranged for the safe exit of the people from the premises. One *Opposition Bloc* supporter was reportedly abducted on his way to the rally by men wearing masks and uniforms who drove a military vehicle with the inscription “Azov”,<sup>71</sup> He was allegedly beaten at the city cemetery and left there. The police initiated criminal investigations under articles 294 (riots), 296 (hooliganism) and 146 (illegal confinement or abduction of a person) of the Criminal Code of Ukraine.

#### **D. Freedom of association**

81. On 14 August, the *Opposition Bloc* succeeded to challenge in District Administrative Court a decision adopted by the Ivano-Frankivsk Regional Council in mid-April, prohibiting the activities of the *Opposition Bloc*, *Development of Ukraine* political parties and the *Ukrainian Choice* organizations on the territory of the region and instructing the regional Ministry of Justice to de-register it<sup>72</sup>. The Court ruled that the suit should be satisfied in the part that relates only to the plaintiff (the *Opposition Bloc*). A political party can be lawfully prohibited only when it or any of its candidates uses violence or advocates for violence or

<sup>71</sup> Name of the regiment of the National Guard of Ukraine.

<sup>72</sup> According to article 5 of the law ‘On Political Parties’, only a court may take decision on prohibition the political party.

national, racial or religious hatred constituting incitement to discrimination, hostility, or when it carries out activities or acts aimed at the destruction of the rights and freedoms enshrined in international human rights<sup>73</sup>.

82. The head of the Odesa branch of the Communist Party informed HRMMU that on 13 June, representatives of the Right Sector and of the *Odesa AutoMaidan, Self-Defence and Council of Public Security* groups raided the party's office. Representatives of the Right Sector reportedly stole technical equipment and some party materials, and occupied the premises until 26 July. The police initiated investigation into the case under article 356 (unauthorized action) of the Criminal Code, despite the court decision to open a criminal case under article 170 (preclusion of legal activities of labour unions, political parties, and non-governmental organizations).

#### **E. Freedom of religion or belief**

##### *In the territories controlled by armed groups*

83. In a statement issued on 20 May, the head of the 'Donetsk people's republic' threatened to "brutally fight sects" and stated it did not recognize any religions apart from Orthodoxy, Roman Catholicism, Islam and Judaism. HRMMU was informed by the clergy of minority Christian denominations in Donetsk city that, overall, they have been able to operate and practice. Nevertheless, HRMMU continued to receive reports about isolated incidents of armed groups attacking community members and places of worship, and disrupting religious services.

84. The Jehovah's Witnesses community appears to have been particularly targeted. Since the beginning of the conflict, the armed groups have abducted and ill-treated 26 elders and members of community. On 17 May, armed men detained four Jehovah's Witnesses members in Novoazovsk, blindfolded them and delivered them to their 'local headquarters'. For two hours, they beat them and conducted a mock execution, persuading the detainees to "acknowledge Orthodoxy as the only true religion" and to join the armed groups. All four were released the following day. On 21 May, the 'police' detained two Jehovah's Witnesses while they were engaged in their religious ministry (having Bible-based conversations with local residents) in the town of Stakhanov, controlled by the 'Luhansk people's republic'. They were accused of disturbing peace by forcing their religious convictions on others, and were illegally detained for 15 days. On 21 June, in the town of Torez, controlled by the 'Donetsk people's republic', two armed men entered the Kingdom hall during a prayer, attacked the preacher and verbally abused the audience, including women and children. The community elders reported the incident to the local 'police' but no follow-up action was taken.

85. As of 15 August, 12 prayer houses of the Jehovah's Witnesses community had been taken over by armed groups. Representatives of the 'Donetsk people's republic' in the towns of Yenakiieve and Zhdanivka (Donetsk region) stated that these would never be returned to the religious community and would be turned into "more important things, such as gyms".

#### **IV. ECONOMIC AND SOCIAL RIGHTS**

86. As of 15 August, approximately five million people remained in Donetsk and Luhansk regions (on Government-controlled territories and those controlled by the armed groups). Over 1.4 million internally displaced persons (IDPs) throughout Ukraine continued to face obstacles in exercising economic and social rights. Also, the conflict impacts negatively on the overall economic situation affecting population across the country. Compared to December 2014, real income has dropped by 23.5 per cent while prices for basic commodities have increased by 40.7 per cent. The unemployment rate has reached 10 per

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<sup>73</sup> Paragraph 38, Report of Special Rapporteur on Freedom of Peaceful Assembly and Association (A/68/299).

cent, while wage arrears amounted to UAH 1.9 billion (approximately USD 87 million)<sup>74</sup>. The situation in the areas controlled by armed groups is even worse.

87. According to a survey by the International Organisation for Migration (IOM) released on 30 July 2015, Ukrainians (both men and women) are increasingly vulnerable to the risk of trafficking. The results of the survey suggest that approximately three million residents of Ukraine intend to seek work abroad. Due to the deteriorating economic situation and the conflict, they tend to disregard terms of contracts<sup>75</sup>.

#### **A. Right to an adequate standard of living**

##### *Right to food and access to humanitarian assistance*

88. The regulations of the Temporary Order severely restricted the delivery of food and medicine to the areas controlled by armed groups – particularly the prohibition of commercial cargo of food and medicine, the tedious registration procedures for humanitarian assistance providers, and the taxation of humanitarian aid. Only one transport corridor remained open for cargo. In the absence of simplified procedures for the delivery of humanitarian aid, humanitarian convoys are blocked for up to 24 hours at checkpoints while documents are checked.

89. The process of ‘accreditation’ of humanitarian organisations introduced by the ‘Donetsk people’s republic’ on 29 June 2015, coupled with an increased animosity and pressure, complicates the operation of external or externally supported humanitarian actors in the areas controlled by armed groups. For instance, on 16 July, a World Food Programme convoy was stopped at a checkpoint and obliged to turn back because the organisation had not been “accredited” for delivering humanitarian assistance.

90. The restrictions by the Government of Ukraine and accreditation procedures by the ‘Donetsk people’s republic’ may amount to violations of the obligation to allow and facilitate rapid and unimpeded passage of humanitarian relief.

91. In the urban areas controlled by armed groups, basic commodities generally of rather low quality have been available in the shops, but the purchasing power of the average person has been steadily decreasing. Categories of people traditionally not entitled to social or humanitarian assistance (i.e. adults aged 21-60, and families with one or two children) have become vulnerable.

92. As reported to HRMMU, in the ‘Luhansk people’s republic’, young men (sometimes under 18) joined the armed groups or ‘militia’ because it is one of the very few means to receive income. Observations by various organizations suggest that women may see themselves obliged to resort to harmful survival strategies, including engaging in sexual relationships with soldiers in exchange of material support or money. This may lead to a rise in sexual and gender-based violence. HRMMU has received secondary reports of a number of such incidents; however survivors refused to be interviewed for the fear of reliving the trauma again, especially in the absence of specialised services in the areas controlled by the armed groups.

##### *Right to clean water*

93. According to UNICEF, up to 1.3 million children and adults are facing a serious water crisis, due to damaged or destroyed water lines and acute water shortages, in the conflict-affected areas of eastern Ukraine. In particular, over 470,000<sup>76</sup> people, including 118,000 children, are facing serious problems in accessing safe water in the territories of Luhansk region controlled by the armed groups. Since main water pipes and filtration

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<sup>74</sup> According to the State Statistics Service of Ukraine.

<sup>75</sup> <http://www.iom.org.ua/en/ukrainians-are-increasingly-vulnerable-threats-human-trafficking-iom-commissioned-survey-reveals>

<sup>76</sup> Affected population number is an estimate, as it varies daily as damages are recurrent and repairs are ongoing.

systems, as well as electricity infrastructure, are located along the contact line, they are frequently damaged by shelling and it is difficult to carry out timely repairs due to the lack of security on the ground and diminishing resources<sup>77</sup>. The situation has been especially dire in the south west of Luhansk region (Brianka, Kirovsk, Pervomaisk and Stakhanov). In addition, from 3 to 10 June and from 23 June to 3 July, for no technical reasons, water supply was cut off at the filter and pumping stations located in the Government-controlled areas of Luhansk region, affecting approximately 165,000 people in the areas controlled by armed groups<sup>78</sup>. They either relied on water trucking (if available), or had to travel to neighbouring villages, which posed additional risks to their security, especially for women. People also revert to alternative water sources which may not be fit for human consumption and hence put public health at risk.

#### *Right to adequate housing*

94. As of 15 August, 1,437,967 IDPs were registered by the Ministry of Social Policy in Ukraine. For those who continue to be displaced, the issue goes beyond humanitarian assistance, with long term solutions needed, including related to housing, employment and social protection. This trend underlines again the importance of long-term solutions, particularly regarding shelter. HRMMU is concerned that in the regions with the highest influx of IDPs (such as Dnipropetrovsk, Kharkiv, Odesa and Zaporizhzhia) specialised settlements, particularly for persons with disabilities, are discussed as a viable alternative for accommodation. Such a strategy may prevent the integration of IDPs into society and their meaningful participation in political and public life. This would be in contravention with international human rights law, including the Convention on the Rights of Persons with Disabilities.

95. IDPs staying in collective centres often have poor living conditions – no running water, and lack heating or cooking facilities. On 24 June, HRMMU visited a sanatorium in Serhiivka village, Odesa region, which hosts 198 IDPs with disabilities from the conflict area, including 38 children. Volunteers working in this centre reported dire humanitarian conditions, poor nutrition, lack of medication and medical services, and a shortage of non-food items. The centre had not received any State budget allocation since October 2014, whereas according to the UN Guiding Principles on Internal Displacement, the competent authorities are responsible to ensure access of IDPs to essential food and medical services.

#### **B. Right to social security and protection**

96. The civil registration system has not been functioning in the areas controlled by armed groups. Therefore people who have lost their identification or other administrative documents or wish to obtain them, they have to travel to Government controlled areas, often detouring checkpoints, in order to apply for documents. IDPs with disabilities face particular difficulties in accessing and obtaining social and medical services, especially when they do not have the necessary documents confirming their disability, or if their documents are certified by a stamp of the ‘Donetsk people’s republic’ or ‘Luhansk people’s republic’. They have to undergo lengthy examinations to confirm their disability and await a decision by a special commission.

97. HRMMU interviewed civilians who had been detained in the Government-controlled areas for being perceived as “separatists” or holding “pro-Russian views” and transferred to the areas controlled by armed groups after their identification documents were confiscated.

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<sup>77</sup> International Humanitarian Law particularly instructs for the special protection of water sanitation and distribution installations.

<sup>78</sup> UNICEF data.



They have since remained trapped in the areas controlled by armed groups, often without relatives or friends, and unable to find legal employment or to apply for social assistance.

98. Following the 2014 decisions of the Government of Ukraine<sup>79</sup>, there have been no allocations from the State budget for social benefits, including pensions, as well as for the social care institutions which continued to operate in the areas controlled by the armed groups.

99. Lawyers of the Donetsk-based NGO *Spravedlyvist* (Justice) prepared 6,812 applications from people in the areas controlled by armed groups who have had no access to their social benefits. 3,312 of these cases have been transferred to courts, with no action taken to date.

100. The Resolution of the Cabinet of Ministers No 595 of 7 November 2014, which required people to register and live in the Government controlled areas to receive their social benefits, was effectively challenged in court. The decision of the Kyiv Administrative Court of Appeal in April 2015 acknowledged the resolution as illegal and obliged the Government to resume payments to people regardless of their registration and residence<sup>80</sup>. The court decisions remained unimplemented<sup>81</sup> and the Government has filed a cassation appeal. In order to receive their benefits, people have to either move or regularly travel across the contact line to the Government controlled areas. As of July 2015, pensions for 233,900 people have been suspended as they were not identified at their place of residence in the Government-controlled areas. The deprivation of pensions to people based on their place of residence is unconstitutional and violates international law. The Government should take proactive measures to ensure equal access to social security regardless of the place of residence, particularly in a situation of armed conflict<sup>82</sup>.

101. According to available data, approximately 523,000 pensioners living in territory under the control of the 'Donetsk people's republic' received a pension payment for July 2015 in roubles<sup>83</sup>. Allegedly, persons with disabilities in the 'Donetsk people's republic' have not received any social benefits. It is reported that payment of pensions started in the 'Luhansk people's republic' but the number of beneficiaries has not been made available.

102. As of 15 August, out of 1,126,508 registered IDP families, 455,566 were receiving financial support from the Government of Ukraine<sup>84</sup>. HRMMU received reports of isolated cases of people who were denied registration as IDPs. Due to inconsistencies in the legislation<sup>85</sup>, people coming from the Government controlled areas, even those close to the contact line, have difficulties in obtaining the IDP status.

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<sup>79</sup> The Decision of the National Security and Defence Council of 4 November On Immediate Measures Aimed at the Stabilization of Socio-Economic Situation in Donetsk and Luhansk Regions, enacted by the Decree of the President of Ukraine No. 875/2014 on 14 November 2014, and the consequent resolution of the Cabinet of Ministers of Ukraine No.595 as of 7 November 2014, On the Issues of Financing of State Institutions, Payment of Social Benefits to Citizens and Provision of Financial Support for Some enterprises and Organizations of Donetsk and Luhansk region. See OHCHR report on the situation of human rights in Ukraine covering 1 to 30 November 2014, paragraphs 47-50.

<sup>80</sup> For more information, see paragraph 92 of the OHCHR Report on the Human Rights Situation in Ukraine covering the period from 16 February to 15 May 2015.

<sup>81</sup> In its reply to the plaintiff as of 30 April 2015, the Ministry of Finance stated its readiness to implement the court decision.

<sup>82</sup> General Comment No19 regarding article 9 (the right to social security) of the Committee on Economic, Social and Cultural Rights.

<sup>83</sup> According to the 'pension fund' of the 'Donetsk people's republic'.

<sup>84</sup> Ministry of Social Policy.

<sup>85</sup> Government Resolution No 509 On Registration of Persons who are moving from the Temporarily Occupied Territories, districts of antiterrorist operation and localities which are situated at the contact line foresees that, among other reasons, people may be registered as IDPs if they come not only from the areas controlled by armed groups, but also districts of the 'anti-terrorist operation', localities situated at the contact line or where state bodies temporarily do not exercise their powers (grey zone), while the Government Order No 1085-p,

103. Soldiers that served in the so-called ‘volunteer battalions’<sup>86</sup> and the families of deceased soldiers continued to face difficulties in obtaining the official status of security operation participants, precluding them from accessing social and medical services. On 11 June, HRMMU interviewed a widow who had not received any support for almost a year, although at the time of her husband’s death, his battalion had been included into the structure of the Ministry of Defence.

### **C. Right to the highest attainable standard of physical and mental health**

#### *Access to medical services in the areas along the contact line*

104. HRMMU is concerned about the continued damage caused by the ongoing armed hostilities to medical facilities, often in violation of international humanitarian law. This also constitutes one of six grave violations against children during armed conflict. According to information available, more than 150 healthcare facilities have been partly or completely destroyed in the conflict area as a result of indiscriminate shelling<sup>87</sup>. On 22 July, HRMMU visited Donetsk hospital No 23, which was shelled for the third time since the beginning of the armed conflict. Despite damages to the building, patients continued to be treated. On 4 August, the Government-controlled towns of Krymske (Luhansk region) and Avdiivka (Donetsk region) were shelled, damaging the tuberculosis and general city hospitals. Individuals interviewed by HRMMU reported that since the beginning of the conflict, medical facilities and ambulances continued to come under fire, although clearly marked and easily identifiable.

105. Access to healthcare is particularly dire along the contact line. Due to the small numbers of inhabitants, professional medical care was already limited before the conflict. Regular shelling impedes access for ambulances and the delivery of humanitarian aid to this area. Furthermore, due to the location of the checkpoints, some of the villages are cut off from the nearest hospitals. The pharmacies have not received necessary stocks of medication.

#### *Access to healthcare in the areas controlled by armed groups*

106. Compared to previous months, a variety of basic medicines can be found in the pharmacies of Donetsk, but treatment for chronic diseases remains largely limited, as well as surgeries, reproductive health and paediatrics. The situation in rural areas is much more difficult, especially in Luhansk region –already the case before the conflict.

107. The administration of local health care facilities, and social and penitentiary institutions controlled by the ‘Donetsk people’s republic’ reported to HRMMU about the constant shortage of consumables, reagents, testing systems, maintenance and spare parts for medical equipment, and that they were increasingly dependent on humanitarian aid. Social care institutions, particularly for older people, reported not having the most basic medicines.

108. Pursuant to Decree No 875 of the President of Ukraine of 14 November 2014, ordering the relocation of all State institutions to territories under Government control, almost all hospitals located in areas controlled by the armed groups have changed their legal address and formally registered in Government-controlled territories, although they remain in the areas controlled by armed groups. Specialised treatment (anti-retroviral, tuberculosis, insulin and haemodialysis) purchased by the Government has remained in store houses in

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which approves the exact list of localities from which IDPs may be registered includes only those that are controlled by armed groups.

<sup>86</sup> These battalions were integrated into the official structures under the MoIA or the Ministry of Defence by the end of 2014.

<sup>87</sup> This is a rough estimate of HRMMU based on data provided by the Ministry of Health of Ukraine, city and regional administrations of Donetsk and Luhansk regions (Government-controlled areas and areas under the control of the armed groups, as well as the statements made by the representatives of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’.

Government-controlled areas and has not been delivered to the medical facilities which continue to operate in the territories controlled by armed groups<sup>88</sup>. This particularly affects the approximately 8,000 people living with HIV, including children and prisoners. To prevent therapy interruption, since July 2014 some people have been transporting antiretroviral treatment into areas controlled by armed groups via checkpoints and non-official roads, risking their life including due to the increased presence of ERW and IEDs.

#### *Access to healthcare in other parts of Ukraine*

109. The growing number of IDPs, wounded civilians and demobilised soldiers has created new challenges for the Government to ensure access to quality medical care. So far, most of the rehabilitation services and necessary equipment have been provided by volunteers, private donors and charity foundations. HRMMU received a number of individual complaints from IDPs in Odesa region regarding denial of access to medical care. For example, ambulances refused to go the IDP collective centre, as well as discriminating against and avoiding visits to Roma communities. Also, hospitals have refused to admit IDPs. Some cases were addressed following HRMMU interventions with the regional authorities.

110. On 21 July, the Ombudsperson of Ukraine presented the results of monitoring of places of deprivation of liberty in Ukraine. According to the report, approximately one million people are deprived of their liberty, with limited access to healthcare, which is due to poor staffing, lack of medication, and inaccessibility of professional medical services. The Ombudsperson stressed that in many cases, this may amount to ill-treatment.

#### *Mental health*

111. Mental health services are lacking on both sides of the contact line – including a growing need for individual psycho-social support for children, detainees, and combatants who have been traumatised. The psychological and physical rehabilitation of at least 40,000 demobilized soldiers in the Government-controlled areas is still largely provided by volunteers. Services for survivors of sexual and gender-based violence are not available in the areas controlled by the armed groups and are insufficient in the Government-controlled areas.

112. In the areas controlled by armed groups, psychiatric and psycho-neurological facilities are still in need of specialised medication, particularly sedatives and neuroleptics.

113. During the reporting period, HRMMU received alarming information about inhumane conditions in psychiatric institutions across Ukraine. Apart from appalling accommodation and poor nutrition, there were reports of cases of ill-treatment, forced labour, misappropriation of pensions, and access to medical services being denied. As most of the people in these institutions have been acknowledged by court as legally incapable, they cannot even file a complaint or access legal remedies.

## **V. ACCOUNTABILITY AND ADMINISTRATION OF JUSTICE**

### **A. Accountability for human rights violations committed in the east of Ukraine**

#### *For violations and abuses committed by the armed groups*

114. Since the launch of the security operation by the Government on 14 April 2014, the MoIA opened 6,006 criminal investigations into the killing and injuring of civilians and Ukrainian military personnel in the conflict-affected areas of Donetsk and Luhansk regions, under article 115 (intentional homicide) of the Criminal Code of Ukraine.

115. The MoIA and SBU have initiated investigations into cases of indiscriminate shelling of residential areas by the armed groups under article 258 (act of terrorism) of the Criminal

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<sup>88</sup> Insulin and haemodialysis are purchased from the budget of the regional administrations of Ukraine, whereas MDR-TB and ARVs are approximately 50% Government supplied and 50% are Global Fund supplied.

Code. They have also continued to investigate crimes related to the unlawful deprivation of liberty and ill-treatment of civilian and military detainees by the armed groups. To date, the law enforcement agencies have collected testimonies of victims upon their release and any available evidence. No further progress is reported in these cases with perpetrators still to be brought to account for these crimes. The main impediments to investigation, as reported by law enforcement entities, are the lack of access to crime scenes due to the ongoing hostilities, and the impossibility to identify and locate suspects and weapons. HRMMU learnt that some of the civilians released by the armed groups intentionally have not reported their cases because of a lack of trust in the law enforcement.

116. Access to crime scenes may be at times problematic. Over the past year, however, the Government has regained control over certain territories previously held by the armed groups, and investigations into crimes they had committed in these areas should be possible. The town of Sloviansk, where grave human rights violations and abuses reportedly took place from April to June 2014, is particularly emblematic in this regard. As of 5 July 2014, it came back under the control of the Government. HRMMU is concerned, as are human rights activists and lawyers of victims, about the lack of progress in investigations by MoIA and SBU into alleged human rights violations and abuses committed in the city while it was under the control of the armed groups.

*For violations committed by Ukrainian armed forces and law enforcement entities*

117. HRMMU noted little progress in the investigations of human rights violations committed by the Ukrainian armed forces and law enforcement entities. Although the Criminal Procedure Code provides for two grounds for opening a criminal case, notification of a crime; and discovery of the fact by the law enforcement – the latter is mostly used in high profile cases, which gain resonance among the public and therefore cannot be ignored. Most criminal cases are opened following the notification of a crime. Victims of human rights violations alleged to have been committed by members of the Ukrainian military or law enforcement have been reluctant to file complaints fearing persecution if they are to remain in Government-controlled territory; or have been simply unable to file a complaint from the territories controlled by the armed groups, in the absence of functioning postal service between areas under Government control and those under the armed groups<sup>89</sup>.

118. In the absence of any formal notification of a crime, law enforcement officers are reluctant to open an investigation. The case of the Mariupol airport is illustrative. It is allegedly used as a military base, where numerous human rights violations have been reported, including illegal detention, and ill-treatment amounting to torture committed by the Ukrainian military against alleged members of the armed groups. HRMMU submitted a letter to the Office of the Military Prosecutor of the Southern Region to examine the place in relation to these allegations. On 10 July, HRMMU received an official response stating that the Office of the Military Prosecutor had not received any complaints or notifications regarding human rights violations committed at the airport and that no investigative actions had therefore been conducted. According to the Military Prosecutor for the Southern Region, criminal prosecution is highly dependent on submissions from victims, as a basis on which investigations may be launched. In the course of the reform of the Office of the Prosecutor General in 2014, its general supervision powers were removed, precluding prosecutors from verifying allegations of human rights violations without opening criminal cases.

119. As of 1 June, the Office of the Military Prosecutor had opened 31 criminal proceedings under article 365 (excess of authority or official powers) of the Criminal Code of

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<sup>89</sup> According to Ukrainian legislation and internal regulations of the law enforcement agencies, formal complaints can only be filed: (i) personally; (ii) via postal mail; and (iii) through a trustee empowered with a power of attorney certified by a notary.

Ukraine for use of physical force by the Ukrainian military and law enforcement against people detained in the course of the armed conflict in the east. By the beginning of June, the Office submitted nine cases to courts with indictments, while the investigation of the other 22 cases was ongoing.

120. On 22 April, HRMMU submitted to the Prosecutor General of Ukraine a list of 34 detainees who were allegedly exposed to ill-treatment. Following examination of the facts, the Office reported opening criminal investigations under article 365 (excess of authority or official powers) of the Criminal Code into the use of force against four persons by SBU and Ukrainian military, and one by members of the Right Sector under article 129 (threat to kill) of the Criminal Code. HRMMU is concerned that the said cases of physical abuses against detainees are investigated under article 365 instead of article 127 (torture) of the Criminal Code<sup>90</sup>.

121. HRMMU is concerned about the slow progress in the investigation into torture by Ukrainian servicemen and the consequent death of a man in the town of Iziurm (Kharkiv region) in November 2014<sup>91</sup>. On 7 August, the Military Prosecutor for the Kharkiv Garrison informed HRMMU that two identified suspects would be interrogated as soon as they were located as they were currently serving in the security operation area. In the meantime, notifications of suspicion were sent to their commanders.

122. On 25 June, the Head of the Military Police of the Armed Forces of Ukraine reported that approximately 110 criminal proceedings had been opened into crimes committed by the battalion *Aidar* in 2014-2015. These include the abduction and ill-treatment of people allegedly affiliated with the armed groups and engaged in separatism-related activities. The former commander of Aidar battalion is being investigated under article 426 (inaction by military authorities) of the Criminal Code for failing to prevent crimes committed by his subordinates. According to the Office of the Prosecutor General, he is also suspected under articles 146 (illegal confinement or abduction of a person), 345 (threats or violence against a law enforcement officer) and 382 (failure to comply with a judgment) of the Criminal Code for organising the abduction of the director of the State enterprise *Ukrspyrnt*, on 19 December 2014. On 28 June, the Prosecutor General of Ukraine informed that the pre-trial investigation into the incident was completed.

123. On 16 June, the Prosecutor General of Ukraine reported that his Office was investigating a number of crimes committed by other former voluntary battalions which were operational in the east of Ukraine. On 17 June, the MoIA department for internal security jointly with the Office of the Military Prosecutor detained the commander and seven servicemen of the special police patrol battalion *Tornado*, which incorporated personnel of the *Shakhtarsk* police battalion disbanded for looting in October 2014. The same day, the Chief Military Prosecutor stated that a “criminal gang” of servicemen of the battalion *Tornado* used the basement of a school in the town of Pryvillia (Luhansk region) to unlawfully detain local

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<sup>90</sup> In its concluding observations to the sixth periodic report of Ukraine (November 2014), the Committee against Torture expressed its concern that “while article 127 of the Criminal Code relates to torture, acts amounting to torture are often prosecuted under articles 364 (abuse of authority or office), 365 (excess of authority or official powers) and 373 (compelling to testify) of the Criminal Code, which do not provide for the criminal liability of all individuals who inflict torture. It is also concerned that torture is punishable by two to five years of imprisonment and at the low number of persons convicted for having committed acts of torture (arts. 2 and 4). The State party should amend its legislation to ensure that persons who are alleged to have committed acts of torture are prosecuted under article 127 of the Criminal Code and that appropriate penalties for acts of torture are applied that are commensurate with the gravity of the crime, as set out in article 4, paragraph 2, of the Convention” (CAT/C/UKR/CO/6).

<sup>91</sup> For more details, please see paragraph 106 of the OHCHR report on the human rights situation in Ukraine covering the period 16 February – 15 May 2015.

residents. Servicemen of the battalion allegedly tortured and ill-treated people unlawfully deprived of their liberty, and raped some men, recording these acts on video. The crimes are investigated under articles 146 (illegal confinement or abduction of a person), 255 (creation of a criminal organisation) and 365 (excess of authority or official powers) of the Criminal Code. On 10 July, the Office of the Military Prosecutor reported that a number of Tornado servicemen were suspected of debauchery of minors. On 18 June, the Minister of Internal Affairs of Ukraine ordered to disband the battalion. On 23 July, the battalion was withdrawn from the security operation area but was not effectively disbanded. As of the date of this report investigations were ongoing.

## **B. Accountability for human rights violations committed during the Maidan protests**

124. Limited progress has been achieved in the investigation into the incidents of excessive use of force during the dispersal of protestors at Maidan on 30 November 2013 and the killing of protestors in Kyiv between 18 and 20 February 2014, when special police units used firearms.

### *Forceful dispersal of Maidan protestors on 30 November 2013*

125. On 26 June, the Office of the Prosecutor General submitted the indictment in the case of forceful dispersal of Maidan protestors, on 30 November 2013, according to which four Berkut officers are charged under articles 340 (illegal interference with the organization or holding of assemblies, rallies, marches and demonstrations) and 365 (excess of authority or official powers) of the Criminal Code. The preliminary hearing in the case was scheduled by the Shevchenkivskyi District Court of Kyiv on 17 August.

126. On 27 February, the Shevchenkivskyi District Court resumed consideration of the case of the former head of the Kyiv City State Administration, accused of the same crimes, for ordering the forceful dispersal of the peaceful protest. The court is still collecting witness testimonies and its next hearing is scheduled for 17 September.

### *Prosecution of Berkut servicemen accused of killing of protestors*

127. The two Berkut servicemen accused of killing 39 protestors on 20 February 2014, in Kyiv, remain in custody since 4 April 2014 when they were detained along with their commander. Whereabouts of the latter have been unknown since he fled from house arrest on 3 October 2014. Although preliminary hearings in the case began on 20 February 2015, the Sviatoshynskyi District Court of Kyiv only finalized the appointment of the jury on 6 July. The process was protracted due to the failure of the Kyiv city council to submit a list of jury candidates and procedural flaws that, according to the lawyers, could have eventually affected legitimacy of the court decision. On 6 July, the court started the trial on the merits, hearing testimonies of relatives of the killed protestors.

128. On 26 June, the Office of the Prosecutor General reported the detention of the acting Berkut Lieutenant Colonel who is also suspected in the killing of the 39 protestors. Two other Berkut servicemen facing the same charges have been in detention since 23 February 2015. In total 25 Berkut servicemen are suspected in the killing of the 39 protestors; 20 of whom were put on a wanted list. To date the prosecution did not determine the individual responsibility of each of them. HRMMU is concerned that the approach taken by the Office of the Prosecutor General may result in establishing collective responsibility.

129. The investigation into the killing of three and injuring of 69 Maidan protestors on 18 February 2014 in Kyiv is ongoing. Three suspected Berkut servicemen have been in detention since 22 April 2015.

## **C. Accountability for the 2 May violence in Odesa**

130. More than 15 months after the events of 2 May 2014 in Odesa, which resulted in the death of 48 people due to clashes of supporters of federalisation of Ukraine ('pro-federalism'

supporters), supporters of unitary Ukraine ('pro-unity' supporters)<sup>92</sup> and football fans, only limited progress has been observed in the investigations. None of the officials then responsible for maintaining public order in the city have been brought to account.

131. As of 15 August, 22 'pro-federalism' supporters have been accused of mass disorder in Odesa city centre; 11 of them<sup>93</sup> have spent 15 months in the Odesa SIZO. One 'pro-unity' activist was accused of murder in the city centre, and another 'pro-unity' activist is suspected of mass disorder near the Trade Unions building. Currently they are not under any measure of restraint due to the expiration of the maximum terms of the application of the measure of restraint under the Code of Criminal Procedure; one of them is awaiting trial and the second one is still under investigation.

132. On 18 May, a draft law was registered in Parliament suggesting that all those accused of the mass disorder on 2 May 2014 in Odesa should be exempted from criminal responsibility, whereas those suspected or accused of grave crimes should be prosecuted.

#### *Investigations by the Office of the Prosecutor General*

133. Although a criminal case had been opened against the former head of the Odesa Regional Department of the MoIA<sup>94</sup>, no particular progress in the investigation has been reported. In addition, only a few relatives of the deceased or injured have been granted the status of victims in the case.

#### *Investigations by the Ministry of Internal Affairs*

134. No suspects have been identified in the criminal case opened by the MoIA into the slow response and inaction of the fire brigade, which took 45 minutes to arrive at the scene despite the numerous emergency calls. The MoIA investigative unit claims to be still waiting for the results of the forensic examination of the Trade Unions building.

135. In September 2014, the investigation into the 2 May events in Odesa carried out by the MoIA was split into three major criminal proceedings: mass disorder at the Trade Unions building (Kulykove Pole square), mass disorder in the city centre, and a case of homicide opened against a 'pro-unity' activist for shooting dead a protestor in the city centre.

#### *Investigation regarding the mass disorder at the Trade Unions building*

136. In June 2015, the MoIA identified the last body discovered after the fire of the Trade Unions building. All 48 people who died during the 2 May violence have thus been identified.

137. On 3 July, following the appeal filed on 17 February 2015 by the victims, the Prymorskyi District Court in Odesa overturned the decision of the Office of the Prosecutor General to cease criminal proceedings against a 'pro-unity' activist, accused of beating 'pro-federalism' supporters, jumping out of the burning Trade Unions Building. The judge decided that the necessary investigative measure had not been taken and ruled to resume the pre-trial investigation against the activist.

#### *Investigation into mass disorder in the city centre*

138. As of 15 August 2015, the criminal case into the mass disorder on 2 May 2014 in Odesa had been in court for eight months. Numerous procedural violations have been

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<sup>92</sup> Six people were killed in mass disorder in the city centre of Odesa and 42 people died at the Trade Unions building.

<sup>93</sup> In November 2014, 21 'pro-federalism' supporters were accused of participating in mass disorder during the 2 May violence. In July 2015, the Prosecutor General Office brought charges against one more 'pro-federalism' activist for participating in mass disorder and illegal possession of weapons.

<sup>94</sup> On 13 May 2015, the former Head of the Odesa Regional Department of the Ministry of Internal Affairs was placed under house arrest for official negligence, by failing to ensure public security which resulted in clashes between 'pro-federalism' and 'pro-unity' supporters during the march *For United Ukraine*.

reported, as well as the non-appearance of lawyers and the poor quality of case materials – all of which have significantly delayed the process. Consideration on the merits started on 2 July. At this stage the trial remains protracted due to failure of the Office of the Prosecutor General to provide a simultaneous interpreter for two citizens of the Russian Federation, accused of mass disorder in the city centre.

*Investigation regarding the ‘pro-unity’ activist charged with homicide*

139. A court hearing in the case of the only ‘pro-unity’ activist accused of shooting dead a protestor and injuring a police officer in Odesa city centre on 2 May, which started on 23 June, was disrupted by other ‘pro-unity’ activists (mostly men, many in paramilitary uniform). The ‘pro-federalism’ supporters and relatives of the victims (mostly women and elderly people) have been violently prevented by ‘pro unity’ from entering the court room.

140. On 3 August, HRMMU observed how prior to the beginning of the hearing, a member of Parliament supported by a group of some 40 ‘pro-unity’ activists verbally threatened two judges from the panel, accusing them of lack of impartiality and objectivity and forcing them to recuse themselves from the case.

141. It was the third court hearing adjourned because of the disqualification of judges, which resulted in transferring the case to another court. HRMMU is concerned about the inaction of the police and has intervened with the Odesa Regional Department of the MoIA to take all necessary measures to ensure the safety of trial participants in compliance with national and international human rights standards.

**D. Administration of justice**

142. HRMMU analysed a number of court decisions related to acts committed by members of the armed groups of ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ or people affiliated thereto. Most of the perpetrators are prosecuted under articles 110 (trespass against territorial integrity and inviolability of Ukraine) or 263 (unlawful handling of weapons, ammunition or explosives) of the Criminal Code of Ukraine. In the vast majority of these cases, the accused agreed to plead guilty in exchange for a sentence with a probation period, which along with numerous reports of ill-treatment of detainees, some of which have been interviewed by HRMMU during the reporting period, may indicate that they could have been forced to confess<sup>95</sup>.

143. Moreover, HRMMU has noted a lack of uniformity in the qualification of similar crimes. While in certain cases members of the armed groups were accused under article 258-3 (participation in a terrorist group or terrorist organisation), in other cases courts found them guilty under article 260 (participation in the illegal paramilitary or armed formations) of the Criminal Code of Ukraine, emphasising that neither ‘Donetsk people’s republic’ nor ‘Luhansk people’s republic’ were recognised as terrorist organisations under Ukrainian legislation. Although in both types of cases perpetrators were sentenced for the same crime, *i.e.* participation in the armed groups, those found guilty under article 258-3 were sentenced to longer terms of imprisonment than those accused under article 260 of the Criminal Code.

144. For example, on 10 August, the Prosecutor of the Donetsk region reported sentencing a member of the armed groups of the ‘Donetsk people’s republic’ to four years of imprisonment under article 260 of the Criminal Code for participation in the unlawful activity of paramilitary armed formation *Oplot*. The next day, the Slovianskyi District Court in Donetsk region sentenced another member of the armed groups of the ‘Donetsk people’s republic’ to nine years of imprisonment under article 258-3 of the Criminal Code for setting up check points, trench shelters and other fortification installations and keeping the armed watch there.

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<sup>95</sup> See paragraphs 46 and 164 of OHCHR report on the human rights situation in Ukraine covering 16 February to 15 May 2015.



145. The HRMMU noted the development of more centralized civilian ‘administrative structures’ and ‘procedures’ continued to develop in the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’. These include the ‘legislature’, ‘judiciary system’, ‘ministries’ and ‘law enforcement’. ‘Donetsk people’s republic’ reportedly began issuing passports to residents of the territories under its control. Among other ‘laws’, ‘legislative bodies’ of ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ have adopted a number of ‘legislative acts’ governing criminal prosecution<sup>96</sup> in the territories under their control. Prosecution of Ukrainian citizens under these ‘laws’ by these ‘courts’ would constitute violation of their right to fair trial. In general, all these ‘structures’ and ‘procedures’ do not conform to international law and the Constitution of Ukraine.

#### *High profile cases*

146. On 28 July, the Prosecutor General of Ukraine reported the opening of an *in absentia* trial against former senior officials for corruption – the former President Yanukovich, former Head of the National Bank Arbuzov, former Minister of Revenues and Duties Klymenko and his former deputy Ihnatov, former Minister of Health Bohatyriova and her former deputy Stashchenko. Most of them have fled Ukraine and are allegedly in the Russian Federation. All of them were put on an international wanted list, which is the main prerequisite for launching a trial *in absentia*. According to the procedure, the suspects are to be officially notified through a summons published in the official Gazette and on the website of the Office of the Prosecutor General of Ukraine, inviting them to the interrogation and notifying them that the investigation and trial shall otherwise take place in their absence. This is the first time a trial *in absentia* procedure has been applied in Ukraine since October 2014, when amendments were introduced to the Criminal Procedural Code.

147. In its General Comment No 32, the Human Rights Committee declared that proceedings in the absence of the accused ‘may in some circumstances be permissible in the interest of the proper administration of justice’, and added that these circumstances emerge when the accused persons, although informed of the proceedings sufficiently in advance, decline to exercise their right to be present.

148. On 18 June, the Minister of Internal Affairs reported that the case of the killing of the editor-in-chief of the daily newspaper *Siegodnia* Oles Buzyna (shot dead in Kyiv on 16 April 2015) was “solved”. According to the Minister, two suspects were identified and detained in the course of the investigation. On 18 June, the Shevchenkivskyi District Court in Kyiv ruled to hold one of them – a member of police battalion *Kyiv-2* who participated in the armed conflict in the east – in custodial detention until 18 August. The other was released on bail for UAH 5 million (approximately USD 235,000). The pre-trial investigation of the case is ongoing.

149. HRMMU continued to monitor the case of Nelia Shtepa, the former mayor of the town of Sloviansk (Donetsk region), who is charged under articles 110 (trespass against territorial integrity and inviolability of Ukraine) and 258-3 (creation of a terrorist group or terrorist organization) of the Criminal Code for cooperation with and rendering support to the “separatists”; and failure to secure the city police department, where 479 units of firearms were stored in April 2014. According to the indictment, these actions led to the takeover of the town and the subsequent killing of 117 people and injuring of 198. Ms Shtepa has been in custody since 11 July 2014, after the Ukrainian armed forces regained control over the town of Sloviansk on 7 July (she had previously spent nearly three months as a detainee of the armed groups). The trial is moving slowly, with approximately one hearing per month, and is at the stage of collection of testimonies from prosecution witnesses.

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<sup>96</sup> See paragraphs 129-132 of the 10<sup>th</sup> HRMMU report on the human rights situation in Ukraine covering period 16 February – 15 May 2015.

150. Another high-profile case monitored by HRMMU is that of the mayor of Kharkiv, Hennadii Kernes, who is charged under articles 127 (torture), 129 (threat to kill) and 146 (illegal confinement or abduction of a person) of the Criminal Code for abduction and ill-treatment of pro-Maidan activists in Kharkiv which he allegedly conducted along with two of his bodyguards, in March 2014. Although the indictment was submitted to the court on 26 March 2015, the hearing on the merits has not yet commenced. Preliminary hearings in the case are closely followed by activists, with all sittings accompanied by their demonstrations, demanding that the defendant be imprisoned. In some cases, activists attempted to enter the court room, and clashed with the police.

#### *Transfer of prisoners*

151. Approximately 9,300 prisoners sentenced before the conflict remain in penitentiary institutions located on the territory controlled by the ‘Donetsk people’s republic’. This includes over 760 prisoners from different regions of Ukraine and foreign citizens. In March 2015, the Ombudsperson’s Office of Ukraine initiated a discussion on the transfer of such pre-conflict prisoners to Government-controlled territories. At this time, HRMMU acted as an intermediary between the ‘penitentiary administration’ of the ‘Donetsk people’s republic’ and the Office of the Ombudsperson in this operation. This enabled a group of foreign prisoners, and a group of detainees who had been in the process of being transferred prior to the start of the armed conflict to return to the judicial system under which they were sentenced or had been facing trial<sup>97</sup>.

152. As of 15 August, two transfers had taken place. On 8 July, nine male prisoners (seven citizens of the Russian Federation, one citizen of the Republic of Moldova, and one citizen of Georgia) were transferred from the ‘Donetsk people’s republic’ to the Government-controlled territories (three of them await further transfer to the states of their nationality). On 5 August, a group of 20 (19 men and one woman) were transferred from the ‘Donetsk people’s republic’ to Government-controlled territory. HRMMU presence during both transfers fostered trust between the parties.

## **VI. LEGISLATIVE DEVELOPMENTS AND INSTITUTIONAL REFORMS**

### **Constitution of Ukraine**

#### *Decentralization*

153. On 31 July, the Constitutional Court of Ukraine published its opinion on a draft law on constitutional amendments relating to decentralization, finding it in line with the Constitution and international human rights standards. The European Commission for Democracy through Law (the Venice Commission) found the amendments “largely compatible with the European Charter of Local Self-Government”<sup>98</sup>.

154. The amendments enshrine the principle of subsidiarity and the duty of the State to ensure adequate financial resources for the local self-government units. It clearly separates and defines the functions of the State and local self-government. Prefects are to assume the oversight functions of the State at local level. The President and the Prefect can suspend the powers of local government bodies if they believe their decisions are illegal, and the Constitutional Court is to rule on the issue of such decisions.

155. It should be noted that the draft amendments do not address the territories controlled by the armed groups and foresee that “special order of self-governance of certain districts of

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<sup>97</sup> This concerned nine (in July) and 20 (in August) people respectively.

<sup>98</sup> See Paragraph 38 of the Preliminary Opinion on the Proposed Constitutional Amendments Regarding the Territorial Structure and Local Administration of Ukraine, the Venice Commission, 24 June 2015.

Donetsk and Luhansk regions shall be set forth in a separate law”. Commenting on the draft amendments, President Poroshenko said that they “do not envision and cannot envision any special status for the Donbas”. The Venice Commission regretted that the amendments “do not provide a constitutional basis for proposals aimed at settling the present conflict in Ukraine. The Commission considers that the authorities should add a provision to the effect that “some categories of administrative/territorial units or special arrangements for or within administrative/territorial units may (only) be created by law”. This formula, albeit neutral, would nonetheless enable future legal developments in line with the Minsk agreements”<sup>99</sup>.

### *Judiciary*

156. Amendments aimed at reforming the judicial system and the status of judges were developed by a working group of the Constitutional Commission and foresee the removal of long-standing constitutional obstacles to the independence of the legal system. In particular, judges will no longer be elected and dismissed by Parliament but appointed by the President upon the submission of the High Council of Justice, which will also be empowered to decide on the termination of their term. The High Council of Justice is to be composed of a majority of judges (10 out of 19). Probationary periods for judges, which made them vulnerable to political pressure, are abolished. The broad supervisory powers of the Public Prosecutor not related to his prosecutorial functions have been cancelled and the competence of the Parliament to declare no confidence in the Prosecutor General has been removed. The amendments also mention that “Ukraine may recognize the jurisdiction of the International Criminal Court as provided by the Rome Statute of the International Criminal Court”. The amendments largely reflect the recommendations of the Venice Commission and of United Nations human rights mechanisms<sup>100</sup> to improve strengthening the independence of the judiciary, to fight corruption and to improve access to justice. To date, these amendments have not yet been approved by the Constitutional Commission.

157. The working group of the Constitutional Commission dealing with human rights issues is in the process of developing draft amendments to the Constitution in this area based on the European Convention on Human Rights and Fundamental Freedoms, the Charter of Fundamental Rights of the European Union and UN human rights instruments.

### **Accession to international conventions**

158. HRMMU welcomes the adoption, on 17 June, of a law signed by the President of Ukraine on 6 July, enabling Ukraine to join the International Convention for the Protection of All Persons from Enforced Disappearance. On 14 August, Ukraine transmitted to the UN Secretary-General the Instrument of Accession to the Convention which will enter into force for Ukraine on 13 September 2015. While acceding to the Convention, Ukraine made a declaration recognizing the competence of the Committee on Enforced Disappearances under articles 31 and 32 of the Convention.

### **Derogation from certain human rights obligations**

159. On 5 June 2015, the Government of Ukraine informed the Secretary-General of the United Nations and the Secretary-General of the Council of Europe<sup>101</sup> that it would derogate from certain State obligations under the ICCPR and the European Convention for the Protection of Human Rights and Fundamental Freedoms. According to the text of the

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<sup>99</sup> Ibid, paragraph 27.

<sup>100</sup> See, in particular, paragraph 17 of the Concluding Observations of the Human Right Committee (CCPR/C/UKR/CO/7) of 22 August 2013, and paragraphs 7-13, 14, 15, 88, 90-92, 95 and 96 of the Report of the Working Group on the Universal Periodic Review (A/HRC/22/7).

<sup>101</sup> See paragraph 144 of HRMMU report on the human rights situation in Ukraine for 16 February – 15 May 2015.

resolution of the Ukrainian Parliament of 21 May 2015<sup>102</sup>, it was adopted in connection with “annexation and temporary occupation by the Russian Federation” of Crimea and “military aggression of the Russian Federation” “on the territory of certain districts of Donetsk and Luhansk regions”.

160. The derogation is envisaged in relation to the right to liberty and security, fair trial, effective remedy, respect for private and family life and freedom of movement, including the right to choose one’s residence, which should be applied in certain districts of the Donetsk and Luhansk regions determined by the Anti-Terrorism Centre of the Security Service of Ukraine. In addition, the Resolution does not define clearly the territory to which the derogation applies but states that Ukraine shall inform the Secretary-General of the United Nations and the Secretary General of the Council of Europe about “the alteration of the territory” to which the derogation shall apply. The resolution envisages derogations from some rights which have been interpreted by the United Nations Human Rights Committee as being non-derogable. They include the right to an effective remedy and procedural rights, such as the supervision by a judicial body of the lawfulness of detention.

161. The derogation will have a negative impact on the enjoyment of human rights in certain areas of the Donetsk and Luhansk regions. The derogation in regard of ICCPR is effective since 16 July. According to the Secretary General of the Council of Europe, “the derogation does not mean that Ukraine is no longer bound by the European Convention on Human Rights, that it is no longer a member of the Council of Europe, or that our co-operation is being put on hold. The European Court of Human Rights will assess in each case whether the derogation is justified”. HRMMU notes that the armed groups and the so-called ‘governance structures’ of the ‘Donetsk people’s republic’ and ‘Luhansk people’s republic’ are accountable for human rights abuses committed on territories under their control.

### **National Human Rights Strategy**

162. During the reporting period, the Government and the Presidential Administration, in cooperation with Ombudsperson office and civil society, finalized the draft of the National Human Rights Strategy. The draft was analysed by OHCHR, the Council of Europe and other organizations, and was approved by the Cabinet of Ministers in the end of March 2015. The draft was further amended following comments made by civil society organizations and the Ombudsperson office and submitted to the Presidential Administration for approval<sup>103</sup>.

### **Freedom of movement**

#### *Movement of people*

163. On 4 June 2015, the Government adopted Regulation No 367 which organizes the movement of foreigners and stateless persons to and from Crimea. The adoption of this regulation was a legal requirement deriving from the law ‘On Securing the Rights and Freedoms of Citizens and the Legal Regime on the Temporarily Occupied Territory of

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<sup>102</sup> The Resolution On the Approval of the Notification of Ukraine about the Derogation from Certain Obligations Determined by the Convention for the Protection of Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights.

<sup>103</sup> On 25 August, the President of Ukraine approved the Strategy and tasked the Government to develop a relevant Action Plan within three months. The Strategy was developed through collaborative efforts that have involved, since November 2014, the Government, civil society groups, the Ombudsperson and international organizations. It provides a five-year roadmap to address both systemic human rights challenges and more recent conflict-related issues that have followed Maidan events. The Strategy outlines 24 strategic areas, including torture and ill-treatment, impunity, fair trial rights, fighting discrimination, national minorities, gender equality, fundamental freedoms, right to health, rights of IDPs and those living in the territories controlled by the armed groups.

Ukraine' of 15 April 2014<sup>104</sup>. It provides that foreigners and stateless persons shall enter or leave Crimea through designated checkpoints and in possession of passports as well as special permits issued by the State Migration Service of Ukraine. The delivery of a special permit requires the submission of a number of documents and mention of the purpose of the visit. The Regulation contains a limited list of grounds for entering Crimea for foreigners and persons without citizenship which may negatively impact freedom of movement for this category and be assessed as discriminatory as no grounds for the restriction is being provided. The refusal to deliver a permit must be motivated and in writing. HRMMU interviewed one foreign citizen who was refused a permit without any justification and is aware of another case of permits delivered to some but not all members of a family traveling together, without providing arguments for this difference in treatment.

#### *Movement of goods*

164. On 8 August, law No 649-VIII<sup>105</sup> was published, instructing the Government of Ukraine to adopt a legal act (to be developed by SBU) regulating the movement of goods to and from the area of the “anti-terrorist operation” until 22 August. The Temporary Order already includes such a procedure and the adoption of a new legal act would duplicate it and further tighten the control of movement across the contact line. Additionally, the law introduces administrative responsibility for violating the procedure of cargo movement in the form of fines ranging from UAH 121,800 (approximately USD 5,800) to UAH 243,600 (approximately USD 11,380), as well as the confiscation of goods. HRMMU emphasizes that restrictions to the movement of goods should not lead to violations of the right to an adequate standard of living, including adequate food, clothing, housing and the right to health<sup>106</sup>. HRMMU also recalls that the parties to the conflict, in line with international humanitarian law, must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their control<sup>107</sup>.

#### **Police reform**

165. On 4 August, the President of Ukraine signed the law on the national police, defining the legal and organizational framework for the activities of the police. It states that the national police shall be headed by a chief of police appointed and dismissed by the Cabinet of Ministers. The law regulates the use of physical force, firearms, special equipment, as well as the procedures for arrest, questioning and document check. It also requires for police measures to be necessary and proportionate. The law also provides that police officers having committing illegal acts shall be brought to criminal, administrative, civil and disciplinary liability.

166. The law clearly defines the powers, status and obligations of police officers, covering a wide range of police activities. In addition, it regulates the application of measures of restraint and the use of force, while such aspects were previously covered by Government regulations. On the negative side, the law provides that firearms can be used without warning

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<sup>104</sup> Article 10-2 of this law states that the movement of foreigners and stateless persons to and from Crimea should take place in accordance with a “regime” applicable to those categories and only through “special permission” established by the Government of Ukraine.

<sup>105</sup> Law on Amendments to Some Legislative Acts of Ukraine Regarding Order of Movement of Goods to and from the Territory of Anti-Terrorist Operation Area.

<sup>106</sup> See articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights.

<sup>107</sup> Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.

in the area of the “anti-terrorist operation”<sup>108</sup>. Moreover, it does not foresee independent complaints and oversight mechanisms of police activities, which would strengthen accountability and public trust<sup>109</sup>.

### **Law on local elections**

167. On 14 July, the Parliament adopted a law on local elections which will be first applied to the nation-wide local elections scheduled for 25 October 2015<sup>110</sup>. The elections will take place under a proportional system, with open party lists, except for city mayors and village councils which will be chosen under the majoritarian system. A person will only be able to vote in his or her place of registration. This means that IDPs will not be able to vote in their place of displacement, which will *de facto* prevent many of them from taking part in the process. According to Principle 22 of the UN Guiding Principles on Internal Displacement, IDPs have the “right to vote and to participate in government and public affairs, including the right to have access to the means necessary to exercise this right”. To be noted, the law determines a 30 per cent quota on the proportional system lists for candidates “of either gender”<sup>111</sup>. In practical terms, this will apply to women. The law does not provide for any sanctions for political parties that fail to comply with this rule. The critical issue is the gap between the *de jure* and *de facto*, or the right as against the reality of women’s participation in politics and public life generally. Research demonstrates that if women’s participation reaches 30 to 35 per cent (generally termed a “critical mass”), there is a real impact on political style and the content of decisions, and political life is revitalized<sup>112</sup>.

## **VII. HUMAN RIGHTS IN THE AUTONOMOUS REPUBLIC OF CRIMEA<sup>113</sup>**

### **Rights to life, liberty, security and physical integrity**

168. On 29 May, ‘the prosecutor of Crimea’ announced identification of at least 50 leaders and participants in the Maidan protest movement, alleging that they were involved in attacks against Berkut servicemen in 2014 in Kyiv. She stated that information on these people would be submitted to the investigative authorities for further actions. As of 15 August, some people from the list have been already summoned to the Investigative Committee of the Russian Federation. HRMMU is concerned in this regard that in Crimea conditions for a fair trial and proper legal safeguards are often absent, and recalls in this regard sentencing by a Crimean ‘court’, on 15 May 2015, of the Crimean ‘pro-unity’ activist Oleksandr Kostenko<sup>114</sup>.

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<sup>108</sup> See UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (principles 9 and 10).

<sup>109</sup> See United Nations Committee against Torture, Concluding Observations on the Sixth Periodic Report of Ukraine (CAT/C/UKR/CO/6), 12 December 2014, p. 4.

<sup>110</sup> The elections will not be held in the “territory of the Autonomous Republic of Crimea” and in “certain territories<sup>110</sup> of Donetsk and Luhansk regions” “because of temporary occupation and armed aggression of the Russian Federation and impossibility to ensure the observance of OSCE standards regarding elections”.

<sup>111</sup> The attainment of a minimum ratio of 30 per cent of leadership positions for both genders was first recommended in a 1990 resolution of the United Nations Economic and Social Council. The role of women in democratic processes was also emphasized in the 2011 United Nations General Assembly resolution on Women’s Political Participation (A/RES/66/130).

<sup>112</sup> CEDAW General Recommendations No. 23: Political and Public Life, XVI Session of the Committee on the Elimination of Discrimination against Women in 1997, A/52/38.

<sup>113</sup> The *de facto* authorities of Crimea rejected HRMMU request to establish a sub-office in the peninsula. HRMMU maintains direct contacts with residents of Crimea as well as with IDPs from Crimea on the mainland Ukraine. HRMMU obtains first-hand information from ‘pro-unity’ activists, Crimean Tatars, leaders of Mejlis and Qurultay of Crimean Tatars people, lawyers of those who had been detained in Crimea as well as from local teachers, doctors and private entrepreneurs. HRMMU continued to seek access to Crimea.

<sup>114</sup> For more details, see paragraphs 158-159 of 10<sup>th</sup> HRMMU report on the human rights situation in Ukraine covering period 16 February – 15 May 2015.

169. On 11 June, the Deputy Prosecutor General of the Russian Federation approved the indictment of Crimean residents Oleh Sentsov and Oleksandr Kolchenko<sup>115</sup>. On 17 June, the North Caucasian Military District Court started to consider the case on the merits. Between 21 July and 15 August, ten court hearings were held<sup>116</sup>. During one of them, the main prosecution witness, Hennadii Afanasiev, revoked his earlier testimony as forced under torture. Mr Afanasiev also informed the court of threats from the Federal Security Service (FSS) of the Russian Federation against himself and his mother. He was taken back to prison on 6 August and, according to his lawyer, was beaten by an FSS officer. HRMMU is deeply concerned about possible further reprisals against Mr Afanasiev and risks to his personal safety.

170. The pre-trial detention of the Deputy Head of the Mejlis of Crimean Tatars Akhtem Chiigoz<sup>117</sup>, who was arrested on 29 January 2015 on suspicion of organizing mass riots on 26 February 2014<sup>118</sup>, was extended until 19 November 2015.

171. The HRMMU is concerned about the lack of accountability in the case of two ‘pro-unity’ Crimean Tatars, Timur Shaimardanov and Seiran Zinedinov, who disappeared in May 2014 in Crimea<sup>119</sup>. On 9 June 2015, the Main Investigative Department of the Investigative Committee of the Russian Federation for Crimea suspended the preliminary investigation into the case, opened on 24 July 2014, because the perpetrator of the crime had not been identified.

### **Freedom of movement**

172. On 4 June, the Government of Ukraine adopted Regulation No 367<sup>120</sup>, introducing additional requirements for children below 16 years of age to cross the administrative boundary line (ABL) between mainland Ukraine and Crimea. According to the new Regulation, children must be in possession of an international passport and, in case he or she is accompanied by only one of his parents, must have the consent of the other parent certified by a notary. Prior to the adoption of the Regulation, the only requirement for Ukrainian children under 16 years to cross the ABL was to have a birth certificate, which was not deemed by the Ukrainian authorities as a proof of citizenship.

173. The absence of information about the new rule has caused long queues at crossing points, with people waiting for hours and many with children being turned away by Ukrainian Border Guards. Crossing points on the Ukrainian side of the ABL are particularly ill-suited to handle the transit of people as there are no toilets, no facilities for children, older persons or persons with disabilities to rest, and no shelter in case of bad weather conditions.

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<sup>115</sup> Four Crimean residents, including film-maker Oleh Sentsov and a ‘pro-unity’ activist Oleksandr Kolchenko, were arrested in Crimea on suspicion of planning terrorist acts and transferred to the Russian Federation in May 2014. Two other detainees related to the case, Hennadii Afanasiev and Oleksii Chyryni, entered a plea agreement and were sentenced to seven years of imprisonment.

<sup>116</sup> On 25 August, Oleh Sentsov was sentenced to 20 years of prison for setting up a terrorist group and being involved in two attempted arson attacks in Crimea. The HRMMU notes that the process was marred by violations of fair trial rights and the presumption of innocence. The court dismissed credible allegations of torture and ill-treatment of Sentsov during pre-trial detention and passed the guilty verdict notwithstanding the fact that the main prosecution witness recanted in the courtroom, saying his testimony had been extorted under torture. Oleksandr Kolchenko, who was being tried with Sentsov and also denied the charges, received a 10-year prison sentence for his participation in the ‘terrorist plot’ organized by Sentsov.

<sup>117</sup> For more details, see paragraph 162 of the 10<sup>th</sup> HRMMU report covering period of 16 February to 15 May 2015.

<sup>118</sup> For more details, see paragraph 93 of the 9<sup>th</sup> HRMMU report covering period of 1 December 2014 – 15 February 2015.

<sup>119</sup> For more details, see paragraph 218 of the 7<sup>th</sup> HRMMU report covering period of 17 September to 31 October 2014.

<sup>120</sup> On Entry/Exit to/from the Temporarily Occupied Territory of Ukraine.

## Freedom of expression<sup>121</sup>

174. The imam of a mosque in the Bakhchysaraiskyi district was sentenced to two years of probation for stating his views in a private conversation at his workplace. The imam allegedly told three people that Crimea will be returned to Ukraine, after which “a war will start in which the Russians will be massacred and many Muslims will be killed”. The Imam denied using these words. The ‘court’ found him guilty of “inciting inter-ethnic animosity” after criminal proceedings were opened by the ‘centre for combating extremism’ of the Crimean ‘ministry of interior’ based on a complaint made by the three individuals. The court decision also prohibits the imam, during the period of his sentence, “to conduct activities related to the dissemination of any information”.

## Freedom of peaceful assembly<sup>122</sup>

175. On 18 May, commemorative events were held throughout Ukraine to mark the 71<sup>st</sup> anniversary of the deportation of the Crimean Tatars<sup>123</sup>. In Crimea, the *de facto* authorities organized official ceremonies and visited the construction site of a future memorial complex dedicated to the victims of the deportation. However, they prohibited all rallies planned by the Crimean Tatar Mejlis, invoking the necessity to avoid political manipulation of the commemoration. In addition, about 60 Crimean Tatars taking part in an unauthorized motorcade in Simferopol were arrested by the Crimean ‘police’, interrogated for several hours, and released after being fined. Restrictions were also applied to the commemoration of the Crimean Tatar Flag Day on 26 June. While Crimean Tatar organizations loyal to *de facto* authorities were able to organize a car rally and deploy a huge Crimean Tatar flag, ‘pro-unity’ activists and members of the Mejlis were formally warned by the Crimean ‘prosecutor’s office’ not to organize any events dedicated to the celebration.

## Freedom of association

176. HRMMU notes with concern that the increasing restrictive conditions placed by the legislation of the Russian Federation on the activities of civil society organizations could lead to the impossibility to re-register and operate in Crimea, and, as a result, infringe enjoyment of freedoms of expression, peaceful assembly and association by local population.

177. For instance, the Crimean association *Ecology and the World* managed to re-register and obtain legal status as required by the *de facto* authorities applying the law of the Russian Federation, while its Feodosia branch was denied registration due to its reported failure to comply with “administrative requirements”. Some NGOs operating with funding from abroad decided to suspend their activities. This is the case, for instance, of the *Association Gurzuf-97*, *Centre for the Animals* and *Crimean Association of Support to Animals* which were reluctant to register as a “foreign agents”, as required by the *de facto* authorities

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<sup>121</sup> On 31 March 2015, in its concluding observations on the seventh periodic report of the Russian Federation, the Human Rights Committee expressed concern about reported violations of the Covenant in the Autonomous Republic of Crimea and the city of Sevastopol that are under effective control of the Russian Federation including “(b) Alleged violations of freedom of expression and information, including harassment of media, blockage of Ukrainian internet sites and forced relocation of local internet sites, threats and intimidation against journalists” (CCPR/C/RUS/CO/7, paragraph 23).

<sup>122</sup> On 31 March 2015, the Human Rights Committee, in its concluding observations on the seventh periodic report of the Russian Federation, expressed concern about “(e) Allegations of discrimination and harassment of members of minorities and indigenous peoples, in particular Crimean Tatars, including a ban on entry into the territory of Crimea for five years of some of their leaders, Mustafa Dzhemiliev, Ismet Yuksel and Refat Chubarov” (CCPR/C/RUS/CO/7, paragraph 23).

<sup>123</sup> A concert-requiem, attended by the President and the Prime Minister of Ukraine was organized in the National Opera and a nationwide mourning rally was held in Kyiv; a collective “Prayer of memory and unity” also took place, gathering representatives of various religious faiths; and the Ministry of Education and Science recommended all schools to read a lecture dedicated to the commemoration of the deportation.



applying the 2012 amendments to the law on non-profit organizations of the Russian Federation.

### **Freedom of religion**<sup>124</sup>

178. As of 23 July, 55 religious organizations from Crimea were listed on the website of the Ministry of Justice of the Russian Federation as having obtained State registration, including Christian Orthodox, Muslim, Protestant and Jewish communities. HRMMU is aware of at least 30 more communities, including 22 Jehovah's Witnesses denominations, which gained registration but have yet to be listed on the Ministry's website.

179. Registration, however, does not grant an automatic right to conduct pastoral activities under the law of the Russian Federation. HRMMU has been informed of a number of incidents, including the case when eight Baptists from the Council of Churches from the town of Saki were detained in May by the Crimean 'police'. They had travelled to the village of Marianivka (Krasnohvardiiskiy district) on the occasion of the Easter celebrations. A 'court' found that they had violated "the established procedure for organizing or conducting a gathering, meeting, demonstration, procession or picket" and fined them. On 2 July, in the city of Simferopol, eight Jehovah's Witnesses, who erected tents and disseminated religious literature, were brought to administrative responsibility (fines) for unsanctioned pickets.

180. HRMMU stresses that the use of such repressive measures contravenes the obligation to respect freedom of religion, which may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

### **Civil registration**

181. HRMMU observes that residents of the peninsula cannot organize their lives without interacting with the institutions that function in Crimea. The Ukrainian legal framework applying to Crimea penalizes those who wish to maintain a continued bond to the mainland and can lead to the development of fraudulent practices.

182. In July 2015, a civil registration office in Kharkiv refused to issue a Ukrainian birth certificate to a child born in Crimea in May 2014, although the mother had a copy of the birth registration statement issued by the Crimean maternity using a Ukrainian form and stamp. The Kharkiv officials argued that after the March 2014 'referendum', the Government of Ukraine stopped recognizing civil registration documents issued on the peninsula and closed the Crimean branch of the Single Registry of Civil Acts. They also stressed that the April 2014 Law 'On Securing the Rights and Freedoms of Citizens and the Legal Regime on the Temporarily Occupied Territory of Ukraine' proclaims that all documents and decisions issued by *de facto* authorities or bodies are deemed null and void.

### **Right to an adequate standard of living**

183. As of 1 July, the price of commodities rose in Crimea. The increase amounted to 15 per cent for water and 14.4 per cent for electricity. For consumers who opted for wholesale payment of gas consumption amounting to less than 6,000 cubic meters per year, tariffs rose by 10 per cent.

184. Crimea is dependent on supplies from mainland Ukraine for electricity (85 per cent) and water for agricultural and industrial products (80 per cent). In addition, due to the difficult economic situation prevailing in Crimea, many private businesses and retailers have

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<sup>124</sup> On 31 March 2015, the Human Rights Committee, in its concluding observations on the seventh periodic report of the Russian Federation, expressed concern about "(f) Reports of violations of freedom of religion and belief on the territory of Crimea, such as intimidation and harassment of religious communities, including attacks on the Ukrainian Orthodox Church, the Greek Catholic Church and the Muslim community" (CCPR/C/RUS/CO/7, para.23).

closed, contributing to a scarcity of supply and higher prices, including for seasonal vegetables and fruits. Basic products are available but their variety is reduced. There are also interruptions in the delivery of dairy products and other products of necessity.

185. The substantial dependence of Crimea on Ukraine is aggravated by other factors, including diminished trade between the peninsula and continental Ukraine, and threatens the right to an adequate standard of living of the most vulnerable, particularly the unemployed and people with scarce economic resources.

### **Right to health**

186. Long delays are reported in obtaining a medical diagnosis or treatment in free-of-charge public health care institutions on the peninsula. There are also reports that some medicines in public hospitals are lacking. According to the ‘human rights commissioner’ of Crimea, Crimean penitentiary institutions lack medical personnel and are short of necessary medicines, including for people with tuberculosis or HIV. Specific problems of access to medicines were reported in the city of Kerch. According to its residents and medical workers, city hospitals do not have painkillers for patients suffering from cancer.

### **Cultural rights**

187. On 21 May, four Crimean activists and three Ukrainian journalists of the Ukrainian TV channel *Inter* were arrested in relation to a flash mob on Ukrainian Embroidery Day, in the city of Armiansk, close to the ABL. The activists intended to take pictures of themselves clad in traditional Ukrainian clothes and post them on social networks. The Ukrainian TV crew arrived to film them in a separate car. The Crimean ‘police’ started searching the vehicles for “prohibited items”. They did not find anything but took the journalists and Ukrainian activists to the police station where they were held for five hours, photographed and released after having their fingerprints taken. The protocol drawn up stated they had been detained “to establish their identity”. This incident illustrates the difficulties that some groups in Crimea, particularly ethnic Ukrainians, face to maintain their culture and identity.

## **VIII. CONCLUSIONS AND RECOMMENDATIONS**

188. An environment conducive to the promotion and protection of human rights in Ukraine dramatically depends on putting an end to the armed conflict and achieving a peaceful solution in the east, and on respect for General Assembly resolution 68/262 on the sovereignty and territorial integrity of Ukraine. Continuing presence of foreign fighters, with some identified by the Government of Ukraine as servicemen from the Russian Federation, as well as the reported influx of heavy and sophisticated weaponry from the Russian Federation and the lack of effective control by the Government of Ukraine of the state border with the Russian Federation remain the major impediments to this solution. In this regard, more has to be done to ensure that the Minsk Agreements are faithfully implemented by all parties. The protection of human rights and accountability must be at the core of efforts towards long term justice for all, genuine reconciliation within the population, and the recovery of Ukraine.

189. The daily lives of citizens who live on both sides of the contact line remain one of hardship. Despite efforts to ease freedom of movement, the practicalities at checkpoints continue to hamper the daily lives of citizens of Ukraine as they try to access social welfare payments and medical healthcare, and maintain family ties and contact. The unresolved armed conflict coupled with the continued economic crisis in the country only leads to further insecurity in the lives of those who live in Ukraine – leading to more hardship and making the population more vulnerable to human rights violations in all spheres of their lives.

190. Despite certain improvements made by the Government of Ukraine, the delivery of humanitarian aid to the areas controlled by armed groups is still complicated. Access and

unimpeded activities of the humanitarian organisations are pre-conditions for addressing the urgent needs of the target population. Additional efforts must be undertaken to facilitate the work of international and national humanitarian organisations in the conflict area.

191. OHCHR appreciates the continued cooperation extended by the Government of Ukraine to HRMMU during the reporting period. OHCHR positively notes the efforts of the Government to discuss the findings of the tenth OHCHR report and to address recommendations made by HRMMU. In particular, OHCHR welcomes the Government's decision to strengthen human rights training for the Armed Forces of Ukraine and the Ministry of Internal Affairs.

192. The OHCHR also notes the progress made by the Government of Ukraine in the implementation of the law-enforcement reform and the adoption of the National Human Rights Strategy and the development of the National Action Plan on implementation of the Security Council Resolution 1325 to promote women's equal and full participation as active agents in the prevention and resolution of conflicts, peace-building and peacekeeping. The proposed Constitutional changes, in general, are positive from the human rights perspective and are welcomed by OHCHR.

193. Recommendations made in HRMMU reports published since April 2014, that have not yet been acted upon or implemented, remain valid. OHCHR calls upon all parties to implement the following recommendations:

**To all parties involved in the hostilities in Donetsk and Luhansk regions:**

- a) Put an end to any form of fighting and violence in Donetsk and Luhansk regions in compliance with provisions of the Package of Measures for Implementation of the Minsk Agreements of 12 February 2015.
- b) Respect international humanitarian law, particularly by complying with the principles of distinction, proportionality and precaution and, in any situation, refraining from indiscriminate shelling of populated areas, and refraining from locating military objectives within or near densely populated areas and damaging objects indispensable to the survival of the civilian population (i.e. water facilities), as well as protect medical personnel, ambulances and facilities.
- c) Promptly and effectively investigate all allegations of violations and abuses of international humanitarian law and international human rights law, with perpetrators held accountable and victims provided with access to effective remedies and justice.
- d) Ensure treatment with due respect and dignity of the bodies and remains of persons killed as a result of hostilities, provide free and safe access to the areas where bodies and remains can be found, ensure their identification, a dignified and decent burial, and return to their family, and preserve evidence of possible summary executions.
- e) Ensure and facilitate rapid and unimpeded passage of humanitarian relief, in particular by facilitating delivery, storage and distribution of humanitarian aid to the affected population, particularly in the settlements along the contact line, as well as the safe passage for civilians in strict compliance with international norms and standards.
- f) Ease freedom of movement across the contact line for civilians.

**To the Government of Ukraine**

- g) Ensure consistency of charges against members of the armed groups and proportionality of sanctions to them to ensure their right to equal treatment before the law.
- h) Proactively investigate violations of the international humanitarian law and international human rights law committed by the Ukrainian armed forces and law

enforcement agencies based on own identification of such cases in addition to complaints of the victims.

- i) Ensure access of victims of human rights violations to medical services and social protection.
- j) Develop special simplified procedures for people who have been deprived of their identification documents due to the conflict to obtain temporary travel documents.
- k) Develop procedures for delivering specialised medicines which have been purchased by the Government to medical institutions in the territories controlled by armed groups.
- l) Ensure the presence of law enforcement officials and medical personnel to secure the protection of participants in peaceful demonstrations.

**To the *de facto* authorities of Crimea and to the Russian Federation**

- m) Implement recommendations of the Human Rights Committee, in particular on issues related to nationality, right of residence, labour rights, property and land rights, access to health care and education, as well as the rights to freedoms of expression, association, religion, and peaceful assembly.
- n) Stop all acts of discrimination and harassment of representatives of minorities and indigenous peoples, in particular Crimean Tatars, and other Crimean residents who did not support the ‘referendum’ of March 2014.
- o) Investigate the killing of Crimean Tatar Reshat Ametov and enforced disappearances of Crimean civil society and human rights activists Timur Shaimardanov, Seiran Zinedinov, Leonid Korzh<sup>125</sup> and Vasyl Chernysh<sup>126</sup>, and bring perpetrators to justice.
- p) Ensure full observance of and compliance with fair trial and due process rights in criminal proceedings against the Deputy Head of Mejlis Akhtem Chiigoz and ‘pro-unity’ activists Oleh Sentsov and Oleksandr Kolchenko.
- q) Provide HRMMU and other international human rights missions with full access to the territory of Crimea and the city of Sevastopol.

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<sup>125</sup> See paragraph 214 of the 7th HRMMU report on the human rights situation in Ukraine covering period 17 September – 31 October 2014.

<sup>126</sup> See paragraph 80 of the 8<sup>th</sup> HRMMU report on the human rights situation in Ukraine covering period 1–30 November 2014.